320

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder
NO FEE
* $ R 0 0 1 2 0 2 1 7 3 1 $ *
2020000482740 4:29 pm 09/10/20
320 RW1A A12 529
0.00 0.00 0.00 0.00 1584.00 0.00 0.000.000.00 0.00

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660
Attn: City Clerk

(Space Above This Line Is for Recorder's Use Only)

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529P
NF
CF

This Agreement is recorded at the request and for the benefit of the City of Newport Beach and is exempt from the payment of a recording fee pursuant to Government Code §§ 6103 and 27383.

FOURTH AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

THE CITY OF NEWPORT BEACH

AND

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved August 25, 2020
Ordinance No. 2020-18

FOURTH AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

(Pursuant to California Government Code sections 65864-65869.5)

This FOURTH AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5 ("**Fourth Amendment**") is entered into and effective on the date it is recorded with the Orange County Recorder ("**Effective Date**") by and between the CITY OF NEWPORT BEACH, a California municipal corporation ("**City**"), on the one hand, and HOAG MEMORIAL HOSPITAL PRESBYTERIAN, a California nonprofit public benefit corporation ("**Hoag**"), on the other. City and Hoag are sometimes collectively referred to in this Fourth Amendment as the "**Parties**" and individually as a "**Party**."

RECITALS

A. Hoag is the fee owner of approximately thirty eight (38) acres of real property located in the City of Newport Beach, County of Orange, State of California, located at 1 Hoag Drive (Assessor Parcel Nos. 423-011-30, 423-011-28), ("**Property**"). The Property is more particularly described in the legal description attached hereto and as Exhibit A and incorporated herein by reference, and as more particularly depicted as attached hereto in Exhibit B and incorporated herein by reference.

B. City and Hoag entered into that certain Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian dated February 14, 1994, for reference purposes and recorded in the Official Records of Orange County on March 23, 1994, as document number 94-0207276 ("**Agreement**") attached hereto as Exhibit C with a twenty five (25) year Term of the Agreement.

C. City and Hoag entered into that certain Amendment to Restated Development Agreement No. 5 dated June 17, 2008, and recorded in the Official Records of Orange County on the same date, as document number 2008000289321 ("**Amendment**") attached hereto as Exhibit D which incorporated references to a Supplemental EIR and amendment to the General Plan, an increase in public benefits, designation of the City as the point of sale to the extent allowed under applicable law, and amendments to the Hoag Hospital Planned Community Text.

D. City and Hoag entered into that Second Amendment to Restated Development Agreement No. 5 and recorded in the Official Records of Orange County on June 3, 2019, as document number 2019000188999 ("**Second Amendment**") attached hereto as Exhibit E which extended the Term of the Agreement for an additional six (6) months.

E. City and Hoag entered into that Third Amendment to Restated Development Agreement No. 5 and recorded in the Official Records of Orange County on August 27, 2019, as document number 2019000318392 ("**Third Amendment**") attached hereto as Exhibit F which extended the Term of the Agreement for an additional ten (10) years.

F. City and Hoag now wish to enter into that **Fourth Amendment** extending the term one (1) year.

G. On July 9, 2020, due to COVID-19, the Planning Commission held a noticed public hearing on this Fourth Amendment and considered the testimony and information submitted by City staff, Hoag, and members of the public. Consistent with applicable provisions of the Development Agreement Statute and Ordinance, the Planning Commission adopted Resolution No. PC2020-26, recommending the City Council approve this Fourth Amendment.

H. On July 28, 2020, the City Council held a noticed public hearing on this Fourth Amendment and considered the testimony and information submitted by City staff, Hoag, and members of the public. On August 25, 2020, consistent with applicable provisions of the Development Agreement Statute and Ordinance, the City Council held second reading and adopted Ordinance No. 2020-18 approving this Fourth Amendment.

I. This Fourth Amendment is consistent with the City of Newport Beach General Plan, including without limitation the General Plan's designation of the Property as "Private Institutions - PI," Ordinance No. 2007-6, entitled "Ordinance Amending Chapter 15.45 of City of Newport Beach Municipal Code ("NBMC") Regarding Development Agreements" that amended the terms of NBMC Section 15.45 (the "**Development Agreement Statute and Ordinance**"), the Agreement, Amendment, Second Amendment and Third Amendment (collectively the "Amended Agreement").

J. In recognition of the significant public benefits provided in the Amended Agreement, and the fact that the one (1) year extension is requested as a result of delays due to COVID-19, the City Council has found that this Fourth Amendment: (i) is consistent with the City of Newport Beach General Plan as of the date of the Agreement, Amendment, Second Amendment, Third Amendment, and this Fourth Amendment; (ii) is in the best interests of the health, safety, and general welfare of City, its residents, and the public; (iii) is entered into pursuant to, and constitutes a present exercise of, City's police power; (iv) is consistent and has been approved consistent with the final Environmental Impact Report (FEIR No. 142) ("**FEIR**") and the supplemental Environmental Impact Report (EIR No. ER2007-003) (SCH#1991071003) ("**EIR**") that have been certified by the City Council on or before the date of approval, which analyzed the environmental effects of the proposed development of the project on the Property, and all of the findings, conditions of approval and mitigation measures related thereto; and (v) is consistent and has been approved consistent with provisions of California Government Code section 65867 *et. seq.* and Chapter 15.45 of the NBMC.

AGREEMENT

NOW, THEREFORE, the City and Hoag agree as follows:

1. **Term of Agreement**. Section 6.3 of the Amended Agreement is hereby amended in its entirety to read as follows:

> "Term of Agreement. The term of this agreement (the "Term") shall begin on the Effective Date and continue until September 15, 2030, unless otherwise terminated or modified pursuant to its terms."

2. **Full Force and Effect**. Except as modified by this Fourth Amendment, the Agreement, Amendment, Second Amendment and Third Amendment, attached hereto as Exhibit

C, Exhibit D, Exhibit E, and Exhibit F, respectively, are incorporated into this Fourth Amendment and shall remain in full force and effect.

3. **Recitals**. The Recitals set forth above are true and correct and incorporated herein by reference.

4. **Counterparts**. This Fourth Amendment may be signed by the Parties in different counterparts and the signature pages combined shall create a single document binding on all Parties.

5. **Recordation**. The City Clerk of City shall record this Fourth Amendment in the Office of the County Recorder of the County of Orange within the period required by California Government Code section 65868.5 and City of Newport Beach Municipal Code section 15.45.100.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO
FOURTH AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

CITY:

CITY OF NEWPORT BEACH,
a California municipal corporation and charter city

By: _____
Will O'Neill, Mayor

ATTEST:

By: _____
Leilani I. Brown, City Clerk

APPROVED AS TO FORM:

By: _____
Aaron C. Harp, City Attorney

HOAG:

HOAG MEMORIAL HOSPITAL
PRESBYTERIAN,
a California nonprofit public benefit corporation

By: _____
Name: Sanford Smith, AIA
Title: Senior Vice President Real Estate & Facilities

By: _____
Name: Andrew Guarni
Title: Senior Vice President and Chief Financial Officer

(All Signatures to Be Notarized)

Attachments -

Exhibit A: Legal Description
Exhibit B: Legal Depiction
Exhibit C: Development Agreement dated February 14, 1994
Exhibit D: Amendment to Restated Development Agreement No. 5 dated June 17, 2008
Exhibit E: Second Amendment to Restated Development Agreement No. 5
Exhibit F: Third Amendment to the Restated Development Agreement No. 5

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange } *ss.*
On September 1, 20 20 before me, Debra Lee Hall, Notary Public,
personally appeared Sanford Smith, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Debra Lee Hall

Signature (seal)

DEBRA LEE HALL
Notary Public - California
Orange County
Commission # 2275291
My Comm. Expires Feb 12, 2023

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange } *ss.*
On September 1, 20 20 before me, Debra Lee Hall, Notary Public,
personally appeared Andrew Guarni, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Debra Lee Hall

Signature (seal)

DEBRA LEE HALL
Notary Public - California
Orange County
Commission # 2275291
My Comm. Expires Feb 12, 2023

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20_____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20_____ before me, _____, Notary Public, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

EXHIBIT B

LEGAL DEPICTION OF THE PROPERTY

Exhibit B

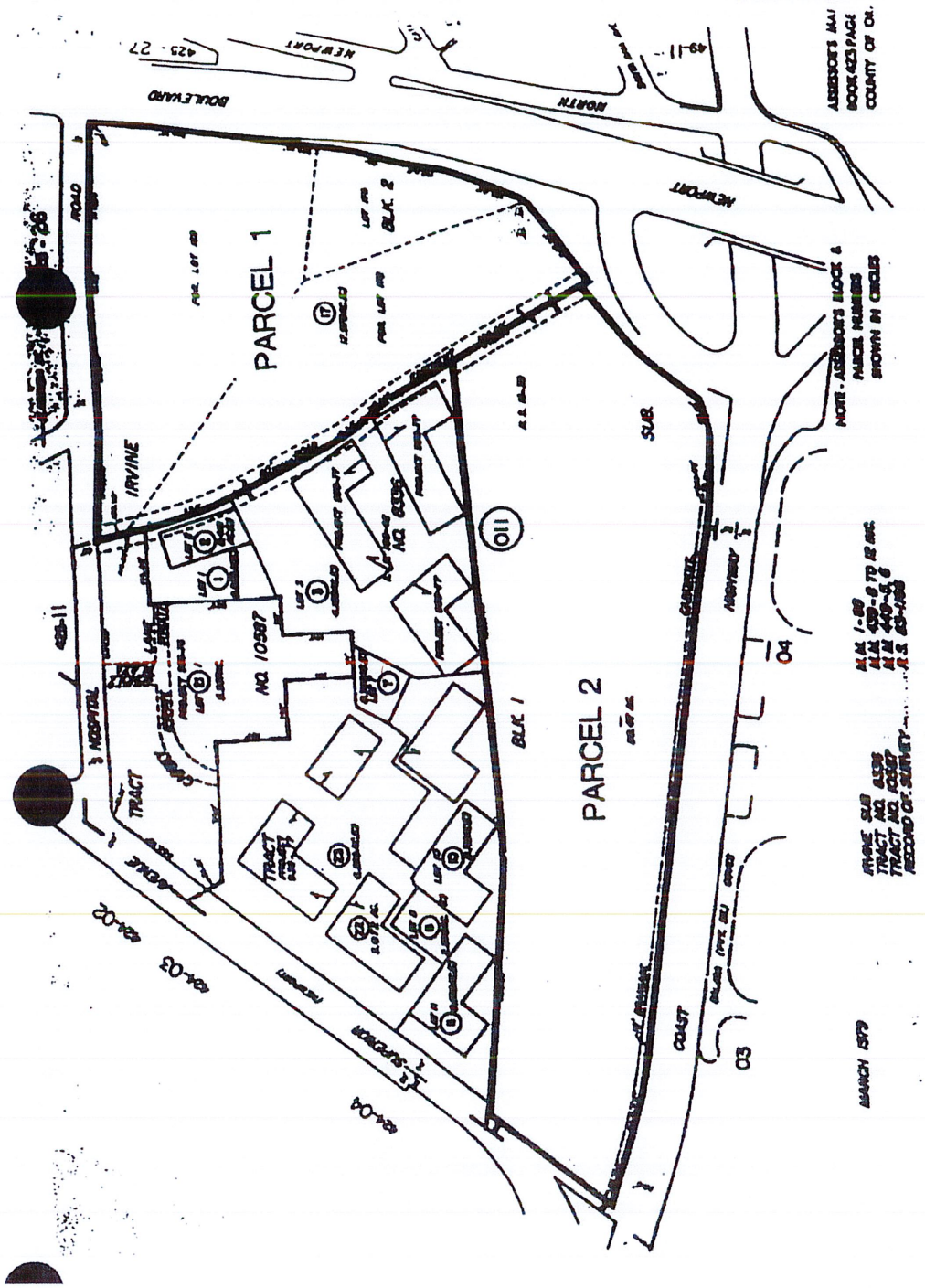
PARCEL 1
PARCEL 2
BLK. 1
BLK. 2
NO. 10587
NO. 8336
IRVINE
TRACT
NEWPORT
NORTH
BOULEVARD
COAST
SUB.
NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES
ASSESSOR'S MAP BOOK 423 PAGE COUNTY OF OR.
MARCH 1979

EXHIBIT C

DEVELOPMENT AGREEMENT DATED FEBRUARY 14, 1994

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 6103

Recording Requested By and
When Recorded Return to:

City Clerk/by P. M.
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

DOC # 94-0207276
23-MAR-1994 03:59 PM

Recorded in Official Records
of Orange County, California
Lee A. Branch, County Recorder
Page 1 of 61 Fees: $ 0.00
Tax: $ 0.00



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DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF NEWPORT BEACH

AND

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

Approved February 14, 1994
Ordinance No. 94-8

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into between the City of Newport Beach (the "City"), and Hoag Memorial Hospital Presbyterian ("Hoag").

1. **RECITALS**. This Agreement relates to the following:

1.1 Purpose of Agreement. This Agreement is intended to:

(a) Enable Hoag to adapt to the ever changing health care needs of those residents within its service area by authorizing design parameters of new or additional facilities in a manner that will allow Hoag to respond to rapid changes in medical and health care technology and delivery systems.

(b) Establish strict, binding limits on the amount and height of permitted development as well as ensure compliance with numerous conditions on the density, location, and timing of construction to minimize, to the extent feasible, any environmental impacts of Hoag's proposed expansion.

(c) Impose exactions such as dedication of property, construction of public improvements and/or the installation of landscaping visible to the public, which, when considered in conjunction with the public services provided by Hoag, benefit the general public.

1.2 Authorization. This Agreement is authorized by, and is consistent with, the provisions of 65864 et seq. of the Government Code of the State of California, and Chapter 15.45 of the Newport Beach Municipal Code.

1.3 Interest of Hoag. Hoag is the legal and/or equitable owner of approximately forty (40) acres of real property located in the City and more particularly described in Exhibit "A" and depicted in Exhibit "B" (the "Property").

1.4 Development of the Property. This Agreement authorizes development on the Property consistent with the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan ("Master Plan", a copy of which is attached to this Agreement as Exhibit "C" and incorporated by reference when appropriate), subject to the conditions and mitigation measures identified in Environmental Impact Report No. 142 and imposed by the City Council as conditions to approval of the Master Plan and this Agreement and, for all development within

the coastal zone subject to approval of a coastal development permit by the California Coastal Commission or its successor agency.

1.5 Planning Commission/City Council Hearings. The Planning Commission, after giving appropriate notice, held public hearings to consider a development agreement, the proposed Master Plan, and the EIR on December 5, 1991, January 9, 1992, January 23, 1992, February 6, 1992, and February 20, 1992. The City Council conducted public hearings on the Master Plan, this Agreement and the EIR on March 23, 1992, March 30, 1992, April 13, 1992 and May 11, 1992.

1.6 Consistency. This Agreement is consistent with the various elements of the Newport Beach General Plan, the Master Plan, and other applicable ordinances, plans, and policies of the City. This Agreement is also consistent with the purpose and intent of state and local laws authorizing development agreements in that it represents comprehensive planning, provides certainty in the approval of subsequent projects subject to compliance with conditions, reduces the economic costs of development by providing assurance to Hoag that it may generally proceed with projects in accordance with existing regulations, and provides assurance to adjoining property owners that limits on the height of structures and amount of development as specified in the Master Plan and this Agreement will remain in full force and effect for a period of twenty-five (25) years.

1.7 Police Power. The City Council has determined that this Agreement is in the best interests of the health, safety and general welfare of the City, its residents and the public, was entered into pursuant to, and represents a valid exercise of, the City's police power, and has been approved in accordance with the provisions of state and local law that establish procedures for the approval of development agreements.

1.8 City Ordinance. On February 14, 1994, the City Council adopted Ordinance No. 94-8 approving this Agreement and authorizing the City to enter into this Agreement. The Adopting Ordinance will become effective on March 16, 1994.

2. DEFINITIONS.

2.1 The "Adopting Ordinance" refers to City Ordinance No. 94-8, adopted on February 14, 1994, by the City Council, which approved and authorized the City to enter into this Agreement.

2.2 "Agreement" refers to this "Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian".

2.3 "Annual Review" refers to the review of Hoag's good faith compliance with this Agreement and conditions on development as set forth in Section 5.

2.4 The "Approval Date" means the date on which the City Council voted to adopt the Adopting Ordinance.

2.5 All forms of use of the verb "assign" and the nouns "assignment" and "assignee" shall include all contexts of hypothecations, sales, conveyances, transfers, leases, and assignments.

2.55 "California Coastal Commission" refers to the California State Resources Agency established under the California Coastal Act of 1976.

2.6 "CEQA" and the "CEQA Guidelines" refers to the California Environmental Quality Act and the CEQA Guidelines promulgated by the Secretary of Resources of the State of California, including any amendments adopted subsequent to the Effective Date.

2.7 "City" refers to the City of Newport Beach, California.

2.8 "City Council" refers to the City Council of the City.

2.9 "Cure Period" refers to the period of time during which a Default may be cured pursuant to Section 9.

2.10 A "day" or "days" refers to a calendar day, unless expressly stated to be a business day.

2.11 A "Default" refers to any material default, breach, or violation of the provisions of this Agreement. A "City Default" refers to a Default by the City, while a "Hoag Default" refers to a default by Hoag.

2.12 The "Effective Date" refers to the effective date of the Adopting Ordinance and is the effective date of this Agreement. provided however, the Agreement has been approved by the California Coastal Commission, and the Executive Director of the Coastal Commission is in receipt of a copy of this Agreement signed by both parties.

2.13 The "EIR" refers to final Environmental Impact Report No. 142 of the City of Newport Beach and Supplemental Environmental Impact Report No. 142.

2.14 An "Estoppel Certificate" refers to the document certifying the status of this Agreement required by Section 5.6 in the form of Exhibit "D".

2.15 An "Exaction" refers to those specific dedications and improvements required of Hoag and set forth in Section 8.2 below.

2.16 An "Exhibit" refers to an exhibit to this Agreement. All Exhibits are incorporated as a substantive part of this Agreement. The Exhibits to this Agreement are:

Exhibit A:	Legal Description of the Property
Exhibit B:	Map of the Property
Exhibit C:	The Master Plan
Exhibit D:	Estoppel Certificate

2.17 "Existing General Regulations" means those General Regulations approved by the City on or before the Approval Date (irrespective of their effective date) and not rescinded or superseded by City action taken on or before the Approval Date.

2.18 "Future General Regulations" means those General Regulations (see Section 2.19 below) adopted by the City after the Approval Date.

2.19 "General Regulations" means those ordinances, rules, regulations, policies, and guidelines of the City, which are generally applicable to the use of land and/or construction within the City and include, the Fair Share Traffic Contribution Fee Ordinance, Uniform Building Codes and water and sewer connection and fee ordinances.

2.20 "General Plan" refers to the City's General Plan in effect on the Approval Date, plus all amendments to the General Plan adopted by the City on or before the Approval Date and effective prior to the Effective Date.

2.21 "Hoag" refers to Hoag Memorial Hospital Presbyterian, a non-profit corporation.

2.22 "Includes" and all contexts and forms of the words "includes" and "including" shall be interpreted to also state "but not limited to."

2.23 "Master Plan" refers to the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan which was adopted by the City on May 26, 1992 (Exhibit "C").

2.24 "Mortgagee" refers to the holder of a beneficial interest under any mortgage, deed of trust, sale-leaseback agreement, or other

transaction under which all or a portion of the Property, including those portions acquired by assignees, is used as security (a "Mortgage") or the owner of any interest in all or any portion of the Property under a Mortgage, including those portions acquired by assignees.

2.25 "Notice" refers to any written notice or demand between the Parties required or permitted by this Agreement.

2.26 The "Parties" refers to the City and Hoag and a "Party" shall refer to either of the Parties.

2.27 "Planning Commission" refers to the Planning Commission of the City.

2.28 The "Project" refers to the proposed development of the Property pursuant to the Master Plan and this Agreement.

2.29 "Project Specific Approvals" means all site-specific (meaning specifically applicable to the Property only and not generally applicable to some or all other properties within the City) plans, subdivision maps, permits, or other entitlement. Project Specific Approvals include subdivision maps, site plan review, conditional use permits, coastal development permits, variances, grading and building permits, as well as amendments or modifications to those plans, maps and permits. Project Specific Approvals does not include Existing or Future General Regulations.

2.30 The "Property" refers to the real property described on Exhibit "A" and depicted on Exhibit "B."

3. CONDITIONS TO DEVELOPMENT.

3.1 Introduction. The provisions of this Section express the intent of the parties regarding the extent to which this Agreement vests Hoag's right to proceed with the development described in the Master Plan. Hoag acknowledges that its right to proceed with development described in the Master Plan is subject to numerous conditions and mitigation measures including the following:

(a) The specific limitations and restrictions contained in the Master Plan;

(b) Conditions and mitigation measures imposed by the City Council to mitigate significant effects identified in the EIR;

(c) Conditions imposed by the City as a result of subsequent or supplemental environmental analysis pursuant to provisions of CEQA and the CEQA Guidelines;

(d) Conditions imposed by the City Council in conjunction with the approval of Traffic Study No. 81 and Variance No. 1180;

(e) Compliance with the terms and conditions specified in this Agreement.

(f) Compliance with Existing General Regulations.

3.2 Compliance with Master Plan Conditions/Mitigation Measures. Hoag acknowledges that City Council approval of the Master Plan and this Agreement was subject to compliance with numerous conditions and mitigation measures designed to minimize or eliminate the significant adverse effects of the Project and ensure the health, safety, and welfare of nearby residents as well as Hoag patients and employees. Many of these conditions and mitigation measures impose specific development standards and requirements to be implemented in conjunction with further study and analysis of site or subsurface conditions before grading or construction. Specific mitigation measures that require compliance with, or satisfaction of, standards before grading or construction can occur include the following:

(a) Slope excavation techniques which insure stability;

(b) Grading and excavation techniques which minimize disturbance to adjacent residents and the general public;

(c) Identification of potential faults on site and construction of buildings pursuant to recommendations of certified geologists and in a manner which insures that nearby residents, Hoag patients and Hoag employees are not exposed to a significant risk of injury;

(d) Evaluation of soil corrosivity and removal of corrosive soils or use of corrosion resistant construction materials;

(e) Mitigation of impacts caused by removal of wetlands through off-site restoration as required by resource agencies;

(f) Preparation and approval of a project trip generation study prior to development of Phase I of the Master Plan (if Hoag proposes a land use other than specified in the approved Traffic Study);

(g) Preparation and approval of a project trip generation study as a condition to construction of development in Phases II and III of the Master Plan;

(h) Preparation and approval of a Traffic Phasing Ordinance analysis prior to construction of development in Phase II and Phase III of the Master Plan;

(i) Preparation of a view impact analysis of each proposed building prior to issuance of permits;

(j) Analysis and mitigation of emissions in accordance with the regulations of the South Coast Air Quality Management District;

(k) Preparation and approval of a construction phasing and traffic control plan for each phase of development.

Hoag's right to develop the Property pursuant to the Master Plan is contingent upon compliance with, and satisfaction of, the conditions and mitigation measures imposed by the City Council as of the Approval Date, conditions imposed by the California Coastal Commission required for approval of coastal development permits, as well as conditions and mitigation measures resulting from subsequent environmental analysis as specified in Paragraph 3.3.

3.25 Future Coastal Act discretionary review may result in specific mitigation measures to ensure consistency with the Coastal Act that require compliance with, or satisfaction of, standards before grading or construction can occur.

3.3 Program EIR. Hoag acknowledges that the EIR is a "Program EIR." The EIR analyzes the impacts of construction phased over time and, pursuant to CEQA, City is under a continuing obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the request were fully addressed in the EIR. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIR, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIR. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA.

3.4 Mitigation Monitoring Plan. City shall prepare a Mitigation Monitoring Plan ("Plan") within sixty (60) days after the Effective Date. Hoag shall not submit any application for Project Specific Approval until the Plan has been approved by the City Council and the Executive Director of the Coastal Commission or the appropriate entity of its successor agency.

The Plan shall comply with and satisfy the requirements of CEQA and the Guidelines and the Coastal Act. The Plan shall be available to the public upon request.

3.5 Compliance with General Regulations. Hoag is required to comply with the Existing General Regulations. As to those Existing General Regulations which require the payment of fees, costs, and expenses, Hoag shall pay the fee, cost, or expense required as of the date on which Hoag submits the application for Project Specific Approval. Hoag shall also comply with any Future General Regulations that do not impair Hoag's ability to develop the Property in accordance with the density, intensity, height and location of development specified in the Master Plan. Hoag shall also comply with all provisions of the Uniform Building Code, whether adopted before or after the Approval Date, which are in effect at the time applications for Project Specific Approvals are submitted. Hoag shall also comply with the Coastal Act and the City's certified Local Coastal Program.

4. RIGHT TO DEVELOPMENT.

4.1 Right to Develop. Subject to compliance with the provisions of Sections 3 and 8.2, Hoag shall have a vested right to develop and receive Project Specific Approvals for construction on the Property to the full extent permitted by the Master Plan. Subject to the provisions of Sections 3 and 8, City shall only take action which complies with and is consistent with the Master Plan and this Agreement unless Hoag otherwise consents in writing. Subject to this Subsection, City shall have the authority to impose only those Exactions which are specifically described in this Agreement, except as expressly required (as opposed to permitted) by state or federal law.

4.2 Reservations or Dedications of Land. Except as expressly provided in this Agreement, no dedications or reservations of the Property shall be required of Hoag in conjunction with the application or issuance of any Project Specific Approvals.

4.3 Conflicting Measures. Except as expressly provided in this Agreement, no initiative measure, moratorium, referendum (except as provided in Government Code Section 65857.5), ordinance, statute or other provision of law which in any way limits or restricts development of the Property to the full extent permitted by the Master Plan and this Agreement (including density, intensity, timing, phasing, and sequencing) shall be applied to the Property during the term of this Agreement.

4.4 Time for Construction and Completion of Project. Subject to the provisions of this Agreement and the Master Plan, Hoag shall have the right to decide the timing, phasing, and sequencing of construction on the Property and shall be entitled to apply for, and receive approval of, in a timely manner, permits or approvals at any time.

5. ANNUAL REVIEW.

5.1 City and Hoag Responsibilities. At least every twelve (12) months during the Term, the City shall review Hoag's good faith substantial compliance with this Agreement (the "Annual Review"). After the Annual Review, the City's finding of good faith compliance by Hoag shall be conclusive for the purposes of future Annual Reviews or legal action between the Parties. Either Party may address any requirements of the Agreement during the Annual Review. However, fifteen (15) days' written Notice of any requirement to be addressed shall be made by the requesting Party. If, at the time of the review, an issue not previously identified in writing is required to be addressed, the review shall be continued at the request of either Party to afford sufficient time for analysis and preparation of a response.

5.2 Public Hearing. The Annual Review shall be conducted at a public hearing noticed in accordance with the provisions of Chapter 15.45 of the Newport Beach Municipal Code.

5.3 Information to be Provided to Hoag. The City shall mail to Hoag a copy of the staff report and related exhibits concerning Agreement performance a minimum of ten (10) days before the Annual Review.

5.4 Mitigation Review. The annual review shall include a detailed report of compliance with the various conditions and mitigation measures contained within the mitigation monitoring plan. The report shall include an analysis of the view impacts of buildings constructed in comparison to the anticipated views as depicted in the EIR. For the five year monitoring period imposed by the Department of Fish and Game Streambed Alteration Agreement entered into between the Department of Fish and Game and Hoag, the annual review shall also assess the success of any off-site wetlands mitigation. Five years after the completion of the Department of Fish and Game monitoring period, Hoag shall submit a final report assessing the success of the off-site wetlands mitigation in its annual review. If the survival and cover requirements set forth in the Streambed Alteration Agreement have not been met, Hoag shall be responsible for replacement planting to achieve these requirements. Hoag shall be found in compliance with this Agreement unless the City Council determines, based upon the

evidence presented at the Annual Review, that Hoag has not complied with all mitigation measures and conditions including those imposed as a result of subsequent environmental analysis, applicable to the grading of, or building on, the Property as of the date of the Annual Review.

5.5 Review Letter. If Hoag is found to be in compliance with the Agreement after the Annual Review, the City shall issue, within ten (10) days of Hoag's written request, a letter to Hoag stating that the Agreement remains in effect and Hoag is not in Default.

5.6 Estoppel Certificate. Either Party may at any time deliver written Notice to the other Party requesting an estoppel certificate (the "Estoppel Certificate") stating:

(a) The Agreement is in full force and effect and is a binding obligation of the Parties.

(b) The Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments.

(c) No Default in the performance of the requesting Party's obligations under the Agreement exists or, if a Default does exist, the nature and amount of any Default.

A Party receiving a request for an Estoppel Certificate shall provide a signed certificate to the requesting Party within thirty (30) days after receipt of the request. The Planning Director may sign Estoppel Certificates on behalf of the city. An Estoppel Certificate may be relied on by assignees and Mortgagees. The Estoppel Certificate shall be substantially in the same form as Exhibit "D."

5.7 Failure to Conduct Annual Review. The City's failure to conduct an Annual Review shall not constitute or be asserted by the City as Hoag's Default.

6. **GENERAL PROVISIONS.**

6.1 Effective Date. This Agreement and the obligations of the Parties shall be effective as of the Effective Date. However, this Agreement shall bind the Parties as of the Approval Date, subject only to the Adopting Ordinance becoming effective pursuant to California law.

6.2 Applicability to Coastal Zone. This Agreement shall not be applicable to those portions of the Property located within the Coastal Zone as defined by the California Coastal Act (Division

20, California Public Resources Code, beginning with Section 30000) until either (1) the required local coastal program for the Property has been certified by the California Coastal Commission or (2) the California Coastal Commission has approved this Agreement. This Subsection is intended solely to comply with the provisions of California Government Code Section 65869 and shall be of no force or effect if Section 65869 is repealed.

6.3 Term of Agreement. The term of this Agreement (the "Term") shall begin on the Effective Date and continue for twenty-five (25) years unless otherwise terminated or modified pursuant to this Agreement. Any modifications to this Agreement prior to effective certification of the City's Local Coastal Program (LCP), are subject to the review and approval of the Coastal Commission or its successor agency.

6.4 Assignment. Hoag has the absolute right to assign (see Section 2.5) its rights and/or delegate its obligations under this Agreement as part of an assignment of all or a portion of the Property. Any assignment shall be subject to the provisions of this Agreement. As long as Hoag owns any part of the Property, Hoag may assign the benefits of this Agreement without delegating the obligations for the portion of the Property assigned. If that occurs, however, the benefits assigned shall remain subject to the performance by Hoag of the corresponding obligations.

Where an assignment includes the delegation of both the benefits and the corresponding obligations, those obligations become solely the obligations of the assignee. If an assignee is in Default, then as to Hoag or any assignees not in Default, the Default shall not constitute their Default, give grounds for termination of their rights under this Agreement or be a basis for an enforcement action against them.

6.5 Amendment of Agreement.

(a) Subject to the provisions of Subsection (b), and subject to approval of the Coastal Commission or its successor agency prior to effective certification of the City's Local Coastal Program (LCP), this Agreement may be amended from time to time by the mutual consent of the Parties, or their successors in interest, but only in the manner provided by the Government Code and this Agreement. After any amendment, the term "Agreement" shall refer to the amended Agreement.

(b) The City Council shall not approve, and Hoag shall not request, any amendment to the provisions of the Master Plan or this Agreement that would increase the maximum

permitted gross floor area or the maximum permitted building height (within any lettered building envelope) above that established by the Master Plan as of the Effective Date of this Agreement. This Subsection shall prevail over any conflicting ordinance, resolution, policy or plan adopted by the City Council.

6.6 Enforcement. This Agreement is enforceable by each of the Parties and their respective successors and assigns.

6.7 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the twenty-five (25) year term;

(b) Entry, after all appeals have been exhausted, of a final judgment or issuance of a final order directing the City to set aside, withdraw, or abrogate the City's approval of this Agreement or any material part of the Project; or,

(c) The effective date of a Party's election to terminate the Agreement as provided in Section 9.3 of this Agreement.

6.8 Hoag shall defend, indemnify and hold harmless the City and its officers and employees with respect to any claim, loss or damage in any way related to the grading, excavation or stabilization of the slopes adjacent to the view parks by Hoag or its employees, agents contractors or representatives. This Section is not intended to impose liability on Hoag for the acts of persons other than Hoag or its agents, representatives or contractors.

6.9 Hoag shall enter into an agreement with City to accept ownership of, and responsibility for maintenance of, the existing methane gas venting flare and any device for collecting gas that is subsequently installed on the Property pursuant to conditions or mitigation measures imposed in conjunction with the Master Plan approval or subsequent environmental analysis.

7. CONFLICTS OF LAW.

7.1 Conflict with State and Federal Laws and Regulations. Where state or federal laws or regulations prevent compliance with one or more provisions of this Agreement, those provisions shall be modified, through revision or suspension, to the

extent necessary to comply with such state or federal laws or regulations and the modified Agreement shall remain in effect, subject to the following:

(a) the City shall not request modification of this Agreement pursuant to this provision unless and until the City Council makes a finding that such modification is required (as opposed to permitted) by state and federal laws or regulations;

(b) the modifications must be limited to those required (as opposed to permitted) by the state or federal laws;

(c) the modified Agreement must be consistent with the state or federal laws or regulations which required modification or suspension;

(d) the intended material benefits of this Agreement must still be received by each of the Parties after modification;

(e) neither the modification nor any applicable local, state, or federal laws or regulations, may render the modified Agreement impractical to enforce; and

(f) Hoag consents in writing to the modification.

(g) Any modifications, prior to effective certification of the City's Local Coastal Program (LCP) are subject to approval of the Coastal Commission or its successor agency.

Hoag shall have the right to seek judicial review of any proposed modification to ensure compliance with this Section.

7.2 Effect of Termination. If this Agreement is terminated as a result of changes in state or federal law, Hoag remains obligated to comply with the provisions of Section 8.2(a) and (b), unless Hoag has completed construction of less than twenty-five percent (25%) of the maximum permitted development.

8. **PUBLIC BENEFITS/EXACTIONS.**

8.1 Public Benefits. City and Hoag agree that this Agreement confers a substantial public benefit by enabling Hoag to construct facilities most appropriate to changes in medical technology and thereby better satisfy the health care needs of residents within its service area. In addition, the Master

Plan and this Agreement confer benefits on the public and nearby residents by imposing long term restrictions on the height, amount and location of development as well as the public improvements described in Section 8.2.

8.2 Exactions. Hoag shall, as a condition to the right to develop, do the following:

(a) Prior to commencement of development, irrevocably offer to dedicate and grade the proposed linear and consolidated view park identified in Figure 3.2.1 of Volume 1 of the EIR. The City shall accept the offer of dedication within sixty (60) days after the initial grading permit has been finalled by the City. The first stage of development shall include grading of the public linear and consolidated viewpark identified in Figure 3.2.1. of Volume I of the EIR. Hoag shall grade and excavate the slope adjacent to the proposed .28 (28/100) acre consolidated public view park and .52 (52/100) acre public linear view park in a way that ensures stability of the park and adjacent slopes. The grade (between the bicycle path and edge of slope) of the view parks shall be the minimum necessary to insure adequate drainage. The improvement for the linear and consolidated public parks shall be completed within three (3) years after the offer of dedication has been accepted by the City. The City shall ensure that adequate erosion control measures are implemented prior to construction.

(b) Subsequent to the approval of this Agreement by the Coastal Commission and the expiration of any statute of limitation for filing a legal challenge to this Agreement, the Master Plan, or the EIR, Hoag shall deposit Two Hundred and Fifty Thousand Dollars ($250,000.00) in an account, and at a financial institution, acceptable to City. The account shall be in the name of the City provided, however, Hoag shall have the right to access the funds in the event, but only to the extent that, Hoag constructs or installs the improvements described in (i) or (ii). Funds in the account shall be applied to the following projects (in order of priority upon notice to proceed served by City on Hoag):

(i) The construction of a sidewalk and installation of landscaping in the CalTrans right-of-way along the west side of Newport Boulevard southerly of Hospital Road;

(ii) The construction of facilities necessary to bring reclaimed water to West Newport and/or the Property;

Any funds remaining in the account after completion of the projects described in (i) and (ii) shall be used by the City to fund, in whole or in part, a public improvement in the vicinity of the property.

(c) City and Hoag shall conduct a study of possible future improvements in and around the easterly end of Semeniuk Slough that would, among other things, improve the appearance of the area and, potentially, serve as a component to improve public access from residential areas in West Newport to park land and public recreation facilities proposed in conjunction with development of the West Newport Oil Company property. The study shall analyze, among other things, the type of improvements that would improve the area without adversely impacting wetlands, the possible location of pedestrian trails and the potential for those trials to improve access to proposed recreational facilities, phasing of the improvements, potential public benefits, and the cost of the improvements. As a part of the study, Hoag and City shall meet and confer with resource agencies relative to the type and extent of improvements that may be permitted in or adjacent to wetlands. Hoag shall fund the study and participate in the cost of constructing any improvements in the area that the City Council determines are feasible and in the public interest, provided, however, the financial contribution of Hoag, including the costs of the study and improvements, shall not exceed Two Hundred Thousand Dollars ($200,000.00).

(d) Hoag's obligations pursuant to Subsection (c) are contingent on Coastal Commission approval of the Master Plan and attached as Exhibit C to this Agreement with no significant reduction in entitlement from that authorized in the Master Plan. Hoag's obligations pursuant to Subsection (b) shall be reduced through good faith negotiations in the event the Coastal Commission reduces entitlement by ten percent (10%) or more from that authorized in the Master Plan.

9. **DEFAULT, REMEDIES AND TERMINATION.**

9.1 General Provisions. In the event of a Default (see Section 2.11), the Party alleging a Default shall give the other Party

a written Notice of Default. The Notice of Default shall specify the nature of the alleged Default, and a reasonable manner and sufficient period of time (not less than thirty (30) days) in which the Default must be cured (the "Cure Period"). During the Cure Period, the Party charged shall not be considered in Default for the purposes of termination of the Agreement or institution of legal proceedings. If the alleged Default is cured within the Cure Period, then a Default shall be deemed not to exist.

9.2 Option to Institute Legal Proceedings or to Terminate. If an alleged Default is not cured within the Cure Period, the noticing Party must give the defaulting Party a Notice of intent to terminate the Agreement. Within thirty (30) days after giving of the Notice, the City Council shall hold a public hearing in the manner set forth in Government Code Sections 65865,65867, and 65868, as amended, to consider and review the matter.

9.3 Notice of Termination. After considering the evidence presented to the City Council, the Party alleging the Default, at its option, may give written Notice of termination of the Agreement to the other Party and the Agreement shall be terminated immediately upon giving the Notice. A termination shall be valid only if good cause exists and clear and convincing evidence was presented to the City Council to establish the existence of a Default. The findings of the City Council as to the existence of a Default shall have no weight in any legal proceeding brought to determine the existence of a Default. The validity of any termination may be challenged pursuant to Section 11.16, in which case the court must render an independent judgment, on the basis of clear and convincing evidence, as to the existence of good cause for termination. Termination may result only from a material Default of a material provision of this Agreement.

9.4 Waiver. Failure or delay in giving Notice of Default shall not waive a Party's right to give future Notice of the same or any other Default.

9.5 Default by Hoag. If the City alleges a Hoag Default, the City shall conduct a hearing utilizing the Annual Review procedures required by this Agreement before the City may commence legal proceedings to terminate this Agreement.

9.6 Default by the City. If Hoag alleges a City Default, Hoag, without limiting any of its other remedies, shall not be

obligated to proceed with or complete the Project or any phase of the Project, nor to perform any further obligations under the Agreement. Upon a City Default, any resulting delays in Hoag's performance shall neither be Hoag's Default nor constitute grounds for termination or cancellation of the Agreement by the City.

10.0 **ENCUMBRANCES AND RELEASES ON PROPERTY.**

10.1 Discretion to Encumber. Hoag may encumber all or any portion of the Property in any manner. The City acknowledges that lenders providing financing may require technical modifications to the Agreement which do not materially alter the intent of the Parties. The City agrees to meet, upon request, with Hoag and/or lenders to negotiate in good faith any lender request for modification. The City agrees to not withhold unreasonably its consent to such modification. Any such modification, prior to effective certification of the City's Local Coastal Program (LCP), is subject to the review and approval of the Executive Director of the Coastal Commission or its successor agency.

10.2 Entitlement to Written Notice of Default. Any Mortgagee and its successors and assigns, upon written request to the City, shall be entitled to receive from the City written Notice of any Hoag Default at the same time Hoag is provided with Notice pursuant to Section 9.1.

11.0 **MISCELLANEOUS PROVISIONS.**

11.1 Notices. All Notices (see Section 2.26) shall be written and delivered by personal delivery (including Federal Express and other commercial express delivery services providing acknowledgments or receipt), registered, certified, or express mail, or telegram to the addresses set forth below. Receipt shall be deemed complete as follows:

(a) For personal delivery, upon actual receipt;

(b) For registered, certified, or express mail, upon the delivery date or attempted delivery date as shown on the return receipt; and

(c) For telegram, upon the transmission of the telegram.

Notices shall be addressed as follows:

To the City: City Clerk
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92660
Attention: City Attorney
Attention: City Manager

To Hoag: Hoag Memorial Hospital Presbyterian
301 Newport Boulevard
Newport Beach, CA 92663
Attention: President

With a copy to:

Tim Paone
Paone, Callahan, McHolm & Winton
19100 Von Karman, 8th Floor
P.O. Box 19613
Irvine, CA 92713-9613

The addresses to which Notices shall be sent may be changed by giving Notice of a new address.

11.2 Enforced Delay;Extension of Time of Performance. Neither Party shall be deemed to be in Default where delays or non-performance are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, oil spills, casualties, acts of nature, unavailability of materials, governmental restrictions imposed or mandated by governmental entities, suspension of rights in accordance with the existence of unforeseen circumstances, litigation, or similar bases for excused performance. If written Notice of such delay is given to the other Party within thirty (30) days after such delay begins an extension of time for performance shall be granted in writing for the period of the delay, or longer as may be mutually agreed upon. In no event shall the term of this Agreement be extended as a result of the application of this Subsection.

11.3 Severability. If any material part of the Agreement is found by a court to be invalid, void, or illegal, the Parties shall modify the Agreement to implement the original intent of the Parties. These steps may include the waiver by either of the Parties of their right under the unenforceable provision. If, however, the Agreement objectively cannot be modified to implement the original intent of the Parties and the Party substantially benefitted by the material provision does not waive its rights under the unenforceable provision, the entire

Agreement shall become void. For purposes of this Section, and without excluding the possible materiality of other provisions of this Agreement, all provisions of Sections 3, 4 and 8 are deemed "material."

11.4 Entire Agreement. This Agreement constitutes the entire understanding and Agreement of the Parties regarding the subject matter of this Agreement. This Agreement supersedes all negotiations and previous agreements between the Parties regarding that subject matter.

11.5 Waivers. All waivers of the provisions of this Agreement must be in writing and signed by the Party making the waiver and, prior to effective certification of the City's Local Coastal Program (LCP), are subject to approval of the Coastal Commission or its successor agency.

11.6 Incorporation of Recitals. The Recitals set forth in Section 1 are part of this Agreement.

11.7 Covenant of Good Faith and Fair Dealing. Neither Party shall do anything which shall have the effect of harming or injuring the right of the other Party to receive the benefits of this Agreement.

11.8 Further Actions and Instruments. Upon the request of either Party, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

11.9 Successors and Assigns. Subject to Section 6.3 above, the burdens of this Agreement shall be binding upon, and the benefits of the Agreement inure to, all successors-in-interest and assigns of the Parties.

11.10 Construction of Agreement. All language in all parts of this Agreement shall be construed as a whole and given its fair meaning. The captions of the paragraphs and subparagraphs are for convenience only and shall not be considered or referred to in resolving questions of construction. This Agreement shall be governed by the laws of the State of California. This Agreement is not intended to impermissibly contract away the

legislative and governmental functions of the City, and in particular, the City's police powers or to surrender or abrogate the city's governmental powers over the Property.

11.11 Authority to Execute. The person executing this Agreement on behalf of Hoag warrants and represents that he/she has the authority to do so and the authority to bind Hoag to the performance of Hoag's obligations under this Agreement.

11.12 Consent. Any consent required by the Parties in carrying out the terms of this Agreement shall not unreasonably be withheld.

11.13 Effect on Title. This Agreement shall not continue as an encumbrance against any portion of the Property as to which this Agreement has terminated.

11.14 Recording. The City Clerk shall cause a copy of this Agreement to be executed by the City and recorded in the Official Records of Orange County no later than ten (10) days after the Effective Date. The recordation of this Agreement is deemed a ministerial act and the failure of the City to record the Agreement as required by this Section and Government Code Section 65868.5 does not make the Agreement void or ineffective.

11.15 Institution of Legal Action. In addition to any other rights or remedies, either Party may institute legal action to cure, correct, or remedy any Default, to enforce any provision of this Agreement, to enjoin any threatened or attempted violation of this Agreement, to recover damages for any Default, or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Superior Court of the County of Orange, State of California, or in the Federal District Court in the Central District of California.

11.16 Attorneys' Fees. In any arbitration, quasi-judicial, administrative, or judicial proceeding between the Parties initiated with respect to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all costs, expenses, and disbursements in connection with such action.

Date: 2-23-94, 1994

CITY OF NEWPORT BEACH

By: Clarence Turner
Clarence Turner, Mayor

Date: March 9, 1994

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

By: Albert J. Auer
Albert J. Auer
Chairman of the Board

wb\hoagda4.fnl
1/21/94

Exhibit A

LEGAL DESCRIPTION

The subject property is the following real property in the City of Newport Beach, County of Orange, State of California:

Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

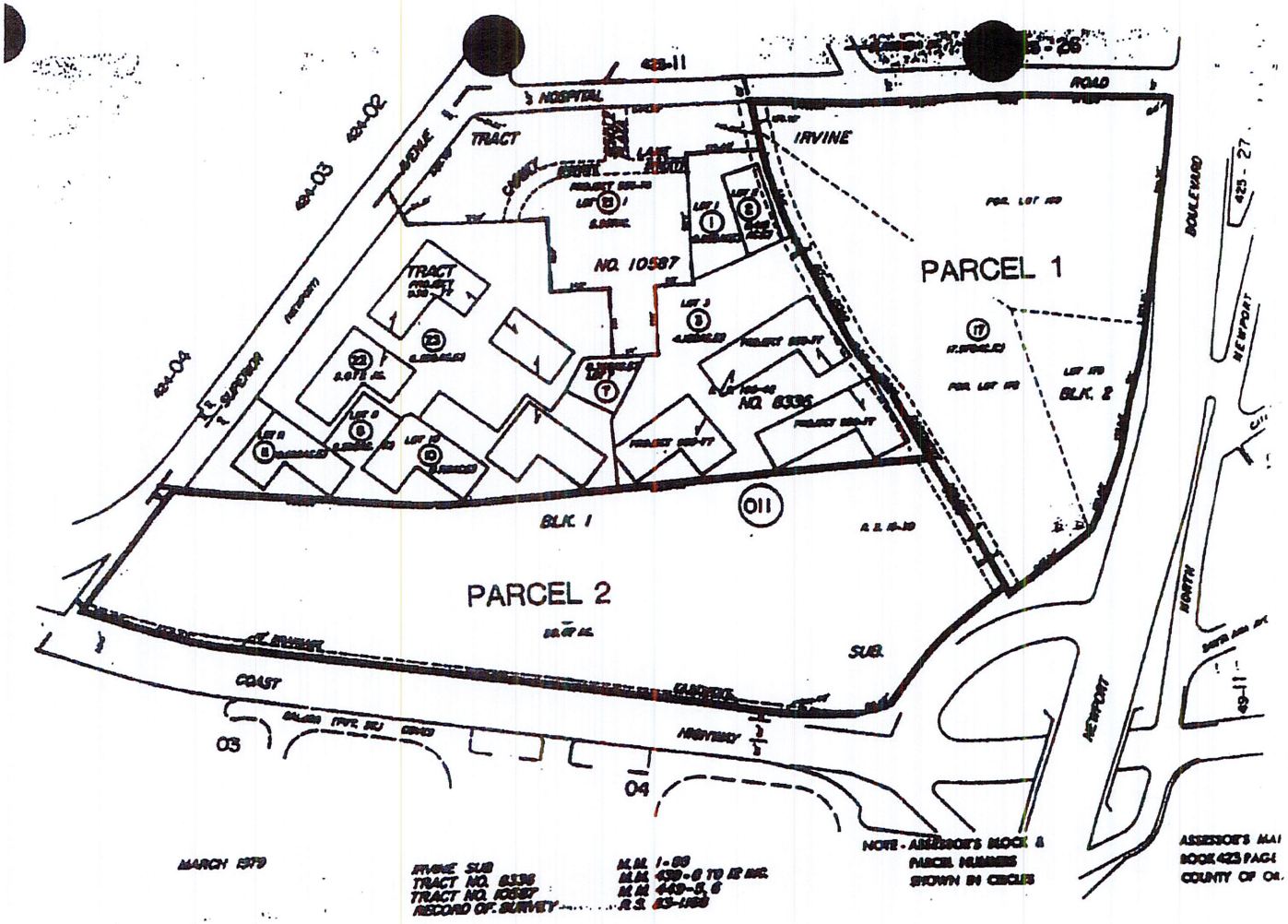

PARCEL 1
PARCEL 2
IRVINE
ROAD
NO. 10587
NO. 8336
TRACT
BLK. 1
BLK. 2
SUB.
COAST
HIGHWAY
NEWPORT
BOULEVARD
NORTH
SUPERIOR
MARCH 1979
NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

Exhibit B

Exhibit C

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
February 20, 1992

Adopted by the City Council
City of Newport Beach
Ordinance No. 92-3
May 26, 1992

TABLE OF CONTENTS

		Page Number
I.	Introduction	1
II.	General Notes	2
III.	Definitions	4
IV.	Development Plan	6
V.	District Regulations	11
VI.	Sign Program	20
VII.	Parking Program	22
VIII.	Landscape Regulations	24
IX.	Site Plan Review	27

EXHIBITS

		Page Number
1.	Planned Community Development Plan	7
2.	Internal Circulation	9
3.	Development Criteria	15

TABLES

1.	Statistical Analysis	10
2.	Parking Requirements	23

I. INTRODUCTION

Background

The Hoag Memorial Hospital Presbyterian Planned Community District in the City of Newport Beach has been developed in accordance with the Newport Beach General Plan. The purpose of this Planned Community District is to provide a method whereby property may be classified and developed for hospital-related uses. The specifications of this District are intended to provide land use and development standards supportive of the proposed use while ensuring compliance with the intent of all applicable regulatory codes.

The Planned Community District includes district regulations and a development plan for both the upper and lower campuses of Hoag Hospital. In general, over the long term, the upper campus will become oriented primarily towards emergency, acute and critical care (predominantly inpatient) uses and the lower campus will be developed with predominantly outpatient uses, residential care and support services.

Whenever the regulations contained in the Planned Community text conflict with the regulations of the Newport Beach Municipal Code, the regulations contained in the Planned Community text shall take precedence. The Municipal Code shall regulate this development when such regulations are not provided within these district regulations. All development within the Planned Community boundaries shall comply with all provisions of the Uniform Building Code and other governing building codes.

II. GENERAL NOTES

1. Water service to the Planned Community District will be provided by the City of Newport Beach.

2. Development of the subject property will be undertaken in accordance with the flood protection policies of the City of Newport Beach.

3. All development of the site is subject to the provisions of the City Council Policies K-5 and K-6 regarding archaeological and paleontological resources.

4. Except as otherwise stated in this text, the requirements of the Newport Beach Zoning Ordinance shall apply. The contents of this text notwithstanding, all construction within the boundaries of this Planned Community District shall comply with all provisions of the Uniform Building Code, other various codes related thereto and local amendments.

5. All buildings shall meet Title 24 requirements. Design of buildings shall take into account the location of building air intake to maximize ventilation efficiency, the incorporation of natural ventilation, and implementation of energy conserving heating and lighting systems.

6. Any fire equipment and access shall be approved by the Newport Beach Fire Department.

7. New mechanical appurtenances on building rooftops and utility vaults, excluding communications devices, on the upper campus shall be screened from view in a manner compatible with building materials. Rooftop mechanical appurtenances or utility vaults shall be screened on the lower campus. Noise shall not exceed 55 dBA at all property lines. No new mechanical appurtenances may exceed the building height limitations as defined in these district regulations.

8. Grading and erosion control shall be carried out in accordance with the provisions of the City of Newport Beach Grading Ordinance and shall be subject to permits issued by the Building and Planning Departments.

9. Sewage disposal facilities within the Planned Community will be provided by Orange County Sanitation District No. 5. Prior to issuance of any building permits it shall be demonstrated to the satisfaction of the Planning Department that adequate sewer facilities will be available. Prior to the occupancy of any structure it shall be further demonstrated that adequate sewer facilities exist.

10. Mass grading and grading by development phases shall be allowed provided that landscaping of exposed slopes shall be installed within 30 days of the completion of grading.

III. DEFINITIONS

Building Elevation:

1. a vertical distance of a building above or below a fixed reference level, i.e., MSL (mean sea level).

2. a flat scale drawing of the front, rear, or side of a building.

Building Envelope: the volume in which a building may be built as circumscribed by setback lines and maximum allowable building heights.

Building Height: the vertical distance measured from the finished grade to the highest point of the structure. At all points, the height measurement shall run with the slope of the land.

Emergency Room: a service and facility designated to provide acute emergency medical services for possible life threatening situations.

Fast Aid: low acuity medical treatment for non-life threatening situations.

General Plan: the General Plan of the City of Newport Beach and all elements thereof.

Grade: for the purpose of determining building height:

1. Finished - the ground level elevation which exists after any grading or other site preparation related to, or to be incorporated into, a proposed new development or alteration of existing developments. (Grades may be worked into buildings to allow for subterranean parking.)

2. Natural - the elevation of the ground surface in its natural state before man-made alterations.

3. Existing - the current elevation of ground surface.

Inpatient Uses: hospital patient services which require overnight stay.

Landscape Area: the landscape area shall include on-site walks, plazas, water, rooftop

landscaping and all other areas not devoted to building footprints or vehicular parking and drive surfaces.

Mean Sea Level: a reference or datum mark measuring land elevation using the average level of the ocean between high and low tides.

Outpatient Uses: hospital patient services which do not require overnight stay.

Residential Care: medically-oriented residential units that do not require the acuity level generally associated with inpatient services but require overnight stays.

Site Area: for the purpose of determining development area:

1. Gross - parcel area prior to dedications.

2. Net - parcel area after dedications.

Special Landscaped Street: West Coast Highway is designated as a special landscaped street, containing special landscape requirements.

Streets: reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way.

IV. DEVELOPMENT PLAN

Project Characteristics

The upper campus of Hoag Hospital is located on a triangular site of approximately 17.57 acres and is bounded by Newport Boulevard to the east, Hospital Road to the north and existing residential developments (the Versailles and Villa Balboa/Seafaire condominiums) to the west. The lower campus is located north of West Coast Highway, south of the Versailles and Villa Balboa/Seafaire Condominiums, west of Newport Boulevard and east of Superior Avenue. It contains approximately 20.41 acres and adjoins the upper campus at its eastern boundary. The upper campus is, and will continue to be, oriented towards inpatient functions, while the lower campus will be developed with predominantly outpatient, residential care and support services.

Development Plan

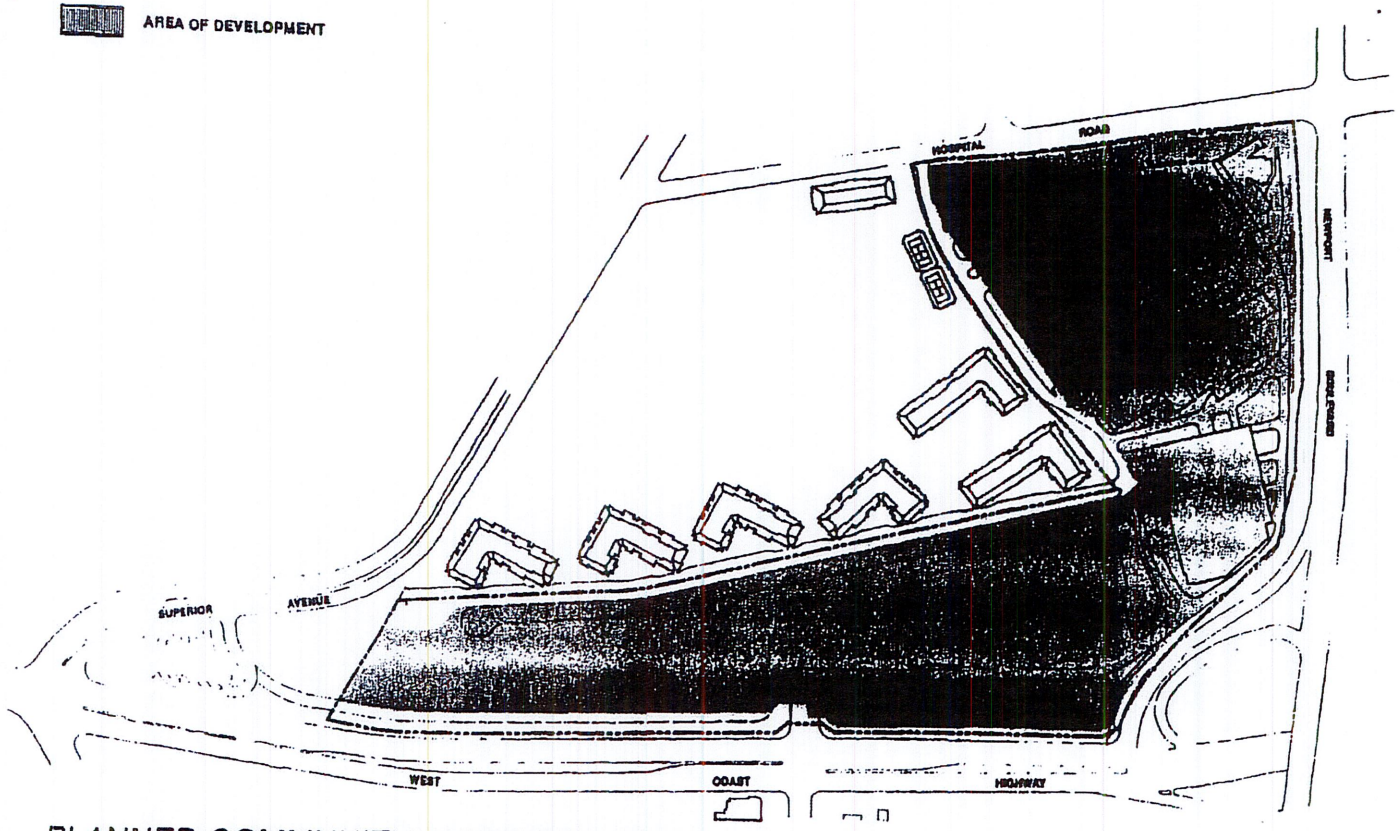
The Planned Community Development Plan for Hoag Hospital is shown on Exhibit 1. From 1990 to 2015, many of the existing buildings shown on the Development Plan for the upper campus may be redeveloped in order to functionally respond to the needs of the Hospital and conform to the requirements of State agencies.

The Development Plan includes a 0.8 acre view park adjacent to the bike trail between the lower campus and the Villa Balboa/Seafaire Condominiums. This view park includes a twenty-foot wide linear park area adjacent to the bike path (approximately 0.5 acres) and a consolidated view park at the westerly edge of the property (approximately 0.3 acres). A bike trail connection is also provided between the existing bike trails at the northern and southern boundaries of the lower campus. Access to the lower campus will be from West Coast Highway and Superior Avenue, as well as from Hospital Road, via the upper campus. Exhibit 2 shows the internal circulation for Hoag Hospital.

The Development Plan does not specify building locations or specific hospital related uses. Instead, a developable area is identified based on the regulations established for this Planned Community District. Because of the dynamic nature of the health care industry which leads to rapid technological changes that effect how health care services are delivered, the Development Plan for Hoag Hospital sets development caps as a function of allowable densities established by the Newport Beach General Plan.

LEGEND

AREA OF DEVELOPMENT



PLANNED COMMUNITY DEVELOPMENT PLAN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

May 26, 1992

EXHIBIT 1

The statistical analysis (Table 1) provides a summary of a potential development profile for Hoag Hospital. In order to provide flexibility for the hospital to respond to changes in the health care industry, while at the same time ensuring that trip generation restrictions are adhered to and the overall development cap is not exceeded, this Development Plan allows Hoag Hospital to adjust the development profile provided in the statistical analysis. For example, if changing hospital needs necessitate the development of additional outpatient uses, this development would be allowed, consistent with the Development Plan, as long as a corresponding adjustment in square footage and trip generation for another use were to occur.

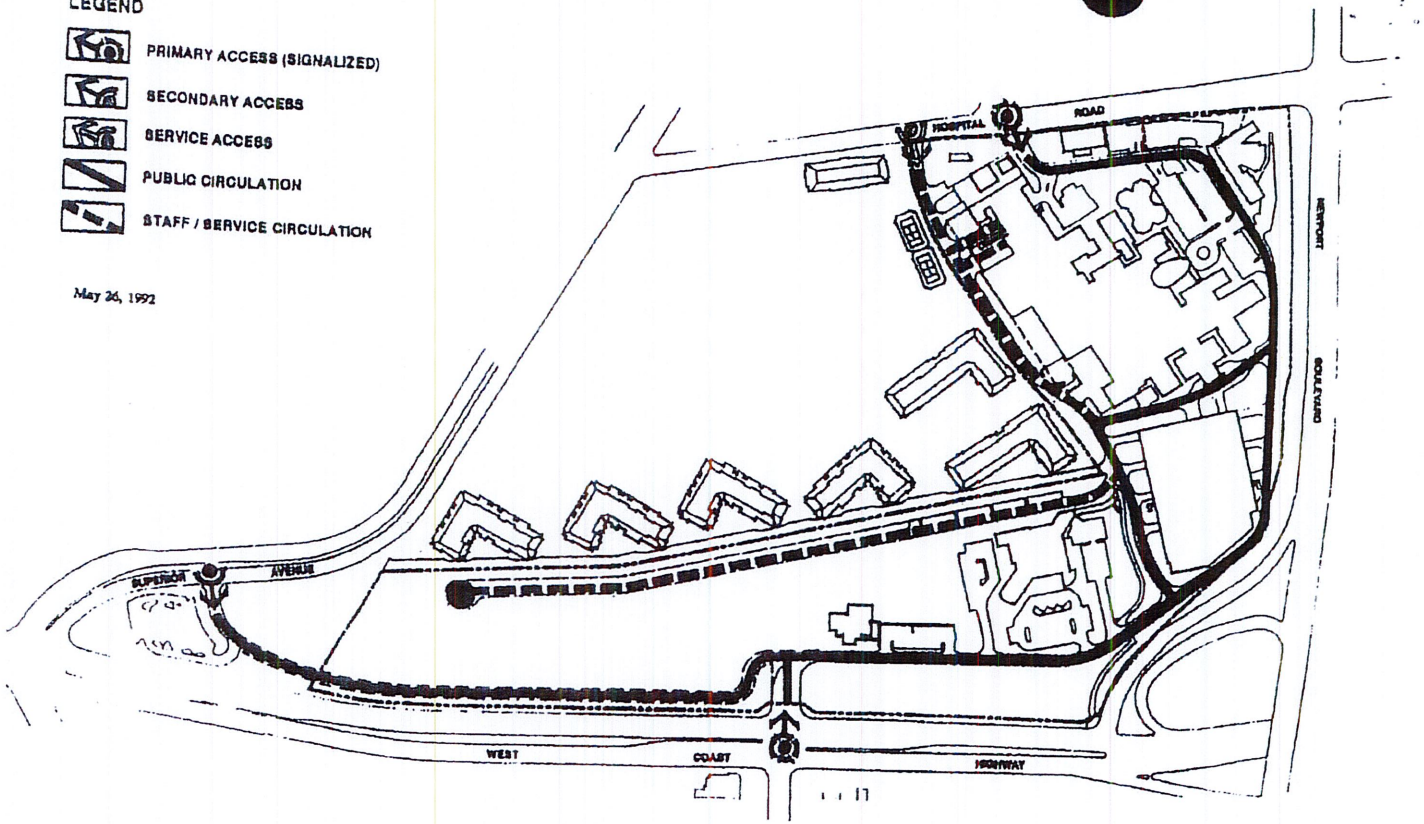
This Development Plan allows Hoag Hospital to adjust the development profile provided in the statistical analysis (Table 1) as long as the development limit (i.e., square feet) or the trip generation limit for the peak period (as identified in the Environmental Impact Report) established within each phase of development is not exceeded.

Adjustments to the Development Plan may be allowed if the total square footage or trip generation allowed in the current phase of development is exceeded, if the total development or trip generation allowed under the Development Plan is not exceeded.

LEGEND

- PRIMARY ACCESS (SIGNALIZED)
- SECONDARY ACCESS
- SERVICE ACCESS
- PUBLIC CIRCULATION
- STAFF / SERVICE CIRCULATION

May 26, 1992



VEHICULAR ACCESS

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 2

Table 1
STATISTICAL ANALYSIS[1]

Use	Square Feet
Lower Campus	
Existing:	
Outpatient Services (Hoag Cancer Center)	65,000
Child Care	7,800
Subtotal:	72,800
Phase I:	
Outpatient Services	115,000
Support Service	55,000
Administrative	30,000
Subtotal:	200,000
Phases II & III:	
Subtotal:	305,089
Total Lower Campus	577,889
Upper Campus	
Existing[2]:	480,000
Phase I:	
Outpatient Services	25,000
Inpatient	115,000
Subtotal:	140,000
Phases II & III:	145,349
Total Upper Campus	765,349
GRAND TOTAL	1,343,238[3]

[1] Full development of the upper and lower campuses is anticipated to occur over an approximate 20-year period and will likely occur in three, seven-year phases.

[2] Up to 50% of the existing upper campus may be redeveloped by master plan buildout.

[3] Based on development allowed under the General Plan at a floor area ratio to gross site area of .65 for the lower campus and 1.0 for the upper campus. Building Bulk limit for the lower campus is 0.90 for all structures which includes above grade covered parking.

V. DISTRICT REGULATIONS

The following regulations apply to all development within the Hoag Hospital Planned Community. The individual uses listed under the five permitted use categories is not an exhaustive list. Other hospital-related uses which fit into the five permitted use categories are allowed by definition. Prior to the issuance of a building permit, plot plans, elevations and any other such documents deemed necessary by the Planning, Building and Public Works Departments shall be submitted for the review and approval of the Planning, Building, and Public Works Departments.

A. Permitted Uses

1. Lower Campus

   a) Hospital facilities, including, but not limited to:

      i. Outpatient services:
      - Antepartum Testing
      - Cancer Center
      - Skilled Nursing
      - Rehabilitation
      - Conditioning
      - Surgery Center
      - Clinical Center
      - Day Hospital
      - Back and Neck Center
      - Biofeedback
      - Breast Imaging Center
      - CT Scan
      - Dialysis
      - EEG/EMG/NICE Laboratory
      - First Aid Center
      - Fertility Services
      - G.I. Laboratory
      - Laboratory
      - Magnetic Resonance Imaging
      - Nuclear Medicine
      - Occupational Therapy
      - Pediatrics
      - Pharmacy
      - Physical Therapy
      - Pulmonary Services

- Radiation Therapy
- Radiology
- Respiratory Therapy
- Sleep Disorder Center
- Speech Therapy
- Ultrasound

ii. Administration:
- Admitting
- Auxiliary Office
- Business Offices
- Information
- Registration
- Patient Relations
- Social Services

iii. Support Services:
- Employee Child Care
- Health Education
- Power/Mechanical/Auxiliary Support and Storage
- Food Services
- Cashier
- Chapel/Chaplaincy Service
- Conference Center
- Dietitian
- Gift Shop
- Laboratory
- Medical Library
- Medical Records
- Pharmacy
- Engineering/Maintenance
- Shipping/Receiving
- Microwave, Satellite, and Other Communication Facilities

iv. Residential Care:
- Substance Abuse
- Mental Health Services
- Extended Care
- Hospice Care
- Self or Minimal Care
- Congregate Care

v. Medical/Support Offices

b) Methane gas flare burner, collection wells and associated system components.

c) Accessory uses normally incidental to hospital development.

d) Temporary structures and uses, including modular buildings.

2. Upper Campus

a) Hospital facilities, including, but not limited to:

i) Inpatient uses:
- Critical Care
- Emergency Care Unit
- Birth Suites
- Cardiology
- Cardiac Care Unit
- Intensive Care Unit
- Mother/Baby Unit
- Surgery/Waiting Rooms
- Radiology
- Laboratory
- Pharmacy

ii) Outpatient services as allowed on the lower campus

iii) Administrative uses as allowed on the lower campus

iv) Support services as allowed on the lower campus

v) Residential care as allowed on the lower campus

vi) Heliport (subject to Conditional Use Permit)

b) Accessory uses normally incidental to hospital development.

c) Temporary structures and uses, including modular buildings.

B. Prohibited Uses

1. Lower Campus

a) Emergency Room

b) Heliport

C. Maximum Building Height

The maximum building height of all buildings shall be in accordance with Exhibit 3 which established the following height zones:

1. Upper Campus Tower Zone - maximum building height not to exceed the existing tower (235 feet above mean sea level).

2. Upper Campus Midrise Zone - maximum building height not to exceed 140 feet above mean sea level.

3. Upper Campus Parking zone - maximum building height not to exceed 80 feet above mean sea level, exclusive of elevator tower.

4. Lower Campus Zone, Sub-Areas A, B, C, F and G - within each sub-area no building shall exceed the height of the existing slope and conform to the range of maximum building heights indicated on the development criteria Exhibit 3.

5. Lower Campus Zone, Sub-Areas D and E - maximum building height shall not exceed the height of the existing Hoag Cancer Center (57.5 feet above mean sea level).

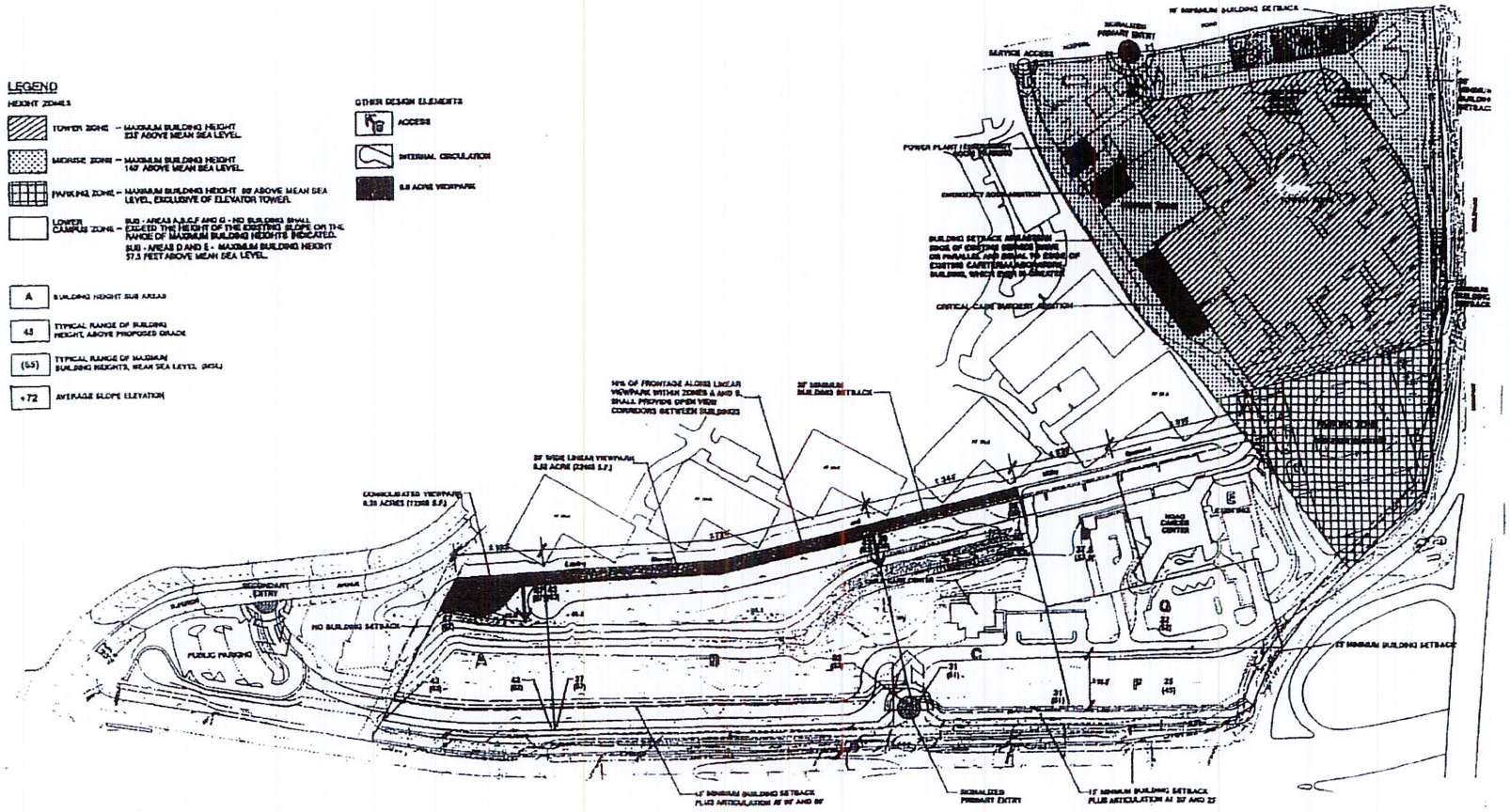
D. Setbacks

Setbacks for the Hoag Hospital Planned Community are shown on Exhibit 3.

1. Setbacks will be provided along property boundaries adjacent to the Villa Balboa / Seafaire Condominiums, as defined below:

a) Upper campus western boundary setback shall be the prolongation of the westerly edge of the existing cafeteria/laboratory building to the points of intersection with the easterly curb line of the existing service drive, then continuing along said line of the existing service drive.

b) Lower campus northern boundary, all of which will have a 20' minimum building setback.



DEVELOPMENT CRITERIA

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 3

May 26, 1992

VSA

2. The setback on West Coast Highway easterly of the hospital entry signal shall be 15 feet.

In addition, vertical articulation shall be required for buildings easterly of the signal within 150 feet of the West Coast Highway frontage, as follows:

1st Floor: Up to 18 feet in height no additional articulation is required. If the 1st floor exceeds 18 feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor (up to 32' in height): A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of 20 feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of 25 feet.

The setback on West Coast Highway westerly of the hospital entry signal shall be 45 feet.

In addition, vertical articulation shall be required for buildings westerly of the signal for buildings within 150 feet of the West Coast Highway frontage, as follows:

1st Floor: Up to 18 feet in height no additional articulation is required. If the 1st floor exceeds 18 feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor (up to 32' in height): A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of 55 feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of 65 feet.

In order to avoid any future structures in this area (within 150 feet of West Coast Highway) from presenting an unacceptable linear mass, no single structure shall be greater than 250 linear feet in width. Additionally, 20% of the linear frontage within 150 feet of West Coast Highway shall be open and unoccupied by buildings.

10% of the linear length of height zones A and B as viewed from the existing bicycle/pedestrian trail, exclusive of that area adjacent to the consolidated portion of the view park, shall be maintained as view corridors between buildings.

These requirements may be altered for individual buildings, if requested by the hospital, through the site plan review process defined in Section IX.

3. There will be no building setbacks along the boundary with CalTrans east property at Superior Avenue and West Coast Highway.

4. A 20 foot setback from property line shall be provided along Newport Boulevard from Hospital Road to a point 600 feet south; a 25 foot setback from property line shall be provided along the remainder of Newport Boulevard and along the Newport Boulevard/West Coast Highway Interchange.

5. A ten (10) foot building setback from the property line shall be provided along Hospital Road.

E. Lighting

The lighting systems shall be designed and maintained in such a manner as to conceal the light source and to minimize light spillage and glare to the adjacent residential uses. The plans shall be prepared and signed by a licensed Electrical Engineer.

F. Roof Treatment

Prior to the issuance of building permits, the project sponsor shall submit plans which illustrate that major mechanical equipment will not be located on the roof of any structure on the Lower Campus. Rather, such buildings will have clean rooftops. Minor rooftop equipment necessary for operating purposes will comply with all building height criteria, and shall be concealed and screened to blend into the building roof using materials compatible with roofing materials.

G. Signs

All signs shall be as specified under the Hoag Hospital Sign Program, Part VI.

H. Parking

All parking shall be as specified in Part VII, Hoag Hospital Parking Regulations.

I. Landscape

All landscaping shall be as specified in the Hoag Hospital Landscape Regulations, Part VIII.

J. Mechanical and Trash Enclosures

Prior to issuance of a building permit, the project sponsor shall submit plans to the City Planning Department which illustrate that all mechanical equipment and trash areas will be screened from public streets, alleys and adjoining properties.

K. Internal Circulation

1. Prior to the issuance of a grading permit for any of the proposed Master Plan facilities, the project sponsor shall implement a pilot program that controls usage of the Upper and Lower Campus service roads during non-working hours. Such controls may include requesting that the majority of vendors deliver products (other than emergency products) during working hours (i.e. 7:00 a.m. to 8:00 p.m.), signage to restrict use of the road by Hospital employees, physicians, patients and visitors during non-working hours, and other methods to restrict use. The Hospital will also request that vendors not deliver (i.e. scheduled and routine deliveries) on the weekends.

   This restriction specifically applies to scheduled and routine deliveries. The results of this program will be submitted to the City prior to the issuance of the grading permit. If such results indicate that such controls do not significantly impact the operations of the Hospital, and provided that requests for specified vendor delivery times is consistent with future Air Quality Management Plan procedures, the City may require that the program be implemented as hospital policy. If operation impacts are significant, other mitigation measures will be investigated at that time to reduce service road impacts to the adjacent residential units.

2. The lower campus service road shall include provisions for controlled access to limit usage to physicians and staff, and service vehicles.

L. Loading Dock

Within one year from the date of final approval of the Planned Community District Regulations and Development Plan by the California Coastal Commission, as an interim measure, the project sponsor shall implement an acoustical and/or landscape screen to provide a visual screen from and reduce noise to adjoining residences from the loading dock area.

The design process for the Critical Care Surgery Addition shall include an architectural and acoustical study to insure the inclusion of optimal acoustical screening of the loading dock area by that addition.

Subsequent to the construction of the Critical Care Surgery Addition, an additional acoustical study shall be conducted to assess the sound attenuation achieved by that addition. If no significant sound attenuation is achieved, the hospital shall submit an architectural and acoustical study assessing the feasibility and sound attenuation implications of enclosing the loading dock area. If enclosure is determined to be physically feasible and effective in reducing noise impacts along the service access road, enclosure shall be required. Any enclosure required pursuant to this requirement may encroach into any required setback upon the review and approval of a Modification as set forth in Chapter 20.81 of the Newport Beach Municipal Code.

VI. HOAG HOSPITAL SIGN PROGRAM

A. Purpose and Intent

1. The purpose of this Sign Program is to provide adequate, consistent and aesthetically pleasing on-building wall and ground-mounted signage based upon the provisions set forth by the City of Newport Beach Sign Ordinance and the information signage requirements of Hoag Hospital.

2. The intent of this Sign Program is to produce uniform standards for Hoag Hospital.

B. General Sign Standards

1. All signs visible at the exterior of any building or facility of the Hospital, ground mounted or on-building, may be illuminated or non-illuminated, depending upon need. Illumination method may be by external or internal source. No sign shall be constructed or installed to rotate, gyrate, blink or move, nor create the illusion of motion, in any fashion.

2. All signs attached to building or facility exteriors shall be flush or surface mounted as is appropriate to the architectural design features of said building or facility.

3. All signs together with the entirety of their supports, braces, guys, anchors, attachments and decor shall be properly maintained, legible, functional and safe with regard to appearance, structural integrity and electrical service.

4. All street signs shall be subject to review and approval of the City Traffic Engineer, and shall be in compliance with Ordinance 110-L.

C. Number of Signs Allowed

1. One (1) double-faced primary identification ground-mounted sign or two single faced gateway entry signs shall be allowed per street frontage. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Total maximum signage area shall not exceed two hundred (200) square feet and shall not exceed ten (10) feet in height per sign and street frontage. This sign may occur as a wall sign, to be located upon a project boundary perimeter wall, subject

to the same number and area maximums described above. This sign may also occur as part of an entry gateway system.

2. Secondary identification signs shall be allowed. This sign type shall not exceed a maximum height of 48" average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed thirty-five (35) square feet. This sign may occur as a wall sign to be located upon a project boundary perimeter wall, subject to the same number and area maximums described above.

3. Vehicular and pedestrian directional signs shall be allowed. This sign type may occur as a single-faced or double-faced sign. This sign type shall occur with the sign suspended between two upright supports having the same depth (thickness) as the sign cabinet described above.

4. Hospital identification signs shall be allowed upon hospital tower parapets, one (1) at each elevation. The elevation facing west (Villa Balboa property line) may not be illuminated.

5. On the lower campus, one (1) building-mounted identification sign will be allowed per structure and shall not be placed so as to directly face the Villa Balboa/Seafaire property. Such signs will be no higher than the roof line of the building upon which they are mounted.

VII. HOAG HOSPITAL PARKING REGULATIONS

A. General

1. Off-street parking for Hoag Hospital shall be provided on-site. Parking may be on surface lots, subterranean or in parking structures.

2. The design and layout of all parking areas shall be subject to the review and approval of the city Traffic Engineer and the Public Works Department.

3. Parking lot lighting shall be developed in accordance with City standards and shall be designed in a manner which minimizes impacts on adjacent land uses. Nighttime lighting shall be limited to that necessary for security and shielded down from any adjacent residential area. The plans shall be prepared and signed by a licensed electrical engineer, with a letter from the engineer stating that the requirements has been met. The lighting plan shall be subject to review and approval of the City Planning Department.

B. Requirements for Offstreet Parking

Parking requirements for specific sites shall be based upon the parking criteria established in Table 2. All parking shall be determined based upon building type and the area allotted to the following functions. Any area which is calculated as part of the total floor area limitation shall be included in the gross floor area to determine the parking requirement.

Table 2
PARKING REQUIREMENTS

Use Category	Parking Requirements
Outpatient Services	2.0 spaces/1,000 square feet*
Support	1.0 spaces/1,000 square feet*
Administrative	4.0 spaces/1,000 square feet*
Residential Care	1.0 spaces/1,000 square feet*
Medical Offices	4.0 spaces/1,000 square feet*
Inpatient	1.25 spaces/1,000 square feet**

* Parking requirements are based on a study performed by DKS Associates in May, 1987.

** Parking requirement is based on current Hoag Hospital parking demand.

VIII. HOAG HOSPITAL LANDSCAPE REGULATIONS

A. General

1. Detailed landscape and irrigation plans, prepared by a registered Architect or under the direction of a Landscape Architect, shall be reviewed by the Planning and Parks, Beaches and Recreation Departments and approved by the Public Work Departments prior to issuance of a building permit and installed prior to issuance of Certificate of Use and Occupancy. The Landscape Plan may inclnde a concept for the roofs and the parking structures. Trees shall not be used, but a planter box or trellis system shall be designed to provide visual relief of parking structures. All landscaping shall conform to the building height limits established in this text.

2. Parking lot trees shall be no less than fifteen (15) gallon size.

3. Shrubs to be planted in containers shall not be less than one (1) gallon size. Ground covers will be planted from (1) gallon containers or from root cuttings.

4. Every effort should be made to avoid using plants with invasive and shallow root systems.

5. Earth berms shall be rounded and natural in character, designed to obscure automobiles and to add interest to the site. Wheel stops shall be so placed that damage to trees, irrigation units and shrubs is avoided.

6. Trees in parking lots should be limited in variety. Selection should be repeated to give continuity. Regular spacing is not required and irregular groupings may add interest. Care should be exercised to allow plants to grow and maintain their ultimate size without restriction.

7. Heavy emphasis shall be placed on the use of drought-resistant native and naturalized vegetation and the use of an irrigation system designed to avoid surface runoff and over-watering.

B. Maintenance

1. All planting areas are to be kept free of weeds and debris.

2. Lawn and ground covers are to be kept trimmed and/or mowed regularly.

3. All plantings are to be kept in a healthy and growing condition. Fertilization, cultivation and tree pruning are to be carried out as part of regular maintenance.

4. Irrigation systems are to be kept in working condition. Adjustment and cleaning of system should be part of regular maintenance.

5. Stakes, guys and ties on trees should be checked regularly for correct function; ties to be adjusted to avoid creating abrasions or girdling to the stems.

6. Damage to plantings created by vandalism, automobile or acts of nature shall be corrected within thirty (30) days.

C. Special Landscaped Street

West Coast Highway is designated in the Hoag Hospital Planned Community as a special landscaped street. A 15' building setback from right-of-way / property line is required along West Coast Highway. Only driveways, parking and signage are allowed in the setback area. Parking areas shall be screened from view of West Coast Highway with landscaped berms.

Landscaping along West Coast Highway shall consist of trees, ground cover and shrubbery. All unpaved areas not utilized for parking or circulation shall be landscaped in a similar manner. Tree size to be no less than twenty-four (24) inch box.

D. Villa Balboa Landscape Zone

The area between the Villa Balboa/Hoag property line and the loading dock service access road shall be landscaped except for any driveway, walkway, or other hardscape elements in said area. The purpose of the landscaping will be to screen and buffer residential units from hospital activities.

E. Parking Areas

A minimum of 5% of the surface parking areas shall be devoted to planting areas. Planting areas around building shall not be included in parking area. Planting of trees may be in groups and need not necessarily be in regular spacing. Alternative landscape programs may be developed, including perimeter parking area landscaping, berming and depressing of parking areas. Alternative landscape programs shall be subject to the review of the Parks, Beaches and Recreation Department and the approval of the Planning and Public Works Departments.

A rooftop landscaping program may be developed for parking structures and shall be subject to the review of the Parks, Beaches and Recreation Department and the approval of the Planning and Public Works Departments. Rooftop landscaping shall conform to height restrictions.

IX. SITE PLAN REVIEW.

A. Purpose

The City Council finds that development on the West Coast Highway frontage of the lower campus of Hoag Hospital may have the potential to affect the aesthetics of the West Newport area as viewed from surrounding arterial roadways. The effect of this section is to establish a Site Plan Review requirement by the Planning Commission for certain individual projects which are proposed by the hospital to differ from the setback, horizontal and vertical articulation requirements as set forth in Section V.D.2. to insure that these projects conform with the objectives of the General Plan and the Master Plan for Hoag Hospital.

B. Findings

The City finds, determines and declares that the establishment of Site Plan Review procedures contained in this section promotes the health, safety, and general welfare of the community by ensuring that the development of Hoag Hospital proceeds in a manner which will not result in inadequate and poorly planned landscape areas, excessive building bulk on arterial roadways, inappropriate placement of structures and impairment of the benefits of occupancy and use of existing properties in the area.

C. Application

Site Plan Review approval shall be obtained prior to the issuance of a grading or building permit for any new structure or the addition to an existing structure which does not conform to the provisions of Section V.D.2.

D. Plans and Diagrams to be Submitted

The following plans and diagrams shall be submitted to the Planning Commission for approval:

1. A plot plan, drawn to scale, showing the arrangement of buildings, driveways, pedestrian ways, off-street parking and off-street loading areas, landscaped areas, signs, fences and walks. The plot plan shall show the location of entrances and exits, and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and loading space, and areas for turning and maneuvering vehicles. The plot plan shall indicate how utility and drainage are to be provided.

2. A landscape plan, drawn to scale, showing the locations of existing trees proposed to be removed and proposed to be retained; and indicating the amount, type, and location of landscaped areas, planting beds and plant materials with adequate provisions for irrigation.

3. Grading plans when necessary to ensure development properly related to the site and to surrounding properties and structures.

4. Scale drawings of exterior lighting showing size, location, materials, intensity and relationship to adjacent streets and properties.

5. Architectural drawings, renderings or sketches, drawn to scale, showing all elevations of the proposed buildings and structures as they will appear upon completion.

6. Any other plans, diagrams, drawings or additional information necessary to adequately consider the proposed development and to determine compliance with the purposes of this chapter.

E. Fee

The applicant shall pay a fee as established by Resolution of the City Council to the City with each application for Site Plan Review under this chapter.

F. Standards

In addition to the general purposes set forth in sub-section B, in order to carry out the purposes of this chapter as established by said section, the site plan review procedures established by this Section shall be applied according to and in compliance with the following standards, when applicable:

1. The development is in compliance with all other provisions of the Planned Community Development Criteria and District Regulations (P-C Text);

2. Development shall be compatible with the character of the neighborhood and surrounding sites and shall not be detrimental to the orderly and harmonious development of the surroundings and of the City;

3. Development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways and properties, with special consideration given to the mass and bulk of buildings and the streetscape on West Coast Highway;

4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development.

G. Public Hearing - Required Notice

A public hearing shall be held on all Site Plan Review applications. Notice of such hearing shall be mailed not less than ten (10) days before the hearing date, postage prepaid, using addresses from the last equalized assessment roll or, alternatively, from such other records as contain more recent addresses, to owners of property within a radius of three hundred (300) feet of the exterior boundaries of the subject property. It shall be the responsibility of the applicant to obtain and provide to the City the names and addresses of owners as required by this Section. In addition to the mailed notice, such hearing shall be posted in not less than two conspicuous places on or close to the property at least ten (10) days prior to the hearing.

H. Action by the Planning Commission

If all applicable standards established by this Section are met, the Planning Commission shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Commission shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Commission shall be subject to review by the City Council either by appeal, or upon its own motion, or upon the request of the Commission. The action of the Commission on any Site Plan Review shall be final and effective twenty-one (21) days following the Commission action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Commission has requested a review of its decision, or unless the City Council, not more than twenty-one (21) days after the Commission action, on its own motion, elects to review and act on the action of the Commission, unless the applicant consents to an extension of time. The City Council may affirm, reverse or modify the decision. Such action by the City Council shall be final.

I. Appeal to the City Council

Any Site Plan Review decision of the Commission may be appealed to the City Council by the applicant or any other person, at any time within twenty-one (21) days after the date of the Commission decision. An appeal to the City Council shall be taken by filing a letter of appeal in duplicate, with the Planning Department. Such letter shall set forth the grounds upon which the appeal is based and shall be accompanied by a fee as established by Resolution of the City Council.

J. Action by the City Council

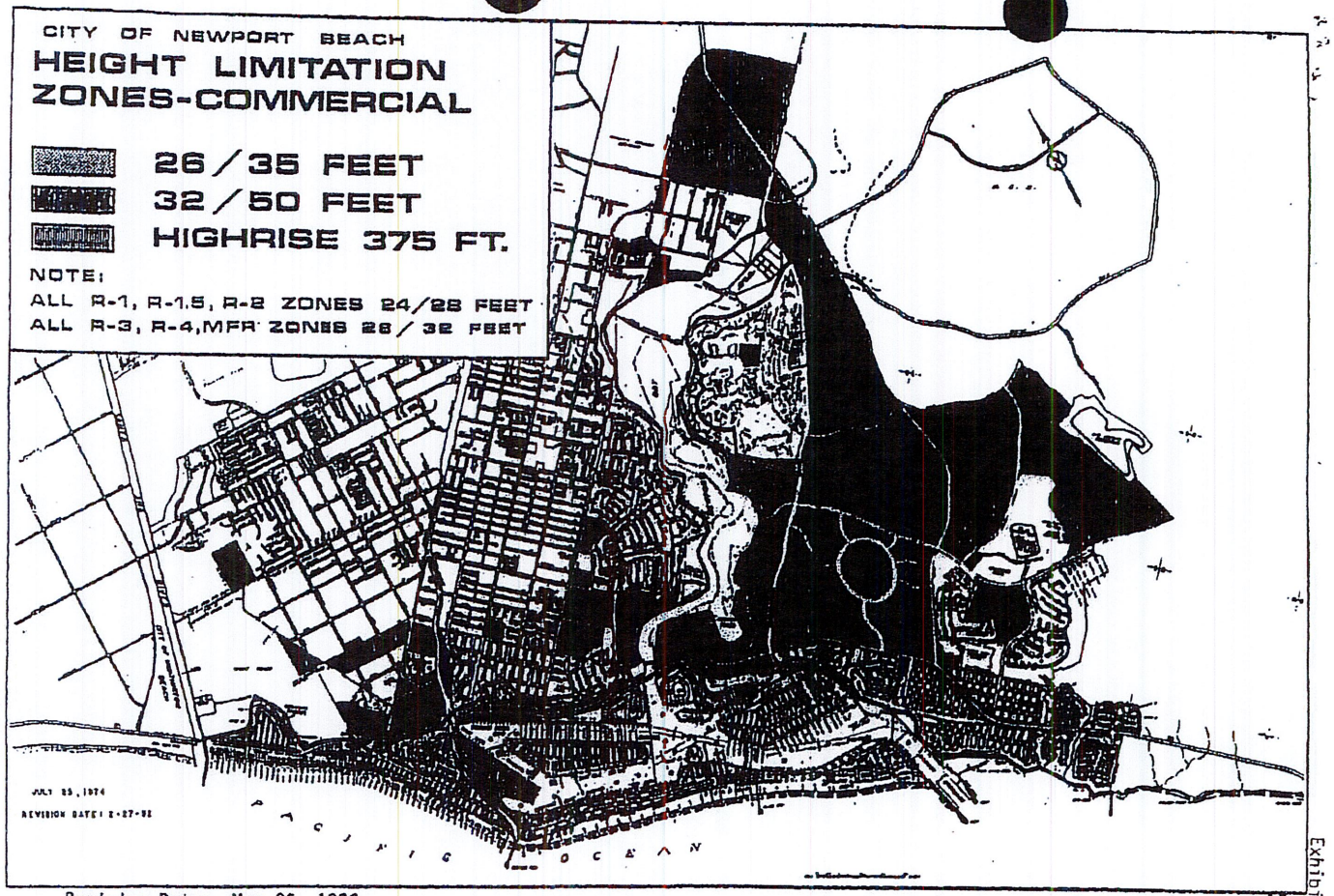
An appeal shall be heard and acted on by the City Council, and the City Council may affirm, reverse or modify the decision of the Commission. The decision of the City Council is final.

K. Expiration and Revocation of Site Plan Review Approvals

1. Expiration. Any Site Plan Review granted in accordance with the terms of this Title shall expire within 24 months from the date of approval if a building permit has not been issued prior to the expiration date and subsequently construction is diligently pursued until completion, unless at the time of approval the Planning Commission has specified a different period of time.

2. Violation of Terms. Any Site Plan Review granted in accordance with the terms of this Title may be revoked if any of the conditions or terms of such Site Plan Review are violated or if any law or ordinance is violated in connection therewith.

3. Hearing. The Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within 60 days after receipt of the recommendation of the Planning Commission.



Revision Date: May 26, 1992

Exhibit D

EXHIBIT D
ESTOPPEL CERTIFICATE

Date Requested: _____
Date of Certificate: _____

On _____, the City of Newport Beach approved the "Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian" (the "Development Agreement").

This Estoppel Certificate certifies that, as of the "Date of Certificate" set forth above:

CHECK WHERE APPLICABLE

_____ 1. The Development Agreement remains binding and effective;

_____ 2. The Development Agreement has not been amended;

_____ 3. The Development Agreement has been amended in the following respects:

_____
_____
_____
_____

_____ 4. Neither Hoag nor any of its successors are in default under the Development Agreement;

_____ 5. The following defaults exist under the Development Agreement:

_____
_____
_____
_____

This Estoppel Certificate may be relied upon by any transferee or mortgagee of any interest in the property which is subject of the Development Agreement.

CITY OF NEWPORT BEACH

BY: _____
NAME: _____
TITLE: _____

EXHIBIT D

[illegible] / [illegible]

EXHIBIT D

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5
DATED JUNE 17, 2008

This Document was electronically recorded by
ER Cert Mail D

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

NO FEE
2008000289321 12:35pm 06/17/08
120 33 A17 56
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RECORDING REQUEST BY, AND
WHEN RECORDED MAIL TO:

City Clerk
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

EXEMPT FROM FILING FEES CAL. GOV'T CODE § 6103
(Space above this line for Recorder's use)

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 27383

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

AND

THE CITY OF NEWPORT BEACH

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved May 13, 2008
Ordinance No. 2008-10

RECORDING REQUEST BY, AND
WHEN RECORDED MAIL TO:

City Clerk
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

EXEMPT FROM FILING FEES CAL. GOV'T CODE § 6103
(Space above this line for Recorder's use)

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 27383

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

AND

THE CITY OF NEWPORT BEACH

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved May 13, 2008
Ordinance No. 2008-10

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

(Hoag Memorial Hospital Presbyterian)

THIS AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5 ("Amendment") is entered into and effective on the date it is recorded with the Orange County Recorder (the "Effective Date") by and between the City of Newport Beach (hereinafter "City") and Hoag Memorial Hospital Presbyterian (hereinafter "Hoag").

RECITALS

1. The "RECITALS" to the Restated Development Agreement are amended to add new Sections 1.9 through Section 1.19(f) to read as follows:

> 1.9 Hoag Property. Hoag is the fee owner of approximately 38 acres of real property located in the City divided between the Upper Campus and the Lower Campus and more particularly described in Exhibit "A" and depicted on Exhibit "B" (the "Property").
>
> 1.10 Hoag Healthcare Services. Hoag is a modern, state-of-the-art acute care, not-for-profit hospital providing a comprehensive mix of healthcare services to treat virtually any routine or complex medical condition. Hoag features centers of excellence that include Hoag Cancer Center, Hoag Heart and Vascular Institute, Hoag Neuroscience Institute, Hoag Orthopedic Services and Hoag Women's Health Services, as well as advanced medical programs in many other specialties.
>
> 1.11 Hoag Community Benefit Programs. In addition to providing state-of-the-art hospital, diagnostic imaging and emergency room care medical services, Hoag is involved in many other community benefit programs such as police and SWAT team, fire department and paramedic support services, designating the City as the point of sale for major hospital equipment purchases and construction projects, providing financial and transportation support for the City's senior Oasis Center, and providing methane gas flare burnoff to mitigate methane gas fumes along Pacific Coast Highway. Hoag's community medicine program allocates approximately $10 million annually toward improving the community's overall health, primarily through disease prevention and wellness and health promotion, especially for those vulnerable and disadvantaged populations.

1.12 EIR No. 142 and P.C. Text. On May 26, 1992, the City Council of City ("City Council") certified the Hoag Hospital Master Plan Final EIR No. 142 and adopted the Hoag Memorial Hospital Presbyterian Master Plan ("Hoag Master Plan") and the Planned Community Development Criteria and District Regulations ("P.C. Text") setting forth the development standards and terms and conditions by which the Property may be developed, including the maximum permissible building area, building height limits and permitted land uses.

1.13 Square Footage of Buildable Area. Under the existing Hoag Master Plan and P.C. Text, the Property allows a total of 1,343,238 square feet of buildable area with 577,889 square feet allocated to the Lower Campus and 765,349 square feet allocated to the Upper Campus.

1.14 Development Agreement No. 5. On May 26, 1992, the City Council adopted Ordinance No. 92-4 approving Development Agreement No. 5 between the City and Hoag incorporating the Hoag Master Plan and P.C. Text and granting vested rights to Hoag to develop the Property pursuant to the Hoag Master Plan and P.C. Text for the term of the Development Agreement. The Development Agreement was recorded in the Official Records of Orange County, California on August 4, 1993 as Instrument No. 63-0522236.

1.15 Restated Development Agreement. On February 14, 1994, the City Council of City adopted Ordinance No. 94-8 approving an Amendment and Restatement of Development Agreement No. 5 ("Restated Development Agreement") incorporating certain provisions clarifying the role, review and approval authority of the California Coastal Commission for development of the Property to ensure consistency and compliance with the California Coastal Act. The Restated Development Agreement was recorded in the Official Records of Orange County, California on March 23, 1994 as Instrument No. 94-0207276.

1.16 First Amendment to P.C. Text. On August 13, 2002, the City Council adopted Ordinance No. 2002-17 approving the First Amendment to the P.C. Text to provide that certain non-occupied building areas are not counted towards the maximum permissible building floor areas for development of the Property.

1.17 Noise Limitation. The existing PC Text provides that noise generated from Hoag Hospital from new mechanical appurtenances shall not exceed 55 dBA at the Property lines. This noise limitation was established prior to the adoption of the City's

Noise Element in the General Plan and Noise Ordinance. It is proposed that noise generated and originating from the Property be governed by the City Noise Ordinance with certain exceptions.

1.18 Noise Attenuation. Hoag has taken significant actions to attenuate noise generated from mechanical equipment and has installed landscape screening and walls to mitigate and buffer noise and improve aesthetic impacts for adjacent residential properties.

1.19 Restated Development Agreement Amendments. The City and Hoag propose to further amend the Restated Development Agreement by this Amendment to incorporate references to: a Supplemental EIR; an amendment to the City General Plan; an increase in the Public Benefits; designation of the City as the point of sale to the extent allowed under applicable law; and amendments to the Hoag Hospital Planned Community Text ("P.C. Text") to, among other things:

(a) eliminate the reference to 1.0 Floor Area Ratio ("FAR") for the Upper Campus and the .65 FAR for the Lower Campus in the General Plan Land Use Element. In place of the reference to the FAR's, an absolute maximum allowable building area of 1,343,238 square feet will remain available for development of the entire Property comprised of the Upper Campus and the Lower Campus;

(b) maintain a cap under the General Plan Land Use Element Amendment for development of the Lower Campus at 577,889 square feet (if no square footage is reallocated) and establish a cap on development of the Upper Campus at 990,349 square feet (if all 225,000 square feet are reallocated from the Lower Campus to the Upper Campus);

(c) allow the transfer of up to 225,000 square feet of buildable area from the Lower Campus to the Upper Campus, which, if all 225,000 square feet are reallocated, would result in a maximum allowed density of 990,349 square feet for the Upper Campus and a reduction to permit 352,889 square feet of allowable development for the Lower Campus;

(d) to modify the noise standards applicable to the Property;

(e) delete a provision that required the City and Hoag to conduct a study of possible future improvements in and around the easterly end of the Semeniuk Slough, including a requirement that Hoag fund the study and potential future improvements in an amount not to exceed $200,000; and

(f) incorporate the Second Amendment to the P.C. Text.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Section 1.5 of the Restated Development Agreement entitled *Planning Commission/City Council Hearings* is amended to read as follows:

"1.5 Planning Commission/City Council Hearings. The Planning Commission, after giving appropriate notice, held public hearings to consider a development agreement, the proposed Master Plan, and the EIR on December 5, 1991, January 9, 1992, January 23, 1992, February 6, 1992 and February 20, 1992. The City Council conducted public hearings on the Master Plan, this Agreement and the EIR on March 23, 1992, March 30, 1992, April 13, 1992 and May 11, 1992. The Planning Commission, after giving appropriate notice, held a public hearing to consider this Amendment, the Supplemental EIR, the General Plan Amendment, and the Second Amendment to the P.C. Text on January 31, 2008, February 7, 2008, March 6, 2008 and March 20, 2008. The City Council conducted a public hearing on this Amendment, the Supplemental EIR, the General Plan Amendment and the Second Amendment to the P.C. Text on April 16, 2008."

2. Section 1.8 of the Restated Development Agreement entitled *City Ordinance* is amended to read as follows:

"1.8 City Ordinance. On February 14, 1994, the City Council adopted Ordinance No. 94-8 approving a Restated Development Agreement No. 5 incorporating certain provisions clarifying the role, review and approval authority of the California Coastal Commission for development of the Property to ensure consistency and compliance with the California Coastal Act. The Adopting Ordinance became effective on March 16, 1994. On May 13, 2008, the City Council adopted Ordinance No. 2008-10 approving

this Amendment and authorizing the City to enter into this Amendment. The adopting ordinance will become effective on June 12, 2008."

3. Section 2.1 of the Restated Development Agreement entitled *The Adopting Ordinance* is amended to read as follows:

"2.1 The "Adopting Ordinance" refers to City Ordinance No. 94-8, adopted on February 14, 1994, by the City Council, which approved and authorized the City to enter into this Agreement. "Adopting Ordinance" further refers to Ordinance No. 2008-10 adopted on May 13, 2008 by the City Council, which approved and authorized the City to enter into this Amendment."

4. Section 2.2 of the Restated Development Agreement entitled *Agreement* is amended to read as follows:

"2.2 "Agreement" refers to the "Restated Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian," and this Amendment."

5. Section 2.13 of the Restated Development Agreement entitled *The EIR* is amended to read as follows:

"2.13 The "EIR" refers to final Environmental Impact Report No. 142 of the City of Newport Beach, and Supplemental Environmental Impact Report No. 142."

6. Section 2.23 of the Restated Development Agreement entitled *Master Plan* is amended to read as follows:

"2.23 "Master Plan" refers to the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan which was adopted by the City on May 26, 1992 (Exhibit "C"), as amended."

7. Section 3 of the Restated Development Agreement entitled *Conditions to Development* is amended to add a new paragraph after Subsection (f) to read as follows:

"Notwithstanding the provisions of this Section, any provisions set forth in this Amendment shall supersede and control over any inconsistencies with this Section."

8. Section 3.3 of the Restated Development Agreement entitled *Program EIR* is amended to read as follows:

> "3.3 Program EIR. Hoag acknowledges that the EIR is a "Program EIR" and includes Supplemental Environmental Impact Report No. 142. The EIR analyzes the impacts of construction phased over time and, pursuant to CEQA, City is under a continuing obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the request were fully addressed in the EIR. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIR, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIR. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA."

9. Section 4.1 of the Restated Development Agreement entitled *Right to Develop* is amended to read as follows:

> "4.1 Right to Develop. Subject to compliance with the provisions of Sections 3 and 8.2, Hoag shall have a vested right to develop and receive Project Specific Approvals for construction on the Property to the full extent permitted by the Master Plan, as amended. Subject to the provisions of Sections 3 and 8, City shall only take action which complies with and is consistent with the Master Plan, as amended, the Restated Development Agreement and this Amendment unless Hoag otherwise consents in writing. Subject to this Subsection, City shall have the authority to impose only those Exactions which are specifically described in this Agreement, except as expressly required (as opposed to permitted) by state or federal law."

10. Section 5.2 of the Restated Development Agreement entitled Mitigation Review is amended to read as follows:

> "5.2 Public Hearing. The Annual Review shall be conducted at a public hearing noticed in accordance with the provisions of Chapter 15.45 of the Newport Beach Municipal Code. Annual reviews should be scheduled in April of each year."

11. Section 5.4 of the Restated Development Agreement entitled Mitigation Review is amended to read as follows:

> "5.4 Mitigation Review. The annual review shall include a detailed report of compliance with the various conditions and mitigation measures contained within the mitigation monitoring plan. The report shall also include a noise regulation compliance assessment that includes noise measurements prepared by a qualified noise consultant on a yearly basis. The noise assessment shall identify noise regulation compliance issues and recommended measures to abate any noncompliance. The report shall include an analysis of the view impacts of buildings constructed in comparison to the anticipated views as depicted in the EIR. Hoag shall be found in compliance with this Agreement unless the City Council determines, based upon the evidence presented at the Annual Review, that Hoag has not complied with all mitigation measures and conditions including those imposed as a result of subsequent environmental analysis, applicable to the grading of, or building on, the Property as of the date of the Annual Review. Hoag shall pay the City administrative costs incurred in conducting Annual Reviews. Hoag shall reimburse the City for costs incurred by the City associated with Fluor Enterprises' review of the cogeneration plant during the 2008 Annual Review."

12. Section 8.2 of the Restated Development Agreement entitled *Exactions* is hereby amended to delete Subsection (c), which reads as follows:

> "(c) City and Hoag shall conduct a study of possible future improvements in and around the easterly end of Semeniuk Slough that would, among other things, improve the appearance of the area and, potentially, serve as a component to improve public access from residential areas in West Newport to park land and public recreation facilities proposed in conjunction with development of the West Newport Oil Company property. The study shall analyze, among other things, the type of improvements that would improve the area without adversely impacting wetlands, the possible location of pedestrian trials and the potential for those trails to improve access to proposed recreational facilities, phasing of the improvements, potential public benefits, and the cost of the improvements. As a part of the study, Hoag and City shall meet and confer with resource agencies relative to the type and extent of improvements that may be permitted in or adjacent to wetlands. Hoag shall fund the study and participate in the cost of constructing any improvements in the area that the City Council determines are feasible and in the public interest, provided, however, the financial contribution of Hoag, including the costs of the study and improvements, shall not exceed Two Hundred Thousand Dollars ($200,000.00)."

13. Section 8.2 of the Restated Development Agreement entitled *Exactions* is hereby amended to renumber Subsection (d) to Subsection (c); and to add a new Subsection (d) to read as follows:

> "(d) City and Hoag acknowledge and agree that the Restated Development Agreement and this Amendment confer private benefits on Hoag that should be balanced by commensurate public benefits in favor of the City. Accordingly, the City and Hoag intend to provide consideration to balance the private and public benefits by the imposition of a Development Agreement Fee, which fee shall be used to reimburse the City for public improvements in the area and to fund certain additional needed public improvements identified by the City. Hoag shall pay to the City a Development Agreement Fee of Three Million Dollars ($3,000,000). Payment of one-half of the Development Agreement Fee of $1.5 million shall be made upon the Effective Date of this Amendment. Payment of the remaining one-half of the Development Agreement Fee of $1.5 million shall be paid to City 12 months from the Effective Date of this Amendment or at the time of issuance of the first building permit by the City for development of a project on the Upper Campus as provided in Exhibit "C" attached to this Amendment, whichever occurs earlier.
>
> The first $1.5 million of the Development Agreement Fee shall be used to reimburse the City and/or pay for the costs associated with the following projects: (i) construction of the Superior Avenue medians extending from Ticonderoga Street to Dana Road; (ii) construction of the right-turn pocket for southbound Newport Boulevard to westbound Hospital Road; and (iii) funding of the operational improvements and traffic signal upgrade at the Hospital Road and Placentia intersection ("Priority Public Improvements"). Construction of the first two Priority Public Improvements listed above occurred during 2007, and the third is anticipated to occur in 2008. The City shall be obligated to pay the actual cost difference, if any, for construction of these Priority Public Improvements. However, if there are any funds remaining after construction of the Priority Public Improvements is completed, the City may retain the funds to be used for other City projects or services that benefit the public. The City shall also have the sole authority to decide the design, cost and scope of the Priority Public Improvements and the sufficiency of City's performance on the Public Improvement Projects shall not be subject to Hoag's approval.
>
> The balance of the Development Agreement Fee ($1.5 million) and any funds remaining after the construction of the Priority Public Improvements shall be used by the City in the City's sole discretion to

offset costs associated with other City and community projects or services that benefit the public such as, among other things, public parks (for example, Sunset View Consolidated Park), landscaping improvements adjacent to public right of ways, sound abatement programs, public buildings, public road improvements, water quality improvements, law enforcement, fire fighting, emergency preparedness and other public safety facilities."

14. A new section, Section 8.3, shall be added to the Restated Development Agreement entitled *Sales/Use Tax Origin,* to read as follows:

"8.3 Sales/ Use Tax Origin

(a) Hoag will include in its general contractor construction contract a provision that Hoag's general contractor and subcontractors, to the extent allowed by applicable law, will obtain a Board of Equalization sales/use tax subpermit for the jobsite at the Project Property and allocate all eligible sales and use tax payments for individual contracts over $5 million to the City. Hoag will provide Hoag's general contractor and subcontractors with the name and contact information of the City's Revenue Manager and notice of the Revenue Manager's availability to meet and confer with them on the implementation of the Board of Equalization sales/use tax subpermit procedures. Hoag will further include a notice in its general contractor construction contract that prior to beginning a qualified construction project, the general contractor and subcontractors are encouraged to meet with the City's Revenue Manager to review the process to be followed with respect to sales and use taxes. Hoag will further include a provision in its general contractor construction contract that the general contractor or subcontractors will certify in writing that the person(s) responsible for filing the tax return understands the process of reporting the tax to the City and will follow the guidelines set forth in the relevant sections of the Sales and Use Tax Regulations. Hoag shall not be responsible for failure of Hoag's general contractor or subcontractors to follow the procedures set forth in this Section.

Hoag, if readily available, shall provide to the City or any City designated representative the names, addresses, phone numbers and contact name of the general contractor and all subcontractors.

(b) Hoag will continue to follow the Direct Payment Permit Process established in the Revenue and Taxation Code and use the permit for all qualifying individual purchases in excess of $100,000 so that the local share of its sales/use tax payments is allocated to the City as the point of sale.

(c) It is understood and agreed that any fixtures, materials and equipment with a purchase total that exceeds $100,000 purchased directly by Hoag and shipped to Hoag's Newport Beach location may also be eligible for direct allocation of sales/use tax to the City. Upon request of the City, Hoag will provide City on a semi-annual basis with a list of purchases exceeding the $100,000 threshold during the preceding six-month period, including the amount of the purchase and, if readily available, the name and contact information for the vendor upon request by the City. The City agrees to review the semi-annual list of purchases made by Hoag and advise Hoag of any missed opportunities for direct allocation. Hoag agrees to file its Direct Payment Permit with vendors identified by the City in an effort to improve the direct allocation of the local share of sales/use tax payments in future periods."

15. A new section, Section 8.4, shall be added to the Restated Development Agreement entitled *Sunset View Park Improvements*, to read as follows:

"8.4 Hoag shall reimburse the City up to $ 150,000 for the installation of groundcover, shrubs and irrigation systems within the unimproved portion of Sunset View Park and Superior Avenue, approximately 20,500 square feet in area, located northerly of the cogeneration building. Reimbursement to the City shall be within 30 days of Hoag receiving an invoice from the City."

16. A new section, Section 8.5, shall be added to the Restated Development Agreement entitled *Cogeneration Plant Energy Curtailment,* to read as follows:

> "8.5 Hoag shall install a weather station capable of identifying ambient conditions necessary in documenting cogeneration plant and cooling tower operations. The weather station shall be tied into the cogeneration plant controls in order to maximize automatic responses to prevailing weather conditions, assisting in managing the operational changes and load shifting, as well as to provide periodic reports on plant operations.
>
> Hoag shall not construct or erect additional cooling towers within the Hoag Lower Campus.
>
> Hoag shall reduce the effective heat rejection by 33% at the existing cooling towers and such reduction shall be measured from a baseline (to be measured at the cooling towers) of operating three existing generators and absorption chillers at 100% of design capacity.
>
> This reduced capacity operation shall be implemented daily between November 1st and April 30th, between the hours of 7:00 AM and 7:00 PM when the relative humidity is equal to or above 60% and when ambient temperatures are equal to or less than 55 degrees Fahrenheit.

17. Section 11.1(c) of the Restated Development Agreement entitled *Notices* is hereby amended to delete:

"with a copy to: Tim Paone
Paone, Callahan, McHolm & Winton
19100 Von Karman, 8th Floor
P.O. Box 19613
Irvine, CA 92713-9613"

and to add:

"with a copy to: Dennis D. O'Neil
Hewitt & O'Neil LLP
19900 MacArthur Blvd., Suite 1050
Irvine, CA 92612

with a copy to: Gary McKitterick
Allen Matkins Leck Gamble Mallory & Natsis LLP
1900 Main Street, 5th Floor
Irvine, CA 92614-7321"

18. A new Section 11.17 shall be added to the Restated Development Agreement as follows:

"11.17 Indemnification/Hold Harmless. To the fullest extent permitted by law, Hoag 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 this Amendment, including, but not limited to, the approval of the Planned Community Text and/or the City's related California Environmental Quality Act determinations, the certification of the Supplemental Environmental Impact Report, the adoption of a Mitigation Program, and/or statement of overriding considerations for this Project. 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 Hoag, City, and/or the parties initiating or bringing such proceeding. Hoag 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. Hoag shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition."

19. Exhibit C of the Restated Development Agreement shall incorporate the First Amendment to the P.C. Text as part of this Second Amendment to the P.C. Text in revised Exhibit C entitled:

"HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY
DEVELOPMENT CRITERIA
AND
DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
March 20, 2008

Adopted by the City Council
City of Newport Beach
Ordinance No.2008-10
May 13, 2008"

20. Except as provided for in this Amendment and not otherwise superseded by this Amendment, the provisions set forth in the Restated Development Agreement, all of the other terms, conditions, provisions and exhibits of the Restated Development Agreement continue to have full force and effect as provided therein and this Amendment shall constitute an integral part of the Restated Development Agreement. Exhibits A through C constitute a part of this Amendment and are incorporated into this Amendment in full by this reference.

21. In the event there is any conflict between any provision of the Restated Development Agreement and this Amendment, the later approved and recorded document shall prevail in interpretation, operation and implementation.

22. The City Clerk shall cause a copy of this Amendment to be recorded with the Office of the County Recorder of Orange County, California within ten (10) days following the effective date of adoption of the Ordinance approving this Amendment.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to Development Agreement No. 5 to be binding as of the Effective Date.

CITY:

THE CITY OF NEWPORT BEACH, a municipal corporation of the State of California

By: _____
Edward D. Selich, Mayor

ATTEST:

_____
LaVonne Harkless, City Clerk

APPROVED AS TO FORM:

_____
For Robin Clauson, City Attorney

OWNER:

HOAG MEMORIAL HOSPITAL PRESBYTERIAN, a California nonprofit public benefit corporation

By: _____
Richard F. Afable, M.D.
President and CEO

(All Signatures to be Notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of ORANGE

On JUNE 11, 2008 (Date) before me, LEILANI I. BROWN, NOTARY PUBLIC (Here Insert Name and Title of the Officer)

personally appeared EDWARD D. SELIGH (Name(s) of Signer(s))

LEILANI I. BROWN
Commission # 1633477
Notary Public - California
Orange County
My Comm. Expires Jan 25, 2010

LEILANI I. BROWN
Commission # 1633477
Notary Public - California
Orange County
My Comm. Expires Jan 25, 2010

Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Leilani I. Brown (Signature of Notary Public)

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange

On May 19, 2008 before me, Debora Hames, Notary Public
(Here insert name and title of the officer),

personally appeared Richard Afable,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

DEBORA HAMES
Comm. # 1561848
NOTARY PUBLIC-CALIFORNIA
Orange County
My Comm. Expires March 20, 2009

Debora Hames
Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Amendment to Restated Development Agreement No. 5
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 33 Document Date 5-19-08

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☒ Corporate Officer
  President and CEO
  (Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

EXHIBIT A

LEGAL DESCRIPTION

The subject property is the following real property in the City of Newport Beach, County of Orange, State of California:

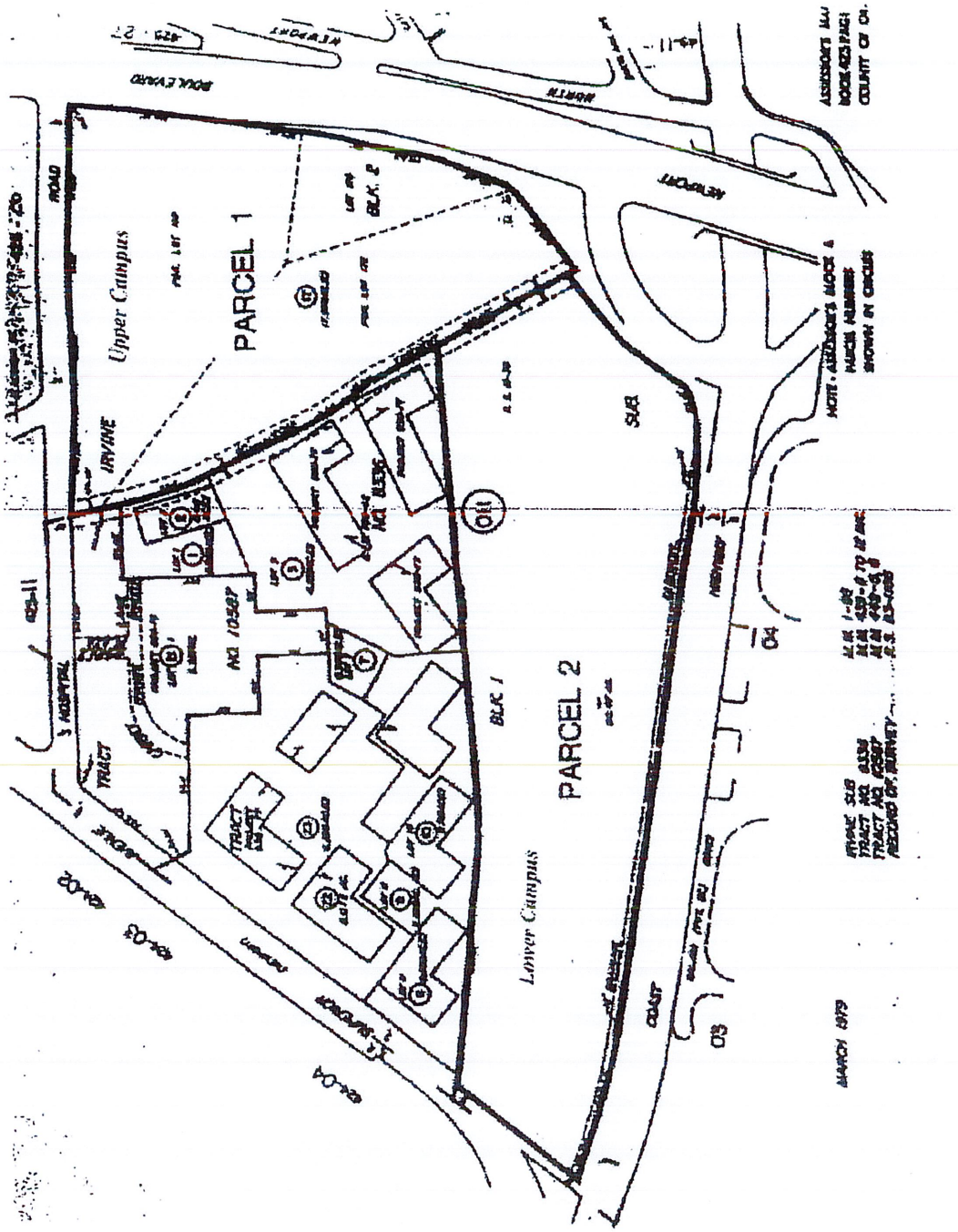
Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

EXHIBIT B



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H&O: #58720 v1

EXHIBIT C

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Adopted May 13, 2008

Ordinance No. 2008-9

Effective June 12, 2008

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
March 20, 2008

Adopted by the City Council
City of Newport Beach
Ordinance No. 2008-10
May 13, 2008

TABLE OF CONTENTS

		Page Number
I.	INTRODUCTION	1
II.	GENERAL NOTES	2
III.	DEFINITIONS	3
IV.	DEVELOPMENT PLAN	5
V.	DISTRICT REGULATIONS	10
VI.	HOAG HOSPITAL SIGN PROGRAM	21
VII.	HOAG HOSPITAL PARKING REGULATIONS	23
VIII.	HOAG HOSPITAL LANDSCAPE REGULATIONS	24
IX.	SITE PLAN REVIEW.	27

LIST OF EXHIBITS

	Page Number
1. PLANNED COMMUNITY SITE AND BOUNDARY MAP	7
2. VEHICULAR ACCESS	8
3. DEVELOPMENT CRITERIA	14
4. PROPOSED SOUND WALL LOCATION PLAN	19
5. LOADING DOCK AREA LOCATION	20
6. LANDSCAPE MATRIX	32
7. LOWER CAMPUS LANDSCAPE IMPROVEMENT PLAN	33
8. COAST HIGHWAY LANDSCAPE SCREEN	34

LIST OF TABLES

1. BUILDING AREA STATISTICAL ANALYSIS	9
2. PARKING REQUIREMENTS	23

I. INTRODUCTION

Background

The Hoag Memorial Hospital Presbyterian Planned Community District in the City of Newport Beach has been developed in accordance with the Newport Beach General Plan. The purpose of this Planned Community District is to provide a method whereby property may be classified and developed for hospital-related uses. The specifications of this District are intended to provide land use and development standards supportive of the proposed use while ensuring compliance with the intent of all applicable regulatory codes.

The Planned Community District includes district regulations and a development plan for both the Upper and Lower Campuses of Hoag Hospital. In general, over the long term, the Upper Campus will become oriented primarily towards emergency, acute and critical care (predominantly inpatient) uses and the Lower Campus will be developed with predominantly outpatient uses, residential care and support services.

Whenever the regulations contained in the Planned Community text conflict with the regulations of the Newport Beach Municipal Code, the regulations contained in the Planned Community text shall take precedence. The Municipal Code shall regulate this development when such regulations are not provided within these district regulations. All development within the Planned Community boundaries shall comply with all provisions of the Uniform Building Code and other governing building codes.

II. GENERAL NOTES

1. Water service to the Planned Community District will be provided by the City of Newport Beach.

2. Development of the subject property will be undertaken in accordance with the flood protection policies of the City of Newport Beach.

3. All development of the site is subject to the provisions of the City Council Policies K-4 and K-5 regarding paleontological and archaeological resources.

4. Except as otherwise stated in this text, the requirements of the Newport Beach Zoning Ordinance shall apply. The contents of this text notwithstanding, all construction within the boundaries of this Planned Community District shall comply with all provisions of the Uniform Building Code, other various codes related thereto and local amendments.

5. All buildings shall meet Title 24 requirements or the requirements of the California Office of Statewide Health Planning and Development as applicable. Design of buildings shall take into account the location of building air intake to maximize ventilation efficiency, the incorporation of natural ventilation, and implementation of energy conserving heating and lighting systems.

6. Any fire equipment and access shall be approved by the Newport Beach Fire Department.

7. Excluding communications devices on the Upper Campus, new mechanical appurtenances on building rooftops and utility vaults on the Upper and Lower Campuses shall be screened from view in a manner compatible with building materials. Rooftop mechanical appurtenances or utility vaults shall be designed utilizing compatible architectural materials on the Lower Campus. No new mechanical appurtenances may exceed the building height limitations as defined in these district regulations.

8. Grading and erosion control shall be carried out in accordance with the provisions of the City of Newport Beach Excavation and Grading Code and shall be subject to permits issued by the Building and Planning Departments.

9. Sewage disposal facilities within the Planned Community will be provided by Orange County Sanitation District No. 5. Prior to issuance of any building permits it shall be demonstrated to the satisfaction of the Planning Department that adequate sewer facilities will be available. Prior to the occupancy of any structure it shall be further demonstrated that adequate sewer facilities exist.

10. Mass grading and grading by development phases shall be allowed provided that landscaping of exposed slopes shall commence within thirty (30) days of the completion of grading.

III. DEFINITIONS

Building Elevation:

1. A vertical distance of a building above or below a fixed reference level, i.e., MSL (mean sea level).

2. A flat scale drawing of the front, rear, or side of a building.

Building Envelope: The volume in which a building may be built as circumscribed by setback lines and maximum allowable building heights.

Building Height: The vertical distance measured from the finished grade to the highest point of the structure. At all points, the height measurement shall run with the slope of the land.

Emergency Room: A service and facility designated to provide acute emergency medical services for possible life threatening situations.

Entitlement, Gross Floor Area: Any area of a building, or portion thereof, including the surrounding exterior walls, but excluding:

1. Area of a building utilized for stairwells and elevator shafts on levels other than the first level of a building in which they appear;

2. Area of a medical building, that is not used for general or routine occupancy but rather is for interstial or mechanical occupancies, that measures less than 19 feet from finished floor to ceiling;

3. As applied to new construction permits issued on or after August 13, 2002, area of a building used specifically for base isolation and structural system upgrades directly related to requirements of governmental agencies and is not for general or routine occupancy; and

4. As applied to new construction permits issued on or after August 13, 2002, enclosed rooftop mechanical levels not for general or routine occupancy.

First Aid: Low acuity medical treatment for non-life threatening situations.

General Plan: The General Plan of the City of Newport Beach and all elements thereof.

Grade: For the purpose of determining building height:

1. Finished - the ground level elevation which exists after any grading or other site preparation related to, or to be incorporated into, a proposed new development or alteration of existing developments. (Grades may be worked into buildings to allow for subterranean parking.)

2. Natural - the elevation of the ground surface in its natural state before man-made alterations.

3. Existing - the current elevation of ground surface.

Inpatient Uses: Hospital patient services which require twenty-four (24) hour or more stays.

Landscape Area: The landscape area shall include on-site walks, plazas, water, rooftop landscaping and all other areas not devoted to building footprints or vehicular parking and drive surfaces.

Mean Sea Level: A reference or datum mark measuring land elevation using the average level of the ocean between high and low tides.

Outpatient Uses: Hospital patient services which do not exceed twenty-four (24) hours.

Residential Care: Medically-oriented residential units that do not require the acuity level generally associated with inpatient services but require overnight stays.

Site Area: For the purpose of determining development area:

1. Gross - parcel area prior to dedications.

2. Net - parcel area after dedications.

Streets: Reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way.

IV. DEVELOPMENT PLAN

Project Characteristics

The Upper Campus of Hoag Hospital is located on a triangular site of approximately 17.57 acres and is bounded by Newport Boulevard to the east, Hospital Road to the north and existing residential developments to the west. The Lower Campus is located north of West Coast Highway, south of the Sunset View linear and consolidated park and Villa Balboa Condominiums, west of Newport Boulevard and east of Superior Avenue. It contains approximately 37.38 total acres, including 8,603 square feet of land encumbered by a roadway easement. The Lower Campus adjoins the Upper Campus at its eastern boundary. The Upper Campus is, and will continue to be, oriented towards inpatient functions, while the Lower Campus will be developed with predominantly outpatient, residential care and support services.

Development Plan

The Planned Community Development Plan for Hoag Hospital is shown on Exhibit 1, *Planned Community Site and Boundary Map*. Through the year 2017, many of the existing buildings shown on the Development Plan for the Upper Campus may be redeveloped in order to functionally respond to the needs of the Hospital and conform to the requirements of State agencies.

Access to the Lower Campus will be from West Coast Highway and from Hospital Road, via the Upper Campus. Exhibit 2, *Vehicular Access,* shows the internal circulation for Hoag Hospital.

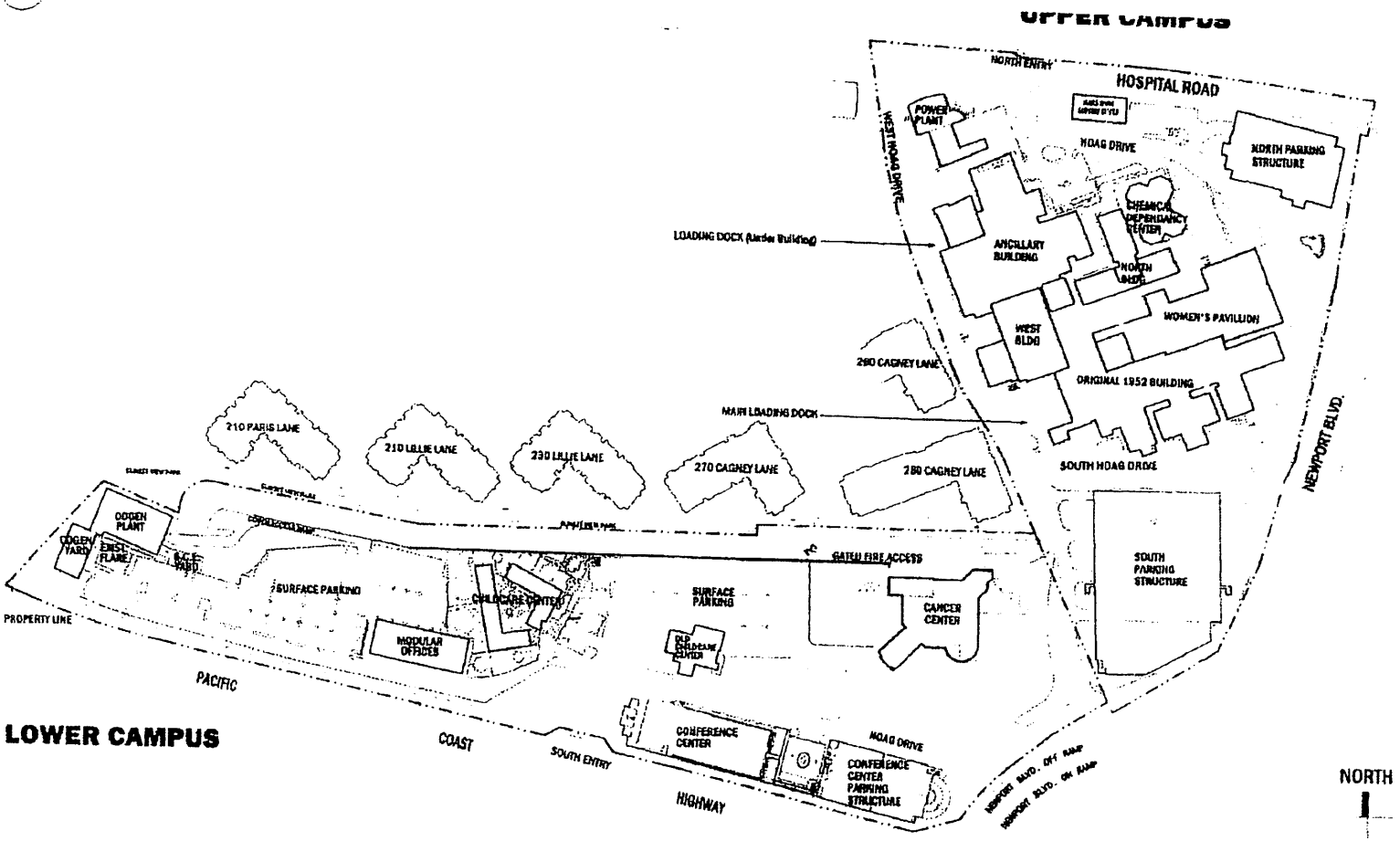
The Development Plan does not specify building locations or specific hospital-related uses. Instead, a developable area is identified based on the regulations established for this Planned Community District. Because of the dynamic nature of the health care industry which leads to rapid technological changes that effect how health care services are delivered, the Development Plan for Hoag Hospital sets development caps as a function of allowable densities established by the Newport Beach General Plan.

The maximum allowable building area for Hoag Hospital, which encompasses both the Lower Campus and the Upper Campus, is 1,343,238 square feet. Each Campus is also subject to a maximum allowable building area limit: the maximum allowable building area for the Upper Campus is 990,349 square feet; the maximum allowable building area for the Lower Campus is 577,889 square feet. Table 1, *Building Area Statistical Analysis*, provides a summary of allowable square footage for both the Upper and Lower Campuses.

Implementation, Program EIR and Subsequent Project Specific Approvals

Hoag has acknowledged that the Environmental Impact Report prepared for the development and implementation of the Hoag Master Plan pursuant to this Planned Community Development Plan is a "Program EIR." The City has prepared and certified two program Environmental Impact Reports - Hoag Hospital Master Plan Final Program EIR (Final EIR No. 142) and a Supplemental EIR for the Master Plan Update (SCH#1991071003). The EIRs analyze the impacts of construction phased over time and, pursuant to CEQA, the City is under a continuing

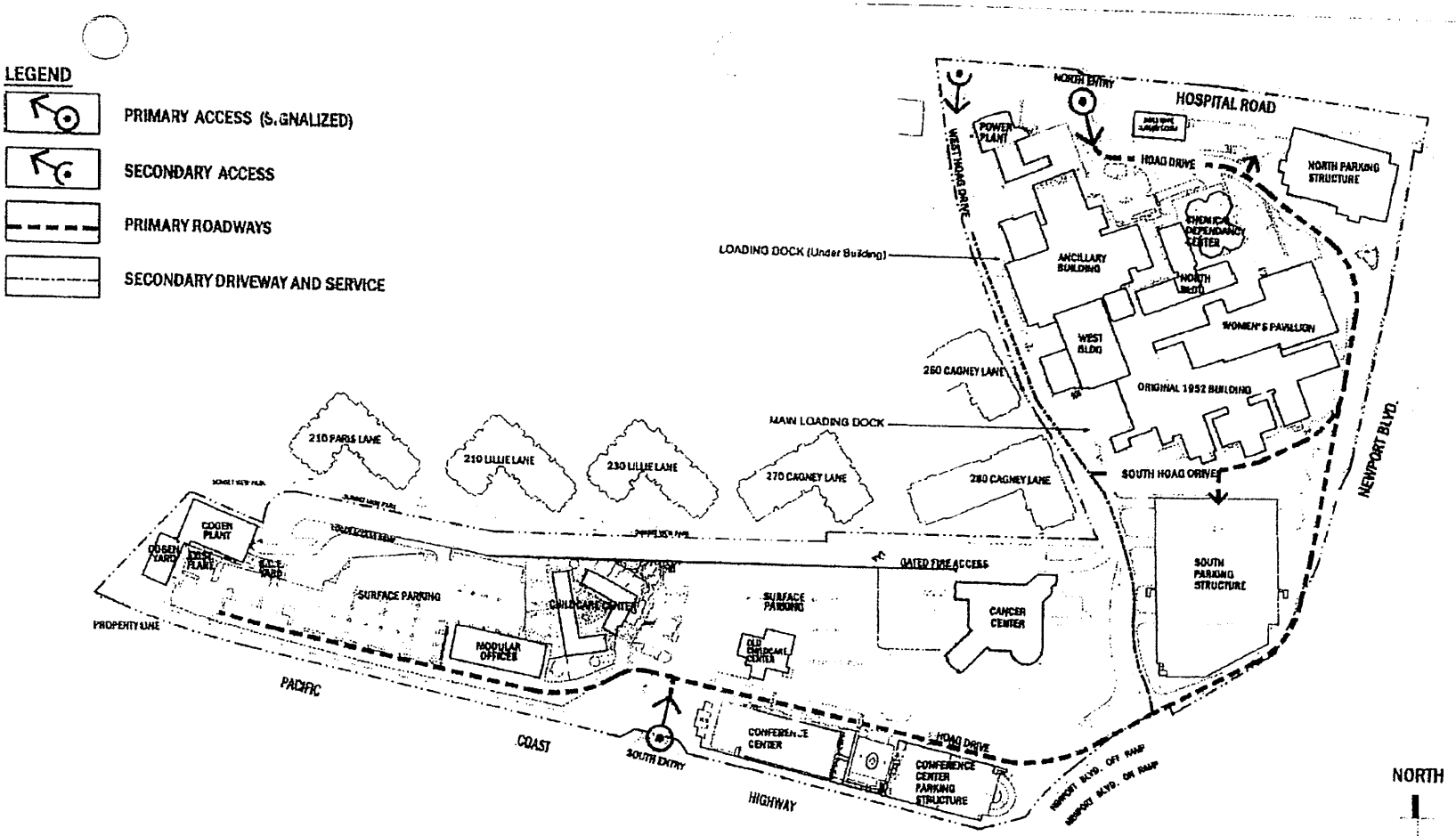
obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the requests were fully addressed in the EIRs. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIRs, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIRs. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA.



Note: Buildings labeled for identification purposes only

PLANNED COMMUNITY SITE AND BOUNDARY MAP
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 1
08.20.07
REVISED 01.22.08



Note: Buildings labeled for identification purposes only

VEHICULAR ACCESS
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 2
08.20.07
REVISED 01.22.08

TABLE 1

BUILDING AREA STATISTICAL ANALYSIS

TOTAL OF LOWER CAMPUS & UPPER CAMPUS BUILDING AREAS - MAXIMUM ALLOWABLE: 1,343,238 SQUARE-FEET

	Site Area	Allowable Building Area	Existing[1]	Net Remaining	Maximum Allowable
UPPER CAMPUS	765,349 sq. ft.	765,349 sq. ft.	698,121 sq. ft.	67,228 sq. ft.	990,349 sq. ft.[2]
LOWER CAMPUS	862,815 sq. ft.	577,889 sq. ft.	188,149 sq. ft.	389,740 sq. ft.	577,889 sq. ft.
TOTALS	1,618,164 sq. ft.	1,343,238 sq. ft.	886,270 sq. ft.	456,968 sq. ft.	1,343,238 sq. ft.[3]

[1] As of the date of adoption.
[2] Up to 225,000 square-feet can be transferred from the Lower to the Upper Campus
[3] Demolition of some existing structures on the Upper Campus will occur to ensure maximum square-feet will not exceed 1,343,238 square-feet

V. DISTRICT REGULATIONS

The following regulations apply to all development within the Hoag Hospital Planned Community. The individual uses listed under the five permitted use categories are not an exhaustive list. Other hospital-related uses which fit into the five (5) permitted use categories are allowed. Prior to the issuance of a building permit, plot plans, elevations and any other such documents deemed necessary by the Planning, Building, Public Works, and Fire Departments shall be submitted for the review and approval of the Planning, Building, Public Works, and Fire Departments.

A. Permitted Uses

1. Lower Campus

a. Hospital facilities, including, but not limited to:

(1) Outpatient services:

(a) Antepartum Testing
(b) Cancer Center
(c) Skilled Nursing
(d) Rehabilitation
(e) Surgery Center
(f) Clinical Center
(g) Day Hospital
(h) Back and Neck Center
(i) Biofeedback
(j) Breast Imaging Center
(k) Dialysis
(l) EEG/EMG/NICE Laboratory
(m) First Aid Center
(n) Fertility Services
(o) G.I. Laboratory
(p) Magnetic Resonance Imaging
(q) Neurology
(r) Nuclear Medicine
(s) Occupational Therapy
(t) Pediatrics
(u) Pharmacy
(v) Physical Therapy
(w) Pulmonary Services
(x) Radiation Therapy
(y) Respiratory Therapy
(z) Sleep Disorder Center
(aa) Speech Therapy
(bb) Ultrasound
(cc) Urgent Care

(2) Administration:

(a) Admitting
(b) Auxiliary Office
(c) Business Offices
(d) Information Desk
(e) Registration
(f) Patient Relations
(g) Social Services

(3) Support Services:

(a) Employee Child Care
(b) Health Education
(c) Power/Mechanical/Auxiliary Support and Storage
(d) Food Services
(e) Cashier
(f) Chapel/Chaplaincy Service
(g) Conference Center
(h) Dietitian
(i) Gift Shop
(j) Laboratory
(k) Medical Library
(l) Medical Records
(m) Pharmacy
(n) Parking Facilities[4]
(o) Engineering/Maintenance
(p) Shipping/Receiving
(q) Microwave, Satellite, and Other Communication Facilities

(4) Residential Care:

(a) Substance Abuse
(b) Mental Health Services
(c) Extended Care
(d) Hospice Care
(e) Self or Minimal Care
(f) Congregate Care

(5) Medical/Support Offices

[4] Parking structures or decks do not count toward square-footage

b. Methane gas flare burner, collection wells and associated system components.

c. Accessory uses normally incidental to hospital development.

d. Temporary structures and uses, including modular buildings.

2. Upper Campus

a. Hospital facilities, including, but not limited to:

(1) Inpatient uses including, but not limited to:

(a) Critical Care
(b) Emergency Department
(c) Birthing Suites
(d) Cardiology
(e) Cardiac Care Unit
(f) Intensive Care Unit
(g) Mother/Baby Unit
(h) Surgery
(i) Laboratory
(j) Pharmacy
(k) Patient Beds

(2) Outpatient services as allowed on the Lower Campus

(3) Administrative uses as allowed on the Lower Campus

(4) Support services as allowed on the Lower Campus

(5) Residential care as allowed on the Lower Campus

(6) Heliport (subject to Conditional Use Permit)[5]

b. Accessory uses normally incidental to hospital development.

c. Temporary structures and uses, including modular buildings.

[5] Does not count toward square-footage

B. Prohibited Uses

1. Lower Campus

   a. Emergency Room

   b. Heliport

   c. Conversion of mechanical or structural spaces to uses that allow general or routine occupancy

2. Upper Campus

   a. Conversion of mechanical or structural spaces to uses that allow general or routine occupancy

C. Maximum Building Height

The maximum building height of all buildings shall be in accordance with Exhibit 3, *Development Criteria Plan*, which establishes the following height zones:

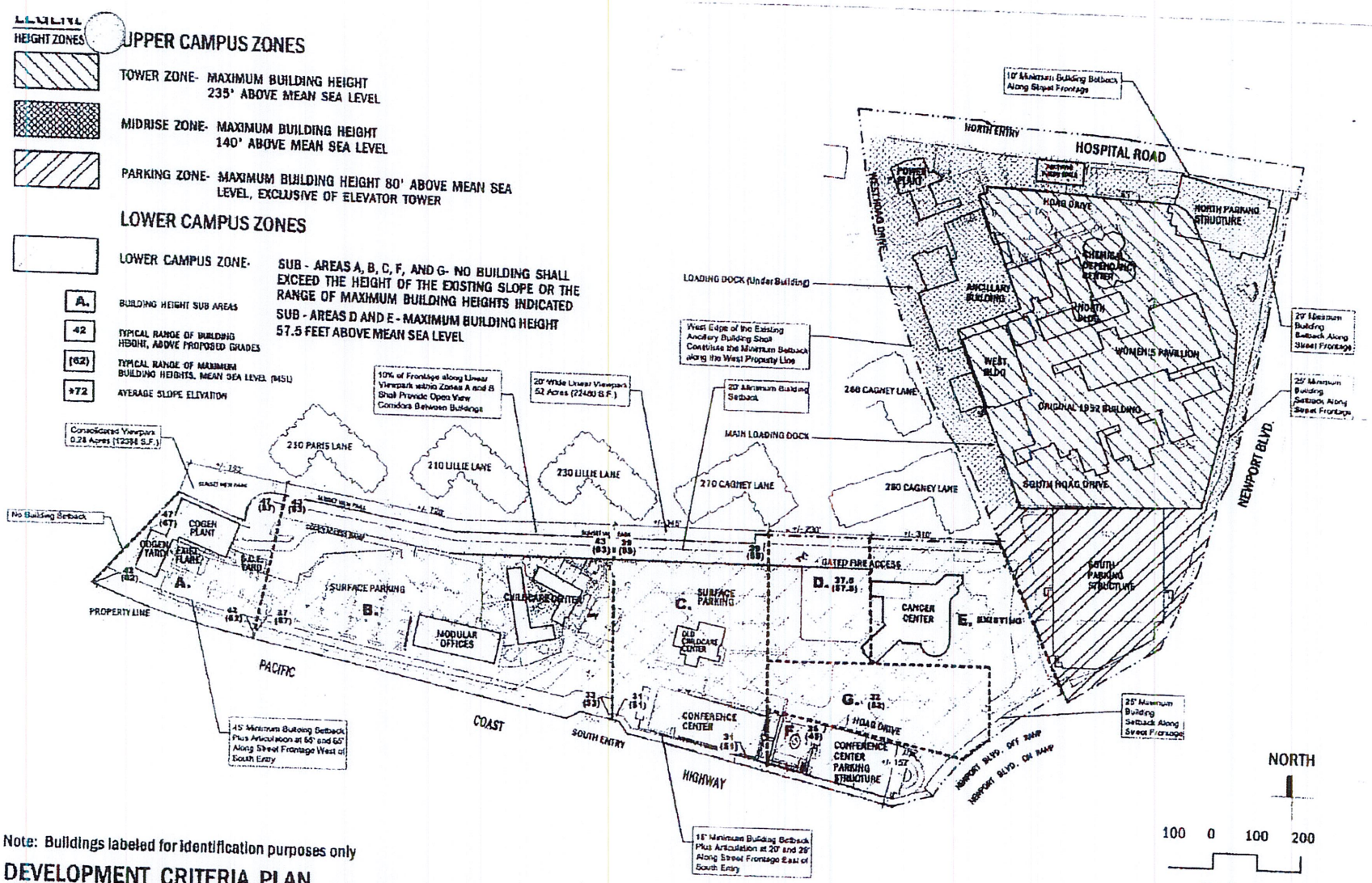
1. Upper Campus Tower Zone - maximum building height not to exceed the existing tower which is two-hundred thirty-five (235) feet above mean sea level.

2. Upper Campus Mid-rise Zone - maximum building height not to exceed one-hundred forty (140) feet above mean sea level.

3. Upper Campus Parking Zone - maximum building height not to exceed eighty (80) feet above mean sea level, exclusive of elevator towers.

4. Lower Campus Zone, Sub-Areas A, B, C, F and G - within each sub-area no building shall exceed the height of the existing slope and conform to the range of maximum building heights indicated by the development criteria shown on Exhibit 3.

5. Lower Campus Zone, Sub-Areas D and E - maximum building height shall not exceed the height of the existing Hoag Cancer Center which is fifty-seven and one-half (57.5) feet above mean sea level.



Note: Buildings labeled for identification purposes only

DEVELOPMENT CRITERIA PLAN
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 3
08.20.07
REVISED 01.22.08

D. Building Setbacks

Setbacks for the Hoag Hospital Planned Community are shown on Exhibit 3.

1. Setbacks will be provided along property boundaries adjacent to the Villa Balboa condominiums, as defined below:

   a. Upper Campus western boundary setback shall be the prolongation of the westerly edge of the existing cafeteria/laboratory building to the points of intersection with the easterly curb line of the existing service drive, then continuing along said line of the existing service drive.

   b. Lower Campus northern boundary, all of which will have a 20-foot minimum building setback.

2. The setback on West Coast Highway easterly of the hospital entry signal shall be fifteen (15) feet.

   In addition, vertical articulation shall be required for buildings easterly of the signal within one-hundred fifty (150) feet of the West Coast Highway frontage, as follows:

   1st Floor: Up to eighteen (18) feet in height no additional articulation is required. If the 1st floor exceeds eighteen (18) feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

   2nd Floor, up to thirty-two (32) feet in height: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of twenty (20) feet.

   3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of twenty-five (25) feet.

   The setback on West Coast Highway westerly of the hospital entry signal shall be forty-five (45) feet.

   In addition, vertical articulation shall be required for buildings westerly of the signal for buildings within one-hundred fifty (150) feet of the West Coast Highway frontage, as follows:

   1st Floor: Up to eighteen (18) feet in height no additional articulation is required. If the 1st floor exceeds eighteen (18) feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor, up to thirty-two (32) feet in height: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of fifty-five (55) feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of sixty-five (65) feet.

In order to avoid any future structures in this area (within 150 feet of West Coast Highway) from presenting an unacceptable linear mass, no single structure shall be greater than two-hundred fifty (250) linear feet in width. Additionally, 20% of the linear frontage within one-hundred fifty (150) feet of West Coast Highway shall be open and unoccupied by buildings.

10% of the linear length of Height Zones A and B as viewed from the existing bicycle/pedestrian trail, exclusive of that area adjacent to the consolidated portion of the view park, shall be maintained as view corridors between buildings.

These requirements may be altered for individual buildings, if requested by the hospital, through the site plan review process defined in Section IX.

3. There will be no building setbacks along the westerly boundary of the Lower Campus (adjacent to the municipal parking lot at Superior and West Coast Highway).

4. A twenty (20) foot setback from property line shall be provided along Newport Boulevard from Hospital Road to a point six-hundred (600) feet south; a twenty-five (25) foot setback from property line shall be provided along the remainder of Newport Boulevard and along the Newport Boulevard/West Coast Highway Interchange.

5. A ten (10) foot building setback from the property line shall be provided along Hospital Road.

E. Lighting

The lighting systems shall be designed and maintained in such a manner as to shield the light source and to minimize light spillage and glare to the adjacent residential uses. The plans shall be prepared and signed by a licensed Electrical Engineer.

F. Roof Treatment

Prior to the issuance of building permits, the project sponsor shall submit plans which illustrate that major mechanical equipment will not be located on the roof of any structure on the Lower Campus. Minor rooftop equipment, necessary for operating purposes, will comply with all building height criteria, and shall be designed and screened to blend into the building roof using materials compatible with roofing materials.

G. Signs

All signs shall be as specified under the Hoag Hospital Sign Program, Part VI.

H. Parking

All parking shall be as specified in Part VII, Hoag Hospital Parking Regulations.

I. Landscape

All landscaping shall be as specified in the Hoag Hospital Landscape Regulations, Part VIII.

J. Mechanical and Trash Areas

Prior to issuance of a building permit, the project sponsor shall submit plans to the City Planning Department which illustrate that all mechanical equipment and trash areas will be screened from public streets and immediately adjacent residential properties.

K. West Hoag Drive Circulation Limitations

The project sponsor shall continue to limit the use of that portion of West Hoag Drive adjacent to residential uses located on the Upper Campus. Deliveries to loading areas shall not occur after 8:00 PM or before 7:00 AM daily. The project sponsor shall physically restrict access to the roadway between these hours and appropriate signage indicating permitted delivery hours and access limitations shall be installed and maintained at all times. Night time deliveries and vehicular access to the loading area located along West Hoag Drive are allowed where critical supplies, services or materials are necessary for the continued operation of the hospital.

L. Loading Dock

The project sponsor shall provide a sound wall along West Hoag Drive as shown in the approximate location on Exhibit 4. Said wall shall be installed within 12 months of project approval, subject to issuance of required permits. To the maximum degree feasible, the sound wall shall be constructed to retain existing vegetation, which serves as a visual screen. Please refer to Section VIII, D. for additional landscaping requirements related to the sound wall. Mitigation measures to reduce the noise levels in the Loading Dock Area shall be incorporated into the design and operations of the hospital; such mitigation shall include relocation of the trash compactor and baler, limiting the hours of truck deliveries to the loading dock area, and enclosure of the trash compactor.

M. Noise Standards

Noise generated at the Hoag Hospital property shall be governed by the City of Newport Beach Noise Ordinance, except as noted below for the Loading Dock Area. Refer to Exhibit 5, *Loading Dock Area Location,* for the location.

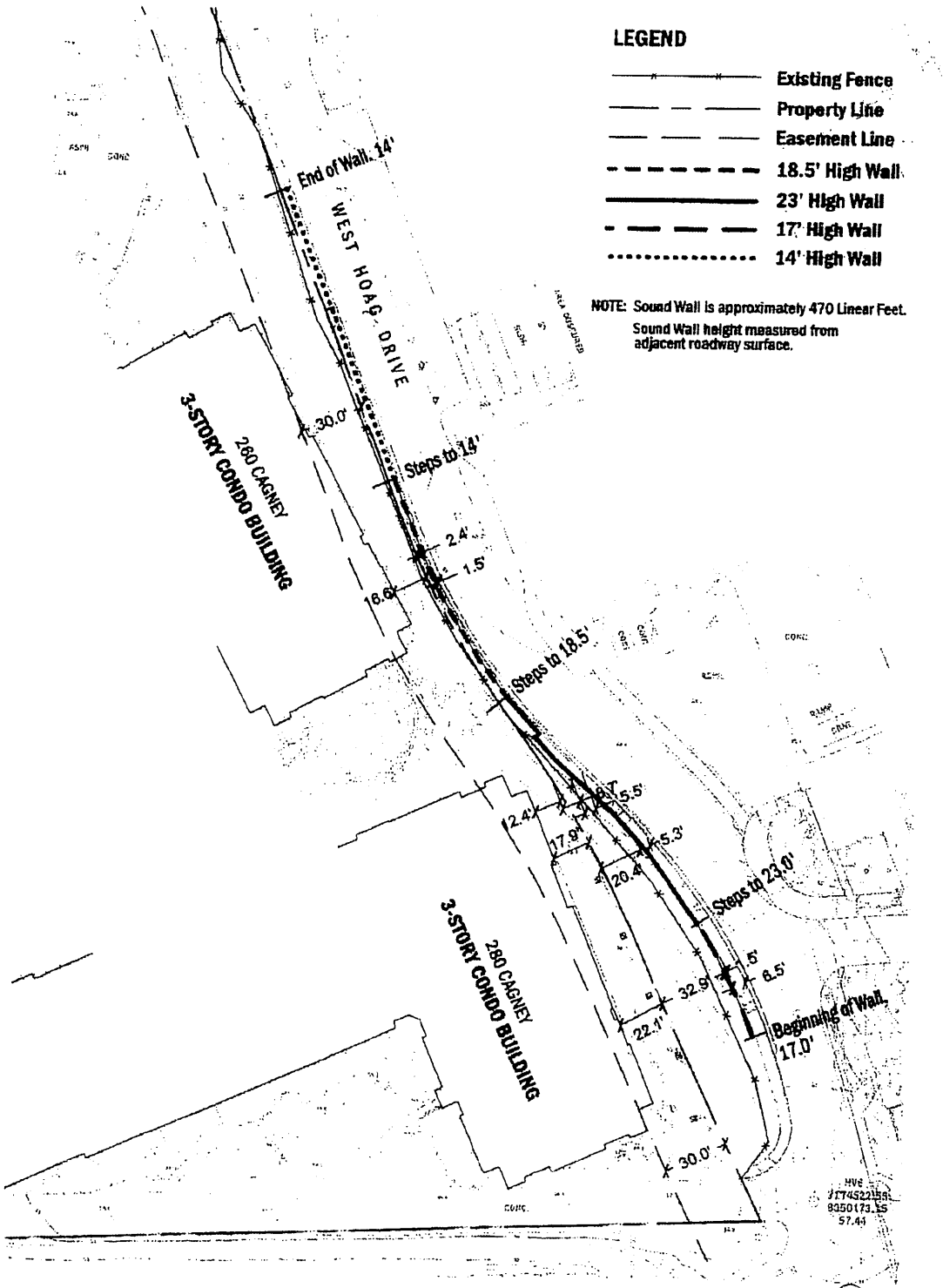
1. The applicable noise standard at the Hoag Hospital property line adjacent to the Loading Dock Area shall be as follows:

	7 AM – 10 PM	10 PM – 7 AM
	Daytime	Nighttime
Leq (15 min)	65 dBA	55 dBA

2. Within the Loading Dock Area during daytime hours, vehicles shall be exempt from applicable noise standards as listed above.

   Vehicle idling shall be prohibited on West Hoag Drive and within the loading dock areas, except that refrigerated vehicles may idle while at the loading docks when refrigeration is necessary.

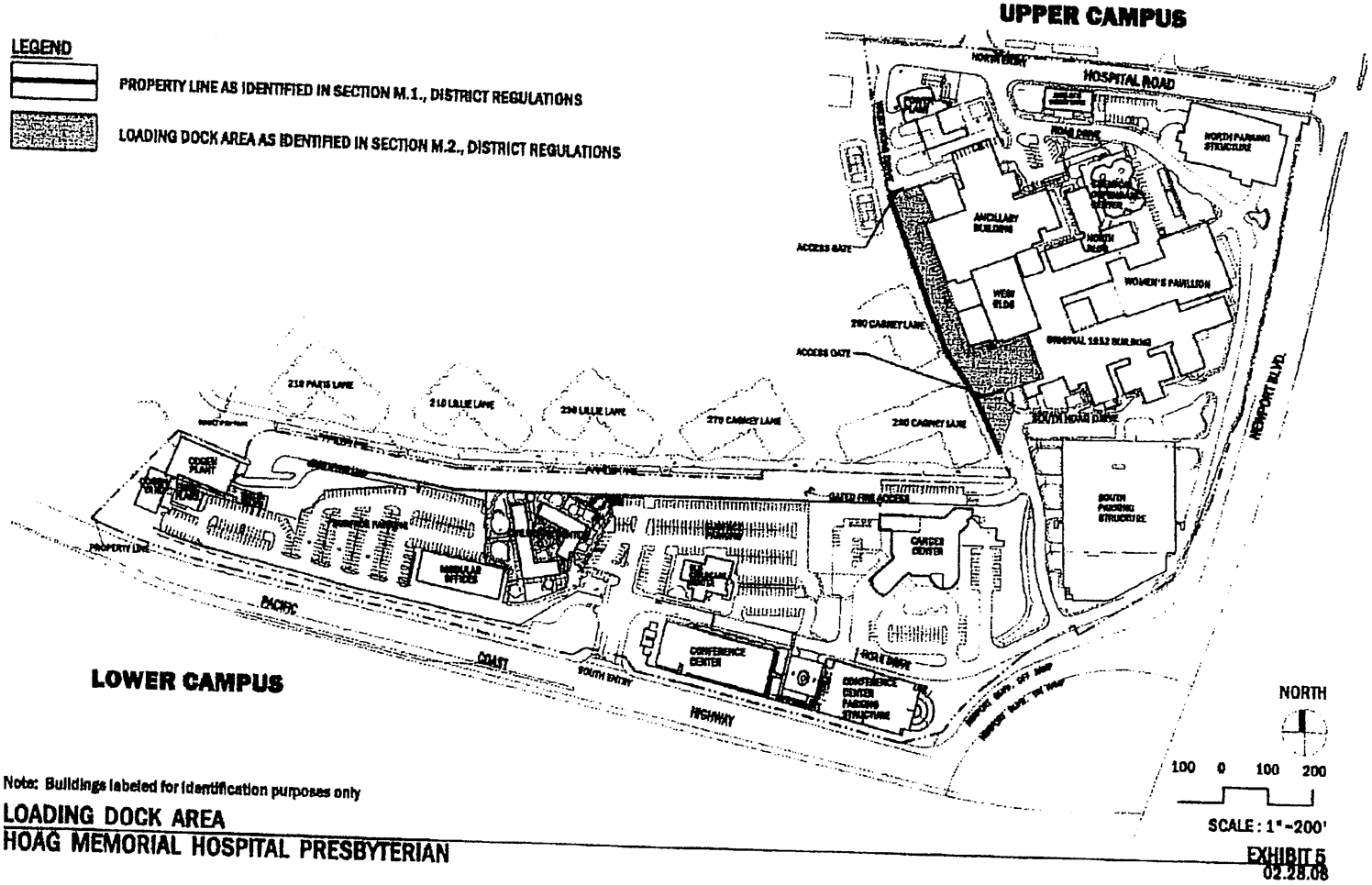
   In addition, the grease pit cleaning which is exempt from the City Noise Ordinance as a maintenance activity shall occur on a Saturday between the hours of 11:00 AM and 3:00 PM.



SOUND WALL LOCATION PLAN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN April 3, 2008

EXHIBIT 4



Note: Buildings labeled for identification purposes only

LOADING DOCK AREA
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 5
02.28.08

VI. HOAG HOSPITAL SIGN PROGRAM

A. Purpose and Intent

1. The purpose of this Sign Program is to provide adequate, consistent and aesthetically pleasing on-building wall and ground-mounted signage based upon the provisions set forth by the City of Newport Beach Sign Ordinance and the information signage requirements of Hoag Hospital.

2. The intent of this Sign Program is to produce uniform standards for Hoag Hospital.

B. General Sign Standards

1. All signs visible at the exterior of any building or facility of the Hospital, ground-mounted or on-building, may be illuminated or non-illuminated, depending upon need. Illumination method may be by external or internal source. No sign shall be constructed or installed to rotate, gyrate, blink or move, or create the illusion of motion, in any fashion.

2. All signs attached to building or facility exteriors shall be mounted as is appropriate to the architectural design features of said building or facility.

3. All signs together with the entirety of their supports, braces, guys, anchors, attachments and decor shall be properly maintained, legible, functional and safe with regard to appearance, structural integrity and electrical service.

4. All street signs shall be subject to review and approval of the City Traffic Engineer, and shall be in compliance with Ordinance 110-L.

5. For purposes of this section, a building shall be defined as any occupied structure or any occupied portion of a structure that is constructed as an addition to an existing structure and identified as a separate building for way finding purposes. Individual building numbers uniquely define the buildings on the Hoag campus.

C. Number of Signs Allowed

1. One (1) double-faced primary identification ground-mounted sign or two (2) single-faced gateway entry signs shall be allowed per street frontage. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Total maximum signage area shall not exceed two hundred (200) square feet and shall not exceed ten (10) feet in height per sign and street frontage. This sign may occur as a wall sign, to be located upon a project

boundary perimeter wall, subject to the same number and area maximums described above. This sign may also occur as part of an entry gateway system.

2. Primary entrance identification shall be allowed at the main entrance to the facility and at the main entrance to the Emergency Department. If freestanding, this sign type shall not exceed a maximum height of eight (8) feet average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed seventy (70) square feet.

3. Secondary building and entrance identification signs shall be allowed. If freestanding, this sign type shall not exceed a maximum height of nine (9) feet average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed fifty (50) square feet whether freestanding or wall-mounted.

4. Vehicular and pedestrian directional signs shall be allowed. This sign type may occur as a single-faced, double-faced, or triple-faced sign. The sign shall be sized to allow for proper readability given the number of lines of copy, speed of traffic, setback off the road and viewing distance. This sign type shall not exceed a maximum height of eleven (11) feet average height above finished grade.

5. Donor recognition signage shall be allowed, one (1) at each building elevation. Maximum sign area shall not exceed one hundred seventy-five (175) square feet for donor recognition signage.

6. Hospital identification signs shall be allowed upon hospital towers, one (1) at each elevation. The maximum sign area shall not exceed two hundred seventy-five (275) square feet. Any hospital identification signage on the elevation facing west (Villa Balboa property line) may not be illuminated.

7. On the Lower Campus, two (2) building-mounted identification signs will be allowed per structure and shall not be placed so as to directly face the Villa Balboa property. Such signs shall adhere to the requirements above for secondary building and entrance identification signage and shall be no higher than the roof line of the building upon which they are mounted.

8. Each public parking structure shall be allowed one (1) identification sign above each entrance and exit of the structure. The maximum sign area of each identification sign shall not exceed thirty (30) square feet. Adjacent regulatory parking signage does not count toward the maximum sign area.

VII. HOAG HOSPITAL PARKING REGULATIONS

A. General

1. Off-street parking for Hoag Hospital shall be provided on-site. Parking may be on surface lots, subterranean or in parking structures.

2. The design and layout of all parking areas shall be subject to the review and approval of the City Traffic Engineer and the Public Works Department.

3. Parking lot lighting shall be developed in accordance with City standards and shall be designed in a manner which minimizes impacts on adjacent land uses. Nighttime lighting shall be limited to that necessary for security and shielded down from any adjacent residential area. The plans shall be prepared and signed by a licensed electrical engineer, with a letter from the engineer stating that the requirements have been met. The lighting plan shall be subject to review and approval of the City Planning Department.

B. Requirements for Off-Street Parking

Parking requirements for specific sites shall be based upon the parking criteria established in Table 2. All parking shall be determined based upon the area allocated to the use categories.

TABLE 2

PARKING REQUIREMENTS

Use Category	Parking Requirements
Outpatient Services	2.31 spaces/1,000 square feet (1)
Support	0.0 spaces/1,000 square feet (1)(2)
Administrative	5.3 spaces/1,000 square feet (1)
Residential Care	1.0 spaces/1,000 square feet (3)
Medical Offices	4.0 spaces/1,000 square feet (3)
Inpatient	2.35 spaces/1,000 square feet (1)

(1) Parking factor based on parking analysis prepared by Linscott, Law & Greenspan dated October 15, 2001 for Traffic Study 2001-002 approved by Planning Commission Resolution No. 1542.
(2) Support Services generates parking demand that is accounted for in one of the other categories.
(3) Parking requirements based upon a study prepared by LSA Associates dated September 27, 1991.

VIII. HOAG HOSPITAL LANDSCAPE REGULATIONS

A. General

1. Detailed landscape and irrigation plans, prepared by a registered Architect or under the direction of a Landscape Architect, shall be reviewed by the City prior to issuance of a Certificate of Use and Occupancy. The Landscape Plan shall include a concept for rooftop parking and parking structures if proposed for the Lower Campus. Trees shall not be used, however planter boxes, green roof treatments or trellis systems shall be designed to provide added visual relief of rooftop parking or parking structures. All rooftop or top of parking structure landscaping proposals shall conform to the building height limits established in this text.

2. Parking lot trees shall be no less than twenty-four (24) inch box size.

3. Shrubs to be planted in containers shall not be less than five (5) gallon size. Ground covers will be planted from one (1) gallon containers or from rooted cuttings.

4. Every effort should be made to avoid using plants with invasive and shallow root systems.

5. Earth berms shall be rounded and natural in character, designed to obscure automobiles and to add interest to the site. Wheel stops shall be so placed as necessary to avoid damage to trees, irrigation systems, shrubs and other planting materials.

6. Trees in parking lots should be limited in variety. Selection should be repeated to give continuity. Regular spacing or the introduction of irregular groupings may also be considered to add interest and variety. Care should be exercised to allow plants to grow and maintain their mature size without restriction.

7. Emphasis shall be placed on the use of native, drought-tolerant, non-invasive plants on the Lower Campus. On the Upper Campus, naturalized vegetation selections, as well as those plants allowed on the Lower Campus, will be emphasized. Automatically controlled irrigation systems shall be designed to avoid surface runoff and over-watering.

8. Installation and maintenance of landscape, screening and irrigation systems per Exhibit #6, Exhibit #7 and Exhibit #8. All improvements shall be shown on landscape and irrigation plans to be reviewed and approved by the Planning Department and which shall be in substantial compliance with the Exhibits #6, #7 and #8. Hoag shall complete all of the improvements within the timelines set forth in Exhibit #6.

B. Maintenance

1. All planting areas are to be kept free of weeds and debris and cultivated as necessary to maintain.

2. Lawn and ground cover areas are to be kept trimmed and/or mowed regularly.

3. All plantings are to be kept in a healthy and growing condition. Fertilization, cultivation and tree pruning are to be carried out as part of a regularly scheduled annual maintenance program.

4. Irrigation systems are to be kept in good working condition at all times. On-going monitoring, adjustments and cleaning of systems are to be part of regular maintenance procedures.

5. Stakes, guys and tree ties on trees should be checked regularly for correct function; ties shall be adjusted to avoid creating abrasions or girdling of branches or central leaders.

6. Damage to plantings created by vandalism, automobile or acts of nature shall be corrected within thirty (30) days.

7. Plantings and irrigation are to be maintained in accordance with the approved plans.

C. Special Landscaped Street

West Coast Highway is designated in the Hoag Hospital Planned Community as a special landscaped street. A fifteen (15) foot building setback from right-of-way/property line is required along West Coast Highway. Only driveways, parking and signage structures are allowed in the setback areas. Parking areas shall be screened from view of West Coast Highway with landscaped berms.

Landscaping along West Coast Highway shall consist of trees, ground cover and shrubbery. All unpaved areas not utilized for parking or circulation shall be landscaped in a similar manner. Installed trees are to be no smaller than twenty-four (24) inch box.

D. Villa Balboa Landscape Zone

The area between the Hoag property line and the sound wall will be referred to as the Villa Balboa Landscape Zone. This portion of the Hoag Hospital property will have a specific landscape process to ensure consultation with Villa Balboa on the planting and maintenance of the area. Existing landscaping on Villa Balboa's side of the wall shall be preserved to the extent feasible or replaced with specimen plant material as designated on a plan to be approved by the Planning Director after consultation with the Villa Balboa Community Association. The plan

shall also include sufficient additional landscaping to screen or soften the soundwall required pursuant to Section V.L. Hoag shall maintain all landscaping on Hoag's property and to the extent new plant material is installed as a result of wall construction by Hoag on the Villa Balboa property adjacent to the Villa Balboa Landscape Zone (with their permission), Hoag shall maintain such new plant material on Villa Balboa's property for a period of two years after installation to ensure healthy growth. All landscape installation shall occur within 45 days of the completion of the wall or earlier. Any future modifications made to said wall and landscaping shall be reviewed and approved by the Planning Director.

E. Parking Areas

A minimum of 5% of the surface parking areas shall be devoted to planting areas. Planting areas around building shall not be included in parking area landscape calculations. Planting of trees may be in groups and need not be regularly spaced. Alternative landscape programs may be developed, including perimeter parking area landscaping, berming and depressing of parking areas to provide additional screening. Alternative landscape programs shall be subject to the review of the Newport Beach Planning Department.

A rooftop landscaping program shall be developed for parking structures and rooftop parking proposed for the Lower Campus and shall be subject to the review and the approval of the Newport Beach Planning Department.

IX. SITE PLAN REVIEW

A. Purpose

The Council finds that development on the Lower Campus of Hoag Hospital may have the potential to affect the aesthetics of the community. The effect of this section is to establish a Site Plan Review requirement for certain individual projects - to insure that these projects conform with the goals and policies of the General Plan, provisions of this Planned Community Development Plan, the Development Agreement and the standards set forth below in sub-section F. The following classifications of projects are subject to the Site Plan Review:

Planning Commission review:

1. Any project that differs from setback, horizontal and vertical articulation requirements as set forth in Section V.D.2.

Planning Director's review:

1. Any project that could have the potential to generate emissions that could have an impact to visual resources.
2. Any project that could have the potential to generate emissions creating objectionable odors or other impacts to air quality.
3. Replacement of existing cooling towers, ~~except for casualty.~~

B. Findings

The City finds, determines and declares that the establishment of Site Plan Review procedures contained in this section promotes the health, safety, and general welfare of the community by ensuring that the development of Hoag Hospital proceeds in a manner which will not result in inadequate and poorly planned landscape areas, excessive building bulk on arterial roadways, inappropriate placement of structures and impairment of the benefits of occupancy and use of existing properties in the area.

C. Application

Site Plan Review approval shall be obtained for any new structure or the addition to an existing structure, as outlined in Section IX.A above, prior to the issuance of a grading or building permit or issuance of an approval in concept for Coastal Commission or Office of Statewide Health Planning and Development review.

D. Plans and Diagrams to be Submitted

The following plans and diagrams shall be submitted to the Planning Commission for approval:

1. A plot plan, drawn to scale, showing the arrangement of buildings, driveways, pedestrian ways, off-street parking and off-street loading areas, landscaped areas, signs, fences and walks. The plot plan shall show the location of entrances and exits, and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and loading space, and areas for turning and maneuvering vehicles. The plot plan shall indicate how utility and drainage are to be provided.

2. A landscape plan, drawn to scale, showing the locations of existing trees (proposed to be removed and proposed to be retained); and indicating the amount, type, and location of any landscaped areas, planting beds and plant materials with adequate provisions for automatic irrigation.

3. Grading plans when necessary to ensure development properly related to the site and to surrounding properties and structures.

4. Scale drawings of exterior lighting showing size, location, materials, intensity and relationship to adjacent streets and properties.

5. Architectural drawings, renderings or sketches, drawn to scale, showing all elevations of the proposed buildings and structures as they will appear upon completion.

6. Any other plans, diagrams, drawings or additional information necessary to adequately consider the proposed development and to determine compliance with the purposes of this chapter.

E. Fee

The applicant shall pay a fee as established by Resolution of the City Council to the City with each application for Site Plan Review under this chapter.

F. Standards

In addition to the general purposes set forth in sub-section A, in order to carry out the purposes of this chapter as established by said section, the Site Plan Review procedures established by this Section shall be applied according to and in compliance with the following standards, when applicable:

1. The development is in compliance with all other provisions of the Planned Community Development Criteria and District Regulations (P-C Text);

2. Development shall be compatible with the character of the neighborhood and surrounding sites and shall not be detrimental to the orderly and harmonious development of the surroundings and of the City;

3. Development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways and properties, with special

consideration given to the mass and bulk of buildings and the streetscape on West Coast Highway;

4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development.

5. Potential impacts shall be mitigated to less than significant levels.

G. Public Hearing - Required Notice

A public hearing shall be held on all Site Plan Review applications. Notice of such hearing shall be mailed not less than ten (10) days before the hearing date, postage prepaid, using addresses from the last equalized assessment roll or, alternatively, from such other records as contain more recent addresses, to owners of property within a radius of three hundred (300) feet of the exterior boundaries of the subject property. It shall be the responsibility of the applicant to obtain and provide to the City the names and addresses of owners as required by this Section. In addition to the mailed notice, such hearing shall be posted in not less than two (2) conspicuous places on or close to the property at least ten (10) days prior to the hearing.

H. Action by the Planning Director

If all applicable standards established by this Section are met, the Planning Director shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Director shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Director shall be subject to review by the Planning Commission either by appeal, or upon its own motion, or upon the request of the Planning Director. The action of the Planning Director on any Site Plan Review shall be final and effective twenty-one (21) days following the Director's action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Planning Director has requested a review of its decision, or unless the Planning Commission, not more than twenty-one (21) days after the Director's action, on its own motion, elects to review and act on the action of the Director, unless the applicant consents to an extension of time. The Planning Commission may affirm, reverse or modify the decision. Such action by the Planning Commission shall be final, unless subsequently appealed or reviewed.

I. Action by the Planning Commission

If all applicable standards established by this Section are met, the Planning Commission shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Commission shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Commission shall be subject to review by the City Council either by appeal, or upon its own motion, or upon the request of the Commission. The action of the Commission on any Site Plan Review shall be final and effective twenty-one (21) days following the Commission action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Commission has requested a review of its decision, or unless the City Council, not more than twenty-one (21) days after the Commission action, on its own motion, elects to review and act on the action of the Commission, unless the applicant consents to an extension of time. The City Council may affirm, reverse or modify the decision. Such action by the City Council shall be final.

J. Appeal to the City Council

Any Site Plan Review decision of the Commission may be appealed to the City Council by the applicant or any other person, at any time within twenty-one (21) days after the date of the Commission decision. An appeal to the City Council shall be taken by filing a letter of appeal in duplicate, with the Planning Department. Such letter shall set forth the grounds upon which the appeal is based and shall be accompanied by a fee as established by Resolution of the City Council.

K. Action by the City Council

An appeal shall be heard and acted on by the City Council within sixty (60) days of filing a letter of appeal, and the City Council may affirm, reverse or modify the decision of the Commission. The decision of the City Council is final.

L. Expiration and Revocation of Site Plan Review Approvals

1. Expiration. Any Site Plan Review granted in accordance with the terms of this Title shall expire within twenty-four (24) months from the date of approval if a building permit has not been issued prior to the expiration date and subsequently construction is diligently pursued until completion, unless at the time of approval the Planning Commission has specified a different period of time.

2. Violation of Terms. Any Site Plan Review granted in accordance with the terms of this Title may be revoked if any of the conditions or terms of such Site Plan Review are violated or if any law or ordinance is violated in connection there with.

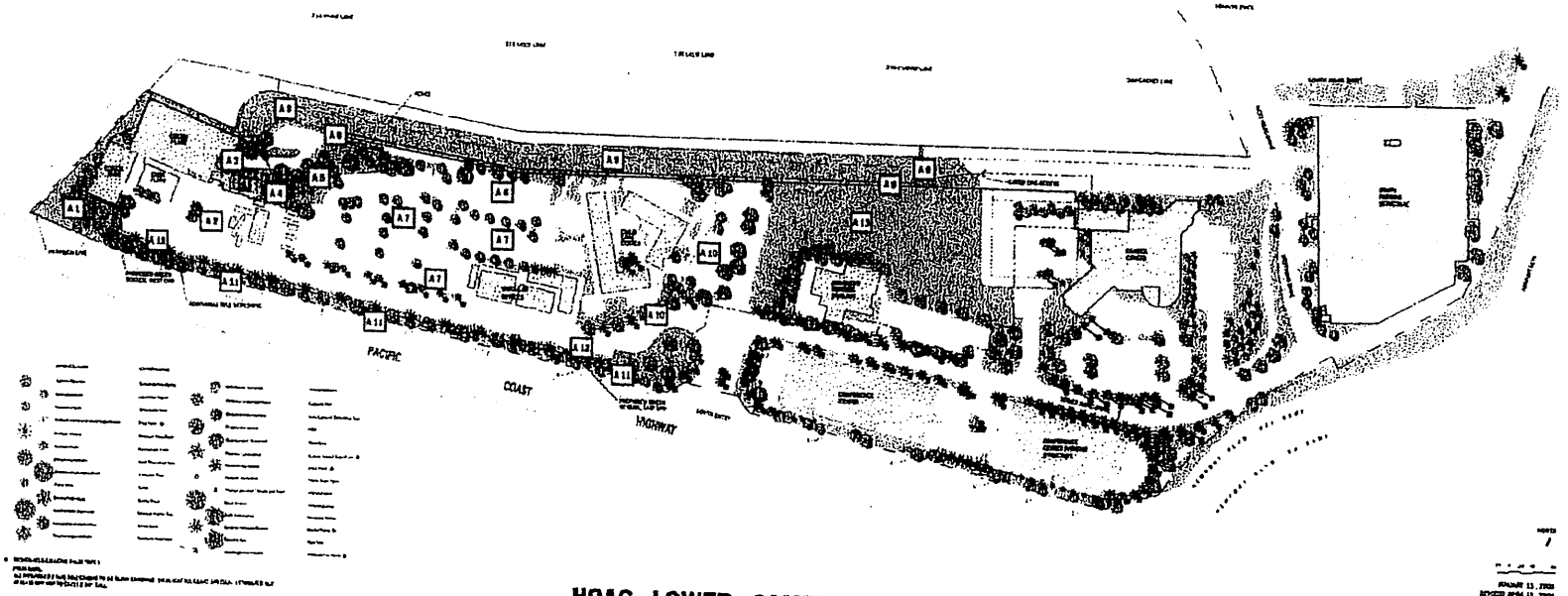
3. Hearing. The Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten (10) days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within sixty (60) days after receipt of the recommendation of the Planning Commission.

LANDSCAPE MATRIX — HOAG HOSPITAL LOWER CAMPUS Prepared [illegible]

Location	Area	Description	Landscape Element	Schedule	Government/Agency Status	Anticipated Outcome / Effect
Hoag Lower Campus	Area 1 - Co Gen	Additional tree planting per community request	Add 5, 48" box evergreen screen trees and new irrigation	Nov 2007 Installed	Project completed	Screen/soften views of west end of Co Gen Building
						From PCH
	Area 2 - Co Gen	Additional tree planting per community request	Add 3, 48" box evergreen screen trees and new irrigation	To commence May 2008 Install completion July 2008	Coastal Comm. Approved 2/08	Added screening of Co Gen Flare
	Area 3 - Co Gen	Add green screen lattice per community request	Attach metal green screen lattice structure to cover east building elevation	To commence May 2008 Install completion July 2008	Coastal Comm. Approved 2/08	Screen/soften specific views of Co Gen Building
			Plant flowering vines to cover green screen	To commence May 2008 Install completion July 2008.	Coastal Comm. Approved 2/08	Screen/soften specific views of Co Gen Building
	Area 4 - Co Gen Slope Below Trailers	Clean up and regrade area with added shrub and groundcover planting	Additional shrubs, groundcover and new irrigation system added upon completion of wall project.	Nov 2007 Installed	Project completed	Added visual quality and erosion control
	Area 5 - Co Gen Slope	Tree shrub and groundcover planting	24 trees, shrubs and groundcover plantings and new water conserving irrigation system	Nov 2007 Installed	Project completed	Added campus visual quality screening and erosion control
			Installed as part of Lower Campus Wall Project			
	Area 6 - Retaining Wall [illegible] Parking Lot	Trees and shrub planting				
			6, 24" box evergreen screen trees	Nov 2007 Installed	Project completed	Screen and soften views of retaining wall
			Installed as part of Lower Campus Wall Project			
	Area 7 - West Parking Area Islands	Tree planting	12, 36" box flowering trees and 4 ton palm trees and irrigation system at end islands	Nov 2007 Installed	Project completed	Soften views of open parking lot areas
			Installed as part of Lower Campus Wall Project			Increased shade and visual enhancement to parking area
	Area 8 - West Parking Area Islands	Tree planting	Install 23, 36" box flowering trees and 3 ton palm trees	Installed no later than Dec 2009	Installation shall commence no later than 60 days of CDP issuance by the Coastal Comm	Soften views of open parking lot areas and increase shade and visual enhancement to parking areas.
Hoag Lower Campus	Area 9 - Co Gen Retaining Wall	Flowering bougainvillea shrub planting	550, bougainvillea shrubs installed as part of Lower Campus Wall Project	Nov 2007 Installed	Project completed	Colorful edge definition and softening of views along top of retaining wall
	[illegible]	Regrade area add fence shrub and groundcover planting	Shrubs, groundcover, fencing and new irrigation system	Installed no later than Dec 2009	Installation shall commence no later than 120 days of CDP issuance by the Coastal Comm	Enhanced overall campus visual quality, safety and erosion control
	Area 10 - [illegible]	Additional trees shrubs & groundcover planting	17 trees, shrubs and groundcover and new irrigation system	Dec 2007 Installed	Project completed	Added Visual Quality, Parking area screening and building drop off and entry area definition
Hoag Lower Campus	[illegible]	Replace trees, shrub and groundcover and enhance planting areas	Trees, shrub & groundcovers and new irrigation system	Installation schedule Dec 2009	Pending city approval in concept and Coastal Comm Approval	Improve & unify campus planting character along PCH frontage after utilities installed
	[illegible]	Additional green screen and tree/shrub planting	Install approx. 670 linear feet of green screen along PCH frontage	Installed no later than Dec 2009	Immediately upon issuance of an Approval in Concept (AIC) by the City of Newport Beach an application shall be submitted for said improvements to the Coastal Comm. Construction of said improvements shall be completed no later than 18 months after CDP issuance by the Coastal Comm	Screen views of west parking Lot from PCH
	Area 11 - [illegible]	Temporary native hydroseed groundcover Planting	Add coastal wild flower and grass Hydroseed planting until permanent parking lot with landscape improvements added	Hydroseed and irrigation Installed Dec 2007	Hydroseed and irrigation completed	Erosion/dust control and enhanced visual quality pending future parking area installation
	Color Code Indicating Current Project Status					
	Green		Indicates current improvements that have been installed per previous approvals			
	Yellow		Indicates improvements installed but not apart of required permits			
	[illegible]		Indicates improvements in design phase yet to be submitted for city or agency approvals			
	Amber		Indicates improvements proposed but not approved for installation			
						R/Hdo Ltd. 1/15/08 Revised 4/15/08 for City Council Meeting

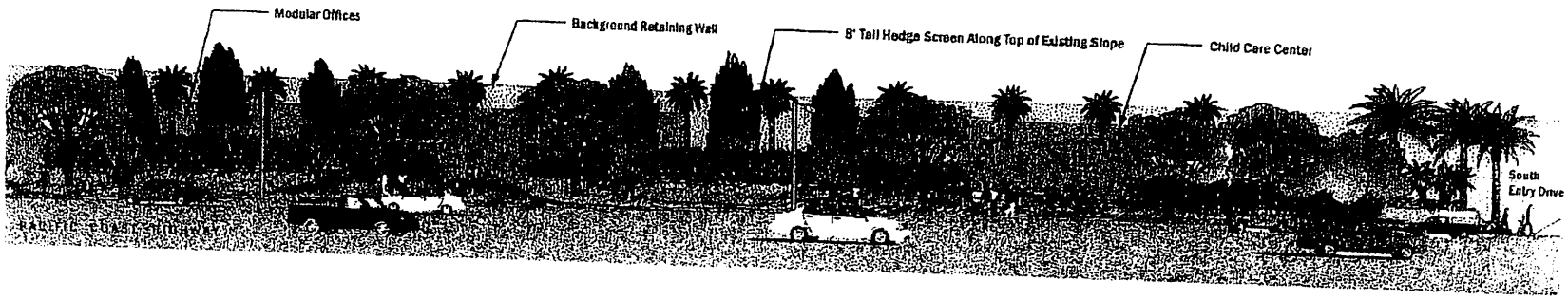
Exhibit #6

4/16/2008



HOAG LOWER CAMPUS IMPROVEMENT PLAN

Exhibit #7



PARTIAL ELEVATION - PCH LANDSCAPE SCREEN (DRAFT)

Rabben/Heimar

Hoag Memorial Hospital Presbyterian
Newport Beach, CA

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LaVonne M. Harkless, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2008-10 as duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 13th day of May 2008, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Henn, Rosansky, Curry, Daigle, Gardner, Mayor Selich

Noes: None

Absent: Webb

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 14th day of May 2008.

LaVonne M. Harkless
City Clerk
City of Newport Beach, California

(Seal)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LAVONNE M. HARKLESS, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2008-10 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Daily Pilot, a daily newspaper of general circulation on the following date, to wit: May 17, 2008.

In witness whereof, I have hereunto subscribed my name this _____ day of _____ 2008.

_____
City Clerk
City of Newport Beach, California

EXHIBIT E

SECOND AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660
Attn: City Clerk

(Space Above This Line Is for Recorder's Use Only)

This Agreement is recorded at the request and for the benefit of the City of Newport Beach and is exempt from the payment of a recording fee pursuant to Government Code §§ 6103 and 27383.

SECOND AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

THE CITY OF NEWPORT BEACH

AND

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved February __, 2019
Ordinance No. 2019-__

SECOND AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

(Pursuant to California Government Code sections 65864-65869.5)

This SECOND AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT ("**Second Amendment**") is entered into and effective on the date it is recorded with the Orange County Recorder ("**Effective Date**") by and between the CITY OF NEWPORT BEACH, a California municipal corporation ("**City**"), on the one hand, and HOAG MEMORIAL HOSPITAL PRESBYTERIAN, a California nonprofit public benefit corporation ("**Hoag**"), on the other. City and Hoag are sometimes collectively referred to in this Second Amendment as the "**Parties**" and individually as a "**Party**."

RECITALS

A. Hoag is the fee owner of approximately thirty eight (38) acres of real property located in the City of Newport Beach, County of Orange, State of California, located at 1 Hoag Drive (Assessor's Parcel No.'s 423-011-30, 423-011-28), ("**Property**"). The Property is more particularly described in the legal description attached hereto and as Exhibit C and incorporated herein by reference, and as more particularly depicted as attached hereto in Exhibit D and incorporated herein by reference.

B. City and Hoag entered into that certain Development Agreement dated February 14, 1994, for reference purposes and recorded in the Official Records of Orange County on March 23, 1994, as document number 94-0207276 ("**Agreement**").

C. City and Hoag entered into that certain Amendment to Restated Development Agreement No. 5 dated June 17, 2008, and recorded in the Official Records of Orange County on the same date, as document number 2008000289321 ("**Amendment**"). All terms not otherwise defined in this Second Amendment shall have the meanings given them in the Amendment and the Agreement.

D. Under the Agreement, the Term of the Agreement was for twenty five (25) years and the Parties now desire to enter into this Second Amendment to the Agreement to extend the Term another six (6) months.

E. On March 13, 2007, the City Council adopted Ordinance No. 2007-6, entitled "Ordinance Amending Chapter 15.45 of City of Newport Beach Municipal Code ("NBMC") Regarding Development Agreements" that amended the terms of NBMC Section 15.45 (the "**Development Agreement Statute and Ordinance**"). This Second Amendment is consistent with the Development Agreement Statute and Ordinance.

G. This Second Amendment is consistent with the City of Newport Beach General Plan, including without limitation the General Plan's designation of the Property as "Private Institutions - PI," and the Amendment and Agreement.

H. On January 17, 2019, the Planning Commission held a properly noticed public hearing on this Second Amendment and considered the testimony and information submitted by City staff, Hoag, and members of the public. On January 17, 2019, consistent with applicable provisions of the Development Agreement Statute and Ordinance, the Planning Commission

adopted Resolution No. PC2019-003, recommending the City Council approve this Second Amendment.

I. In recognition of the significant public benefits that the Agreement, as amended, provides, the City Council has found that this Second Amendment: (i) is consistent with the City of Newport Beach General Plan as of the date of the Agreement, the Amendment, and this Second Amendment; (ii) is in the best interests of the health, safety, and general welfare of City, its residents, and the public; (iii) is entered into pursuant to, and constitutes a present exercise of, City's police power; (iv) is consistent and has been approved consistent with the final Environmental Impact Report (FEIR No. 142) ("**FEIR**") and the supplemental Environmental Impact Report (EIR No. ER2007-003) (SCH#1991071003) ("**EIR**") that have been certified by the City Council on or before the Agreement Date, which analyzed the environmental effects of the proposed development of the Project on the Property, and all of the findings, conditions of approval and mitigation measures related thereto; and (v) is consistent and has been approved consistent with provisions of California Government Code section 65867 and NBMC chapter 15.45.

J. On February 26, 2019, the City Council held a properly noticed public hearing on this Second Amendment and considered the testimony and information submitted by City staff, Hoag, and members of the public. On _____, 2019, consistent with applicable provisions of the Development Agreement Statute and Ordinance, the City Council held second reading and adopted Ordinance No. 2019-__, finding the Second Amendment to be consistent with the City of Newport Beach General Plan and approving this Second Amendment.

AGREEMENT

NOW, THEREFORE, City and Hoag agree as follows:

1. **Term of Agreement**. Section 6.3 is hereby amended in its entirety to read as follows:

> "Term of Agreement. The term of this Agreement (the "Term") shall begin on the Effective Date and continue until September 15, 2019, unless otherwise terminated or modified pursuant to this Agreement. Any modifications to this Agreement prior to effective certification of the City's Local Coastal Program ("LCP"), are subject to the review and approval of the Coastal Commission or its successor agency."

2. **Full Force and Effect**. Except as modified by this Second Amendment, the Agreement and Amendment, attached hereto as Exhibit A and Exhibit B, respectively, are incorporated into this Second Amendment and shall remain in full force and effect.

3. **Recitals**. The Recitals set forth above are true and correct and incorporated herein by reference.

4. **Counterparts**. This Second Amendment may be signed by the Parties in different counterparts and the signature pages combined shall create a single document binding on all Parties.

5. **Recordation**. The City Clerk of City shall record this Second Amendment in the Office of the County Recorder of the County of Orange within the period required by California Government Code section 65868.5 and City of Newport Beach Municipal Code section 15.45.100.

[SIGNATURE PAGE FOLLOWS]

Attachments - Exhibit A: Development Agreement dated February 14, 1994

Exhibit B: Amendment to Restated Development Agreement No. 5 dated June 17, 2008

Exhibit C: Legal Description

Exhibit D: Legal Depiction

SIGNATURE PAGE TO
SECOND AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

CITY:

CITY OF NEWPORT BEACH,
a California municipal corporation and charter city

By: _____
Diane B. Dixon, Mayor

ATTEST:

By: _____
Leilani I. Brown, City Clerk

APPROVED AS TO FORM:

By: _____ for
Aaron C. Harp, City Attorney

HOAG:

HOAG MEMORIAL HOSPITAL
PRESBYTERIAN,
a California nonprofit public benefit corporation

By:_____
Name: Sanford Smith, AIA
Title: Senior Vice President Real Estate & Facilities

By:_____
Name: Andrew Guarni
Title: Senior Vice President and Chief Financial Officer

(All Signatures to Be Notarized)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20____ before me, _____, Notary Public, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20_____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20_____ before me, _____, Notary Public, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

EXHIBIT A

DEVELOPMENT AGREEMENT DATED FEBRUARY 14, 1994

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 6103

Recording Requested By and
When Recorded Return to:

City Clerk/by P. Mc.
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

DOC # 94-0207276
23-MAR-1994 03:59 PM

Recorded in Official Records
of Orange County, California
Lee A. Branch, County Recorder
Page 1 of 61 Fees: $ 0.00
Tax: $ 0.00



61
R
1
OF

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF NEWPORT BEACH

AND

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

Approved February 14, 1994
Ordinance No. 94-8

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into between the City of Newport Beach (the "City"), and Hoag Memorial Hospital Presbyterian ("Hoag").

1. **RECITALS**. This Agreement relates to the following:

1.1 Purpose of Agreement. This Agreement is intended to:

(a) Enable Hoag to adapt to the ever changing health care needs of those residents within its service area by authorizing design parameters of new or additional facilities in a manner that will allow Hoag to respond to rapid changes in medical and health care technology and delivery systems.

(b) Establish strict, binding limits on the amount and height of permitted development as well as ensure compliance with numerous conditions on the density, location, and timing of construction to minimize, to the extent feasible, any environmental impacts of Hoag's proposed expansion.

(c) Impose exactions such as dedication of property, construction of public improvements and/or the installation of landscaping visible to the public, which, when considered in conjunction with the public services provided by Hoag, benefit the general public.

1.2 Authorization. This Agreement is authorized by, and is consistent with, the provisions of 65864 et seq. of the Government Code of the State of California, and Chapter 15.45 of the Newport Beach Municipal Code.

1.3 Interest of Hoag. Hoag is the legal and/or equitable owner of approximately forty (40) acres of real property located in the City and more particularly described in Exhibit "A" and depicted in Exhibit "B" (the "Property").

1.4 Development of the Property. This Agreement authorizes development on the Property consistent with the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan ("Master Plan", a copy of which is attached to this Agreement as Exhibit "C" and incorporated by reference when appropriate), subject to the conditions and mitigation measures identified in Environmental Impact Report No. 142 and imposed by the City Council as conditions to approval of the Master Plan and this Agreement and, for all development within

the coastal zone subject to approval of a coastal development permit by the California Coastal Commission or its successor agency.

1.5 Planning Commission/City Council Hearings. The Planning Commission, after giving appropriate notice, held public hearings to consider a development agreement, the proposed Master Plan, and the EIR on December 5, 1991, January 9, 1992, January 23, 1992, February 6, 1992, and February 20, 1992. The City Council conducted public hearings on the Master Plan, this Agreement and the EIR on March 23, 1992, March 30, 1992, April 13, 1992 and May 11, 1992.

1.6 Consistency. This Agreement is consistent with the various elements of the Newport Beach General Plan, the Master Plan, and other applicable ordinances, plans, and policies of the City. This Agreement is also consistent with the purpose and intent of state and local laws authorizing development agreements in that it represents comprehensive planning, provides certainty in the approval of subsequent projects subject to compliance with conditions, reduces the economic costs of development by providing assurance to Hoag that it may generally proceed with projects in accordance with existing regulations, and provides assurance to adjoining property owners that limits on the height of structures and amount of development as specified in the Master Plan and this Agreement will remain in full force and effect for a period of twenty-five (25) years.

1.7 Police Power. The City Council has determined that this Agreement is in the best interests of the health, safety and general welfare of the City, its residents and the public, was entered into pursuant to, and represents a valid exercise of, the City's police power, and has been approved in accordance with the provisions of state and local law that establish procedures for the approval of development agreements.

1.8 City Ordinance. On February 14, 1994, the City Council adopted Ordinance No. 94-8 approving this Agreement and authorizing the City to enter into this Agreement. The Adopting Ordinance will become effective on March 16, 1994.

2. DEFINITIONS.

2.1 The "Adopting Ordinance" refers to City Ordinance No. 94-8, adopted on February 14, 1994, by the City Council, which approved and authorized the City to enter into this Agreement.

2.2 "Agreement" refers to this "Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian".

2.3 "Annual Review" refers to the review of Hoag's good faith compliance with this Agreement and conditions on development as set forth in Section 5.

2.4 The "Approval Date" means the date on which the City Council voted to adopt the Adopting Ordinance.

2.5 All forms of use of the verb "assign" and the nouns "assignment" and "assignee" shall include all contexts of hypothecations, sales, conveyances, transfers, leases, and assignments.

2.55 "California Coastal Commission" refers to the California State Resources Agency established under the California Coastal Act of 1976.

2.6 "CEQA" and the "CEQA Guidelines" refers to the California Environmental Quality Act and the CEQA Guidelines promulgated by the Secretary of Resources of the State of California, including any amendments adopted subsequent to the Effective Date.

2.7 "City" refers to the City of Newport Beach, California.

2.8 "City Council" refers to the City Council of the City.

2.9 "Cure Period" refers to the period of time during which a Default may be cured pursuant to Section 9.

2.10 A "day" or "days" refers to a calendar day, unless expressly stated to be a business day.

2.11 A "Default" refers to any material default, breach, or violation of the provisions of this Agreement. A "City Default" refers to a Default by the City, while a "Hoag Default" refers to a default by Hoag.

2.12 The "Effective Date" refers to the effective date of the Adopting Ordinance and is the effective date of this Agreement. provided however, the Agreement has been approved by the California Coastal Commission, and the Executive Director of the Coastal Commission is in receipt of a copy of this Agreement signed by both parties.

2.13 The "EIR" refers to final Environmental Impact Report No. 142 of the City of Newport Beach and Supplemental Environmental Impact Report No. 142.

2.14 An "Estoppel Certificate" refers to the document certifying the status of this Agreement required by Section 5.6 in the form of Exhibit "D".

2.15 An "Exaction" refers to those specific dedications and improvements required of Hoag and set forth in Section 8.2 below.

2.16 An "Exhibit" refers to an exhibit to this Agreement. All Exhibits are incorporated as a substantive part of this Agreement. The Exhibits to this Agreement are:

Exhibit A:	Legal Description of the Property
Exhibit B:	Map of the Property
Exhibit C:	The Master Plan
Exhibit D:	Estoppel Certificate

2.17 "Existing General Regulations" means those General Regulations approved by the City on or before the Approval Date (irrespective of their effective date) and not rescinded or superseded by City action taken on or before the Approval Date.

2.18 "Future General Regulations" means those General Regulations (see Section 2.19 below) adopted by the City after the Approval Date.

2.19 "General Regulations" means those ordinances, rules, regulations, policies, and guidelines of the City, which are generally applicable to the use of land and/or construction within the City and include, the Fair Share Traffic Contribution Fee Ordinance, Uniform Building Codes and water and sewer connection and fee ordinances.

2.20 "General Plan" refers to the City's General Plan in effect on the Approval Date, plus all amendments to the General Plan adopted by the City on or before the Approval Date and effective prior to the Effective Date.

2.21 "Hoag" refers to Hoag Memorial Hospital Presbyterian, a non-profit corporation.

2.22 "Includes" and all contexts and forms of the words "includes" and "including" shall be interpreted to also state "but not limited to."

2.23 "Master Plan" refers to the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan which was adopted by the City on May 26, 1992 (Exhibit "C").

2.24 "Mortgagee" refers to the holder of a beneficial interest under any mortgage, deed of trust, sale-leaseback agreement, or other

transaction under which all or a portion of the Property, including those portions acquired by assignees, is used as security (a "Mortgage") or the owner of any interest in all or any portion of the Property under a Mortgage, including those portions acquired by assignees.

2.25 "Notice" refers to any written notice or demand between the Parties required or permitted by this Agreement.

2.26 The "Parties" refers to the City and Hoag and a "Party" shall refer to either of the Parties.

2.27 "Planning Commission" refers to the Planning Commission of the City.

2.28 The "Project" refers to the proposed development of the Property pursuant to the Master Plan and this Agreement.

2.29 "Project Specific Approvals" means all site-specific (meaning specifically applicable to the Property only and not generally applicable to some or all other properties within the City) plans, subdivision maps, permits, or other entitlement. Project Specific Approvals include subdivision maps, site plan review, conditional use permits, coastal development permits, variances, grading and building permits, as well as amendments or modifications to those plans, maps and permits. Project Specific Approvals does not include Existing or Future General Regulations.

2.30 The "Property" refers to the real property described on Exhibit "A" and depicted on Exhibit "B."

3. CONDITIONS TO DEVELOPMENT.

3.1 Introduction. The provisions of this Section express the intent of the parties regarding the extent to which this Agreement vests Hoag's right to proceed with the development described in the Master Plan. Hoag acknowledges that its right to proceed with development described in the Master Plan is subject to numerous conditions and mitigation measures including the following:

(a) The specific limitations and restrictions contained in the Master Plan;

(b) Conditions and mitigation measures imposed by the City Council to mitigate significant effects identified in the EIR;

(c) Conditions imposed by the City as a result of subsequent or supplemental environmental analysis pursuant to provisions of CEQA and the CEQA Guidelines;

(d) Conditions imposed by the City Council in conjunction with the approval of Traffic Study No. 81 and Variance No. 1180;

(e) Compliance with the terms and conditions specified in this Agreement.

(f) Compliance with Existing General Regulations.

3.2 Compliance with Master Plan Conditions/Mitigation Measures. Hoag acknowledges that City Council approval of the Master Plan and this Agreement was subject to compliance with numerous conditions and mitigation measures designed to minimize or eliminate the significant adverse effects of the Project and ensure the health, safety, and welfare of nearby residents as well as Hoag patients and employees. Many of these conditions and mitigation measures impose specific development standards and requirements to be implemented in conjunction with further study and analysis of site or subsurface conditions before grading or construction. Specific mitigation measures that require compliance with, or satisfaction of, standards before grading or construction can occur include the following:

(a) Slope excavation techniques which insure stability;

(b) Grading and excavation techniques which minimize disturbance to adjacent residents and the general public;

(c) Identification of potential faults on site and construction of buildings pursuant to recommendations of certified geologists and in a manner which insures that nearby residents, Hoag patients and Hoag employees are not exposed to a significant risk of injury;

(d) Evaluation of soil corrosivity and removal of corrosive soils or use of corrosion resistant construction materials;

(e) Mitigation of impacts caused by removal of wetlands through off-site restoration as required by resource agencies;

(f) Preparation and approval of a project trip generation study prior to development of Phase I of the Master Plan (if Hoag proposes a land use other than specified in the approved Traffic Study);

(g) Preparation and approval of a project trip generation study as a condition to construction of development in Phases II and III of the Master Plan;

(h) Preparation and approval of a Traffic Phasing Ordinance analysis prior to construction of development in Phase II and Phase III of the Master Plan;

(i) Preparation of a view impact analysis of each proposed building prior to issuance of permits;

(j) Analysis and mitigation of emissions in accordance with the regulations of the South Coast Air Quality Management District;

(k) Preparation and approval of a construction phasing and traffic control plan for each phase of development.

Hoag's right to develop the Property pursuant to the Master Plan is contingent upon compliance with, and satisfaction of, the conditions and mitigation measures imposed by the City Council as of the Approval Date, conditions imposed by the California Coastal Commission required for approval of coastal development permits, as well as conditions and mitigation measures resulting from subsequent environmental analysis as specified in Paragraph 3.3.

3.25 Future Coastal Act discretionary review may result in specific mitigation measures to ensure consistency with the Coastal Act that require compliance with, or satisfaction of, standards before grading or construction can occur.

3.3 Program EIR. Hoag acknowledges that the EIR is a "Program EIR." The EIR analyzes the impacts of construction phased over time and, pursuant to CEQA, City is under a continuing obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the request were fully addressed in the EIR. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIR, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIR. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA.

3.4 Mitigation Monitoring Plan. City shall prepare a Mitigation Monitoring Plan ("Plan") within sixty (60) days after the Effective Date. Hoag shall not submit any application for Project Specific Approval until the Plan has been approved by the City Council and the Executive Director of the Coastal Commission or the appropriate entity of its successor agency.

The Plan shall comply with and satisfy the requirements of CEQA and the Guidelines and the Coastal Act. The Plan shall be available to the public upon request.

3.5 Compliance with General Regulations. Hoag is required to comply with the Existing General Regulations. As to those Existing General Regulations which require the payment of fees, costs, and expenses, Hoag shall pay the fee, cost, or expense required as of the date on which Hoag submits the application for Project Specific Approval. Hoag shall also comply with any Future General Regulations that do not impair Hoag's ability to develop the Property in accordance with the density, intensity, height and location of development specified in the Master Plan. Hoag shall also comply with all provisions of the Uniform Building Code, whether adopted before or after the Approval Date, which are in effect at the time applications for Project Specific Approvals are submitted. Hoag shall also comply with the Coastal Act and the City's certified Local Coastal Program.

4. RIGHT TO DEVELOPMENT.

4.1 Right to Develop. Subject to compliance with the provisions of Sections 3 and 8.2, Hoag shall have a vested right to develop and receive Project Specific Approvals for construction on the Property to the full extent permitted by the Master Plan. Subject to the provisions of Sections 3 and 8, City shall only take action which complies with and is consistent with the Master Plan and this Agreement unless Hoag otherwise consents in writing. Subject to this Subsection, City shall have the authority to impose only those Exactions which are specifically described in this Agreement, except as expressly required (as opposed to permitted) by state or federal law.

4.2 Reservations or Dedications of Land. Except as expressly provided in this Agreement, no dedications or reservations of the Property shall be required of Hoag in conjunction with the application or issuance of any Project Specific Approvals.

4.3 Conflicting Measures. Except as expressly provided in this Agreement, no initiative measure, moratorium, referendum (except as provided in Government Code Section 65857.5), ordinance, statute or other provision of law which in any way limits or restricts development of the Property to the full extent permitted by the Master Plan and this Agreement (including density, intensity, timing, phasing, and sequencing) shall be applied to the Property during the term of this Agreement.

4.4 Time for Construction and Completion of Project. Subject to the provisions of this Agreement and the Master Plan, Hoag shall have the right to decide the timing, phasing, and sequencing of construction on the Property and shall be entitled to apply for, and receive approval of, in a timely manner, permits or approvals at any time.

5. ANNUAL REVIEW.

5.1 City and Hoag Responsibilities. At least every twelve (12) months during the Term, the City shall review Hoag's good faith substantial compliance with this Agreement (the "Annual Review"). After the Annual Review, the City's finding of good faith compliance by Hoag shall be conclusive for the purposes of future Annual Reviews or legal action between the Parties. Either Party may address any requirements of the Agreement during the Annual Review. However, fifteen (15) days' written Notice of any requirement to be addressed shall be made by the requesting Party. If, at the time of the review, an issue not previously identified in writing is required to be addressed, the review shall be continued at the request of either Party to afford sufficient time for analysis and preparation of a response.

5.2 Public Hearing. The Annual Review shall be conducted at a public hearing noticed in accordance with the provisions of Chapter 15.45 of the Newport Beach Municipal Code.

5.3 Information to be Provided to Hoag. The City shall mail to Hoag a copy of the staff report and related exhibits concerning Agreement performance a minimum of ten (10) days before the Annual Review.

5.4 Mitigation Review. The annual review shall include a detailed report of compliance with the various conditions and mitigation measures contained within the mitigation monitoring plan. The report shall include an analysis of the view impacts of buildings constructed in comparison to the anticipated views as depicted in the EIR. For the five year monitoring period imposed by the Department of Fish and Game Streambed Alteration Agreement entered into between the Department of Fish and Game and Hoag, the annual review shall also assess the success of any off-site wetlands mitigation. Five years after the completion of the Department of Fish and Game monitoring period, Hoag shall submit a final report assessing the success of the off-site wetlands mitigation in its annual review. If the survival and cover requirements set forth in the Streambed Alteration Agreement have not been met, Hoag shall be responsible for replacement planting to achieve these requirements. Hoag shall be found in compliance with this Agreement unless the City Council determines, based upon the

evidence presented at the Annual Review, that Hoag has not complied with all mitigation measures and conditions including those imposed as a result of subsequent environmental analysis, applicable to the grading of, or building on, the Property as of the date of the Annual Review.

5.5 Review Letter. If Hoag is found to be in compliance with the Agreement after the Annual Review, the City shall issue, within ten (10) days of Hoag's written request, a letter to Hoag stating that the Agreement remains in effect and Hoag is not in Default.

5.6 Estoppel Certificate. Either Party may at any time deliver written Notice to the other Party requesting an estoppel certificate (the "Estoppel Certificate") stating:

(a) The Agreement is in full force and effect and is a binding obligation of the Parties.

(b) The Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments.

(c) No Default in the performance of the requesting Party's obligations under the Agreement exists or, if a Default does exist, the nature and amount of any Default.

A Party receiving a request for an Estoppel Certificate shall provide a signed certificate to the requesting Party within thirty (30) days after receipt of the request. The Planning Director may sign Estoppel Certificates on behalf of the city. An Estoppel Certificate may be relied on by assignees and Mortgagees. The Estoppel Certificate shall be substantially in the same form as Exhibit "D."

5.7 Failure to Conduct Annual Review. The City's failure to conduct an Annual Review shall not constitute or be asserted by the City as Hoag's Default.

6. GENERAL PROVISIONS.

6.1 Effective Date. This Agreement and the obligations of the Parties shall be effective as of the Effective Date. However, this Agreement shall bind the Parties as of the Approval Date, subject only to the Adopting Ordinance becoming effective pursuant to California law.

6.2 Applicability to Coastal Zone. This Agreement shall not be applicable to those portions of the Property located within the Coastal Zone as defined by the California Coastal Act (Division

20, California Public Resources Code, beginning with Section 30000) until either (1) the required local coastal program for the Property has been certified by the California Coastal Commission or (2) the California Coastal Commission has approved this Agreement. This Subsection is intended solely to comply with the provisions of California Government Code Section 65869 and shall be of no force or effect if Section 65869 is repealed.

6.3 Term of Agreement. The term of this Agreement (the "Term") shall begin on the Effective Date and continue for twenty-five (25) years unless otherwise terminated or modified pursuant to this Agreement. Any modifications to this Agreement prior to effective certification of the City's Local Coastal Program (LCP), are subject to the review and approval of the Coastal Commission or its successor agency.

6.4 Assignment. Hoag has the absolute right to assign (see Section 2.5) its rights and/or delegate its obligations under this Agreement as part of an assignment of all or a portion of the Property. Any assignment shall be subject to the provisions of this Agreement. As long as Hoag owns any part of the Property, Hoag may assign the benefits of this Agreement without delegating the obligations for the portion of the Property assigned. If that occurs, however, the benefits assigned shall remain subject to the performance by Hoag of the corresponding obligations.

Where an assignment includes the delegation of both the benefits and the corresponding obligations, those obligations become solely the obligations of the assignee. If an assignee is in Default, then as to Hoag or any assignees not in Default, the Default shall not constitute their Default, give grounds for termination of their rights under this Agreement or be a basis for an enforcement action against them.

6.5 Amendment of Agreement.

(a) Subject to the provisions of Subsection (b), and subject to approval of the Coastal Commission or its successor agency prior to effective certification of the City's Local Coastal Program (LCP), this Agreement may be amended from time to time by the mutual consent of the Parties, or their successors in interest, but only in the manner provided by the Government Code and this Agreement. After any amendment, the term "Agreement" shall refer to the amended Agreement.

(b) The City Council shall not approve, and Hoag shall not request, any amendment to the provisions of the Master Plan or this Agreement that would increase the maximum

permitted gross floor area or the maximum permitted building height (within any lettered building envelope) above that established by the Master Plan as of the Effective Date of this Agreement. This Subsection shall prevail over any conflicting ordinance, resolution, policy or plan adopted by the City Council.

6.6 Enforcement. This Agreement is enforceable by each of the Parties and their respective successors and assigns.

6.7 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the twenty-five (25) year term;

(b) Entry, after all appeals have been exhausted, of a final judgment or issuance of a final order directing the City to set aside, withdraw, or abrogate the City's approval of this Agreement or any material part of the Project; or,

(c) The effective date of a Party's election to terminate the Agreement as provided in Section 9.3 of this Agreement.

6.8 Hoag shall defend, indemnify and hold harmless the City and its officers and employees with respect to any claim, loss or damage in any way related to the grading, excavation or stabilization of the slopes adjacent to the view parks by Hoag or its employees, agents contractors or representatives. This Section is not intended to impose liability on Hoag for the acts of persons other than Hoag or its agents, representatives or contractors.

6.9 Hoag shall enter into an agreement with City to accept ownership of, and responsibility for maintenance of, the existing methane gas venting flare and any device for collecting gas that is subsequently installed on the Property pursuant to conditions or mitigation measures imposed in conjunction with the Master Plan approval or subsequent environmental analysis.

7. CONFLICTS OF LAW.

7.1 Conflict with State and Federal Laws and Regulations. Where state or federal laws or regulations prevent compliance with one or more provisions of this Agreement, those provisions shall be modified, through revision or suspension, to the

extent necessary to comply with such state or federal laws or regulations and the modified Agreement shall remain in effect, subject to the following:

(a) the City shall not request modification of this Agreement pursuant to this provision unless and until the City Council makes a finding that such modification is required (as opposed to permitted) by state and federal laws or regulations;

(b) the modifications must be limited to those required (as opposed to permitted) by the state or federal laws;

(c) the modified Agreement must be consistent with the state or federal laws or regulations which required modification or suspension;

(d) the intended material benefits of this Agreement must still be received by each of the Parties after modification;

(e) neither the modification nor any applicable local, state, or federal laws or regulations, may render the modified Agreement impractical to enforce; and

(f) Hoag consents in writing to the modification.

(g) Any modifications, prior to effective certification of the City's Local Coastal Program (LCP) are subject to approval of the Coastal Commission or its successor agency.

Hoag shall have the right to seek judicial review of any proposed modification to ensure compliance with this Section.

7.2 Effect of Termination. If this Agreement is terminated as a result of changes in state or federal law, Hoag remains obligated to comply with the provisions of Section 8.2(a) and (b), unless Hoag has completed construction of less than twenty-five percent (25%) of the maximum permitted development.

8. **PUBLIC BENEFITS/EXACTIONS.**

8.1 Public Benefits. City and Hoag agree that this Agreement confers a substantial public benefit by enabling Hoag to construct facilities most appropriate to changes in medical technology and thereby better satisfy the health care needs of residents within its service area. In addition, the Master

Plan and this Agreement confer benefits on the public and nearby residents by imposing long term restrictions on the height, amount and location of development as well as the public improvements described in Section 8.2.

8.2 Exactions. Hoag shall, as a condition to the right to develop, do the following:

(a) Prior to commencement of development, irrevocably offer to dedicate and grade the proposed linear and consolidated view park identified in Figure 3.2.1 of Volume 1 of the EIR. The City shall accept the offer of dedication within sixty (60) days after the initial grading permit has been finalled by the City. The first stage of development shall include grading of the public linear and consolidated viewpark identified in Figure 3.2.1. of Volume I of the EIR. Hoag shall grade and excavate the slope adjacent to the proposed .28 (28/100) acre consolidated public view park and .52 (52/100) acre public linear view park in a way that ensures stability of the park and adjacent slopes. The grade (between the bicycle path and edge of slope) of the view parks shall be the minimum necessary to insure adequate drainage. The improvement for the linear and consolidated public parks shall be completed within three (3) years after the offer of dedication has been accepted by the City. The City shall ensure that adequate erosion control measures are implemented prior to construction.

(b) Subsequent to the approval of this Agreement by the Coastal Commission and the expiration of any statute of limitation for filing a legal challenge to this Agreement, the Master Plan, or the EIR, Hoag shall deposit Two Hundred and Fifty Thousand Dollars ($250,000.00) in an account, and at a financial institution, acceptable to City. The account shall be in the name of the City provided, however, Hoag shall have the right to access the funds in the event, but only to the extent that, Hoag constructs or installs the improvements described in (i) or (ii). Funds in the account shall be applied to the following projects (in order of priority upon notice to proceed served by City on Hoag):

(i) The construction of a sidewalk and installation of landscaping in the CalTrans right-of-way along the west side of Newport Boulevard southerly of Hospital Road;

(ii) The construction of facilities necessary to bring reclaimed water to West Newport and/or the Property;

Any funds remaining in the account after completion of the projects described in (i) and (ii) shall be used by the City to fund, in whole or in part, a public improvement in the vicinity of the property.

(c) City and Hoag shall conduct a study of possible future improvements in and around the easterly end of Semeniuk Slough that would, among other things, improve the appearance of the area and, potentially, serve as a component to improve public access from residential areas in West Newport to park land and public recreation facilities proposed in conjunction with development of the West Newport Oil Company property. The study shall analyze, among other things, the type of improvements that would improve the area without adversely impacting wetlands, the possible location of pedestrian trails and the potential for those trials to improve access to proposed recreational facilities, phasing of the improvements, potential public benefits, and the cost of the improvements. As a part of the study, Hoag and City shall meet and confer with resource agencies relative to the type and extent of improvements that may be permitted in or adjacent to wetlands. Hoag shall fund the study and participate in the cost of constructing any improvements in the area that the City Council determines are feasible and in the public interest, provided, however, the financial contribution of Hoag, including the costs of the study and improvements, shall not exceed Two Hundred Thousand Dollars ($200,000.00).

(d) Hoag's obligations pursuant to Subsection (c) are contingent on Coastal Commission approval of the Master Plan and attached as Exhibit C to this Agreement with no significant reduction in entitlement from that authorized in the Master Plan. Hoag's obligations pursuant to Subsection (b) shall be reduced through good faith negotiations in the event the Coastal Commission reduces entitlement by ten percent (10%) or more from that authorized in the Master Plan.

9. **DEFAULT, REMEDIES AND TERMINATION.**

9.1 General Provisions. In the event of a Default (see Section 2.11), the Party alleging a Default shall give the other Party

a written Notice of Default. The Notice of Default shall specify the nature of the alleged Default, and a reasonable manner and sufficient period of time (not less than thirty (30) days) in which the Default must be cured (the "Cure Period"). During the Cure Period, the Party charged shall not be considered in Default for the purposes of termination of the Agreement or institution of legal proceedings. If the alleged Default is cured within the Cure Period, then a Default shall be deemed not to exist.

9.2 Option to Institute Legal Proceedings or to Terminate. If an alleged Default is not cured within the Cure Period, the noticing Party must give the defaulting Party a Notice of intent to terminate the Agreement. Within thirty (30) days after giving of the Notice, the City Council shall hold a public hearing in the manner set forth in Government Code Sections 65865,65867, and 65868, as amended, to consider and review the matter.

9.3 Notice of Termination. After considering the evidence presented to the City Council, the Party alleging the Default, at its option, may give written Notice of termination of the Agreement to the other Party and the Agreement shall be terminated immediately upon giving the Notice. A termination shall be valid only if good cause exists and clear and convincing evidence was presented to the City Council to establish the existence of a Default. The findings of the City Council as to the existence of a Default shall have no weight in any legal proceeding brought to determine the existence of a Default. The validity of any termination may be challenged pursuant to Section 11.16, in which case the court must render an independent judgment, on the basis of clear and convincing evidence, as to the existence of good cause for termination. Termination may result only from a material Default of a material provision of this Agreement.

9.4 Waiver. Failure or delay in giving Notice of Default shall not waive a Party's right to give future Notice of the same or any other Default.

9.5 Default by Hoag. If the City alleges a Hoag Default, the City shall conduct a hearing utilizing the Annual Review procedures required by this Agreement before the City may commence legal proceedings to terminate this Agreement.

9.6 Default by the City. If Hoag alleges a City Default, Hoag, without limiting any of its other remedies, shall not be

obligated to proceed with or complete the Project or any phase of the Project, nor to perform any further obligations under the Agreement. Upon a City Default, any resulting delays in Hoag's performance shall neither be Hoag's Default nor constitute grounds for termination or cancellation of the Agreement by the City.

10.0 **ENCUMBRANCES AND RELEASES ON PROPERTY.**

10.1 Discretion to Encumber. Hoag may encumber all or any portion of the Property in any manner. The City acknowledges that lenders providing financing may require technical modifications to the Agreement which do not materially alter the intent of the Parties. The City agrees to meet, upon request, with Hoag and/or lenders to negotiate in good faith any lender request for modification. The City agrees to not withhold unreasonably its consent to such modification. Any such modification, prior to effective certification of the City's Local Coastal Program (LCP), is subject to the review and approval of the Executive Director of the Coastal Commission or its successor agency.

10.2 Entitlement to Written Notice of Default. Any Mortgagee and its successors and assigns, upon written request to the City, shall be entitled to receive from the City written Notice of any Hoag Default at the same time Hoag is provided with Notice pursuant to Section 9.1.

11.0 **MISCELLANEOUS PROVISIONS.**

11.1 Notices. All Notices (see Section 2.26) shall be written and delivered by personal delivery (including Federal Express and other commercial express delivery services providing acknowledgments or receipt), registered, certified, or express mail, or telegram to the addresses set forth below. Receipt shall be deemed complete as follows:

(a) For personal delivery, upon actual receipt;

(b) For registered, certified, or express mail, upon the delivery date or attempted delivery date as shown on the return receipt; and

(c) For telegram, upon the transmission of the telegram.

Notices shall be addressed as follows:

To the City: City Clerk
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92660
Attention: City Attorney
Attention: City Manager

To Hoag: Hoag Memorial Hospital Presbyterian
301 Newport Boulevard
Newport Beach, CA 92663
Attention: President

With a copy to:

Tim Paone
Paone, Callahan, McHolm & Winton
19100 Von Karman, 8th Floor
P.O. Box 19613
Irvine, CA 92713-9613

The addresses to which Notices shall be sent may be changed by giving Notice of a new address.

11.2 Enforced Delay;Extension of Time of Performance. Neither Party shall be deemed to be in Default where delays or non-performance are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, oil spills, casualties, acts of nature, unavailability of materials, governmental restrictions imposed or mandated by governmental entities, suspension of rights in accordance with the existence of unforeseen circumstances, litigation, or similar bases for excused performance. If written Notice of such delay is given to the other Party within thirty (30) days after such delay begins an extension of time for performance shall be granted in writing for the period of the delay, or longer as may be mutually agreed upon. In no event shall the term of this Agreement be extended as a result of the application of this Subsection.

11.3 Severability. If any material part of the Agreement is found by a court to be invalid, void, or illegal, the Parties shall modify the Agreement to implement the original intent of the Parties. These steps may include the waiver by either of the Parties of their right under the unenforceable provision. If, however, the Agreement objectively cannot be modified to implement the original intent of the Parties and the Party substantially benefitted by the material provision does not waive its rights under the unenforceable provision, the entire

Agreement shall become void. For purposes of this Section, and without excluding the possible materiality of other provisions of this Agreement, all provisions of Sections 3, 4 and 8 are deemed "material."

11.4 Entire Agreement. This Agreement constitutes the entire understanding and Agreement of the Parties regarding the subject matter of this Agreement. This Agreement supersedes all negotiations and previous agreements between the Parties regarding that subject matter.

11.5 Waivers. All waivers of the provisions of this Agreement must be in writing and signed by the Party making the waiver and, prior to effective certification of the City's Local Coastal Program (LCP), are subject to approval of the Coastal Commission or its successor agency.

11.6 Incorporation of Recitals. The Recitals set forth in Section 1 are part of this Agreement.

11.7 Covenant of Good Faith and Fair Dealing. Neither Party shall do anything which shall have the effect of harming or injuring the right of the other Party to receive the benefits of this Agreement.

11.8 Further Actions and Instruments. Upon the request of either Party, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

11.9 Successors and Assigns. Subject to Section 6.3 above, the burdens of this Agreement shall be binding upon, and the benefits of the Agreement inure to, all successors-in-interest and assigns of the Parties.

11.10 Construction of Agreement. All language in all parts of this Agreement shall be construed as a whole and given its fair meaning. The captions of the paragraphs and subparagraphs are for convenience only and shall not be considered or referred to in resolving questions of construction. This Agreement shall be governed by the laws of the State of California. This Agreement is not intended to impermissibly contract away the

legislative and governmental functions of the City, and in particular, the City's police powers or to surrender or abrogate the city's governmental powers over the Property.

11.11 Authority to Execute. The person executing this Agreement on behalf of Hoag warrants and represents that he/she has the authority to do so and the authority to bind Hoag to the performance of Hoag's obligations under this Agreement.

11.12 Consent. Any consent required by the Parties in carrying out the terms of this Agreement shall not unreasonably be withheld.

11.13 Effect on Title. This Agreement shall not continue as an encumbrance against any portion of the Property as to which this Agreement has terminated.

11.14 Recording. The City Clerk shall cause a copy of this Agreement to be executed by the City and recorded in the Official Records of Orange County no later than ten (10) days after the Effective Date. The recordation of this Agreement is deemed a ministerial act and the failure of the City to record the Agreement as required by this Section and Government Code Section 65868.5 does not make the Agreement void or ineffective.

11.15 Institution of Legal Action. In addition to any other rights or remedies, either Party may institute legal action to cure, correct, or remedy any Default, to enforce any provision of this Agreement, to enjoin any threatened or attempted violation of this Agreement, to recover damages for any Default, or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Superior Court of the County of Orange, State of California, or in the Federal District Court in the Central District of California.

11.16 Attorneys' Fees. In any arbitration, quasi-judicial, administrative, or judicial proceeding between the Parties initiated with respect to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all costs, expenses, and disbursements in connection with such action.

Date: 2-23-94, 1994

CITY OF NEWPORT BEACH

By: Clarence Turner
Clarence Turner, Mayor

Date: March 9, 1994

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

By: Albert J. Auer
Albert J. Auer
Chairman of the Board

wb\hoagda4.fnl
1/21/94

Exhibit A

LEGAL DESCRIPTION

The subject property is the following real property in the City of Newport Beach, County of Orange, State of California:

Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

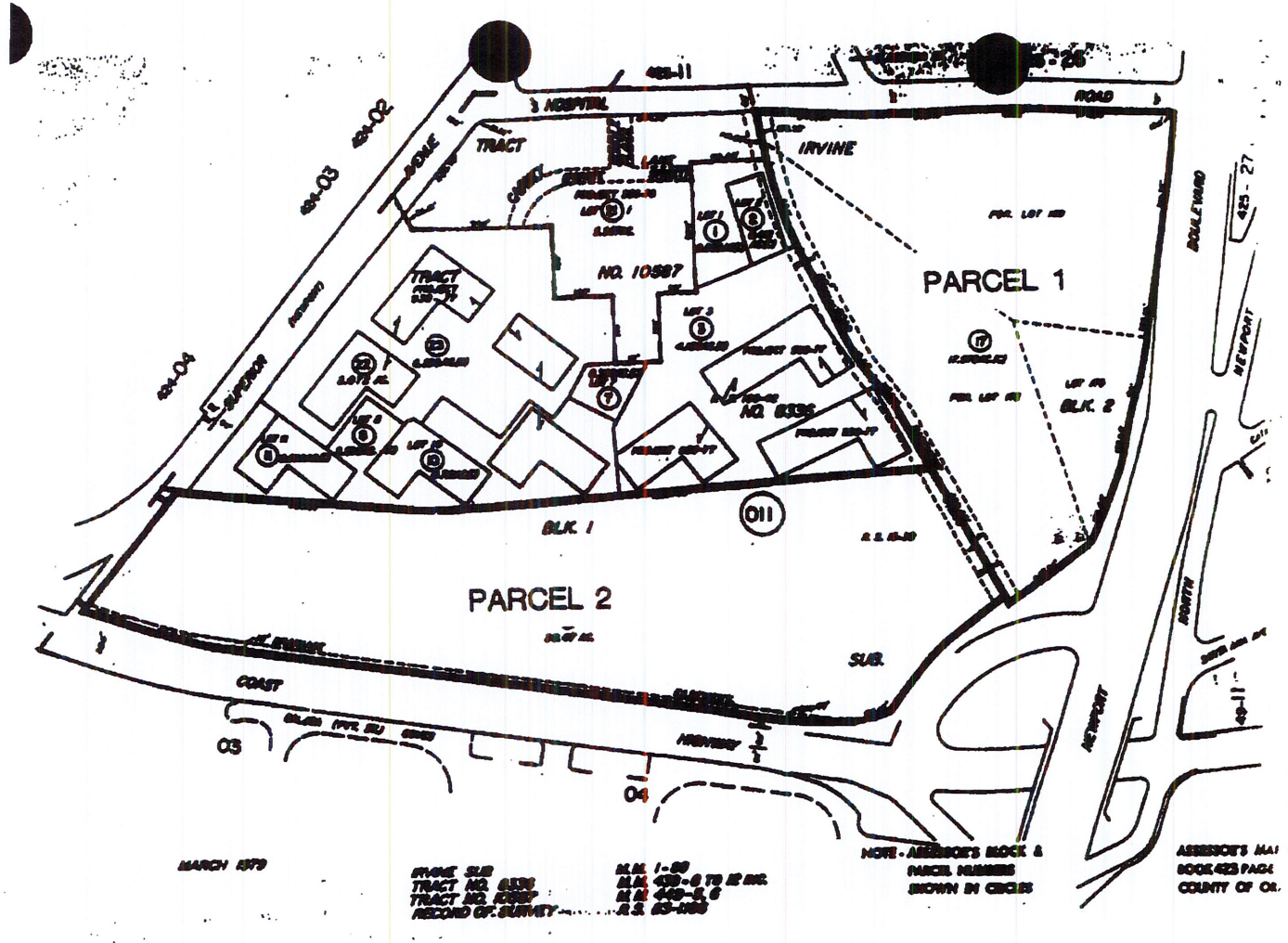

PARCEL 1
PARCEL 2
BLK. 1
BLK. 2
NO. 10587
NO. 8336
TRACT
IRVINE
ROAD
NEWPORT
BOULEVARD
NORTH
COAST
HIGHWAY
SUB.
011
03
04
MARCH 1979
NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

Exhibit B

Exhibit C

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
February 20, 1992

Adopted by the City Council
City of Newport Beach
Ordinance No. 92-3
May 26, 1992

TABLE OF CONTENTS

		Page Number
I.	Introduction	1
II.	General Notes	2
III.	Definitions	4
IV.	Development Plan	6
V.	District Regulations	11
VI.	Sign Program	20
VII.	Parking Program	22
VIII.	Landscape Regulations	24
IX.	Site Plan Review	27

EXHIBITS

		Page Number
1.	Planned Community Development Plan	7
2.	Internal Circulation	9
3.	Development Criteria	15

TABLES

1.	Statistical Analysis	10
2.	Parking Requirements	23

I. INTRODUCTION

Background

The Hoag Memorial Hospital Presbyterian Planned Community District in the City of Newport Beach has been developed in accordance with the Newport Beach General Plan. The purpose of this Planned Community District is to provide a method whereby property may be classified and developed for hospital-related uses. The specifications of this District are intended to provide land use and development standards supportive of the proposed use while ensuring compliance with the intent of all applicable regulatory codes.

The Planned Community District includes district regulations and a development plan for both the upper and lower campuses of Hoag Hospital. In general, over the long term, the upper campus will become oriented primarily towards emergency, acute and critical care (predominantly inpatient) uses and the lower campus will be developed with predominantly outpatient uses, residential care and support services.

Whenever the regulations contained in the Planned Community text conflict with the regulations of the Newport Beach Municipal Code, the regulations contained in the Planned Community text shall take precedence. The Municipal Code shall regulate this development when such regulations are not provided within these district regulations. All development within the Planned Community boundaries shall comply with all provisions of the Uniform Building Code and other governing building codes.

II. GENERAL NOTES

1. Water service to the Planned Community District will be provided by the City of Newport Beach.

2. Development of the subject property will be undertaken in accordance with the flood protection policies of the City of Newport Beach.

3. All development of the site is subject to the provisions of the City Council Policies K-5 and K-6 regarding archaeological and paleontological resources.

4. Except as otherwise stated in this text, the requirements of the Newport Beach Zoning Ordinance shall apply. The contents of this text notwithstanding, all construction within the boundaries of this Planned Community District shall comply with all provisions of the Uniform Building Code, other various codes related thereto and local amendments.

5. All buildings shall meet Title 24 requirements. Design of buildings shall take into account the location of building air intake to maximize ventilation efficiency, the incorporation of natural ventilation, and implementation of energy conserving heating and lighting systems.

6. Any fire equipment and access shall be approved by the Newport Beach Fire Department.

7. New mechanical appurtenances on building rooftops and utility vaults, excluding communications devices, on the upper campus shall be screened from view in a manner compatible with building materials. Rooftop mechanical appurtenances or utility vaults shall be screened on the lower campus. Noise shall not exceed 55 dBA at all property lines. No new mechanical appurtenances may exceed the building height limitations as defined in these district regulations.

8. Grading and erosion control shall be carried out in accordance with the provisions of the City of Newport Beach Grading Ordinance and shall be subject to permits issued by the Building and Planning Departments.

9. Sewage disposal facilities within the Planned Community will be provided by Orange County Sanitation District No. 5. Prior to issuance of any building permits it shall be demonstrated to the satisfaction of the Planning Department that adequate sewer facilities will be available. Prior to the occupancy of any structure it shall be further demonstrated that adequate sewer facilities exist.

10. Mass grading and grading by development phases shall be allowed provided that landscaping of exposed slopes shall be installed within 30 days of the completion of grading.

III. DEFINITIONS

Building Elevation:

1. a vertical distance of a building above or below a fixed reference level, i.e., MSL (mean sea level).

2. a flat scale drawing of the front, rear, or side of a building.

Building Envelope: the volume in which a building may be built as circumscribed by setback lines and maximum allowable building heights.

Building Height: the vertical distance measured from the finished grade to the highest point of the structure. At all points, the height measurement shall run with the slope of the land.

Emergency Room: a service and facility designated to provide acute emergency medical services for possible life threatening situations.

Fast Aid: low acuity medical treatment for non-life threatening situations.

General Plan: the General Plan of the City of Newport Beach and all elements thereof.

Grade: for the purpose of determining building height:

1. Finished - the ground level elevation which exists after any grading or other site preparation related to, or to be incorporated into, a proposed new development or alteration of existing developments. (Grades may be worked into buildings to allow for subterranean parking.)

2. Natural - the elevation of the ground surface in its natural state before man-made alterations.

3. Existing - the current elevation of ground surface.

Inpatient Uses: hospital patient services which require overnight stay.

Landscape Area: the landscape area shall include on-site walks, plazas, water, rooftop

landscaping and all other areas not devoted to building footprints or vehicular parking and drive surfaces.

Mean Sea Level: a reference or datum mark measuring land elevation using the average level of the ocean between high and low tides.

Outpatient Uses: hospital patient services which do not require overnight stay.

Residential Care: medically-oriented residential units that do not require the acuity level generally associated with inpatient services but require overnight stays.

Site Area: for the purpose of determining development area:

1. Gross - parcel area prior to dedications.

2. Net - parcel area after dedications.

Special Landscaped Street: West Coast Highway is designated as a special landscaped street, containing special landscape requirements.

Streets: reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way.

IV. DEVELOPMENT PLAN

Project Characteristics

The upper campus of Hoag Hospital is located on a triangular site of approximately 17.57 acres and is bounded by Newport Boulevard to the east, Hospital Road to the north and existing residential developments (the Versailles and Villa Balboa/Seafaire condominiums) to the west. The lower campus is located north of West Coast Highway, south of the Versailles and Villa Balboa/Seafaire Condominiums, west of Newport Boulevard and east of Superior Avenue. It contains approximately 20.41 acres and adjoins the upper campus at its eastern boundary. The upper campus is, and will continue to be, oriented towards inpatient functions, while the lower campus will be developed with predominantly outpatient, residential care and support services.

Development Plan

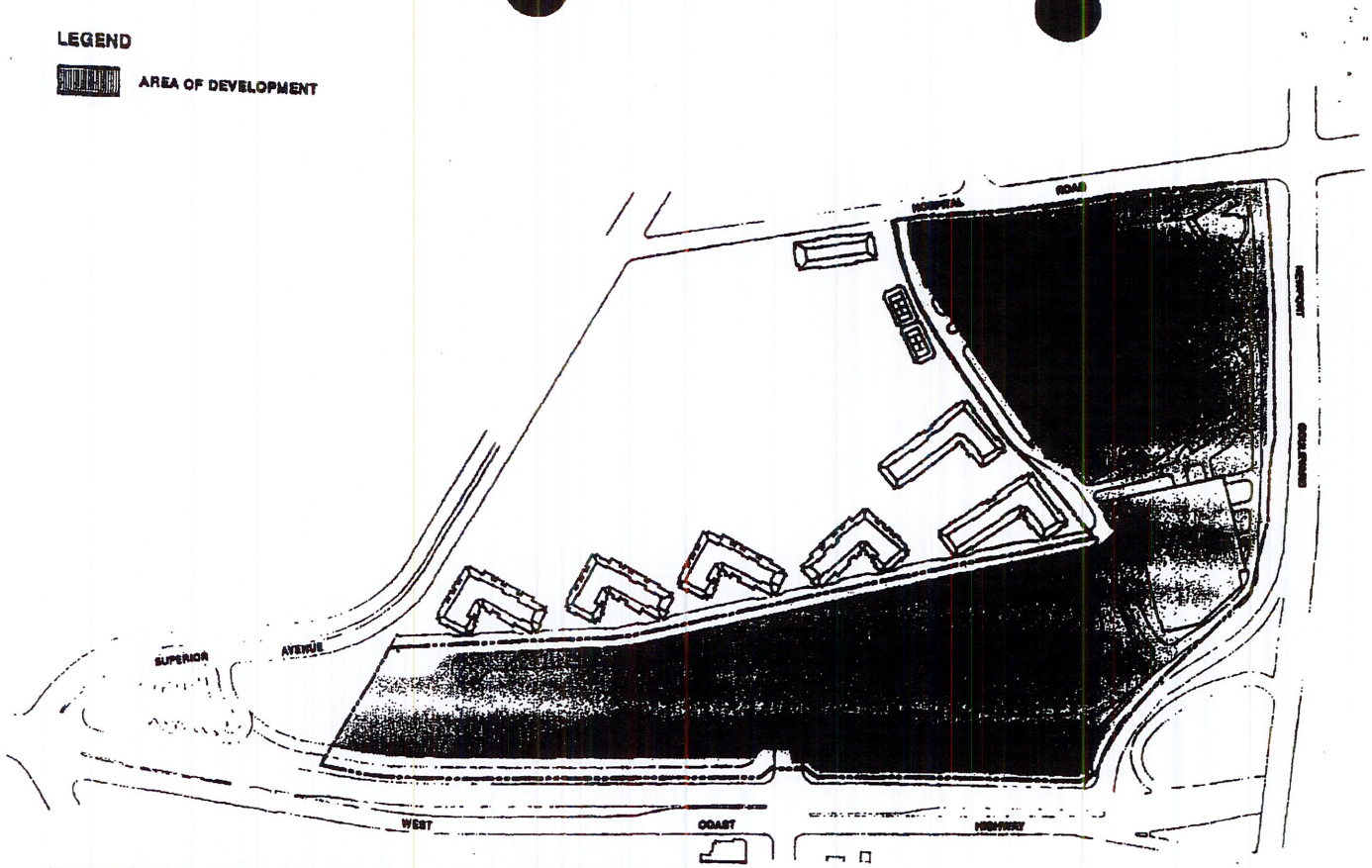
The Planned Community Development Plan for Hoag Hospital is shown on Exhibit 1. From 1990 to 2015, many of the existing buildings shown on the Development Plan for the upper campus may be redeveloped in order to functionally respond to the needs of the Hospital and conform to the requirements of State agencies.

The Development Plan includes a 0.8 acre view park adjacent to the bike trail between the lower campus and the Villa Balboa/Seafaire Condominiums. This view park includes a twenty-foot wide linear park area adjacent to the bike path (approximately 0.5 acres) and a consolidated view park at the westerly edge of the property (approximately 0.3 acres). A bike trail connection is also provided between the existing bike trails at the northern and southern boundaries of the lower campus. Access to the lower campus will be from West Coast Highway and Superior Avenue, as well as from Hospital Road, via the upper campus. Exhibit 2 shows the internal circulation for Hoag Hospital.

The Development Plan does not specify building locations or specific hospital related uses. Instead, a developable area is identified based on the regulations established for this Planned Community District. Because of the dynamic nature of the health care industry which leads to rapid technological changes that effect how health care services are delivered, the Development Plan for Hoag Hospital sets development caps as a function of allowable densities established by the Newport Beach General Plan.

LEGEND

AREA OF DEVELOPMENT



PLANNED COMMUNITY DEVELOPMENT PLAN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

May 26, 1992

EXHIBIT 1

The statistical analysis (Table 1) provides a summary of a potential development profile for Hoag Hospital. In order to provide flexibility for the hospital to respond to changes in the health care industry, while at the same time ensuring that trip generation restrictions are adhered to and the overall development cap is not exceeded, this Development Plan allows Hoag Hospital to adjust the development profile provided in the statistical analysis. For example, if changing hospital needs necessitate the development of additional outpatient uses, this development would be allowed, consistent with the Development Plan, as long as a corresponding adjustment in square footage and trip generation for another use were to occur.

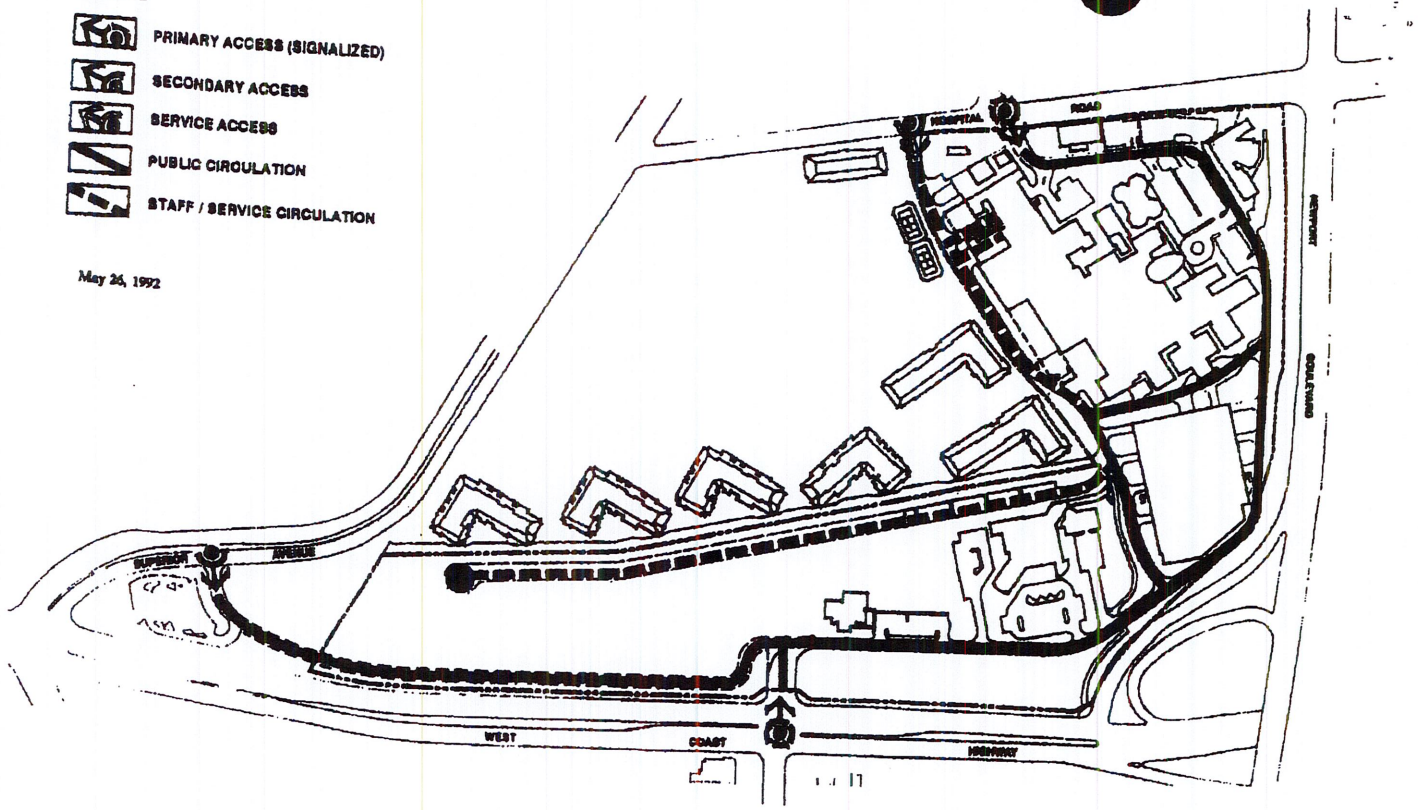
This Development Plan allows Hoag Hospital to adjust the development profile provided in the statistical analysis (Table 1) as long as the development limit (i.e., square feet) or the trip generation limit for the peak period (as identified in the Environmental Impact Report) established within each phase of development is not exceeded.

Adjustments to the Development Plan may be allowed if the total square footage or trip generation allowed in the current phase of development is exceeded, if the total development or trip generation allowed under the Development Plan is not exceeded.

LEGEND

- PRIMARY ACCESS (SIGNALIZED)
- SECONDARY ACCESS
- SERVICE ACCESS
- PUBLIC CIRCULATION
- STAFF / SERVICE CIRCULATION

May 26, 1992



VEHICULAR ACCESS

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 2

Table 1
STATISTICAL ANALYSIS[1]

Use	Square Feet
Lower Campus	
Existing:	
Outpatient Services (Hoag Cancer Center)	65,000
Child Care	7,800
Subtotal:	72,800
Phase I:	
Outpatient Services	115,000
Support Service	55,000
Administrative	30,000
Subtotal:	200,000
Phases II & III:	
Subtotal:	305,089
Total Lower Campus	577,889
Upper Campus	
Existing[2]:	480,000
Phase I:	
Outpatient Services	25,000
Inpatient	115,000
Subtotal:	140,000
Phases II & III:	145,349
Total Upper Campus	765,349
GRAND TOTAL	1,343,238[3]

[1] Full development of the upper and lower campuses is anticipated to occur over an approximate 20-year period and will likely occur in three, seven-year phases.

[2] Up to 50% of the existing upper campus may be redeveloped by master plan buildout.

[3] Based on development allowed under the General Plan at a floor area ratio to gross site area of .65 for the lower campus and 1.0 for the upper campus. Building Bulk limit for the lower campus is 0.90 for all structures which includes above grade covered parking.

V. DISTRICT REGULATIONS

The following regulations apply to all development within the Hoag Hospital Planned Community. The individual uses listed under the five permitted use categories is not an exhaustive list. Other hospital-related uses which fit into the five permitted use categories are allowed by definition. Prior to the issuance of a building permit, plot plans, elevations and any other such documents deemed necessary by the Planning, Building and Public Works Departments shall be submitted for the review and approval of the Planning, Building, and Public Works Departments.

A. Permitted Uses

1. Lower Campus

a) Hospital facilities, including, but not limited to:

i. Outpatient services:

- Antepartum Testing
- Cancer Center
- Skilled Nursing
- Rehabilitation
- Conditioning
- Surgery Center
- Clinical Center
- Day Hospital
- Back and Neck Center
- Biofeedback
- Breast Imaging Center
- CT Scan
- Dialysis
- EEG/EMG/NICE Laboratory
- First Aid Center
- Fertility Services
- G.I. Laboratory
- Laboratory
- Magnetic Resonance Imaging
- Nuclear Medicine
- Occupational Therapy
- Pediatrics
- Pharmacy
- Physical Therapy
- Pulmonary Services

- Radiation Therapy
- Radiology
- Respiratory Therapy
- Sleep Disorder Center
- Speech Therapy
- Ultrasound

ii. Administration:
- Admitting
- Auxiliary Office
- Business Offices
- Information
- Registration
- Patient Relations
- Social Services

iii. Support Services:
- Employee Child Care
- Health Education
- Power/Mechanical/Auxiliary Support and Storage
- Food Services
- Cashier
- Chapel/Chaplaincy Service
- Conference Center
- Dietitian
- Gift Shop
- Laboratory
- Medical Library
- Medical Records
- Pharmacy
- Engineering/Maintenance
- Shipping/Receiving
- Microwave, Satellite, and Other Communication Facilities

iv. Residential Care:
- Substance Abuse
- Mental Health Services
- Extended Care
- Hospice Care
- Self or Minimal Care
- Congregate Care

v. Medical/Support Offices

b) Methane gas flare burner, collection wells and associated system components.

c) Accessory uses normally incidental to hospital development.

d) Temporary structures and uses, including modular buildings.

2. Upper Campus

a) Hospital facilities, including, but not limited to:

i) Inpatient uses:
- Critical Care
- Emergency Care Unit
- Birth Suites
- Cardiology
- Cardiac Care Unit
- Intensive Care Unit
- Mother/Baby Unit
- Surgery/Waiting Rooms
- Radiology
- Laboratory
- Pharmacy

ii) Outpatient services as allowed on the lower campus

iii) Administrative uses as allowed on the lower campus

iv) Support services as allowed on the lower campus

v) Residential care as allowed on the lower campus

vi) Heliport (subject to Conditional Use Permit)

b) Accessory uses normally incidental to hospital development.

c) Temporary structures and uses, including modular buildings.

B. Prohibited Uses

1. Lower Campus

a) Emergency Room

b) Heliport

C. Maximum Building Height

The maximum building height of all buildings shall be in accordance with Exhibit 3 which established the following height zones:

1. Upper Campus Tower Zone - maximum building height not to exceed the existing tower (235 feet above mean sea level).

2. Upper Campus Midrise Zone - maximum building height not to exceed 140 feet above mean sea level.

3. Upper Campus Parking zone - maximum building height not to exceed 80 feet above mean sea level, exclusive of elevator tower.

4. Lower Campus Zone, Sub-Areas A, B, C, F and G - within each sub-area no building shall exceed the height of the existing slope and conform to the range of maximum building heights indicated on the development criteria Exhibit 3.

5. Lower Campus Zone, Sub-Areas D and E - maximum building height shall not exceed the height of the existing Hoag Cancer Center (57.5 feet above mean sea level).

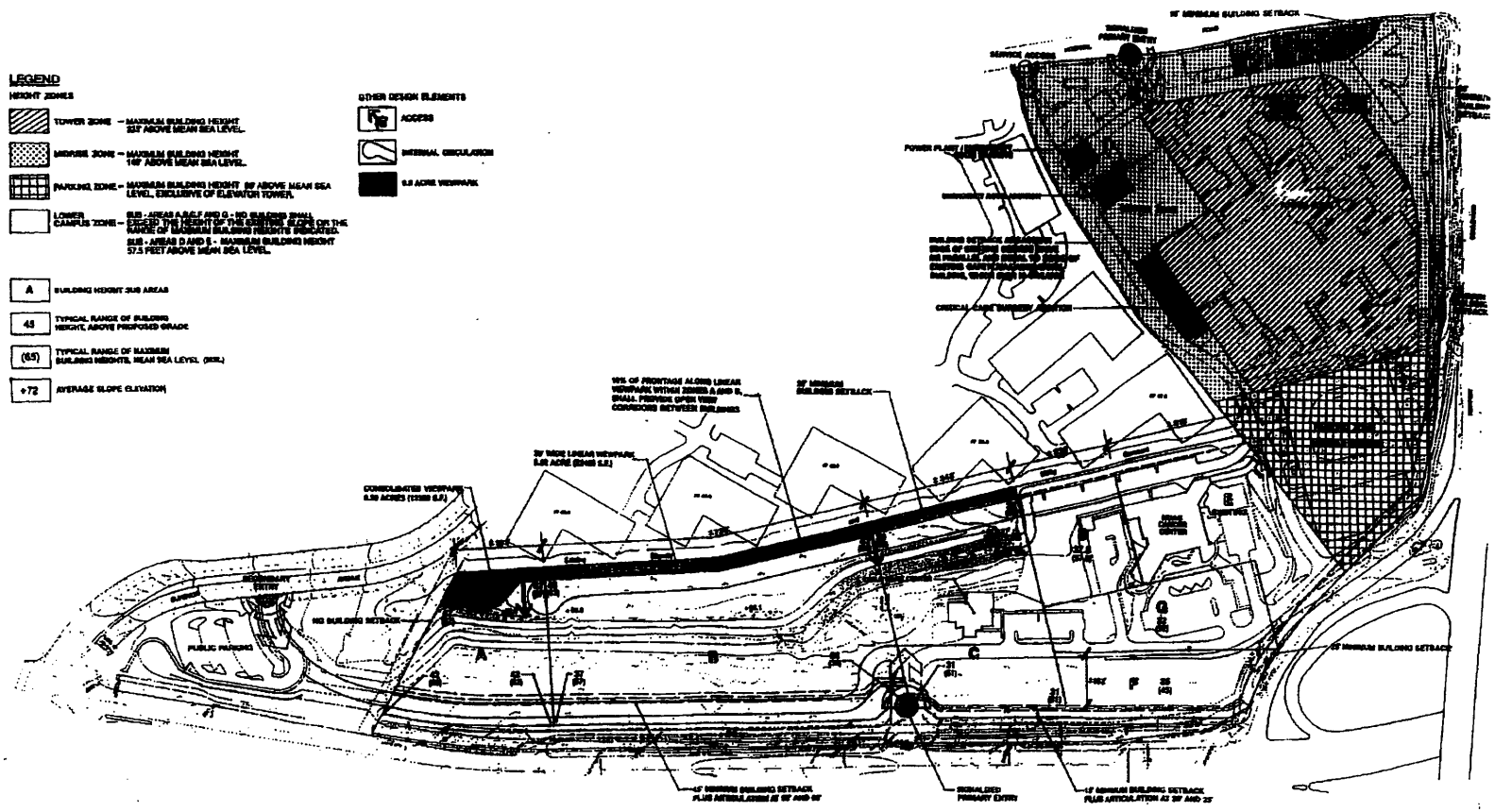
D. Setbacks

Setbacks for the Hoag Hospital Planned Community are shown on Exhibit 3.

1. Setbacks will be provided along property boundaries adjacent to the Villa Balboa / Seafaire Condominiums, as defined below:

a) Upper campus western boundary setback shall be the prolongation of the westerly edge of the existing cafeteria/laboratory building to the points of intersection with the easterly curb line of the existing service drive, then continuing along said line of the existing service drive.

b) Lower campus northern boundary, all of which will have a 20' minimum building setback.



DEVELOPMENT CRITERIA

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 9

May 26, 1992

2. The setback on West Coast Highway easterly of the hospital entry signal shall be 15 feet.

In addition, vertical articulation shall be required for buildings easterly of the signal within 150 feet of the West Coast Highway frontage, as follows:

1st Floor: Up to 18 feet in height no additional articulation is required. If the 1st floor exceeds 18 feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor (up to 32' in height): A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of 20 feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of 25 feet.

The setback on West Coast Highway westerly of the hospital entry signal shall be 45 feet.

In addition, vertical articulation shall be required for buildings westerly of the signal for buildings within 150 feet of the West Coast Highway frontage, as follows:

1st Floor: Up to 18 feet in height no additional articulation is required. If the 1st floor exceeds 18 feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor (up to 32' in height): A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of 55 feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of 65 feet.

In order to avoid any future structures in this area (within 150 feet of West Coast Highway) from presenting an unacceptable linear mass, no single structure shall be greater than 250 linear feet in width. Additionally, 20% of the linear frontage within 150 feet of West Coast Highway shall be open and unoccupied by buildings.

10% of the linear length of height zones A and B as viewed from the existing bicycle/pedestrian trail, exclusive of that area adjacent to the consolidated portion of the view park, shall be maintained as view corridors between buildings.

These requirements may be altered for individual buildings, if requested by the hospital, through the site plan review process defined in Section IX.

3. There will be no building setbacks along the boundary with CalTrans east property at Superior Avenue and West Coast Highway.

4. A 20 foot setback from property line shall be provided along Newport Boulevard from Hospital Road to a point 600 feet south; a 25 foot setback from property line shall be provided along the remainder of Newport Boulevard and along the Newport Boulevard/West Coast Highway Interchange.

5. A ten (10) foot building setback from the property line shall be provided along Hospital Road.

E. Lighting

The lighting systems shall be designed and maintained in such a manner as to conceal the light source and to minimize light spillage and glare to the adjacent residential uses. The plans shall be prepared and signed by a licensed Electrical Engineer.

F. Roof Treatment

Prior to the issuance of building permits, the project sponsor shall submit plans which illustrate that major mechanical equipment will not be located on the roof of any structure on the Lower Campus. Rather, such buildings will have clean rooftops. Minor rooftop equipment necessary for operating purposes will comply with all building height criteria, and shall be concealed and screened to blend into the building roof using materials compatible with roofing materials.

G. Signs

All signs shall be as specified under the Hoag Hospital Sign Program, Part VI.

H. Parking

All parking shall be as specified in Part VII, Hoag Hospital Parking Regulations.

I. Landscape

All landscaping shall be as specified in the Hoag Hospital Landscape Regulations, Part VIII.

J. Mechanical and Trash Enclosures

Prior to issuance of a building permit, the project sponsor shall submit plans to the City Planning Department which illustrate that all mechanical equipment and trash areas will be screened from public streets, alleys and adjoining properties.

K. Internal Circulation

1. Prior to the issuance of a grading permit for any of the proposed Master Plan facilities, the project sponsor shall implement a pilot program that controls usage of the Upper and Lower Campus service roads during non-working hours. Such controls may include requesting that the majority of vendors deliver products (other than emergency products) during working hours (i.e. 7:00 a.m. to 8:00 p.m.), signage to restrict use of the road by Hospital employees, physicians, patients and visitors during non-working hours, and other methods to restrict use. The Hospital will also request that vendors not deliver (i.e. scheduled and routine deliveries) on the weekends.

   This restriction specifically applies to scheduled and routine deliveries. The results of this program will be submitted to the City prior to the issuance of the grading permit. If such results indicate that such controls do not significantly impact the operations of the Hospital, and provided that requests for specified vendor delivery times is consistent with future Air Quality Management Plan procedures, the City may require that the program be implemented as hospital policy. If operation impacts are significant, other mitigation measures will be investigated at that time to reduce service road impacts to the adjacent residential units.

2. The lower campus service road shall include provisions for controlled access to limit usage to physicians and staff, and service vehicles.

L. Loading Dock

Within one year from the date of final approval of the Planned Community District Regulations and Development Plan by the California Coastal Commission, as an interim measure, the project sponsor shall implement an acoustical and/or landscape screen to provide a visual screen from and reduce noise to adjoining residences from the loading dock area.

The design process for the Critical Care Surgery Addition shall include an architectural and acoustical study to insure the inclusion of optimal acoustical screening of the loading dock area by that addition.

Subsequent to the construction of the Critical Care Surgery Addition, an additional acoustical study shall be conducted to assess the sound attenuation achieved by that addition. If no significant sound attenuation is achieved, the hospital shall submit an architectural and acoustical study assessing the feasibility and sound attenuation implications of enclosing the loading dock area. If enclosure is determined to be physically feasible and effective in reducing noise impacts along the service access road, enclosure shall be required. Any enclosure required pursuant to this requirement may encroach into any required setback upon the review and approval of a Modification as set forth in Chapter 20.81 of the Newport Beach Municipal Code.

VI. HOAG HOSPITAL SIGN PROGRAM

A. Purpose and Intent

1. The purpose of this Sign Program is to provide adequate, consistent and aesthetically pleasing on-building wall and ground-mounted signage based upon the provisions set forth by the City of Newport Beach Sign Ordinance and the information signage requirements of Hoag Hospital.

2. The intent of this Sign Program is to produce uniform standards for Hoag Hospital.

B. General Sign Standards

1. All signs visible at the exterior of any building or facility of the Hospital, ground mounted or on-building, may be illuminated or non-illuminated, depending upon need. Illumination method may be by external or internal source. No sign shall be constructed or installed to rotate, gyrate, blink or move, nor create the illusion of motion, in any fashion.

2. All signs attached to building or facility exteriors shall be flush or surface mounted as is appropriate to the architectural design features of said building or facility.

3. All signs together with the entirety of their supports, braces, guys, anchors, attachments and decor shall be properly maintained, legible, functional and safe with regard to appearance, structural integrity and electrical service.

4. All street signs shall be subject to review and approval of the City Traffic Engineer, and shall be in compliance with Ordinance 110-L.

C. Number of Signs Allowed

1. One (1) double-faced primary identification ground-mounted sign or two single faced gateway entry signs shall be allowed per street frontage. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Total maximum signage area shall not exceed two hundred (200) square feet and shall not exceed ten (10) feet in height per sign and street frontage. This sign may occur as a wall sign, to be located upon a project boundary perimeter wall, subject

to the same number and area maximums described above. This sign may also occur as part of an entry gateway system.

2. Secondary identification signs shall be allowed. This sign type shall not exceed a maximum height of 48" average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed thirty-five (35) square feet. This sign may occur as a wall sign to be located upon a project boundary perimeter wall, subject to the same number and area maximums described above.

3. Vehicular and pedestrian directional signs shall be allowed. This sign type may occur as a single-faced or double-faced sign. This sign type shall occur with the sign suspended between two upright supports having the same depth (thickness) as the sign cabinet described above.

4. Hospital identification signs shall be allowed upon hospital tower parapets, one (1) at each elevation. The elevation facing west (Villa Balboa property line) may not be illuminated.

5. On the lower campus, one (1) building-mounted identification sign will be allowed per structure and shall not be placed so as to directly face the Villa Balboa/Seafaire property. Such signs will be no higher than the roof line of the building upon which they are mounted.

VII. HOAG HOSPITAL PARKING REGULATIONS

A. General

1. Off-street parking for Hoag Hospital shall be provided on-site. Parking may be on surface lots, subterranean or in parking structures.

2. The design and layout of all parking areas shall be subject to the review and approval of the city Traffic Engineer and the Public Works Department.

3. Parking lot lighting shall be developed in accordance with City standards and shall be designed in a manner which minimizes impacts on adjacent land uses. Nighttime lighting shall be limited to that necessary for security and shielded down from any adjacent residential area. The plans shall be prepared and signed by a licensed electrical engineer, with a letter from the engineer stating that the requirements has been met. The lighting plan shall be subject to review and approval of the City Planning Department.

B. Requirements for Offstreet Parking

Parking requirements for specific sites shall be based upon the parking criteria established in Table 2. All parking shall be determined based upon building type and the area allotted to the following functions. Any area which is calculated as part of the total floor area limitation shall be included in the gross floor area to determine the parking requirement.

Table 2
PARKING REQUIREMENTS

Use Category	Parking Requirements
Outpatient Services	2.0 spaces/1,000 square feet*
Support	1.0 spaces/1,000 square feet*
Administrative	4.0 spaces/1,000 square feet*
Residential Care	1.0 spaces/1,000 square feet*
Medical Offices	4.0 spaces/1,000 square feet*
Inpatient	1.25 spaces/1,000 square feet**

* Parking requirements are based on a study performed by DKS Associates in May, 1987.

** Parking requirement is based on current Hoag Hospital parking demand.

VIII. HOAG HOSPITAL LANDSCAPE REGULATIONS

A. General

1. Detailed landscape and irrigation plans, prepared by a registered Architect or under the direction of a Landscape Architect, shall be reviewed by the Planning and Parks, Beaches and Recreation Departments and approved by the Public Work Departments prior to issuance of a building permit and installed prior to issuance of Certificate of Use and Occupancy. The Landscape Plan may include a concept for the roofs and the parking structures. Trees shall not be used, but a planter box or trellis system shall be designed to provide visual relief of parking structures. All landscaping shall conform to the building height limits established in this text.

2. Parking lot trees shall be no less than fifteen (15) gallon size.

3. Shrubs to be planted in containers shall not be less than one (1) gallon size. Ground covers will be planted from (1) gallon containers or from root cuttings.

4. Every effort should be made to avoid using plants with invasive and shallow root systems.

5. Earth berms shall be rounded and natural in character, designed to obscure automobiles and to add interest to the site. Wheel stops shall be so placed that damage to trees, irrigation units and shrubs is avoided.

6. Trees in parking lots should be limited in variety. Selection should be repeated to give continuity. Regular spacing is not required and irregular groupings may add interest. Care should be exercised to allow plants to grow and maintain their ultimate size without restriction.

7. Heavy emphasis shall be placed on the use of drought-resistant native and naturalized vegetation and the use of an irrigation system designed to avoid surface runoff and over-watering.

B. Maintenance

1. All planting areas are to be kept free of weeds and debris.

2. Lawn and ground covers are to be kept trimmed and/or mowed regularly.

3. All plantings are to be kept in a healthy and growing condition. Fertilization, cultivation and tree pruning are to be carried out as part of regular maintenance.

4. Irrigation systems are to be kept in working condition. Adjustment and cleaning of system should be part of regular maintenance.

5. Stakes, guys and ties on trees should be checked regularly for correct function; ties to be adjusted to avoid creating abrasions or girdling to the stems.

6. Damage to plantings created by vandalism, automobile or acts of nature shall be corrected within thirty (30) days.

C. Special Landscaped Street

West Coast Highway is designated in the Hoag Hospital Planned Community as a special landscaped street. A 15' building setback from right-of-way / property line is required along West Coast Highway. Only driveways, parking and signage are allowed in the setback area. Parking areas shall be screened from view of West Coast Highway with landscaped berms.

Landscaping along West Coast Highway shall consist of trees, ground cover and shrubbery. All unpaved areas not utilized for parking or circulation shall be landscaped in a similar manner. Tree size to be no less than twenty-four (24) inch box.

D. Villa Balboa Landscape Zone

The area between the Villa Balboa/Hoag property line and the loading dock service access road shall be landscaped except for any driveway, walkway, or other hardscape elements in said area. The purpose of the landscaping will be to screen and buffer residential units from hospital activities.

E. Parking Areas

A minimum of 5% of the surface parking areas shall be devoted to planting areas. Planting areas around building shall not be included in parking area. Planting of trees may be in groups and need not necessarily be in regular spacing. Alternative landscape programs may be developed, including perimeter parking area landscaping, berming and depressing of parking areas. Alternative landscape programs shall be subject to the review of the Parks, Beaches and Recreation Department and the approval of the Planning and Public Works Departments.

A rooftop landscaping program may be developed for parking structures and shall be subject to the review of the Parks, Beaches and Recreation Department and the approval of the Planning and Public Works Departments. Rooftop landscaping shall conform to height restrictions.

IX. SITE PLAN REVIEW.

A. Purpose

The City Council finds that development on the West Coast Highway frontage of the lower campus of Hoag Hospital may have the potential to affect the aesthetics of the West Newport area as viewed from surrounding arterial roadways. The effect of this section is to establish a Site Plan Review requirement by the Planning Commission for certain individual projects which are proposed by the hospital to differ from the setback, horizontal and vertical articulation requirements as set forth in Section V.D.2. to insure that these projects conform with the objectives of the General Plan and the Master Plan for Hoag Hospital.

B. Findings

The City finds, determines and declares that the establishment of Site Plan Review procedures contained in this section promotes the health, safety, and general welfare of the community by ensuring that the development of Hoag Hospital proceeds in a manner which will not result in inadequate and poorly planned landscape areas, excessive building bulk on arterial roadways, inappropriate placement of structures and impairment of the benefits of occupancy and use of existing properties in the area.

C. Application

Site Plan Review approval shall be obtained prior to the issuance of a grading or building permit for any new structure or the addition to an existing structure which does not conform to the provisions of Section V.D.2.

D. Plans and Diagrams to be Submitted

The following plans and diagrams shall be submitted to the Planning Commission for approval:

1. A plot plan, drawn to scale, showing the arrangement of buildings, driveways, pedestrian ways, off-street parking and off-street loading areas, landscaped areas, signs, fences and walks. The plot plan shall show the location of entrances and exits, and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and loading space, and areas for turning and maneuvering vehicles. The plot plan shall indicate how utility and drainage are to be provided.

2. A landscape plan, drawn to scale, showing the locations of existing trees proposed to be removed and proposed to be retained; and indicating the amount, type, and location of landscaped areas, planting beds and plant materials with adequate provisions for irrigation.

3. Grading plans when necessary to ensure development properly related to the site and to surrounding properties and structures.

4. Scale drawings of exterior lighting showing size, location, materials, intensity and relationship to adjacent streets and properties.

5. Architectural drawings, renderings or sketches, drawn to scale, showing all elevations of the proposed buildings and structures as they will appear upon completion.

6. Any other plans, diagrams, drawings or additional information necessary to adequately consider the proposed development and to determine compliance with the purposes of this chapter.

E. Fee

The applicant shall pay a fee as established by Resolution of the City Council to the City with each application for Site Plan Review under this chapter.

F. Standards

In addition to the general purposes set forth in sub-section B, in order to carry out the purposes of this chapter as established by said section, the site plan review procedures established by this Section shall be applied according to and in compliance with the following standards, when applicable:

1. The development is in compliance with all other provisions of the Planned Community Development Criteria and District Regulations (P-C Text);

2. Development shall be compatible with the character of the neighborhood and surrounding sites and shall not be detrimental to the orderly and harmonious development of the surroundings and of the City;

3. Development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways and properties, with special consideration given to the mass and bulk of buildings and the streetscape on West Coast Highway;

4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development.

G. Public Hearing - Required Notice

A public hearing shall be held on all Site Plan Review applications. Notice of such hearing shall be mailed not less than ten (10) days before the hearing date, postage prepaid, using addresses from the last equalized assessment roll or, alternatively, from such other records as contain more recent addresses, to owners of property within a radius of three hundred (300) feet of the exterior boundaries of the subject property. It shall be the responsibility of the applicant to obtain and provide to the City the names and addresses of owners as required by this Section. In addition to the mailed notice, such hearing shall be posted in not less than two conspicuous places on or close to the property at least ten (10) days prior to the hearing.

H. Action by the Planning Commission

If all applicable standards established by this Section are met, the Planning Commission shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Commission shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Commission shall be subject to review by the City Council either by appeal, or upon its own motion, or upon the request of the Commission. The action of the Commission on any Site Plan Review shall be final and effective twenty-one (21) days following the Commission action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Commission has requested a review of its decision, or unless the City Council, not more than twenty-one (21) days after the Commission action, on its own motion, elects to review and act on the action of the Commission, unless the applicant consents to an extension of time. The City Council may affirm, reverse or modify the decision. Such action by the City Council shall be final.

I. Appeal to the City Council

Any Site Plan Review decision of the Commission may be appealed to the City Council by the applicant or any other person, at any time within twenty-one (21) days after the date of the Commission decision. An appeal to the City Council shall be taken by filing a letter of appeal in duplicate, with the Planning Department. Such letter shall set forth the grounds upon which the appeal is based and shall be accompanied by a fee as established by Resolution of the City Council.

J. Action by the City Council

An appeal shall be heard and acted on by the City Council, and the City Council may affirm, reverse or modify the decision of the Commission. The decision of the City Council is final.

K. Expiration and Revocation of Site Plan Review Approvals

1. Expiration. Any Site Plan Review granted in accordance with the terms of this Title shall expire within 24 months from the date of approval if a building permit has not been issued prior to the expiration date and subsequently construction is diligently pursued until completion, unless at the time of approval the Planning Commission has specified a different period of time.

2. Violation of Terms. Any Site Plan Review granted in accordance with the terms of this Title may be revoked if any of the conditions or terms of such Site Plan Review are violated or if any law or ordinance is violated in connection therewith.

3. Hearing. The Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within 60 days after receipt of the recommendation of the Planning Commission.

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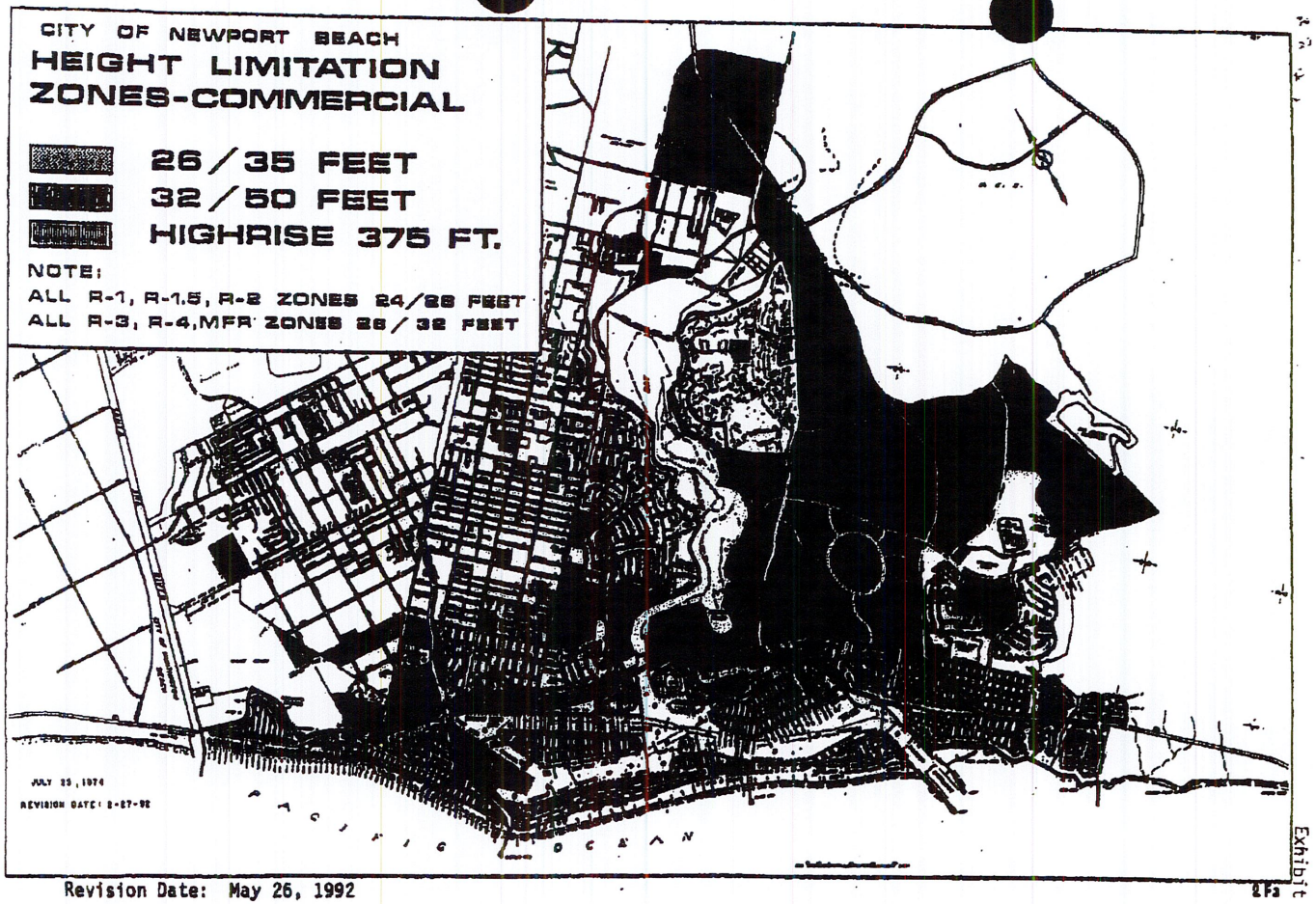

Revision Date: May 26, 1992

2F2

Exhibit D

EXHIBIT D

ESTOPPEL CERTIFICATE

Date Requested: _____
Date of Certificate: _____

On _____, the City of Newport Beach approved the "Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian" (the "Development Agreement").

This Estoppel Certificate certifies that, as of the "Date of Certificate" set forth above:

CHECK WHERE APPLICABLE

____ 1. The Development Agreement remains binding and effective;

____ 2. The Development Agreement has not been amended;

____ 3. The Development Agreement has been amended in the following respects:

_____
_____
_____
_____

____ 4. Neither Hoag nor any of its successors are in default under the Development Agreement;

____ 5. The following defaults exist under the Development Agreement:

_____
_____
_____
_____

This Estoppel Certificate may be relied upon by any transferee or mortgagee of any interest in the property which is subject of the Development Agreement.

CITY OF NEWPORT BEACH

BY: _____
NAME: _____
TITLE: _____

[redacted]

EXHIBIT B

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5
DATED JUNE 17, 2008

This Document was electronically recorded by
ER Cert Mail D

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

[redacted] NO FEE
2008000289321 12:35pm 06/17/08

120 33 A17 56
0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00

RECORDING REQUEST BY, AND
WHEN RECORDED MAIL TO:

City Clerk
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

EXEMPT FROM FILING FEES CAL. GOV'T CODE § 6103
(Space above this line for Recorder's use)

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 27383

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

AND

THE CITY OF NEWPORT BEACH

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved May 13, 2008
Ordinance No. 2008-10

RECORDING REQUEST BY, AND
WHEN RECORDED MAIL TO:

City Clerk
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

EXEMPT FROM FILING FEES CAL. GOV'T CODE § 6103
(Space above this line for Recorder's use)

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 27383

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

AND

THE CITY OF NEWPORT BEACH

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved May 13, 2008
Ordinance No. 2008-10

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

(Hoag Memorial Hospital Presbyterian)

THIS AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5 ("Amendment") is entered into and effective on the date it is recorded with the Orange County Recorder (the "Effective Date") by and between the City of Newport Beach (hereinafter "City") and Hoag Memorial Hospital Presbyterian (hereinafter "Hoag").

RECITALS

1. The "RECITALS" to the Restated Development Agreement are amended to add new Sections 1.9 through Section 1.19(f) to read as follows:

1.9 Hoag Property. Hoag is the fee owner of approximately 38 acres of real property located in the City divided between the Upper Campus and the Lower Campus and more particularly described in Exhibit "A" and depicted on Exhibit "B" (the "Property").

1.10 Hoag Healthcare Services. Hoag is a modern, state-of-the-art acute care, not-for-profit hospital providing a comprehensive mix of healthcare services to treat virtually any routine or complex medical condition. Hoag features centers of excellence that include Hoag Cancer Center, Hoag Heart and Vascular Institute, Hoag Neuroscience Institute, Hoag Orthopedic Services and Hoag Women's Health Services, as well as advanced medical programs in many other specialties.

1.11 Hoag Community Benefit Programs. In addition to providing state-of-the-art hospital, diagnostic imaging and emergency room care medical services, Hoag is involved in many other community benefit programs such as police and SWAT team, fire department and paramedic support services, designating the City as the point of sale for major hospital equipment purchases and construction projects, providing financial and transportation support for the City's senior Oasis Center, and providing methane gas flare burnoff to mitigate methane gas fumes along Pacific Coast Highway. Hoag's community medicine program allocates approximately $10 million annually toward improving the community's overall health, primarily through disease prevention and wellness and health promotion, especially for those vulnerable and disadvantaged populations.

1.12 EIR No. 142 and P.C. Text. On May 26, 1992, the City Council of City ("City Council") certified the Hoag Hospital Master Plan Final EIR No. 142 and adopted the Hoag Memorial Hospital Presbyterian Master Plan ("Hoag Master Plan") and the Planned Community Development Criteria and District Regulations ("P.C. Text") setting forth the development standards and terms and conditions by which the Property may be developed, including the maximum permissible building area, building height limits and permitted land uses.

1.13 Square Footage of Buildable Area. Under the existing Hoag Master Plan and P.C. Text, the Property allows a total of 1,343,238 square feet of buildable area with 577,889 square feet allocated to the Lower Campus and 765,349 square feet allocated to the Upper Campus.

1.14 Development Agreement No. 5. On May 26, 1992, the City Council adopted Ordinance No. 92-4 approving Development Agreement No. 5 between the City and Hoag incorporating the Hoag Master Plan and P.C. Text and granting vested rights to Hoag to develop the Property pursuant to the Hoag Master Plan and P.C. Text for the term of the Development Agreement. The Development Agreement was recorded in the Official Records of Orange County, California on August 4, 1993 as Instrument No. 63-0522236.

1.15 Restated Development Agreement. On February 14, 1994, the City Council of City adopted Ordinance No. 94-8 approving an Amendment and Restatement of Development Agreement No. 5 ("Restated Development Agreement") incorporating certain provisions clarifying the role, review and approval authority of the California Coastal Commission for development of the Property to ensure consistency and compliance with the California Coastal Act. The Restated Development Agreement was recorded in the Official Records of Orange County, California on March 23, 1994 as Instrument No. 94-0207276.

1.16 First Amendment to P.C. Text. On August 13, 2002, the City Council adopted Ordinance No. 2002-17 approving the First Amendment to the P.C. Text to provide that certain non-occupied building areas are not counted towards the maximum permissible building floor areas for development of the Property.

1.17 Noise Limitation. The existing PC Text provides that noise generated from Hoag Hospital from new mechanical appurtenances shall not exceed 55 dBA at the Property lines. This noise limitation was established prior to the adoption of the City's

Noise Element in the General Plan and Noise Ordinance. It is proposed that noise generated and originating from the Property be governed by the City Noise Ordinance with certain exceptions.

1.18 Noise Attenuation. Hoag has taken significant actions to attenuate noise generated from mechanical equipment and has installed landscape screening and walls to mitigate and buffer noise and improve aesthetic impacts for adjacent residential properties.

1.19 Restated Development Agreement Amendments. The City and Hoag propose to further amend the Restated Development Agreement by this Amendment to incorporate references to: a Supplemental EIR; an amendment to the City General Plan; an increase in the Public Benefits; designation of the City as the point of sale to the extent allowed under applicable law; and amendments to the Hoag Hospital Planned Community Text ("P.C. Text") to, among other things:

(a) eliminate the reference to 1.0 Floor Area Ratio ("FAR") for the Upper Campus and the .65 FAR for the Lower Campus in the General Plan Land Use Element. In place of the reference to the FAR's, an absolute maximum allowable building area of 1,343,238 square feet will remain available for development of the entire Property comprised of the Upper Campus and the Lower Campus;

(b) maintain a cap under the General Plan Land Use Element Amendment for development of the Lower Campus at 577,889 square feet (if no square footage is reallocated) and establish a cap on development of the Upper Campus at 990,349 square feet (if all 225,000 square feet are reallocated from the Lower Campus to the Upper Campus);

(c) allow the transfer of up to 225,000 square feet of buildable area from the Lower Campus to the Upper Campus, which, if all 225,000 square feet are reallocated, would result in a maximum allowed density of 990,349 square feet for the Upper Campus and a reduction to permit 352,889 square feet of allowable development for the Lower Campus;

(d) to modify the noise standards applicable to the Property;

(e) delete a provision that required the City and Hoag to conduct a study of possible future improvements in and around the easterly end of the Semeniuk Slough, including a requirement that Hoag fund the study and potential future improvements in an amount not to exceed $200,000; and

(f) incorporate the Second Amendment to the P.C. Text.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Section 1.5 of the Restated Development Agreement entitled *Planning Commission/City Council Hearings* is amended to read as follows:

"1.5 Planning Commission/City Council Hearings. The Planning Commission, after giving appropriate notice, held public hearings to consider a development agreement, the proposed Master Plan, and the EIR on December 5, 1991, January 9, 1992, January 23, 1992, February 6, 1992 and February 20, 1992. The City Council conducted public hearings on the Master Plan, this Agreement and the EIR on March 23, 1992, March 30, 1992, April 13, 1992 and May 11, 1992. . The Planning Commission, after giving appropriate notice, held a public hearing to consider this Amendment, the Supplemental EIR, the General Plan Amendment, and the Second Amendment to the P.C. Text on January 31, 2008, February 7, 2008, March 6, 2008 and March 20, 2008. The City Council conducted a public hearing on this Amendment, the Supplemental EIR, the General Plan Amendment and the Second Amendment to the P.C. Text on April 16, 2008."

2. Section 1.8 of the Restated Development Agreement entitled *City Ordinance* is amended to read as follows:

"1.8 City Ordinance. On February 14, 1994, the City Council adopted Ordinance No. 94-8 approving a Restated Development Agreement No. 5 incorporating certain provisions clarifying the role, review and approval authority of the California Coastal Commission for development of the Property to ensure consistency and compliance with the California Coastal Act. The Adopting Ordinance became effective on March 16, 1994. On May 13, 2008, the City Council adopted Ordinance No. 2008-10 approving

this Amendment and authorizing the City to enter into this Amendment. The adopting ordinance will become effective on June 12, 2008."

3. Section 2.1 of the Restated Development Agreement entitled *The Adopting Ordinance* is amended to read as follows:

"2.1 The "Adopting Ordinance" refers to City Ordinance No. 94-8, adopted on February 14, 1994, by the City Council, which approved and authorized the City to enter into this Agreement. "Adopting Ordinance" further refers to Ordinance No. 2008-10 adopted on May 13, 2008 by the City Council, which approved and authorized the City to enter into this Amendment."

4. Section 2.2 of the Restated Development Agreement entitled *Agreement* is amended to read as follows:

"2.2 "Agreement" refers to the "Restated Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian," and this Amendment."

5. Section 2.13 of the Restated Development Agreement entitled *The EIR* is amended to read as follows:

"2.13 The "EIR" refers to final Environmental Impact Report No. 142 of the City of Newport Beach, and Supplemental Environmental Impact Report No. 142."

6. Section 2.23 of the Restated Development Agreement entitled *Master Plan* is amended to read as follows:

"2.23 "Master Plan" refers to the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan which was adopted by the City on May 26, 1992 (Exhibit "C"), as amended."

7. Section 3 of the Restated Development Agreement entitled *Conditions to Development* is amended to add a new paragraph after Subsection (f) to read as follows:

"Notwithstanding the provisions of this Section, any provisions set forth in this Amendment shall supersede and control over any inconsistencies with this Section."

8. Section 3.3 of the Restated Development Agreement entitled *Program EIR* is amended to read as follows:

> "3.3 Program EIR. Hoag acknowledges that the EIR is a "Program EIR" and includes Supplemental Environmental Impact Report No. 142. The EIR analyzes the impacts of construction phased over time and, pursuant to CEQA, City is under a continuing obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the request were fully addressed in the EIR. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIR, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIR. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA."

9. Section 4.1 of the Restated Development Agreement entitled *Right to Develop* is amended to read as follows:

> "4.1 Right to Develop. Subject to compliance with the provisions of Sections 3 and 8.2, Hoag shall have a vested right to develop and receive Project Specific Approvals for construction on the Property to the full extent permitted by the Master Plan, as amended. Subject to the provisions of Sections 3 and 8, City shall only take action which complies with and is consistent with the Master Plan, as amended, the Restated Development Agreement and this Amendment unless Hoag otherwise consents in writing. Subject to this Subsection, City shall have the authority to impose only those Exactions which are specifically described in this Agreement, except as expressly required (as opposed to permitted) by state or federal law."

10. Section 5.2 of the Restated Development Agreement entitled Mitigation Review is amended to read as follows:

> "5.2 Public Hearing. The Annual Review shall be conducted at a public hearing noticed in accordance with the provisions of Chapter 15.45 of the Newport Beach Municipal Code. Annual reviews should be scheduled in April of each year."

11. Section 5.4 of the Restated Development Agreement entitled Mitigation Review is amended to read as follows:

> "5.4 Mitigation Review. The annual review shall include a detailed report of compliance with the various conditions and mitigation measures contained within the mitigation monitoring plan. The report shall also include a noise regulation compliance assessment that includes noise measurements prepared by a qualified noise consultant on a yearly basis. The noise assessment shall identify noise regulation compliance issues and recommended measures to abate any noncompliance. The report shall include an analysis of the view impacts of buildings constructed in comparison to the anticipated views as depicted in the EIR. Hoag shall be found in compliance with this Agreement unless the City Council determines, based upon the evidence presented at the Annual Review, that Hoag has not complied with all mitigation measures and conditions including those imposed as a result of subsequent environmental analysis, applicable to the grading of, or building on, the Property as of the date of the Annual Review. Hoag shall pay the City administrative costs incurred in conducting Annual Reviews. Hoag shall reimburse the City for costs incurred by the City associated with Fluor Enterprises' review of the cogeneration plant during the 2008 Annual Review."

12. Section 8.2 of the Restated Development Agreement entitled *Exactions* is hereby amended to delete Subsection (c), which reads as follows:

> "(c) City and Hoag shall conduct a study of possible future improvements in and around the easterly end of Semeniuk Slough that would, among other things, improve the appearance of the area and, potentially, serve as a component to improve public access from residential areas in West Newport to park land and public recreation facilities proposed in conjunction with development of the West Newport Oil Company property. The study shall analyze, among other things, the type of improvements that would improve the area without adversely impacting wetlands, the possible location of pedestrian trials and the potential for those trails to improve access to proposed recreational facilities, phasing of the improvements, potential public benefits, and the cost of the improvements. As a part of the study, Hoag and City shall meet and confer with resource agencies relative to the type and extent of improvements that may be permitted in or adjacent to wetlands. Hoag shall fund the study and participate in the cost of constructing any improvements in the area that the City Council determines are feasible and in the public interest, provided, however, the financial contribution of Hoag, including the costs of the study and improvements, shall not exceed Two Hundred Thousand Dollars ($200,000.00)."

13. Section 8.2 of the Restated Development Agreement entitled *Exactions* is hereby amended to renumber Subsection (d) to Subsection (c); and to add a new Subsection (d) to read as follows:

> "(d) City and Hoag acknowledge and agree that the Restated Development Agreement and this Amendment confer private benefits on Hoag that should be balanced by commensurate public benefits in favor of the City. Accordingly, the City and Hoag intend to provide consideration to balance the private and public benefits by the imposition of a Development Agreement Fee, which fee shall be used to reimburse the City for public improvements in the area and to fund certain additional needed public improvements identified by the City. Hoag shall pay to the City a Development Agreement Fee of Three Million Dollars ($3,000,000). Payment of one-half of the Development Agreement Fee of $1.5 million shall be made upon the Effective Date of this Amendment. Payment of the remaining one-half of the Development Agreement Fee of $1.5 million shall be paid to City 12 months from the Effective Date of this Amendment or at the time of issuance of the first building permit by the City for development of a project on the Upper Campus as provided in Exhibit "C" attached to this Amendment, whichever occurs earlier.
>
> The first $1.5 million of the Development Agreement Fee shall be used to reimburse the City and/or pay for the costs associated with the following projects: (i) construction of the Superior Avenue medians extending from Ticonderoga Street to Dana Road; (ii) construction of the right-turn pocket for southbound Newport Boulevard to westbound Hospital Road; and (iii) funding of the operational improvements and traffic signal upgrade at the Hospital Road and Placentia intersection ("Priority Public Improvements"). Construction of the first two Priority Public Improvements listed above occurred during 2007, and the third is anticipated to occur in 2008. The City shall be obligated to pay the actual cost difference, if any, for construction of these Priority Public Improvements. However, if there are any funds remaining after construction of the Priority Public Improvements is completed, the City may retain the funds to be used for other City projects or services that benefit the public. The City shall also have the sole authority to decide the design, cost and scope of the Priority Public Improvements and the sufficiency of City's performance on the Public Improvement Projects shall not be subject to Hoag's approval.
>
> The balance of the Development Agreement Fee ($1.5 million) and any funds remaining after the construction of the Priority Public Improvements shall be used by the City in the City's sole discretion to

offset costs associated with other City and community projects or services that benefit the public such as, among other things, public parks (for example, Sunset View Consolidated Park), landscaping improvements adjacent to public right of ways, sound abatement programs, public buildings, public road improvements, water quality improvements, law enforcement, fire fighting, emergency preparedness and other public safety facilities."

14. A new section, Section 8.3, shall be added to the Restated Development Agreement entitled *Sales/Use Tax Origin,* to read as follows:

"8.3 Sales/ Use Tax Origin

(a) Hoag will include in its general contractor construction contract a provision that Hoag's general contractor and subcontractors, to the extent allowed by applicable law, will obtain a Board of Equalization sales/use tax subpermit for the jobsite at the Project Property and allocate all eligible sales and use tax payments for individual contracts over $5 million to the City. Hoag will provide Hoag's general contractor and subcontractors with the name and contact information of the City's Revenue Manager and notice of the Revenue Manager's availability to meet and confer with them on the implementation of the Board of Equalization sales/use tax subpermit procedures. Hoag will further include a notice in its general contractor construction contract that prior to beginning a qualified construction project, the general contractor and subcontractors are encouraged to meet with the City's Revenue Manager to review the process to be followed with respect to sales and use taxes. Hoag will further include a provision in its general contractor construction contract that the general contractor or subcontractors will certify in writing that the person(s) responsible for filing the tax return understands the process of reporting the tax to the City and will follow the guidelines set forth in the relevant sections of the Sales and Use Tax Regulations. Hoag shall not be responsible for failure of Hoag's general contractor or subcontractors to follow the procedures set forth in this Section.

Hoag, if readily available, shall provide to the City or any City designated representative the names, addresses, phone numbers and contact name of the general contractor and all subcontractors.

(b) Hoag will continue to follow the Direct Payment Permit Process established in the Revenue and Taxation Code and use the permit for all qualifying individual purchases in excess of $100,000 so that the local share of its sales/use tax payments is allocated to the City as the point of sale.

(c) It is understood and agreed that any fixtures, materials and equipment with a purchase total that exceeds $100,000 purchased directly by Hoag and shipped to Hoag's Newport Beach location may also be eligible for direct allocation of sales/use tax to the City. Upon request of the City, Hoag will provide City on a semi-annual basis with a list of purchases exceeding the $100,000 threshold during the preceding six-month period, including the amount of the purchase and, if readily available, the name and contact information for the vendor upon request by the City. The City agrees to review the semi-annual list of purchases made by Hoag and advise Hoag of any missed opportunities for direct allocation. Hoag agrees to file its Direct Payment Permit with vendors identified by the City in an effort to improve the direct allocation of the local share of sales/use tax payments in future periods."

15. A new section, Section 8.4, shall be added to the Restated Development Agreement entitled *Sunset View Park Improvements*, to read as follows:

"8.4 Hoag shall reimburse the City up to $ 150,000 for the installation of groundcover, shrubs and irrigation systems within the unimproved portion of Sunset View Park and Superior Avenue, approximately 20,500 square feet in area, located northerly of the cogeneration building. Reimbursement to the City shall be within 30 days of Hoag receiving an invoice from the City."

16. A new section, Section 8.5, shall be added to the Restated Development Agreement entitled *Cogeneration Plant Energy Curtailment,* to read as follows:

> "8.5 Hoag shall install a weather station capable of identifying ambient conditions necessary in documenting cogeneration plant and cooling tower operations. The weather station shall be tied into the cogeneration plant controls in order to maximize automatic responses to prevailing weather conditions, assisting in managing the operational changes and load shifting, as well as to provide periodic reports on plant operations.
>
> Hoag shall not construct or erect additional cooling towers within the Hoag Lower Campus.
>
> Hoag shall reduce the effective heat rejection by 33% at the existing cooling towers and such reduction shall be measured from a baseline (to be measured at the cooling towers) of operating three existing generators and absorption chillers at 100% of design capacity.
>
> This reduced capacity operation shall be implemented daily between November 1st and April 30th, between the hours of 7:00 AM and 7:00 PM when the relative humidity is equal to or above 60% and when ambient temperatures are equal to or less than 55 degrees Fahrenheit.

17. Section 11.1(c) of the Restated Development Agreement entitled *Notices* is hereby amended to delete:

"with a copy to: Tim Paone
Paone, Callahan, McHolm & Winton
19100 Von Karman, 8th Floor
P.O. Box 19613
Irvine, CA 92713-9613"

and to add:

"with a copy to: Dennis D. O'Neil
Hewitt & O'Neil LLP
19900 MacArthur Blvd., Suite 1050
Irvine, CA 92612

with a copy to: Gary McKitterick
Allen Matkins Leck Gamble Mallory & Natsis LLP
1900 Main Street, 5th Floor
Irvine, CA 92614-7321"

18. A new Section 11.17 shall be added to the Restated Development Agreement as follows:

"11.17 Indemnification/Hold Harmless. To the fullest extent permitted by law, Hoag 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 this Amendment, including, but not limited to, the approval of the Planned Community Text and/or the City's related California Environmental Quality Act determinations, the certification of the Supplemental Environmental Impact Report, the adoption of a Mitigation Program, and/or statement of overriding considerations for this Project. 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 Hoag, City, and/or the parties initiating or bringing such proceeding. Hoag 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. Hoag shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition."

19. Exhibit C of the Restated Development Agreement shall incorporate the First Amendment to the P.C. Text as part of this Second Amendment to the P.C. Text in revised Exhibit C entitled:

"HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY
DEVELOPMENT CRITERIA
AND
DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
March 20, 2008

Adopted by the City Council
City of Newport Beach
Ordinance No.2008-10
May 13, 2008"

20. Except as provided for in this Amendment and not otherwise superseded by this Amendment, the provisions set forth in the Restated Development Agreement, all of the other terms, conditions, provisions and exhibits of the Restated Development Agreement continue to have full force and effect as provided therein and this Amendment shall constitute an integral part of the Restated Development Agreement. Exhibits A through C constitute a part of this Amendment and are incorporated into this Amendment in full by this reference.

21. In the event there is any conflict between any provision of the Restated Development Agreement and this Amendment, the later approved and recorded document shall prevail in interpretation, operation and implementation.

22. The City Clerk shall cause a copy of this Amendment to be recorded with the Office of the County Recorder of Orange County, California within ten (10) days following the effective date of adoption of the Ordinance approving this Amendment.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to Development Agreement No. 5 to be binding as of the Effective Date.

CITY:

THE CITY OF NEWPORT BEACH, a municipal corporation of the State of California

By: _____
Edward D. Selich, Mayor

ATTEST:

_____
LaVonne Harkless, City Clerk

APPROVED AS TO FORM:

_____
For Robin Clauson, City Attorney

OWNER:

HOAG MEMORIAL HOSPITAL PRESBYTERIAN, a California nonprofit public benefit corporation

By: _____
Richard F. Afable, M.D.
President and CEO

(All Signatures to be Notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of ORANGE

On JUNE 11, 2008 (Date) before me, LEILANI I. BROWN, NOTARY PUBLIC (Here Insert Name and Title of the Officer),
personally appeared EDWARD D. SALICH (Name(s) of Signer(s))

LEILANI I. BROWN
Commission # 1633477
Notary Public - California
Orange County
My Comm. Expires Jan 25, 2010

LEILANI I. BROWN
Commission # 1633477
Notary Public - California
Orange County
My Comm. Expires Jan 25, 2010

Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Leilani I. Brown (Signature of Notary Public)

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange

On May 19, 2008 before me, Debora Hames, Notary Public
(Here insert name and title of the officer)

personally appeared Richard Afable

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Debora Hames
Signature of Notary Public

DEBORA HAMES
Comm. # 1661048
NOTARY PUBLIC-CALIFORNIA
Orange County
My Comm. Expires March 20, 2009

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Amendment to Restated Development Agreement No. 5
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 33 Document Date 5-19-08

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☒ Corporate Officer
  President And CEO
  (Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they,~~ ~~is~~ /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

EXHIBIT A

LEGAL DESCRIPTION

The subject property is the following real property in the City of Newport Beach, County of Orange, State of California:

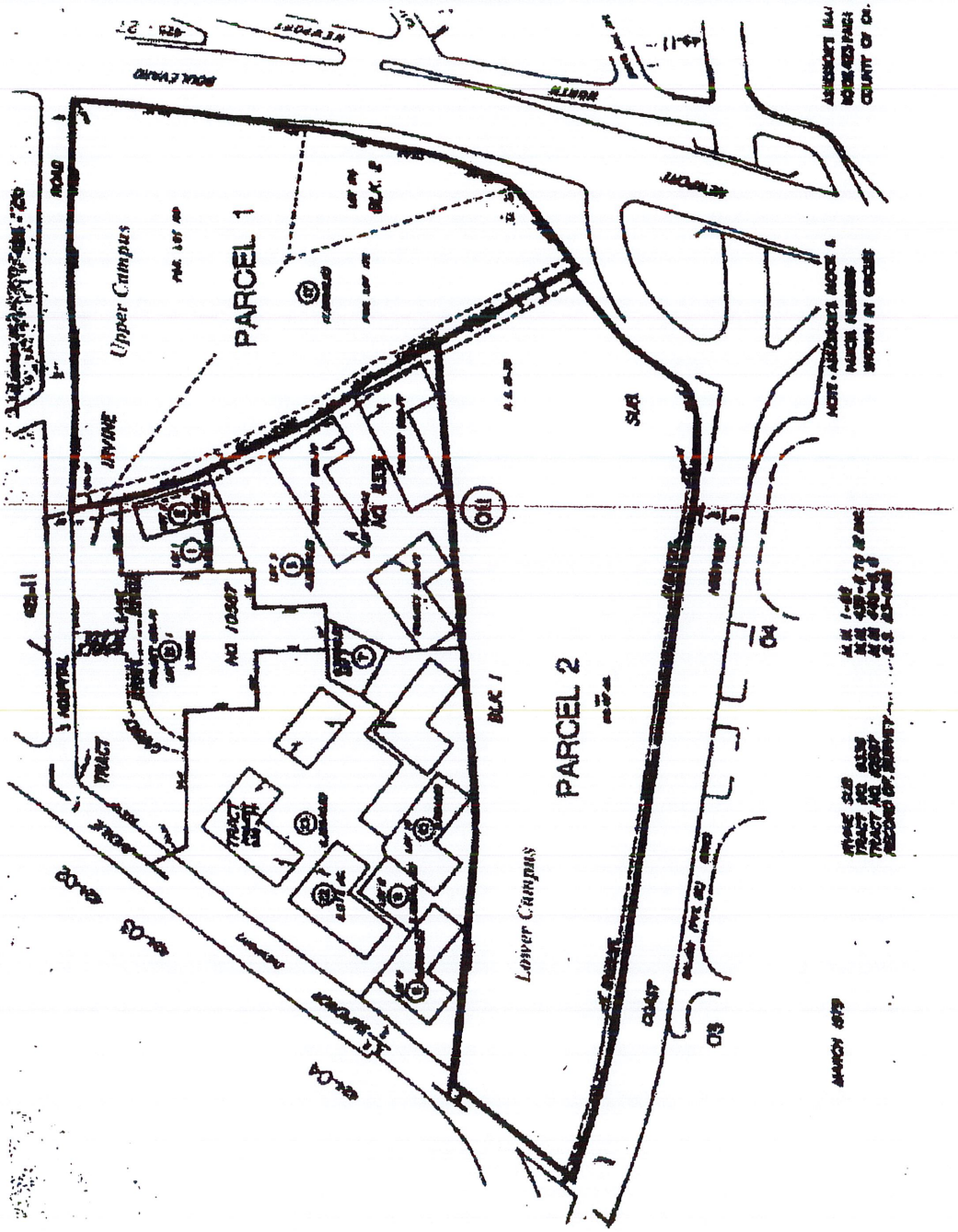
Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

EXHIBIT B



FINAL
5/16/08 10001.34
H&O: #58720 v1

EXHIBIT C

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY
DEVELOPMENT CRITERIA
AND
DISTRICT REGULATIONS

Adopted May 13, 2008

Ordinance No. 2008-9

Effective June 12, 2008

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
March 20, 2008

Adopted by the City Council
City of Newport Beach
Ordinance No. 2008-10
May 13, 2008

TABLE OF CONTENTS

		Page Number
I.	INTRODUCTION	1
II.	GENERAL NOTES	2
III.	DEFINITIONS	3
IV.	DEVELOPMENT PLAN	5
V.	DISTRICT REGULATIONS	10
VI.	HOAG HOSPITAL SIGN PROGRAM	21
VII.	HOAG HOSPITAL PARKING REGULATIONS	23
VIII.	HOAG HOSPITAL LANDSCAPE REGULATIONS	24
IX.	SITE PLAN REVIEW.	27

LIST OF EXHIBITS

	Page Number
1. PLANNED COMMUNITY SITE AND BOUNDARY MAP	7
2. VEHICULAR ACCESS	8
3. DEVELOPMENT CRITERIA	14
4. PROPOSED SOUND WALL LOCATION PLAN	19
5. LOADING DOCK AREA LOCATION	20
6. LANDSCAPE MATRIX	32
7. LOWER CAMPUS LANDSCAPE IMPROVEMENT PLAN	33
8. COAST HIGHWAY LANDSCAPE SCREEN	34

LIST OF TABLES

1. BUILDING AREA STATISTICAL ANALYSIS	9
2. PARKING REQUIREMENTS	23

I. INTRODUCTION

Background

The Hoag Memorial Hospital Presbyterian Planned Community District in the City of Newport Beach has been developed in accordance with the Newport Beach General Plan. The purpose of this Planned Community District is to provide a method whereby property may be classified and developed for hospital-related uses. The specifications of this District are intended to provide land use and development standards supportive of the proposed use while ensuring compliance with the intent of all applicable regulatory codes.

The Planned Community District includes district regulations and a development plan for both the Upper and Lower Campuses of Hoag Hospital. In general, over the long term, the Upper Campus will become oriented primarily towards emergency, acute and critical care (predominantly inpatient) uses and the Lower Campus will be developed with predominantly outpatient uses, residential care and support services.

Whenever the regulations contained in the Planned Community text conflict with the regulations of the Newport Beach Municipal Code, the regulations contained in the Planned Community text shall take precedence. The Municipal Code shall regulate this development when such regulations are not provided within these district regulations. All development within the Planned Community boundaries shall comply with all provisions of the Uniform Building Code and other governing building codes.

II. GENERAL NOTES

1. Water service to the Planned Community District will be provided by the City of Newport Beach.

2. Development of the subject property will be undertaken in accordance with the flood protection policies of the City of Newport Beach.

3. All development of the site is subject to the provisions of the City Council Policies K-4 and K-5 regarding paleontological and archaeological resources.

4. Except as otherwise stated in this text, the requirements of the Newport Beach Zoning Ordinance shall apply. The contents of this text notwithstanding, all construction within the boundaries of this Planned Community District shall comply with all provisions of the Uniform Building Code, other various codes related thereto and local amendments.

5. All buildings shall meet Title 24 requirements or the requirements of the California Office of Statewide Health Planning and Development as applicable. Design of buildings shall take into account the location of building air intake to maximize ventilation efficiency, the incorporation of natural ventilation, and implementation of energy conserving heating and lighting systems.

6. Any fire equipment and access shall be approved by the Newport Beach Fire Department.

7. Excluding communications devices on the Upper Campus, new mechanical appurtenances on building rooftops and utility vaults on the Upper and Lower Campuses shall be screened from view in a manner compatible with building materials. Rooftop mechanical appurtenances or utility vaults shall be designed utilizing compatible architectural materials on the Lower Campus. No new mechanical appurtenances may exceed the building height limitations as defined in these district regulations.

8. Grading and erosion control shall be carried out in accordance with the provisions of the City of Newport Beach Excavation and Grading Code and shall be subject to permits issued by the Building and Planning Departments.

9. Sewage disposal facilities within the Planned Community will be provided by Orange County Sanitation District No. 5. Prior to issuance of any building permits it shall be demonstrated to the satisfaction of the Planning Department that adequate sewer facilities will be available. Prior to the occupancy of any structure it shall be further demonstrated that adequate sewer facilities exist.

10. Mass grading and grading by development phases shall be allowed provided that landscaping of exposed slopes shall commence within thirty (30) days of the completion of grading.

III. DEFINITIONS

Building Elevation:

1. A vertical distance of a building above or below a fixed reference level, i.e., MSL (mean sea level).

2. A flat scale drawing of the front, rear, or side of a building.

Building Envelope: The volume in which a building may be built as circumscribed by setback lines and maximum allowable building heights.

Building Height: The vertical distance measured from the finished grade to the highest point of the structure. At all points, the height measurement shall run with the slope of the land.

Emergency Room: A service and facility designated to provide acute emergency medical services for possible life threatening situations.

Entitlement, Gross Floor Area: Any area of a building, or portion thereof, including the surrounding exterior walls, but excluding:

1. Area of a building utilized for stairwells and elevator shafts on levels other than the first level of a building in which they appear;

2. Area of a medical building, that is not used for general or routine occupancy but rather is for interstial or mechanical occupancies, that measures less than 19 feet from finished floor to ceiling;

3. As applied to new construction permits issued on or after August 13, 2002, area of a building used specifically for base isolation and structural system upgrades directly related to requirements of governmental agencies and is not for general or routine occupancy; and

4. As applied to new construction permits issued on or after August 13, 2002, enclosed rooftop mechanical levels not for general or routine occupancy.

First Aid: Low acuity medical treatment for non-life threatening situations.

General Plan: The General Plan of the City of Newport Beach and all elements thereof.

Grade: For the purpose of determining building height:

1. Finished - the ground level elevation which exists after any grading or other site preparation related to, or to be incorporated into, a proposed new development or alteration of existing developments. (Grades may be worked into buildings to allow for subterranean parking.)

2. Natural - the elevation of the ground surface in its natural state before man-made alterations.

3. Existing - the current elevation of ground surface.

Inpatient Uses: Hospital patient services which require twenty-four (24) hour or more stays.

Landscape Area: The landscape area shall include on-site walks, plazas, water, rooftop landscaping and all other areas not devoted to building footprints or vehicular parking and drive surfaces.

Mean Sea Level: A reference or datum mark measuring land elevation using the average level of the ocean between high and low tides.

Outpatient Uses: Hospital patient services which do not exceed twenty-four (24) hours.

Residential Care: Medically-oriented residential units that do not require the acuity level generally associated with inpatient services but require overnight stays.

Site Area: For the purpose of determining development area:

1. Gross - parcel area prior to dedications.

2. Net - parcel area after dedications.

Streets: Reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way.

IV. DEVELOPMENT PLAN

Project Characteristics

The Upper Campus of Hoag Hospital is located on a triangular site of approximately 17.57 acres and is bounded by Newport Boulevard to the east, Hospital Road to the north and existing residential developments to the west. The Lower Campus is located north of West Coast Highway, south of the Sunset View linear and consolidated park and Villa Balboa Condominiums, west of Newport Boulevard and east of Superior Avenue. It contains approximately 37.38 total acres, including 8,603 square feet of land encumbered by a roadway easement. The Lower Campus adjoins the Upper Campus at its eastern boundary. The Upper Campus is, and will continue to be, oriented towards inpatient functions, while the Lower Campus will be developed with predominantly outpatient, residential care and support services.

Development Plan

The Planned Community Development Plan for Hoag Hospital is shown on Exhibit 1, *Planned Community Site and Boundary Map*. Through the year 2017, many of the existing buildings shown on the Development Plan for the Upper Campus may be redeveloped in order to functionally respond to the needs of the Hospital and conform to the requirements of State agencies.

Access to the Lower Campus will be from West Coast Highway and from Hospital Road, via the Upper Campus. Exhibit 2, *Vehicular Access*, shows the internal circulation for Hoag Hospital.

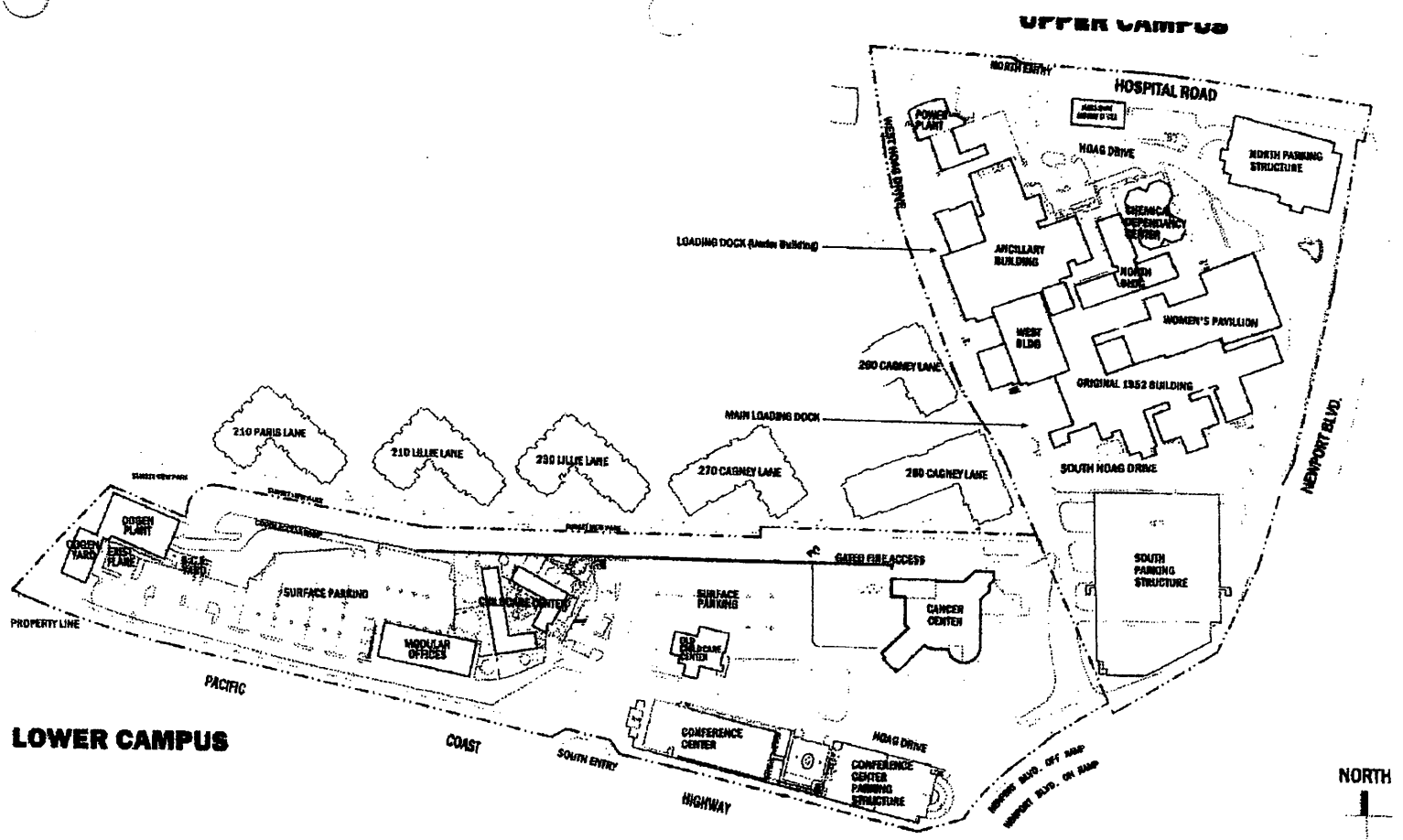
The Development Plan does not specify building locations or specific hospital-related uses. Instead, a developable area is identified based on the regulations established for this Planned Community District. Because of the dynamic nature of the health care industry which leads to rapid technological changes that effect how health care services are delivered, the Development Plan for Hoag Hospital sets development caps as a function of allowable densities established by the Newport Beach General Plan.

The maximum allowable building area for Hoag Hospital, which encompasses both the Lower Campus and the Upper Campus, is 1,343,238 square feet. Each Campus is also subject to a maximum allowable building area limit: the maximum allowable building area for the Upper Campus is 990,349 square feet; the maximum allowable building area for the Lower Campus is 577,889 square feet. Table 1, *Building Area Statistical Analysis*, provides a summary of allowable square footage for both the Upper and Lower Campuses.

Implementation, Program EIR and Subsequent Project Specific Approvals

Hoag has acknowledged that the Environmental Impact Report prepared for the development and implementation of the Hoag Master Plan pursuant to this Planned Community Development Plan is a "Program EIR." The City has prepared and certified two program Environmental Impact Reports - Hoag Hospital Master Plan Final Program EIR (Final EIR No. 142) and a Supplemental EIR for the Master Plan Update (SCH#1991071003). The EIRs analyze the impacts of construction phased over time and, pursuant to CEQA, the City is under a continuing

obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the requests were fully addressed in the EIRs. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIRs, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIRs. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA.



Note: Buildings labeled for identification purposes only

PLANNED COMMUNITY SITE AND BOUNDARY MAP
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 1
08.20.07
REVISED 01.22.08

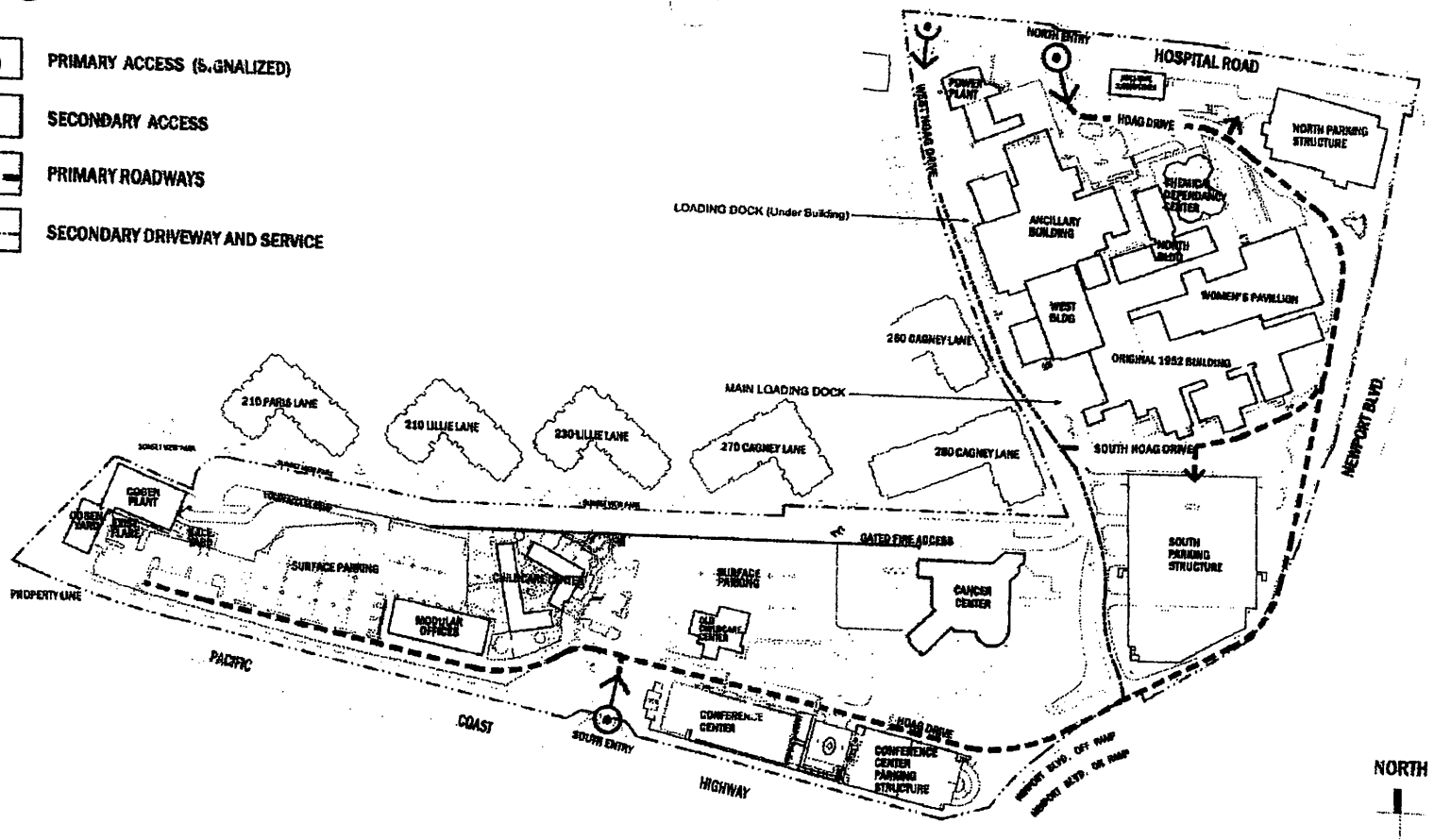
LEGEND

PRIMARY ACCESS (SIGNALIZED)

SECONDARY ACCESS

PRIMARY ROADWAYS

SECONDARY DRIVEWAY AND SERVICE



NORTH

100 0 100 200

SCALE: 1"=200'

Note: Buildings labeled for identification purposes only

VEHICULAR ACCESS
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 2
08.20.07
REVISED 01.22.08

TABLE 1

BUILDING AREA STATISTICAL ANALYSIS

TOTAL OF LOWER CAMPUS & UPPER CAMPUS BUILDING AREAS - MAXIMUM ALLOWABLE: 1,343,238 SQUARE-FEET

	Site Area	Allowable Building Area	Existing[1]	Net Remaining	Maximum Allowable
UPPER CAMPUS	765,349 sq. ft.	765,349 sq. ft.	698,121 sq. ft.	67,228 sq. ft.	990,349 sq. ft.[2]
LOWER CAMPUS	862,815 sq. ft.	577,889 sq. ft.	188,149 sq. ft.	389,740 sq. ft.	577,889 sq. ft.
TOTALS	1,618,164 sq. ft.	1,343,238 sq. ft.	886,270 sq. ft.	456,968 sq. ft.	1,343,238 sq. ft.[3]

[1] As of the date of adoption.
[2] Up to 225,000 square-feet can be transferred from the Lower to the Upper Campus
[3] Demolition of some existing structures on the Upper Campus will occur to ensure maximum square-feet will not exceed 1,343,238 square-feet

V. DISTRICT REGULATIONS

The following regulations apply to all development within the Hoag Hospital Planned Community. The individual uses listed under the five permitted use categories are not an exhaustive list. Other hospital-related uses which fit into the five (5) permitted use categories are allowed. Prior to the issuance of a building permit, plot plans, elevations and any other such documents deemed necessary by the Planning, Building, Public Works, and Fire Departments shall be submitted for the review and approval of the Planning, Building, Public Works, and Fire Departments.

A. Permitted Uses

1. Lower Campus

a. Hospital facilities, including, but not limited to:

(1) Outpatient services:

(a) Antepartum Testing
(b) Cancer Center
(c) Skilled Nursing
(d) Rehabilitation
(e) Surgery Center
(f) Clinical Center
(g) Day Hospital
(h) Back and Neck Center
(i) Biofeedback
(j) Breast Imaging Center
(k) Dialysis
(l) EEG/EMG/NICE Laboratory
(m) First Aid Center
(n) Fertility Services
(o) G.I. Laboratory
(p) Magnetic Resonance Imaging
(q) Neurology
(r) Nuclear Medicine
(s) Occupational Therapy
(t) Pediatrics
(u) Pharmacy
(v) Physical Therapy
(w) Pulmonary Services
(x) Radiation Therapy
(y) Respiratory Therapy
(z) Sleep Disorder Center
(aa) Speech Therapy
(bb) Ultrasound
(cc) Urgent Care

(2) Administration:

(a) Admitting
(b) Auxiliary Office
(c) Business Offices
(d) Information Desk
(e) Registration
(f) Patient Relations
(g) Social Services

(3) Support Services:

(a) Employee Child Care
(b) Health Education
(c) Power/Mechanical/Auxiliary Support and Storage
(d) Food Services
(e) Cashier
(f) Chapel/Chaplaincy Service
(g) Conference Center
(h) Dietitian
(i) Gift Shop
(j) Laboratory
(k) Medical Library
(l) Medical Records
(m) Pharmacy
(n) Parking Facilities[4]
(o) Engineering/Maintenance
(p) Shipping/Receiving
(q) Microwave, Satellite, and Other Communication Facilities

(4) Residential Care:

(a) Substance Abuse
(b) Mental Health Services
(c) Extended Care
(d) Hospice Care
(e) Self or Minimal Care
(f) Congregate Care

(5) Medical/Support Offices

[4] Parking structures or decks do not count toward square-footage

b. Methane gas flare burner, collection wells and associated system components.

c. Accessory uses normally incidental to hospital development.

d. Temporary structures and uses, including modular buildings.

2. Upper Campus

a. Hospital facilities, including, but not limited to:

(1) Inpatient uses including, but not limited to:

(a) Critical Care
(b) Emergency Department
(c) Birthing Suites
(d) Cardiology
(e) Cardiac Care Unit
(f) Intensive Care Unit
(g) Mother/Baby Unit
(h) Surgery
(i) Laboratory
(j) Pharmacy
(k) Patient Beds

(2) Outpatient services as allowed on the Lower Campus

(3) Administrative uses as allowed on the Lower Campus

(4) Support services as allowed on the Lower Campus

(5) Residential care as allowed on the Lower Campus

(6) Heliport (subject to Conditional Use Permit)[5]

b. Accessory uses normally incidental to hospital development.

c. Temporary structures and uses, including modular buildings.

[5] Does not count toward square-footage

B. Prohibited Uses

1. Lower Campus

   a. Emergency Room

   b. Heliport

   c. Conversion of mechanical or structural spaces to uses that allow general or routine occupancy

2. Upper Campus

   a. Conversion of mechanical or structural spaces to uses that allow general or routine occupancy

C. Maximum Building Height

The maximum building height of all buildings shall be in accordance with Exhibit 3, *Development Criteria Plan*, which establishes the following height zones:

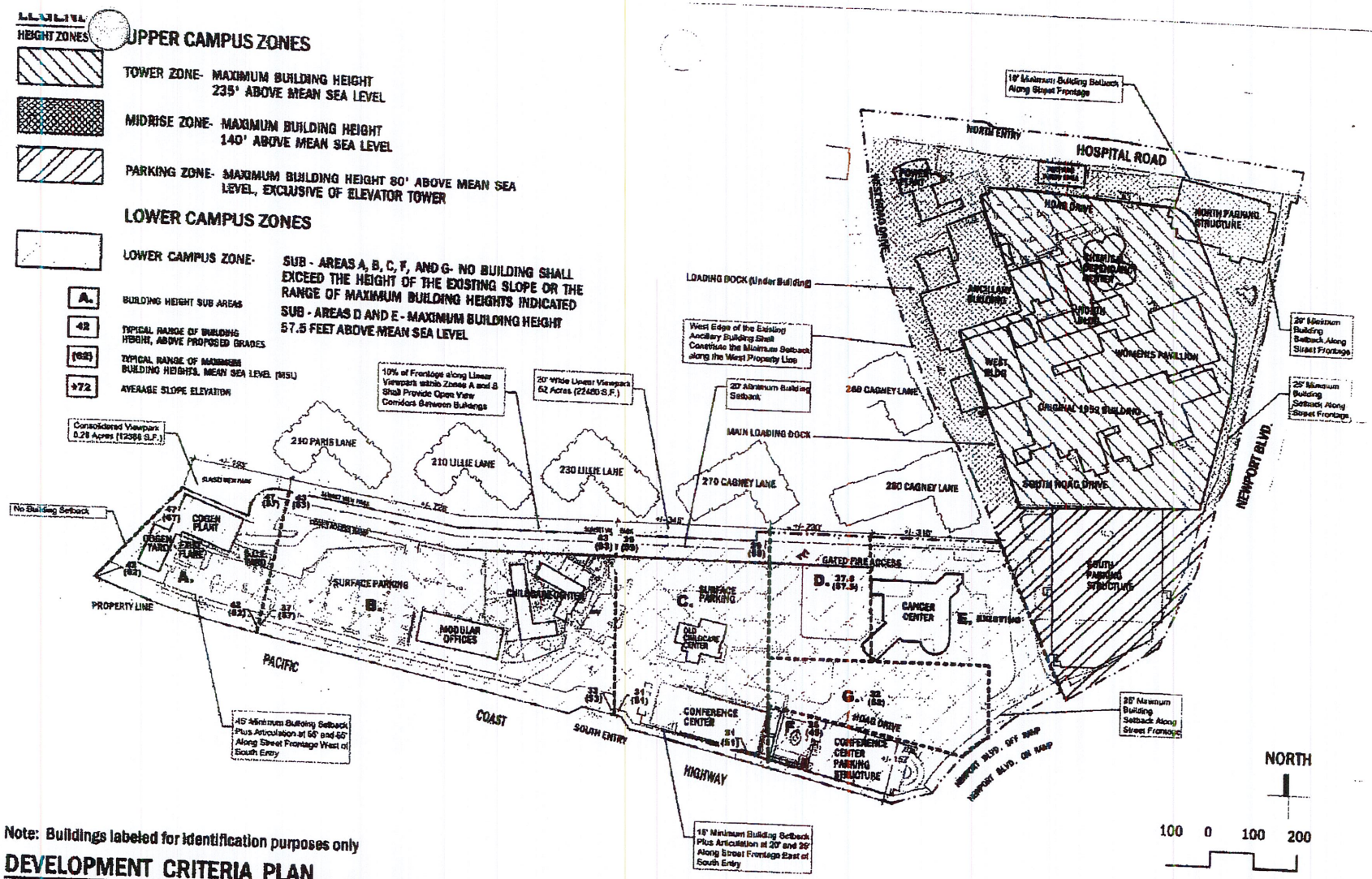
1. Upper Campus Tower Zone - maximum building height not to exceed the existing tower which is two-hundred thirty-five (235) feet above mean sea level.

2. Upper Campus Mid-rise Zone - maximum building height not to exceed one-hundred forty (140) feet above mean sea level.

3. Upper Campus Parking Zone - maximum building height not to exceed eighty (80) feet above mean sea level, exclusive of elevator towers.

4. Lower Campus Zone, Sub-Areas A, B, C, F and G - within each sub-area no building shall exceed the height of the existing slope and conform to the range of maximum building heights indicated by the development criteria shown on Exhibit 3.

5. Lower Campus Zone, Sub-Areas D and E - maximum building height shall not exceed the height of the existing Hoag Cancer Center which is fifty-seven and one-half (57.5) feet above mean sea level.



Note: Buildings labeled for identification purposes only

DEVELOPMENT CRITERIA PLAN
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 3
08.20.07
REVISED 01.22.08

D. Building Setbacks

Setbacks for the Hoag Hospital Planned Community are shown on Exhibit 3.

1. Setbacks will be provided along property boundaries adjacent to the Villa Balboa condominiums, as defined below:

   a. Upper Campus western boundary setback shall be the prolongation of the westerly edge of the existing cafeteria/laboratory building to the points of intersection with the easterly curb line of the existing service drive, then continuing along said line of the existing service drive.

   b. Lower Campus northern boundary, all of which will have a 20-foot minimum building setback.

2. The setback on West Coast Highway easterly of the hospital entry signal shall be fifteen (15) feet.

   In addition, vertical articulation shall be required for buildings easterly of the signal within one-hundred fifty (150) feet of the West Coast Highway frontage, as follows:

   1st Floor: Up to eighteen (18) feet in height no additional articulation is required. If the 1st floor exceeds eighteen (18) feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

   2nd Floor, up to thirty-two (32) feet in height: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of twenty (20) feet.

   3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of twenty-five (25) feet.

   The setback on West Coast Highway westerly of the hospital entry signal shall be forty-five (45) feet.

   In addition, vertical articulation shall be required for buildings westerly of the signal for buildings within one-hundred fifty (150) feet of the West Coast Highway frontage, as follows:

   1st Floor: Up to eighteen (18) feet in height no additional articulation is required. If the 1st floor exceeds eighteen (18) feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor, up to thirty-two (32) feet in height: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of fifty-five (55) feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of sixty-five (65) feet.

In order to avoid any future structures in this area (within 150 feet of West Coast Highway) from presenting an unacceptable linear mass, no single structure shall be greater than two-hundred fifty (250) linear feet in width. Additionally, 20% of the linear frontage within one-hundred fifty (150) feet of West Coast Highway shall be open and unoccupied by buildings.

10% of the linear length of Height Zones A and B as viewed from the existing bicycle/pedestrian trail, exclusive of that area adjacent to the consolidated portion of the view park, shall be maintained as view corridors between buildings.

These requirements may be altered for individual buildings, if requested by the hospital, through the site plan review process defined in Section IX.

3. There will be no building setbacks along the westerly boundary of the Lower Campus (adjacent to the municipal parking lot at Superior and West Coast Highway).

4. A twenty (20) foot setback from property line shall be provided along Newport Boulevard from Hospital Road to a point six-hundred (600) feet south; a twenty-five (25) foot setback from property line shall be provided along the remainder of Newport Boulevard and along the Newport Boulevard/West Coast Highway Interchange.

5. A ten (10) foot building setback from the property line shall be provided along Hospital Road.

E. Lighting

The lighting systems shall be designed and maintained in such a manner as to shield the light source and to minimize light spillage and glare to the adjacent residential uses. The plans shall be prepared and signed by a licensed Electrical Engineer.

F. Roof Treatment

Prior to the issuance of building permits, the project sponsor shall submit plans which illustrate that major mechanical equipment will not be located on the roof of any structure on the Lower Campus. Minor rooftop equipment, necessary for operating purposes, will comply with all building height criteria, and shall be designed and screened to blend into the building roof using materials compatible with roofing materials.

G. Signs

All signs shall be as specified under the Hoag Hospital Sign Program, Part VI.

H. Parking

All parking shall be as specified in Part VII, Hoag Hospital Parking Regulations.

I. Landscape

All landscaping shall be as specified in the Hoag Hospital Landscape Regulations, Part VIII.

J. Mechanical and Trash Areas

Prior to issuance of a building permit, the project sponsor shall submit plans to the City Planning Department which illustrate that all mechanical equipment and trash areas will be screened from public streets and immediately adjacent residential properties.

K. West Hoag Drive Circulation Limitations

The project sponsor shall continue to limit the use of that portion of West Hoag Drive adjacent to residential uses located on the Upper Campus. Deliveries to loading areas shall not occur after 8:00 PM or before 7:00 AM daily. The project sponsor shall physically restrict access to the roadway between these hours and appropriate signage indicating permitted delivery hours and access limitations shall be installed and maintained at all times. Night time deliveries and vehicular access to the loading area located along West Hoag Drive are allowed where critical supplies, services or materials are necessary for the continued operation of the hospital.

L. Loading Dock

The project sponsor shall provide a sound wall along West Hoag Drive as shown in the approximate location on Exhibit 4. Said wall shall be installed within 12 months of project approval, subject to issuance of required permits. To the maximum degree feasible, the sound wall shall be constructed to retain existing vegetation, which serves as a visual screen. Please refer to Section VIII, D. for additional landscaping requirements related to the sound wall. Mitigation measures to reduce the noise levels in the Loading Dock Area shall be incorporated into the design and operations of the hospital; such mitigation shall include relocation of the trash compactor and baler, limiting the hours of truck deliveries to the loading dock area, and enclosure of the trash compactor.

M. Noise Standards

Noise generated at the Hoag Hospital property shall be governed by the City of Newport Beach Noise Ordinance, except as noted below for the Loading Dock Area. Refer to Exhibit 5, *Loading Dock Area Location*, for the location.

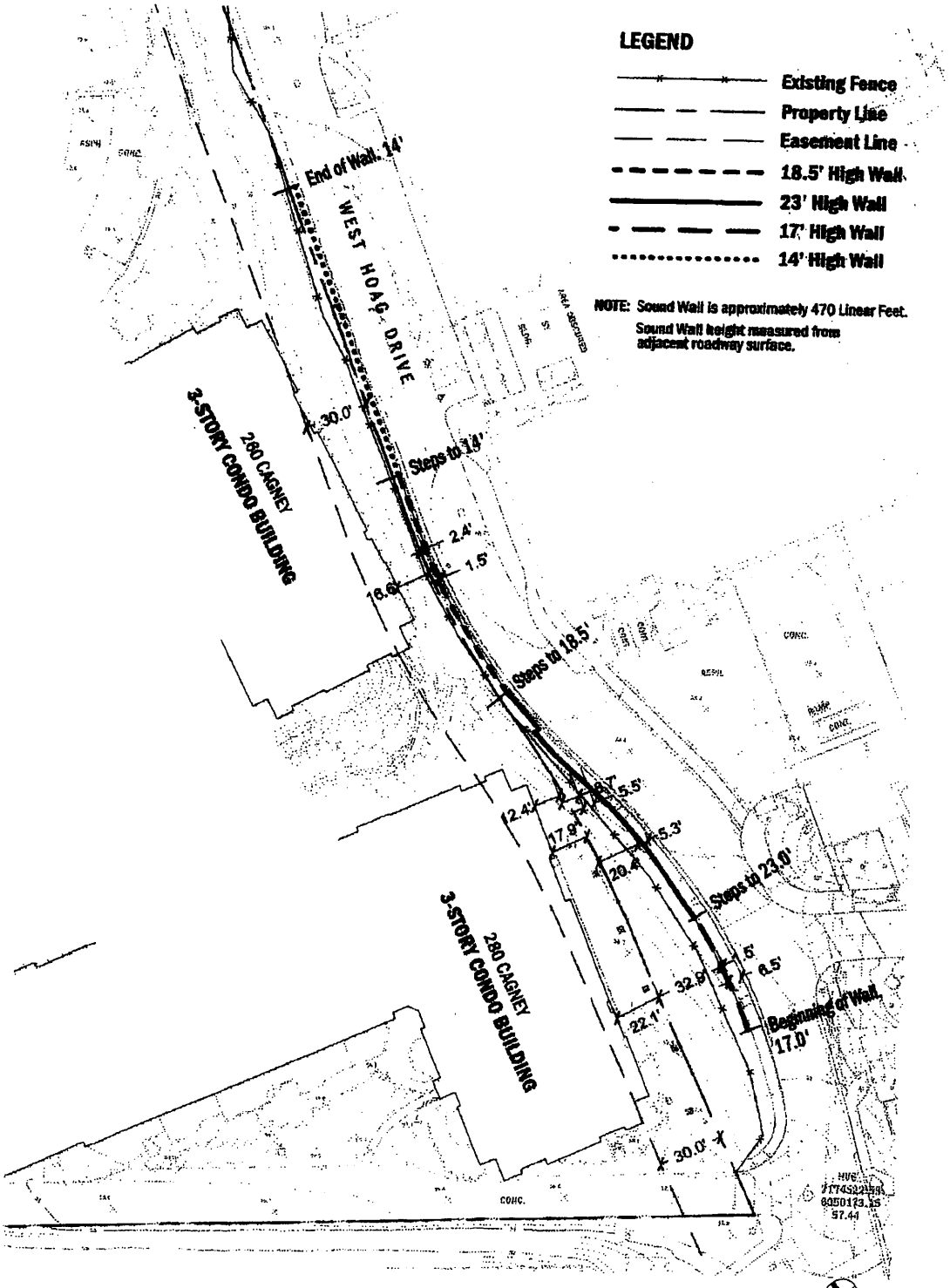
1. The applicable noise standard at the Hoag Hospital property line adjacent to the Loading Dock Area shall be as follows:

	7 AM – 10 PM	10 PM – 7 AM
	Daytime	Nighttime
Leq (15 min)	65 dBA	55 dBA

2. Within the Loading Dock Area during daytime hours, vehicles shall be exempt from applicable noise standards as listed above.

   Vehicle idling shall be prohibited on West Hoag Drive and within the loading dock areas, except that refrigerated vehicles may idle while at the loading docks when refrigeration is necessary.

   In addition, the grease pit cleaning which is exempt from the City Noise Ordinance as a maintenance activity shall occur on a Saturday between the hours of 11:00 AM and 3:00 PM.

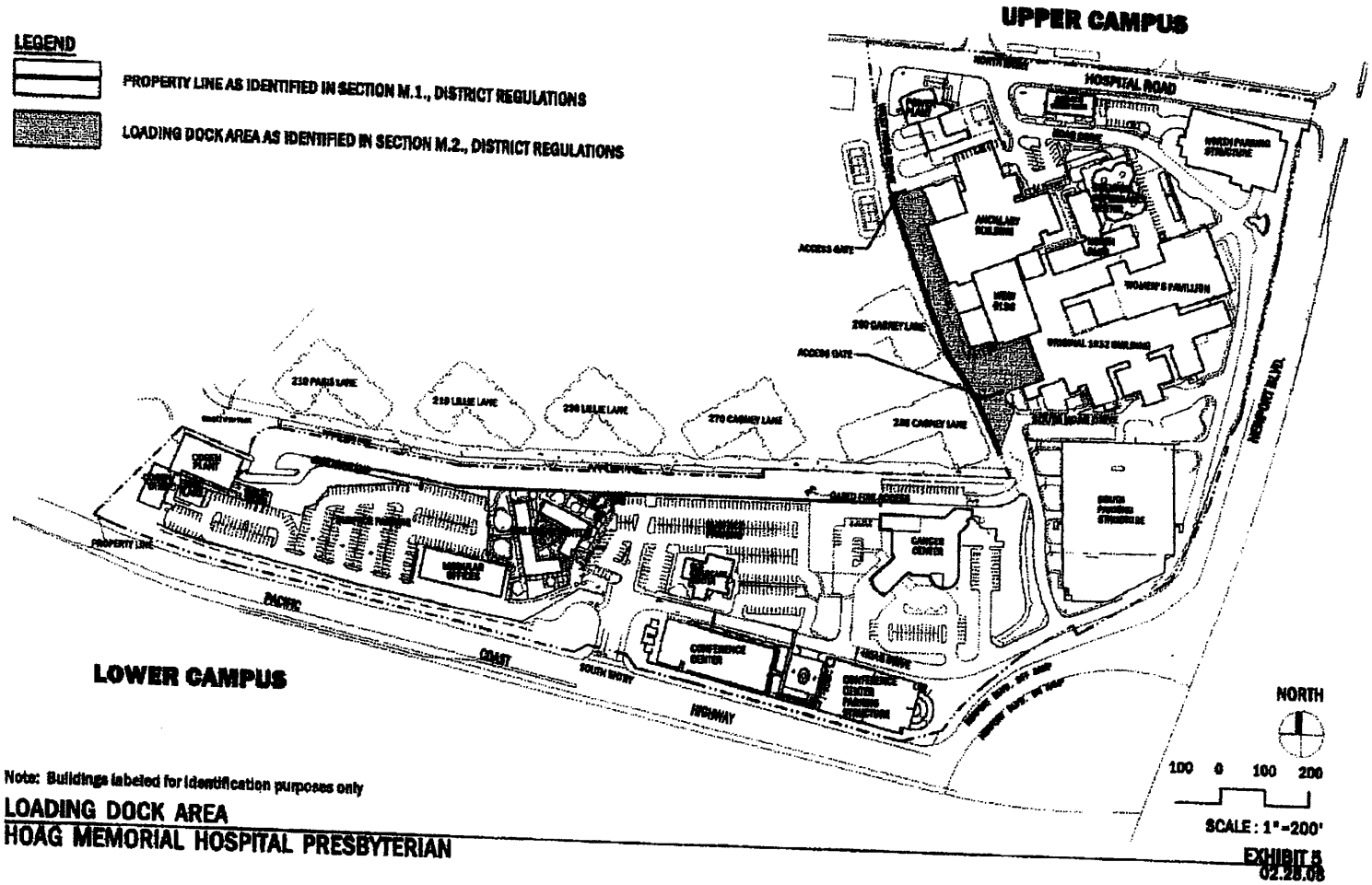


SOUND WALL LOCATION PLAN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN April 3, 2008

0 40 80

EXHIBIT 4



Note: Buildings labeled for identification purposes only

LOADING DOCK AREA
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT B
02.28.08

VI. HOAG HOSPITAL SIGN PROGRAM

A. Purpose and Intent

1. The purpose of this Sign Program is to provide adequate, consistent and aesthetically pleasing on-building wall and ground-mounted signage based upon the provisions set forth by the City of Newport Beach Sign Ordinance and the information signage requirements of Hoag Hospital.

2. The intent of this Sign Program is to produce uniform standards for Hoag Hospital.

B. General Sign Standards

1. All signs visible at the exterior of any building or facility of the Hospital, ground-mounted or on-building, may be illuminated or non-illuminated, depending upon need. Illumination method may be by external or internal source. No sign shall be constructed or installed to rotate, gyrate, blink or move, or create the illusion of motion, in any fashion.

2. All signs attached to building or facility exteriors shall be mounted as is appropriate to the architectural design features of said building or facility.

3. All signs together with the entirety of their supports, braces, guys, anchors, attachments and decor shall be properly maintained, legible, functional and safe with regard to appearance, structural integrity and electrical service.

4. All street signs shall be subject to review and approval of the City Traffic Engineer, and shall be in compliance with Ordinance 110-L.

5. For purposes of this section, a building shall be defined as any occupied structure or any occupied portion of a structure that is constructed as an addition to an existing structure and identified as a separate building for way finding purposes. Individual building numbers uniquely define the buildings on the Hoag campus.

C. Number of Signs Allowed

1. One (1) double-faced primary identification ground-mounted sign or two (2) single-faced gateway entry signs shall be allowed per street frontage. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Total maximum signage area shall not exceed two hundred (200) square feet and shall not exceed ten (10) feet in height per sign and street frontage. This sign may occur as a wall sign, to be located upon a project

boundary perimeter wall, subject to the same number and area maximums described above. This sign may also occur as part of an entry gateway system.

2. Primary entrance identification shall be allowed at the main entrance to the facility and at the main entrance to the Emergency Department. If freestanding, this sign type shall not exceed a maximum height of eight (8) feet average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed seventy (70) square feet.

3. Secondary building and entrance identification signs shall be allowed. If freestanding, this sign type shall not exceed a maximum height of nine (9) feet average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed fifty (50) square feet whether freestanding or wall-mounted.

4. Vehicular and pedestrian directional signs shall be allowed. This sign type may occur as a single-faced, double-faced, or triple-faced sign. The sign shall be sized to allow for proper readability given the number of lines of copy, speed of traffic, setback off the road and viewing distance. This sign type shall not exceed a maximum height of eleven (11) feet average height above finished grade.

5. Donor recognition signage shall be allowed, one (1) at each building elevation. Maximum sign area shall not exceed one hundred seventy-five (175) square feet for donor recognition signage.

6. Hospital identification signs shall be allowed upon hospital towers, one (1) at each elevation. The maximum sign area shall not exceed two hundred seventy-five (275) square feet. Any hospital identification signage on the elevation facing west (Villa Balboa property line) may not be illuminated.

7. On the Lower Campus, two (2) building-mounted identification signs will be allowed per structure and shall not be placed so as to directly face the Villa Balboa property. Such signs shall adhere to the requirements above for secondary building and entrance identification signage and shall be no higher than the roof line of the building upon which they are mounted.

8. Each public parking structure shall be allowed one (1) identification sign above each entrance and exit of the structure. The maximum sign area of each identification sign shall not exceed thirty (30) square feet. Adjacent regulatory parking signage does not count toward the maximum sign area.

VII. HOAG HOSPITAL PARKING REGULATIONS

A. General

1. Off-street parking for Hoag Hospital shall be provided on-site. Parking may be on surface lots, subterranean or in parking structures.

2. The design and layout of all parking areas shall be subject to the review and approval of the City Traffic Engineer and the Public Works Department.

3. Parking lot lighting shall be developed in accordance with City standards and shall be designed in a manner which minimizes impacts on adjacent land uses. Nighttime lighting shall be limited to that necessary for security and shielded down from any adjacent residential area. The plans shall be prepared and signed by a licensed electrical engineer, with a letter from the engineer stating that the requirements have been met. The lighting plan shall be subject to review and approval of the City Planning Department.

B. Requirements for Off-Street Parking

Parking requirements for specific sites shall be based upon the parking criteria established in Table 2. All parking shall be determined based upon the area allocated to the use categories.

TABLE 2

PARKING REQUIREMENTS

Use Category	Parking Requirements
Outpatient Services	2.31 spaces/1,000 square feet (1)
Support	0.0 spaces/1,000 square feet (1)(2)
Administrative	5.3 spaces/1,000 square feet (1)
Residential Care	1.0 spaces/1,000 square feet (3)
Medical Offices	4.0 spaces/1,000 square feet (3)
Inpatient	2.35 spaces/1,000 square feet (1)

(1) Parking factor based on parking analysis prepared by Linscott, Law & Greenspan dated October 15, 2001 for Traffic Study 2001-002 approved by Planning Commission Resolution No. 1542.
(2) Support Services generates parking demand that is accounted for in one of the other categories.
(3) Parking requirements based upon a study prepared by LSA Associates dated September 27, 1991.

VIII. HOAG HOSPITAL LANDSCAPE REGULATIONS

A. General

1. Detailed landscape and irrigation plans, prepared by a registered Architect or under the direction of a Landscape Architect, shall be reviewed by the City prior to issuance of a Certificate of Use and Occupancy. The Landscape Plan shall include a concept for rooftop parking and parking structures if proposed for the Lower Campus. Trees shall not be used, however planter boxes, green roof treatments or trellis systems shall be designed to provide added visual relief of rooftop parking or parking structures. All rooftop or top of parking structure landscaping proposals shall conform to the building height limits established in this text.

2. Parking lot trees shall be no less than twenty-four (24) inch box size.

3. Shrubs to be planted in containers shall not be less than five (5) gallon size. Ground covers will be planted from one (1) gallon containers or from rooted cuttings.

4. Every effort should be made to avoid using plants with invasive and shallow root systems.

5. Earth berms shall be rounded and natural in character, designed to obscure automobiles and to add interest to the site. Wheel stops shall be so placed as necessary to avoid damage to trees, irrigation systems, shrubs and other planting materials.

6. Trees in parking lots should be limited in variety. Selection should be repeated to give continuity. Regular spacing or the introduction of irregular groupings may also be considered to add interest and variety. Care should be exercised to allow plants to grow and maintain their mature size without restriction.

7. Emphasis shall be placed on the use of native, drought-tolerant, non-invasive plants on the Lower Campus. On the Upper Campus, naturalized vegetation selections, as well as those plants allowed on the Lower Campus, will be emphasized. Automatically controlled irrigation systems shall be designed to avoid surface runoff and over-watering.

8. Installation and maintenance of landscape, screening and irrigation systems per Exhibit #6, Exhibit #7 and Exhibit #8. All improvements shall be shown on landscape and irrigation plans to be reviewed and approved by the Planning Department and which shall be in substantial compliance with the Exhibits #6, #7 and #8. Hoag shall complete all of the improvements within the timelines set forth in Exhibit #6.

B. Maintenance

1. All planting areas are to be kept free of weeds and debris and cultivated as necessary to maintain.

2. Lawn and ground cover areas are to be kept trimmed and/or mowed regularly.

3. All plantings are to be kept in a healthy and growing condition. Fertilization, cultivation and tree pruning are to be carried out as part of a regularly scheduled annual maintenance program.

4. Irrigation systems are to be kept in good working condition at all times. On-going monitoring, adjustments and cleaning of systems are to be part of regular maintenance procedures.

5. Stakes, guys and tree ties on trees should be checked regularly for correct function; ties shall be adjusted to avoid creating abrasions or girdling of branches or central leaders.

6. Damage to plantings created by vandalism, automobile or acts of nature shall be corrected within thirty (30) days.

7. Plantings and irrigation are to be maintained in accordance with the approved plans.

C. Special Landscaped Street

West Coast Highway is designated in the Hoag Hospital Planned Community as a special landscaped street. A fifteen (15) foot building setback from right-of-way/property line is required along West Coast Highway. Only driveways, parking and signage structures are allowed in the setback areas. Parking areas shall be screened from view of West Coast Highway with landscaped berms.

Landscaping along West Coast Highway shall consist of trees, ground cover and shrubbery. All unpaved areas not utilized for parking or circulation shall be landscaped in a similar manner. Installed trees are to be no smaller than twenty-four (24) inch box.

D. Villa Balboa Landscape Zone

The area between the Hoag property line and the sound wall will be referred to as the Villa Balboa Landscape Zone. This portion of the Hoag Hospital property will have a specific landscape process to ensure consultation with Villa Balboa on the planting and maintenance of the area. Existing landscaping on Villa Balboa's side of the wall shall be preserved to the extent feasible or replaced with specimen plant material as designated on a plan to be approved by the Planning Director after consultation with the Villa Balboa Community Association. The plan

shall also include sufficient additional landscaping to screen or soften the soundwall required pursuant to Section V.L. Hoag shall maintain all landscaping on Hoag's property and to the extent new plant material is installed as a result of wall construction by Hoag on the Villa Balboa property adjacent to the Villa Balboa Landscape Zone (with their permission), Hoag shall maintain such new plant material on Villa Balboa's property for a period of two years after installation to ensure healthy growth. All landscape installation shall occur within 45 days of the completion of the wall or earlier. Any future modifications made to said wall and landscaping shall be reviewed and approved by the Planning Director.

E. Parking Areas

A minimum of 5% of the surface parking areas shall be devoted to planting areas. Planting areas around building shall not be included in parking area landscape calculations. Planting of trees may be in groups and need not be regularly spaced. Alternative landscape programs may be developed, including perimeter parking area landscaping, berming and depressing of parking areas to provide additional screening. Alternative landscape programs shall be subject to the review of the Newport Beach Planning Department.

A rooftop landscaping program shall be developed for parking structures and rooftop parking proposed for the Lower Campus and shall be subject to the review and the approval of the Newport Beach Planning Department.

IX. SITE PLAN REVIEW

A. Purpose

The Council finds that development on the Lower Campus of Hoag Hospital may have the potential to affect the aesthetics of the community. The effect of this section is to establish a Site Plan Review requirement for certain individual projects - to insure that these projects conform with the goals and policies of the General Plan, provisions of this Planned Community Development Plan, the Development Agreement and the standards set forth below in sub-section F. The following classifications of projects are subject to the Site Plan Review:

Planning Commission review:

1. Any project that differs from setback, horizontal and vertical articulation requirements as set forth in Section V.D.2.

Planning Director's review:

1. Any project that could have the potential to generate emissions that could have an impact to visual resources.
2. Any project that could have the potential to generate emissions creating objectionable odors or other impacts to air quality.
3. Replacement of existing cooling towers, ~~except for casualty.~~

B. Findings

The City finds, determines and declares that the establishment of Site Plan Review procedures contained in this section promotes the health, safety, and general welfare of the community by ensuring that the development of Hoag Hospital proceeds in a manner which will not result in inadequate and poorly planned landscape areas, excessive building bulk on arterial roadways, inappropriate placement of structures and impairment of the benefits of occupancy and use of existing properties in the area.

C. Application

Site Plan Review approval shall be obtained for any new structure or the addition to an existing structure, as outlined in Section IX.A above, prior to the issuance of a grading or building permit or issuance of an approval in concept for Coastal Commission or Office of Statewide Health Planning and Development review.

D. Plans and Diagrams to be Submitted

The following plans and diagrams shall be submitted to the Planning Commission for approval:

1. A plot plan, drawn to scale, showing the arrangement of buildings, driveways, pedestrian ways, off-street parking and off-street loading areas, landscaped areas, signs, fences and walks. The plot plan shall show the location of entrances and exits, and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and loading space, and areas for turning and maneuvering vehicles. The plot plan shall indicate how utility and drainage are to be provided.

2. A landscape plan, drawn to scale, showing the locations of existing trees (proposed to be removed and proposed to be retained); and indicating the amount, type, and location of any landscaped areas, planting beds and plant materials with adequate provisions for automatic irrigation.

3. Grading plans when necessary to ensure development properly related to the site and to surrounding properties and structures.

4. Scale drawings of exterior lighting showing size, location, materials, intensity and relationship to adjacent streets and properties.

5. Architectural drawings, renderings or sketches, drawn to scale, showing all elevations of the proposed buildings and structures as they will appear upon completion.

6. Any other plans, diagrams, drawings or additional information necessary to adequately consider the proposed development and to determine compliance with the purposes of this chapter.

E. Fee

The applicant shall pay a fee as established by Resolution of the City Council to the City with each application for Site Plan Review under this chapter.

F. Standards

In addition to the general purposes set forth in sub-section A, in order to carry out the purposes of this chapter as established by said section, the Site Plan Review procedures established by this Section shall be applied according to and in compliance with the following standards, when applicable:

1. The development is in compliance with all other provisions of the Planned Community Development Criteria and District Regulations (P-C Text);

2. Development shall be compatible with the character of the neighborhood and surrounding sites and shall not be detrimental to the orderly and harmonious development of the surroundings and of the City;

3. Development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways and properties, with special

consideration given to the mass and bulk of buildings and the streetscape on West Coast Highway;

4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development.

5. Potential impacts shall be mitigated to less than significant levels.

G. Public Hearing - Required Notice

A public hearing shall be held on all Site Plan Review applications. Notice of such hearing shall be mailed not less than ten (10) days before the hearing date, postage prepaid, using addresses from the last equalized assessment roll or, alternatively, from such other records as contain more recent addresses, to owners of property within a radius of three hundred (300) feet of the exterior boundaries of the subject property. It shall be the responsibility of the applicant to obtain and provide to the City the names and addresses of owners as required by this Section. In addition to the mailed notice, such hearing shall be posted in not less than two (2) conspicuous places on or close to the property at least ten (10) days prior to the hearing.

H. Action by the Planning Director

If all applicable standards established by this Section are met, the Planning Director shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Director shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Director shall be subject to review by the Planning Commission either by appeal, or upon its own motion, or upon the request of the Planning Director. The action of the Planning Director on any Site Plan Review shall be final and effective twenty-one (21) days following the Director's action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Planning Director has requested a review of its decision, or unless the Planning Commission, not more than twenty-one (21) days after the Director's action, on its own motion, elects to review and act on the action of the Director, unless the applicant consents to an extension of time. The Planning Commission may affirm, reverse or modify the decision. Such action by the Planning Commission shall be final, unless subsequently appealed or reviewed.

I. Action by the Planning Commission

If all applicable standards established by this Section are met, the Planning Commission shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Commission shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Commission shall be subject to review by the City Council either by appeal, or upon its own motion, or upon the request of the Commission. The action of the Commission on any Site Plan Review shall be final and effective twenty-one (21) days following the Commission action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Commission has requested a review of its decision, or unless the City Council, not more than twenty-one (21) days after the Commission action, on its own motion, elects to review and act on the action of the Commission, unless the applicant consents to an extension of time. The City Council may affirm, reverse or modify the decision. Such action by the City Council shall be final.

J. Appeal to the City Council

Any Site Plan Review decision of the Commission may be appealed to the City Council by the applicant or any other person, at any time within twenty-one (21) days after the date of the Commission decision. An appeal to the City Council shall be taken by filing a letter of appeal in duplicate, with the Planning Department. Such letter shall set forth the grounds upon which the appeal is based and shall be accompanied by a fee as established by Resolution of the City Council.

K. Action by the City Council

An appeal shall be heard and acted on by the City Council within sixty (60) days of filing a letter of appeal, and the City Council may affirm, reverse or modify the decision of the Commission. The decision of the City Council is final.

L. Expiration and Revocation of Site Plan Review Approvals

1. Expiration. Any Site Plan Review granted in accordance with the terms of this Title shall expire within twenty-four (24) months from the date of approval if a building permit has not been issued prior to the expiration date and subsequently construction is diligently pursued until completion, unless at the time of approval the Planning Commission has specified a different period of time.

2. Violation of Terms. Any Site Plan Review granted in accordance with the terms of this Title may be revoked if any of the conditions or terms of such Site Plan Review are violated or if any law or ordinance is violated in connection there with.

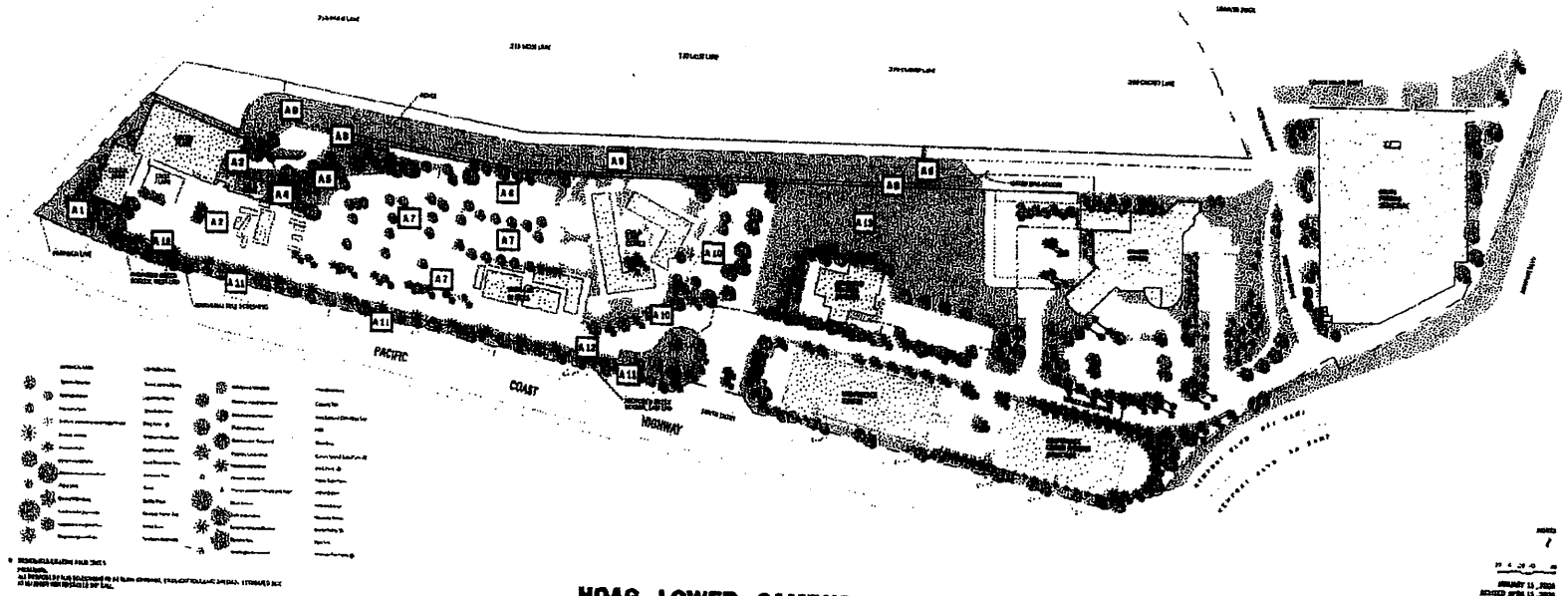
3. Hearing. The Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten (10) days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within sixty (60) days after receipt of the recommendation of the Planning Commission.

Location	Area	Description	Landscape Element	Schedule	Government/Agency States	Anticipated Outcome / Effect
Hoag Lower Campus	Area 1 - Co Gen	Additional tree planting per community request	Add 6, 48" box evergreen screen trees and new irrigation	Nov 2007 Installed	Project completed	Screen/soften views of west end of Co Gen Building
						From PCH
	Area 2 - Co Gen	Additional tree planting per community request	Add 3, 48" box evergreen screen trees and new irrigation	To commence May 2008. Install completion July 2008.	Coastal Comm. Approved 2/08	Added screening of Co Gen Flare
	Area 3 - Co Gen	Add green screen fence per community request	Attach metal green screen lattice structure to cover east building elevation	To commence May 2008. Install completion July 2008.	Coastal Comm. Approved 2/08	Screen/soften specific views of Co Gen Building
			Plant flowering vines to cover green screen	To commence May 2008. Install completion July 2008.	Coastal Comm. Approved 2/08	Screen/soften specific views of Co Gen Building
		Clean up and regrade area with added shrub and groundcover planting	Additional shrubs, groundcover and new irrigation system added upon completion of wall project.	Nov 2007 Installed	Project completed	Added visual quality and erosion control
		Tree shrub and groundcover planting	24 trees, shrubs and groundcover plantings and new water conserving irrigation system	Nov 2007 Installed	Project completed	Added campus visual quality screening and erosion control
			Installed as part of Lower Campus Wall Project			
		Trees and shrub planting				
			8, 24" box evergreen screen trees	Nov 2007 Installed	Project completed	Screen and soften views of retaining wall
			Installed as part of Lower Campus Wall Project			
		Tree planting	12, 36" box flowering trees and 4 tan palm trees and irrigation system at end islands	Nov 2007 Installed	Project completed	Soften views of open parking lot areas
			Installed as part of Lower Campus Wall Project			Increased shade and visual enhancement to parking area
		Tree planting	Install 23, 36" box flowering trees and 3 tan palm trees	Installed no later than Dec 2009	Installation shall commence no later than 60 days of CDP issuance by the Coastal Comm	Soften views of open parking lot areas and increase shade and visual enhancement to parking areas.
Hoag Lower Campus		Flowering baugainvillea shrub planting	550, baugainvillea shrubs installed as part of Lower Campus Wall Project	Nov 2007 Installed	Project completed	Colorful edge definition and softening of views along top of retaining wall
		Regrade area add trees shrub and groundcover planting	Shrubs, groundcover, fencing and new irrigation system	Installed no later than Dec 2009	Installation shall commence no later than 120 days of CDP issuance by the Coastal Comm	Enhanced overall campus visual quality, safety and erosion control
		Additional trees shrubs & groundcover planting	17 trees, shrubs and groundcover and new irrigation system	Dec 2007 Installed	Project completed	Added Visual Quality, Parking area screening and building drop off and entry area definition.
		Replace trees, shrub and groundcover and enhance planting areas	Trees, shrub & groundcovers and new irrigation system	Installation schedule Dec 2009	Pending city approval in concept and Coastal Comm Approval	Improve & unify campus planting character along PCH frontage after utilities installed
		Additional green screen and trees/shrub planting	Install approx. 870 linear feet of green screen along PCH frontage	Installed no later than Dec 2009	Immediately upon issuance of an Approval in Concept (AIC) by the City of Newport Beach an application shall be submitted for said improvements to the Coastal Comm. Construction of said improvements shall be completed no later than 18 months after CDP issuance by the Coastal Comm.	Screen views of west parking Lot from PCH
		Temporary native hydroseed groundcover Planting	Add coastal wild flower and grass Hydroseed planting until permanent parking lot with landscape improvements added.	Hydroseed and irrigation installed Dec 2007	Hydroseed and irrigation completed	Erosion/dust control and enhanced visual quality pending future parking area installation

Color Code Indicating Current Project Status

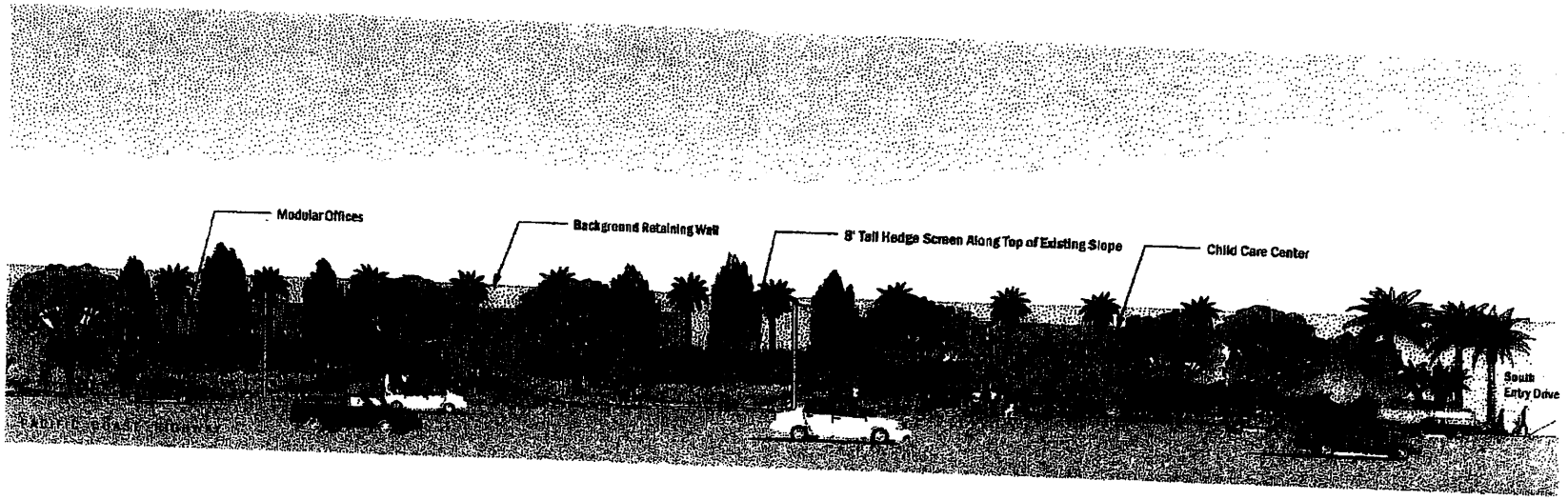
Green	Indicates current improvements that have been installed per previous approvals
Yellow	Indicates improvements installed but not apart of required permits
Blue	Indicates improvements in design phase yet to be submitted for city or agency approvals
Red	Indicates improvements proposed but not approved for installation

RRHA Ltd. 1/15/08
Revised 4/15/08 for City Council Meeting



HOAG LOWER CAMPUS IMPROVEMENT PLAN

Exhibit #7



PARTIAL ELEVATION - PCH LANDSCAPE SCREEN (DRAFT)

Rabben/Herman

Hoag Memorial Hospital Presbyterian
Newport Beach, CA.

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LaVonne M. Harkless, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2008-10 as duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 13th day of May 2008, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Henn, Rosansky, Curry, Daigle, Gardner, Mayor Selich

Noes: None

Absent: Webb

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 14th day of May 2008.

LaVonne M. Harkless
City Clerk
City of Newport Beach, California

(Seal)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LAVONNE M. HARKLESS, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2008-10 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Daily Pilot, a daily newspaper of general circulation on the following date, to wit: May 17, 2008.

In witness whereof, I have hereunto subscribed my name this _____ day of _____ 2008.

City Clerk
City of Newport Beach, California

EXHIBIT C

LEGAL DESCRIPTION OF PROPERTY

Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

EXHIBIT D

LEGAL DEPICTION OF PROPERTY

Exhibit B

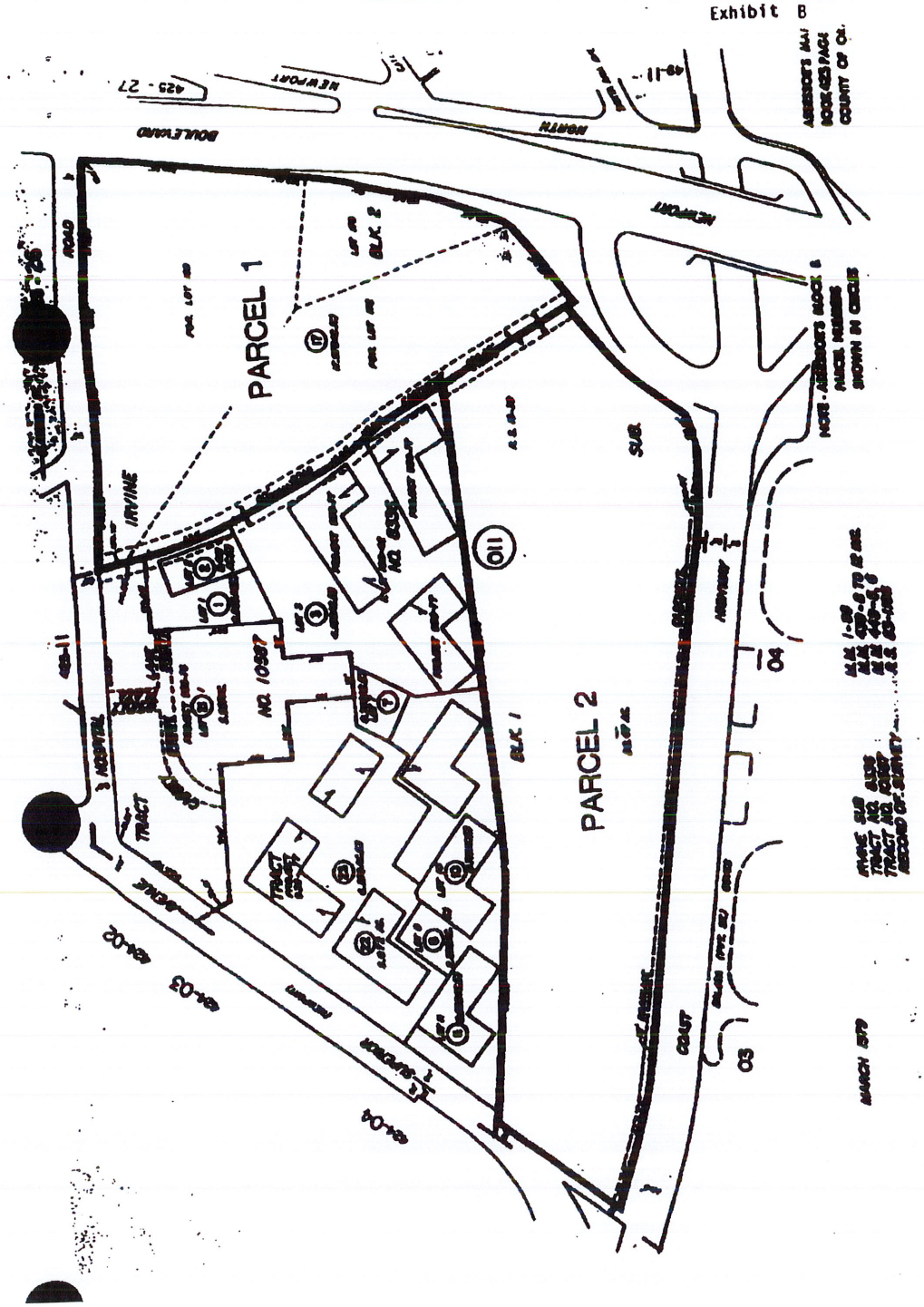

PARCEL 1
PARCEL 2
BLK. 1
BLK. 2
NO. 10587
NO. 8336
IRVINE
NEWPORT
NORTH
BOULEVARD
COAST
SUB.
TRACT
ROAD
425 - 27
424-02
424-03
424-04
MARCH 1979

EXHIBIT F

MELINDA HOAG SMITH CENTER FOR HEALTHY LIVING AGENCY PARTNERS

Melinda Hoag Smith Center for Healthy Living



hoag

Melinda Hoag Smith
Center for Healthy Living

The Melinda Hoag Smith Center for Healthy Living (MHSCHL) is a robust one-stop-shop of interconnected and supportive services that promote health and well-being. The Center houses a wide variety of non-profit partner agencies and the programs that address key issues affecting the health of our community. The Center provides culturally sensitive services and resources that enable prevention, address the root causes of disease and improve health outcomes. Services are offered in English and/or Spanish depending on the program.

There is no fee to become a member of the Center. The membership provides access to a majority of agencies and services, at no cost, however there may be health insurance prerequisites.

For more information or to set an appointment, please call us at 949-764-6551 or stop by for an in person visit.

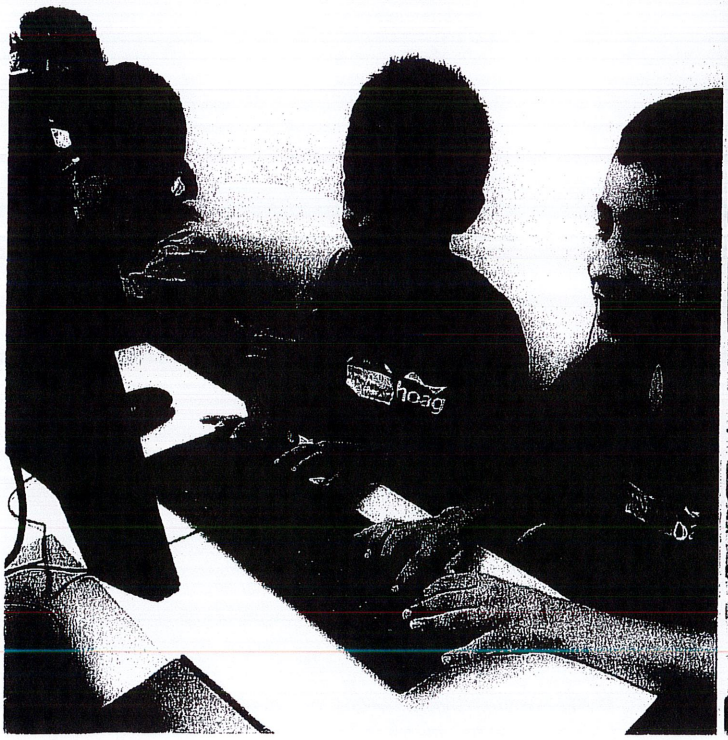
Hours of Operation:
Monday-Friday 8 a.m. – 7 p.m. | Saturday 8 a.m. – 4 p.m.

Vision

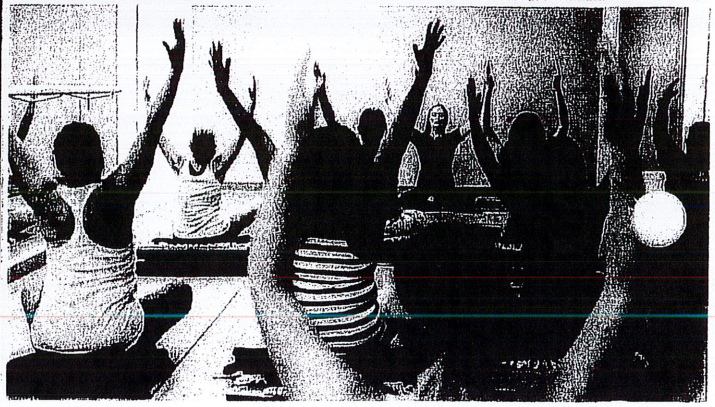
Inspire and empower our community to take control of their own health and wellbeing. Provide culturally sensitive services and resources that enable prevention, address the root causes of disease and improve health outcomes. Offer services that meet the needs of the whole person: mind, body and spirit.

Mission

To work synergistically in a shared location with our partner agencies and community residents to bridge the gaps in services, build capacity and maximize impact in our under-resourced communities.







Partner agencies and programs offered include:

AGENCY	SERVICES PROVIDED
Academy of International Dance	Ballet and hip-hop classes
Art and Creativity 4 Healing	Art workshops designed to aid with stress reduction and to increase coping skills
Be the Change Yoga	Yoga classes for all levels
Big Brothers Big Sisters of OC	Youth mentoring for those 6 -16 years of age
Cancer Kinship	Mentorship, education and support programming for cancer patients in any stage of diagnosis, treatment or remission
Children's Bureau	General needs assessment, case management and linkage to resources Healthy Habits educational series
Children's Health Connection	Provides connections to health services, health screenings and health education along with safety equipment
CHOC PODER (Prevention of Obesity and Diabetes through Education and Resources)	Health and wellness education including nutrition and physical fitness
CIELO – (Community for Innovation, Entrepreneurship, Leadership & Opportunities)	Support and educational workshops related to business and entrepreneurial skills, resume writing, financial and computer literacy
Community Action Partnership	Healthy Couples/Families workshops which focus on enhancing interpersonal skills and problem solving skills
Costa Mesa Family Resource Center	Social, educational and support services for children and families. Services offered in English/Spanish. Collaborative partners: Human Options, Children's Bureau, Girls Inc., Raise Foundation, Help Me Grow, and Strong Families Strong Children.
Council on Aging	English as a Second Language (ESL) classes for adults; Balance and Mobility classes; computer skills classes; HICAP – support & education regarding MediCare benefits
CPR, First Aid Certification	CPR and First Aid Certification for adults
Crime Survivors	Support groups, self-defense classes and resources for victims of crimes
Drumming Circles	Stress reduction drumming circles for adults
Girls Inc.	Afterschool programming for boys & girls: homework support; spring and summer camps; dance classes; Science Technology, Engineering, Arts and Math (STEAM) classes
Help Me Grow OC	Developmental screenings for young children; resources for enhancing child development
Hoag – ASPIRE (After School Program: Intervention and Resiliency Education)	Intensive Outpatient Program (IOP) for 13-17 year olds experienc ng mental health difficulties; program guides teens and their families through skills-based training. (Need private health insurance)
Hoag – Case Management	Case management and linkage to resources
Hoag – Health Coaching	Health and wellness coaching
Hoag – Health Ministries	Faith community nursing outreach, seasonal flu clinic and blood pressure clinics
Hoag – Mental Health Center	Short term outpatient counseling services for individuals, couples and/or families Support groups and educational classes English, Spanish and Farsi speaking therapist (Sliding-scale fee)
Hoag – OC Vital Brain Aging Program	Complimentary memory screening for adults over age 45
Hoag – Promotora/Community Health Worker	Support and resources for adults experiencing stress and mental health challenges
Human Options	Domestic violence prevention and intervention services, counseling, parenting classes, PEP (Personal Empowerment Program), support groups
MOMS OC	Preparation for childbirth classes, Mommy & Me classes
NAMI – National Alliance for the Mentally Ill	Support groups and educational classes for family members and caregivers who have a loved one (child or adult) living with mental illness
Olive Crest	Parenting classes
Orange County Department of Child Support Services	Assistance for parents with obtaining, modifying and collecting child support
Orange County Public Health Nursing	Nursing case management, nursing assessment, health education

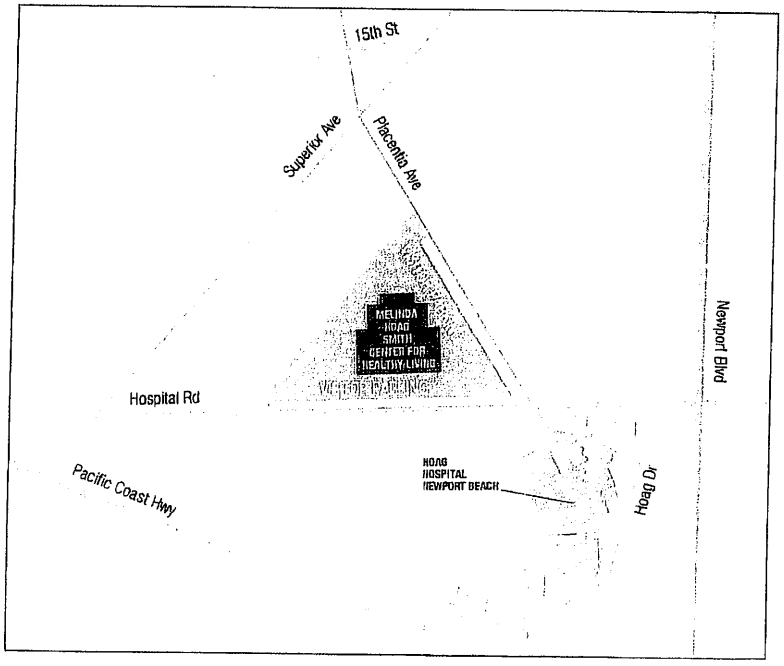
Partner agencies and programs offered include:

AGENCY	SERVICES PROVIDED
Pilates	Pilates classes for adults
Project Youth, OC Bar Foundation	Youth diversion programs – "SHORTSTOP" and "Stop Short of Addiction"; Health and wellness programing for women – "Madres Unidas"
Project Self Sufficiency	Support, mentoring and linkage to resources for single parents enrolled in college
Public Law Center	Civil legal services and individual counseling focusing on family law related matters for low income adults and families
Raise Foundation	Linkage to resources, assistance with applications for government programs: MediCal, CalFresh (food stamps); CalWorks (Cash aid); Volunteer opportunities through: Youth Advisory Council (YAC); Community Engagement Advisory Committee (CEAC)
Second Harvest	Food distribution for families in need (must be an adult to participate)
SOS Children & Family Health Center	Full scope primary care including preventive health care, urgent medical care and chronic disease management (health insurance requirements and/or sliding scale available)
SOS Dr. Robert & Dorothy Beauchamp Child and Family Dental Center	General and specialty dental services for infants to adults
SPIN – Serving People in Need	Housing assistance for families in need, GAPP –guided assistance to permanent placement
Strong Families Strong Children	Team of peer navigators and clinical case managers help provide support, resources, and counseling for active duty or veteran family members
Susan G. Komen OC	Breast health and cancer prevention education, mammogram screenings, survivor support groups
United Way	Tax preparation assistance for low income families
Youth Employment Services	Securing and maintaining employment assistance for 16-24 year olds
Zumba	Zumba classes for adults and Zumbini classes for adult caregivers and young children

Melinda Hoag Smith Center for Healthy Living

307 Placentia Avenue
Newport Beach, CA 92663

On the corner of Placentia and Hospital Road (across the street from Hoag Hospital). Entrance to parking lot is off Placentia.



hoag
Melinda Hoag Smith Center for Healthy Living

307 Placentia Avenue
Newport Beach, CA 92663
949-764-6551
hoag.org/MHSCHL

EXHIBIT F

THIRD AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660
Attn: City Clerk

(Space Above This Line Is for Recorder's Use Only)

This Agreement is recorded at the request and for the benefit of the City of Newport Beach and is exempt from the payment of a recording fee pursuant to Government Code §§ 6103 and 27383.

THIRD AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

THE CITY OF NEWPORT BEACH

AND

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved July __, 2019
Ordinance No. 2019-12

THIRD AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

(Pursuant to California Government Code sections 65864-65869.5)

This THIRD AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5 ("**Third Amendment**") is entered into and effective on the date it is recorded with the Orange County Recorder ("**Effective Date**") by and between the CITY OF NEWPORT BEACH, a California municipal corporation ("**City**"), on the one hand, and HOAG MEMORIAL HOSPITAL PRESBYTERIAN, a California nonprofit public benefit corporation ("**Hoag**"), on the other. City and Hoag are sometimes collectively referred to in this Third Amendment as the "**Parties**" and individually as a "**Party**."

RECITALS

A. Hoag is the fee owner of approximately thirty eight (38) acres of real property located in the City of Newport Beach, County of Orange, State of California, located at 1 Hoag Drive (Assessor Parcel Nos. 423-011-30, 423-011-28), ("**Property**"). The Property is more particularly described in the legal description attached hereto and as Exhibit A and incorporated herein by reference, and as more particularly depicted as attached hereto in Exhibit B and incorporated herein by reference.

B. City and Hoag entered into that certain Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian dated February 14, 1994, for reference purposes and recorded in the Official Records of Orange County on March 23, 1994, as document number 94-0207276 ("**Agreement**") attached hereto as Exhibit C with a twenty five (25) year Term of the Agreement.

C. City and Hoag entered into that certain Amendment to Restated Development Agreement No. 5 dated June 17, 2008, and recorded in the Official Records of Orange County on the same date, as document number 2008000289321 ("**Amendment**") attached hereto as Exhibit D which incorporated references to a Supplemental EIR and amendment to the General Plan, an increase in public benefits, designation of the City as the point of sale to the extent allowed under applicable law, and amendments to the Hoag Hospital Planned Community Text.

D. City and Hoag entered into that Second Amendment to Restated Development Agreement No. 5 and recorded in the Official Records of Orange County on June 3, 2019, as document number 2019000188999 ("**Second Amendment**") attached hereto as Exhibit E which extended the Term of the Agreement for an additional six (6) months. The **Agreement**, **Amendment**, and **Second Amendment** may collectively be referred to herein as "**Amended Agreement**."

E. City and Hoag now wish to enter into that Third Amendment to Restated Development Agreement No. 5 ("**Third Amendment**") extending the term and providing additional public benefits.

F. On June 20, 2019, the Planning Commission held a noticed public hearing on this Third Amendment and considered the testimony and information submitted by City staff, Hoag, and members of the public. Consistent with applicable provisions of the Development Agreement

Statute and Ordinance, the Planning Commission adopted Resolution No. PC2019-019, recommending the City Council approve this Third Amendment.

G. On July 9, 2019, the City Council held a noticed public hearing on this Third Amendment and considered the testimony and information submitted by City staff, Hoag, and members of the public. On July 23, 2019, consistent with applicable provisions of the Development Agreement Statute and Ordinance, the City Council held second reading and adopted Ordinance No. 2019-12approving this Third Amendment.

H. This Third Amendment is consistent with the City of Newport Beach General Plan, including without limitation the General Plan's designation of the Property as "Private Institutions - PI," Ordinance No. 2007-6, entitled "Ordinance Amending Chapter 15.45 of City of Newport Beach Municipal Code ("NBMC") Regarding Development Agreements" that amended the terms of NBMC Section 15.45 (the "**Development Agreement Statute and Ordinance**"), the Agreement, Amendment and Second Amendment.

I. In recognition of the significant public benefits provided, the City Council has found that this Third Amendment: (i) is consistent with the City of Newport Beach General Plan as of the date of the Agreement, the Second Amendment, and this Third Amendment; (ii) is in the best interests of the health, safety, and general welfare of City, its residents, and the public; (iii) is entered into pursuant to, and constitutes a present exercise of, City's police power; (iv) is consistent and has been approved consistent with the final Environmental Impact Report (FEIR No. 142) ("**FEIR**") and the supplemental Environmental Impact Report (EIR No. ER2007-003) (SCH#1991071003) ("**EIR**") that have been certified by the City Council on or before the date of approval, which analyzed the environmental effects of the proposed development of the project on the Property, and all of the findings, conditions of approval and mitigation measures related thereto; and (v) is consistent and has been approved consistent with provisions of California Government Code section 65867 *et. seq.* and Chapter 15.45 of the NBMC.

AGREEMENT

NOW, THEREFORE, City and Hoag agree as follows:

1. **Term of Agreement**. Section 6.3 of the Amended Agreement is hereby amended in its entirety to read as follows:

> "Term of Agreement. The term of this agreement (the "Term") shall begin on the Effective Date and continue until September 15, 2029, unless otherwise terminated or modified pursuant to its terms."

2. **Public Benefits Pursuant to Third Amendment**. Section 8.6. entitled "Public Benefits Pursuant to Third Amendment" is hereby added to the Amended Agreement to read as follows:

> "Public Benefit Pursuant to Third Amendment. City and Hoag acknowledge and agree that this Third Amendment and Amended Agreement confer private benefits on Hoag that should be balanced by commensurate public benefits to the community of Newport Beach. Based thereon, Hoag agrees as follows:

a. Hoag agrees to pay a total of Three Million Dollars ($3,000,000.00) in ten (10) equal annual installments of Three Hundred Thousand Dollars ($300,000.00) to one or more non-profit community partner(s) to operate a homeless shelter, as recommended by the Newport Beach Homeless Task Force and approved by the City Council. The initial Three Hundred Thousand Dollar ($300,000.00) installment is due and payable by Hoag to the community partner(s) determined by the City Council within thirty (30) calendar days of Hoag receiving written notice from the City. Thereafter, prior to the anniversary of the Effective Date of this Third Amendment, the City shall provide Hoag with thirty (30) calendar days' notice in the event of a change to the designated community partner(s). Subsequent installments of Three Hundred Thousand Dollars ($300,000.00) shall be paid by Hoag to the community partner(s), designated by the City Council, on the anniversary of the Effective Date of this Third Amendment. If the City Council does not identify any community partner(s) in accordance with the foregoing, Hoag will deposit the funds in a trust account until a community partner(s) is/are identified. Upon written notice by the City to Hoag that a community partner(s) is/are identified then the funds deposited in the trust account will be released to the community partner(s) to pay for all or a portion of the cost to operate the homeless shelter. Without limiting Hoag's obligations set forth herein, Hoag, at its option, may be involved in the co-naming of the homeless shelter.

b. During the term of this Third Amendment, the public benefits provided in Section 8.6(a), above, shall be in addition to the annual funding Hoag provides through the Melinda Hoag Smith Center for Healthy Living Agency Partners at its discretion to the non-profit organizations identified in Exhibit F as may be amended from time to time.

c. Hoag recognizes that services from the Melinda Hoag Smith Center may be available to any member of the public including, but not limited to, members considered homeless.

3. **Full Force and Effect**. Except as modified by this Third Amendment, the Amended Agreement, attached hereto as Exhibit C, Exhibit D, and Exhibit E respectively, are incorporated into this Third Amendment and shall remain in full force and effect.

4. **Recitals**. The Recitals set forth above are true and correct and incorporated herein by reference.

5. **Counterparts**. This Third Amendment may be signed by the Parties in different counterparts and the signature pages combined shall create a single document binding on all Parties.

6. **Recordation**. The City Clerk of City shall record this Third Amendment in the Office of the County Recorder of the County of Orange within the period required by California Government Code section 65868.5 and City of Newport Beach Municipal Code section 15.45.100.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO
THIRD AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

CITY:

CITY OF NEWPORT BEACH,
a California municipal corporation and charter city

By: _____
Diane B. Dixon, Mayor

ATTEST:

By: _____
Leilani I. Brown, City Clerk

APPROVED AS TO FORM:

By: _____
Aaron C. Harp, City Attorney

HOAG:

HOAG MEMORIAL HOSPITAL
PRESBYTERIAN,
a California nonprofit public benefit corporation

By: _____
Name: Sanford Smith, AIA
Title: Senior Vice President Real Estate & Facilities

By: _____
Name: Andrew Guarni
Title: Senior Vice President and Chief Financial Officer

(All Signatures to Be Notarized)

Attachments -
Exhibit A: Legal Description
Exhibit B: Legal Depiction
Exhibit C: Development Agreement dated February 14, 1994
Exhibit D: Amendment to Restated Development Agreement No. 5 dated June 17, 2008
Exhibit E: Second Amendment to Restated Development Agreement No. 5
Exhibit F: Melinda Hoag Smith Center for Healthy Living Agency Partners

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20_____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20_____ before me, _____, Notary Public, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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Signature (seal)

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County of _____} *ss.*
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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

ACKNOWLEDGMENT

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State of California
County of _____} *ss.*
On _____, 20_____ before me, _____, Notary Public, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

EXHIBIT B

LEGAL DEPICTION OF THE PROPERTY

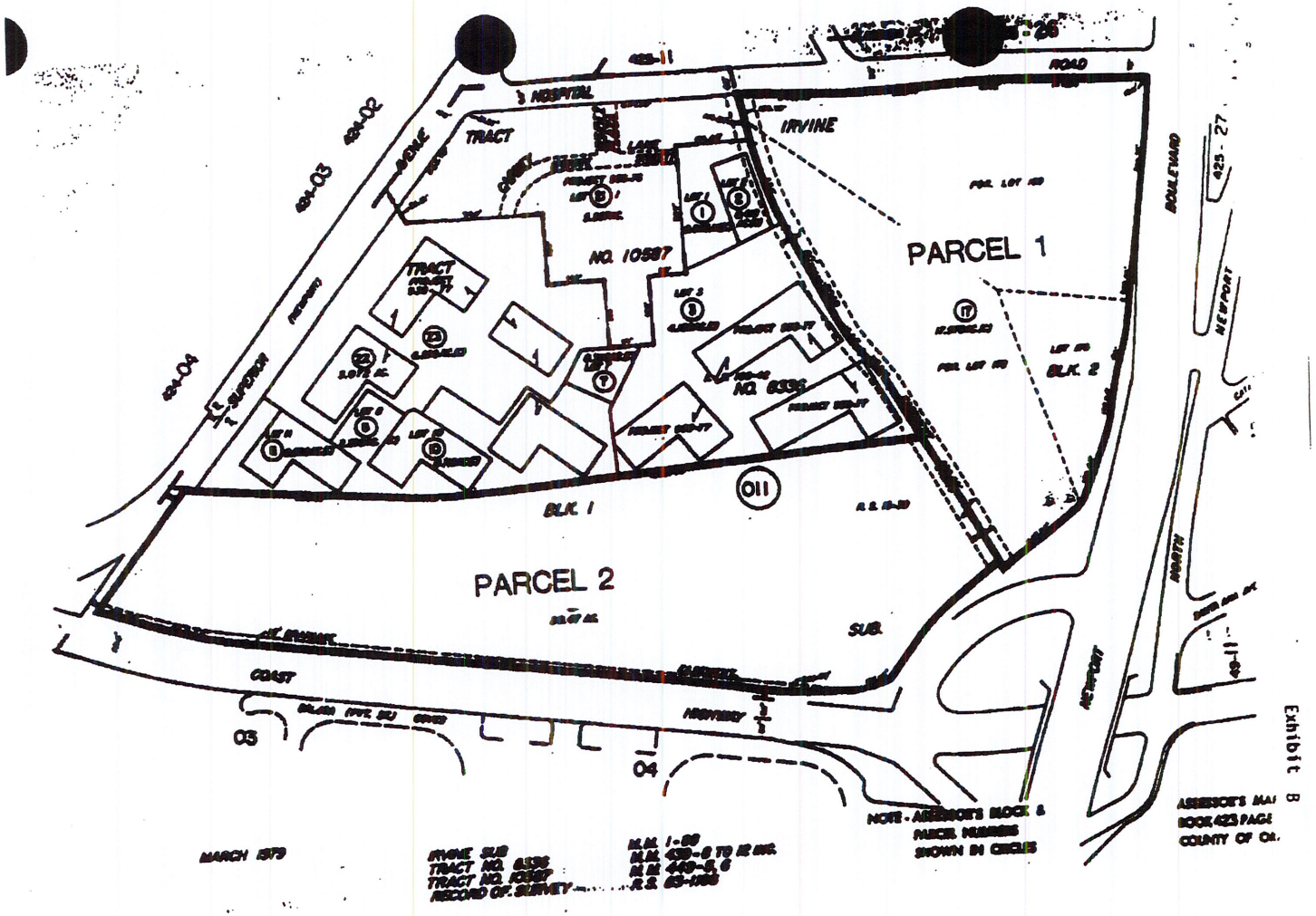

PARCEL 1
PARCEL 2
IRVINE
TRACT
NO. 10587
NO. 8336
BLK. 1
BLK. 2
SUB.
COAST
HIGHWAY
NEWPORT
BOULEVARD
NORTH
ROAD
NOSPITAL
SUPERIOR
011
03
04
MARCH 1979
IRVINE SUB
TRACT NO. 8336
TRACT NO. 10587
RECORD OF SURVEY
NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES
ASSESSOR'S MAP
BOOK 423 PAGE
COUNTY OF OR.

Exhibit B

EXHIBIT C

DEVELOPMENT AGREEMENT DATED FEBRUARY 14, 1994

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 6103

Recording Requested By and
When Recorded Return to:

City Clerk /by P. M.
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

DOC # 94-0207276
23-MAR-1994 03:59 PM

Recorded in Official Records
of Orange County, California
Lee A. Branch, County Recorder
Page 1 of 61 Fees: $ 0.00
Tax: $ 0.00



61
R
1
OF -

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF NEWPORT BEACH

AND

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

Approved February 14, 1994
Ordinance No. 94-8

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into between the City of Newport Beach (the "City"), and Hoag Memorial Hospital Presbyterian ("Hoag").

1. **RECITALS**. This Agreement relates to the following:

1.1 Purpose of Agreement. This Agreement is intended to:

(a) Enable Hoag to adapt to the ever changing health care needs of those residents within its service area by authorizing design parameters of new or additional facilities in a manner that will allow Hoag to respond to rapid changes in medical and health care technology and delivery systems.

(b) Establish strict, binding limits on the amount and height of permitted development as well as ensure compliance with numerous conditions on the density, location, and timing of construction to minimize, to the extent feasible, any environmental impacts of Hoag's proposed expansion.

(c) Impose exactions such as dedication of property, construction of public improvements and/or the installation of landscaping visible to the public, which, when considered in conjunction with the public services provided by Hoag, benefit the general public.

1.2 Authorization. This Agreement is authorized by, and is consistent with, the provisions of 65864 et seq. of the Government Code of the State of California, and Chapter 15.45 of the Newport Beach Municipal Code.

1.3 Interest of Hoag. Hoag is the legal and/or equitable owner of approximately forty (40) acres of real property located in the City and more particularly described in Exhibit "A" and depicted in Exhibit "B" (the "Property").

1.4 Development of the Property. This Agreement authorizes development on the Property consistent with the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan ("Master Plan", a copy of which is attached to this Agreement as Exhibit "C" and incorporated by reference when appropriate), subject to the conditions and mitigation measures identified in Environmental Impact Report No. 142 and imposed by the City Council as conditions to approval of the Master Plan and this Agreement and, for all development within

the coastal zone subject to approval of a coastal development permit by the California Coastal Commission or its successor agency.

1.5 Planning Commission/City Council Hearings. The Planning Commission, after giving appropriate notice, held public hearings to consider a development agreement, the proposed Master Plan, and the EIR on December 5, 1991, January 9, 1992, January 23, 1992, February 6, 1992, and February 20, 1992. The City Council conducted public hearings on the Master Plan, this Agreement and the EIR on March 23, 1992, March 30, 1992, April 13, 1992 and May 11, 1992.

1.6 Consistency. This Agreement is consistent with the various elements of the Newport Beach General Plan, the Master Plan, and other applicable ordinances, plans, and policies of the City. This Agreement is also consistent with the purpose and intent of state and local laws authorizing development agreements in that it represents comprehensive planning, provides certainty in the approval of subsequent projects subject to compliance with conditions, reduces the economic costs of development by providing assurance to Hoag that it may generally proceed with projects in accordance with existing regulations, and provides assurance to adjoining property owners that limits on the height of structures and amount of development as specified in the Master Plan and this Agreement will remain in full force and effect for a period of twenty-five (25) years.

1.7 Police Power. The City Council has determined that this Agreement is in the best interests of the health, safety and general welfare of the City, its residents and the public, was entered into pursuant to, and represents a valid exercise of, the City's police power, and has been approved in accordance with the provisions of state and local law that establish procedures for the approval of development agreements.

1.8 City Ordinance. On February 14, 1994, the City Council adopted Ordinance No. 94-8 approving this Agreement and authorizing the City to enter into this Agreement. The Adopting Ordinance will become effective on March 16, 1994.

2. DEFINITIONS.

2.1 The "Adopting Ordinance" refers to City Ordinance No. 94-8, adopted on February 14, 1994, by the City Council, which approved and authorized the City to enter into this Agreement.

2.2 "Agreement" refers to this "Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian".

2.3 "Annual Review" refers to the review of Hoag's good faith compliance with this Agreement and conditions on development as set forth in Section 5.

2.4 The "Approval Date" means the date on which the City Council voted to adopt the Adopting Ordinance.

2.5 All forms of use of the verb "assign" and the nouns "assignment" and "assignee" shall include all contexts of hypothecations, sales, conveyances, transfers, leases, and assignments.

2.55 "California Coastal Commission" refers to the California State Resources Agency established under the California Coastal Act of 1976.

2.6 "CEQA" and the "CEQA Guidelines" refers to the California Environmental Quality Act and the CEQA Guidelines promulgated by the Secretary of Resources of the State of California, including any amendments adopted subsequent to the Effective Date.

2.7 "City" refers to the City of Newport Beach, California.

2.8 "City Council" refers to the City Council of the City.

2.9 "Cure Period" refers to the period of time during which a Default may be cured pursuant to Section 9.

2.10 A "day" or "days" refers to a calendar day, unless expressly stated to be a business day.

2.11 A "Default" refers to any material default, breach, or violation of the provisions of this Agreement. A "City Default" refers to a Default by the City, while a "Hoag Default" refers to a default by Hoag.

2.12 The "Effective Date" refers to the effective date of the Adopting Ordinance and is the effective date of this Agreement. provided however, the Agreement has been approved by the California Coastal Commission, and the Executive Director of the Coastal Commission is in receipt of a copy of this Agreement signed by both parties.

2.13 The "EIR" refers to final Environmental Impact Report No. 142 of the City of Newport Beach and Supplemental Environmental Impact Report No. 142.

2.14 An "Estoppel Certificate" refers to the document certifying the status of this Agreement required by Section 5.6 in the form of Exhibit "D".

2.15 An "Exaction" refers to those specific dedications and improvements required of Hoag and set forth in Section 8.2 below.

2.16 An "Exhibit" refers to an exhibit to this Agreement. All Exhibits are incorporated as a substantive part of this Agreement. The Exhibits to this Agreement are:

Exhibit A:	Legal Description of the Property
Exhibit B:	Map of the Property
Exhibit C:	The Master Plan
Exhibit D:	Estoppel Certificate

2.17 "Existing General Regulations" means those General Regulations approved by the City on or before the Approval Date (irrespective of their effective date) and not rescinded or superseded by City action taken on or before the Approval Date.

2.18 "Future General Regulations" means those General Regulations (see Section 2.19 below) adopted by the City after the Approval Date.

2.19 "General Regulations" means those ordinances, rules, regulations, policies, and guidelines of the City, which are generally applicable to the use of land and/or construction within the City and include, the Fair Share Traffic Contribution Fee Ordinance, Uniform Building Codes and water and sewer connection and fee ordinances.

2.20 "General Plan" refers to the City's General Plan in effect on the Approval Date, plus all amendments to the General Plan adopted by the City on or before the Approval Date and effective prior to the Effective Date.

2.21 "Hoag" refers to Hoag Memorial Hospital Presbyterian, a non-profit corporation.

2.22 "Includes" and all contexts and forms of the words "includes" and "including" shall be interpreted to also state "but not limited to."

2.23 "Master Plan" refers to the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan which was adopted by the City on May 26, 1992 (Exhibit "C").

2.24 "Mortgagee" refers to the holder of a beneficial interest under any mortgage, deed of trust, sale-leaseback agreement, or other

transaction under which all or a portion of the Property, including those portions acquired by assignees, is used as security (a "Mortgage") or the owner of any interest in all or any portion of the Property under a Mortgage, including those portions acquired by assignees.

2.25 "Notice" refers to any written notice or demand between the Parties required or permitted by this Agreement.

2.26 The "Parties" refers to the City and Hoag and a "Party" shall refer to either of the Parties.

2.27 "Planning Commission" refers to the Planning Commission of the City.

2.28 The "Project" refers to the proposed development of the Property pursuant to the Master Plan and this Agreement.

2.29 "Project Specific Approvals" means all site-specific (meaning specifically applicable to the Property only and not generally applicable to some or all other properties within the City) plans, subdivision maps, permits, or other entitlement. Project Specific Approvals include subdivision maps, site plan review, conditional use permits, coastal development permits, variances, grading and building permits, as well as amendments or modifications to those plans, maps and permits. Project Specific Approvals does not include Existing or Future General Regulations.

2.30 The "Property" refers to the real property described on Exhibit "A" and depicted on Exhibit "B."

3. CONDITIONS TO DEVELOPMENT.

3.1 Introduction. The provisions of this Section express the intent of the parties regarding the extent to which this Agreement vests Hoag's right to proceed with the development described in the Master Plan. Hoag acknowledges that its right to proceed with development described in the Master Plan is subject to numerous conditions and mitigation measures including the following:

(a) The specific limitations and restrictions contained in the Master Plan;

(b) Conditions and mitigation measures imposed by the City Council to mitigate significant effects identified in the EIR;

(c) Conditions imposed by the City as a result of subsequent or supplemental environmental analysis pursuant to provisions of CEQA and the CEQA Guidelines;

(d) Conditions imposed by the City Council in conjunction with the approval of Traffic Study No. 81 and Variance No. 1180;

(e) Compliance with the terms and conditions specified in this Agreement.

(f) Compliance with Existing General Regulations.

3.2 Compliance with Master Plan Conditions/Mitigation Measures. Hoag acknowledges that City Council approval of the Master Plan and this Agreement was subject to compliance with numerous conditions and mitigation measures designed to minimize or eliminate the significant adverse effects of the Project and ensure the health, safety, and welfare of nearby residents as well as Hoag patients and employees. Many of these conditions and mitigation measures impose specific development standards and requirements to be implemented in conjunction with further study and analysis of site or subsurface conditions before grading or construction. Specific mitigation measures that require compliance with, or satisfaction of, standards before grading or construction can occur include the following:

(a) Slope excavation techniques which insure stability;

(b) Grading and excavation techniques which minimize disturbance to adjacent residents and the general public;

(c) Identification of potential faults on site and construction of buildings pursuant to recommendations of certified geologists and in a manner which insures that nearby residents, Hoag patients and Hoag employees are not exposed to a significant risk of injury;

(d) Evaluation of soil corrosivity and removal of corrosive soils or use of corrosion resistant construction materials;

(e) Mitigation of impacts caused by removal of wetlands through off-site restoration as required by resource agencies;

(f) Preparation and approval of a project trip generation study prior to development of Phase I of the Master Plan (if Hoag proposes a land use other than specified in the approved Traffic Study);

(g) Preparation and approval of a project trip generation study as a condition to construction of development in Phases II and III of the Master Plan;

(h) Preparation and approval of a Traffic Phasing Ordinance analysis prior to construction of development in Phase II and Phase III of the Master Plan;

(i) Preparation of a view impact analysis of each proposed building prior to issuance of permits;

(j) Analysis and mitigation of emissions in accordance with the regulations of the South Coast Air Quality Management District;

(k) Preparation and approval of a construction phasing and traffic control plan for each phase of development.

Hoag's right to develop the Property pursuant to the Master Plan is contingent upon compliance with, and satisfaction of, the conditions and mitigation measures imposed by the City Council as of the Approval Date, conditions imposed by the California Coastal Commission required for approval of coastal development permits, as well as conditions and mitigation measures resulting from subsequent environmental analysis as specified in Paragraph 3.3.

3.25 Future Coastal Act discretionary review may result in specific mitigation measures to ensure consistency with the Coastal Act that require compliance with, or satisfaction of, standards before grading or construction can occur.

3.3 Program EIR. Hoag acknowledges that the EIR is a "Program EIR." The EIR analyzes the impacts of construction phased over time and, pursuant to CEQA, City is under a continuing obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the request were fully addressed in the EIR. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIR, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIR. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA.

3.4 Mitigation Monitoring Plan. City shall prepare a Mitigation Monitoring Plan ("Plan") within sixty (60) days after the Effective Date. Hoag shall not submit any application for Project Specific Approval until the Plan has been approved by the City Council and the Executive Director of the Coastal Commission or the appropriate entity of its successor agency.

The Plan shall comply with and satisfy the requirements of CEQA and the Guidelines and the Coastal Act. The Plan shall be available to the public upon request.

3.5 Compliance with General Regulations. Hoag is required to comply with the Existing General Regulations. As to those Existing General Regulations which require the payment of fees, costs, and expenses, Hoag shall pay the fee, cost, or expense required as of the date on which Hoag submits the application for Project Specific Approval. Hoag shall also comply with any Future General Regulations that do not impair Hoag's ability to develop the Property in accordance with the density, intensity, height and location of development specified in the Master Plan. Hoag shall also comply with all provisions of the Uniform Building Code, whether adopted before or after the Approval Date, which are in effect at the time applications for Project Specific Approvals are submitted. Hoag shall also comply with the Coastal Act and the City's certified Local Coastal Program.

4. RIGHT TO DEVELOPMENT.

4.1 Right to Develop. Subject to compliance with the provisions of Sections 3 and 8.2, Hoag shall have a vested right to develop and receive Project Specific Approvals for construction on the Property to the full extent permitted by the Master Plan. Subject to the provisions of Sections 3 and 8, City shall only take action which complies with and is consistent with the Master Plan and this Agreement unless Hoag otherwise consents in writing. Subject to this Subsection, City shall have the authority to impose only those Exactions which are specifically described in this Agreement, except as expressly required (as opposed to permitted) by state or federal law.

4.2 Reservations or Dedications of Land. Except as expressly provided in this Agreement, no dedications or reservations of the Property shall be required of Hoag in conjunction with the application or issuance of any Project Specific Approvals.

4.3 Conflicting Measures. Except as expressly provided in this Agreement, no initiative measure, moratorium, referendum (except as provided in Government Code Section 65857.5), ordinance, statute or other provision of law which in any way limits or restricts development of the Property to the full extent permitted by the Master Plan and this Agreement (including density, intensity, timing, phasing, and sequencing) shall be applied to the Property during the term of this Agreement.

4.4 Time for Construction and Completion of Project. Subject to the provisions of this Agreement and the Master Plan, Hoag shall have the right to decide the timing, phasing, and sequencing of construction on the Property and shall be entitled to apply for, and receive approval of, in a timely manner, permits or approvals at any time.

5. ANNUAL REVIEW.

5.1 City and Hoag Responsibilities. At least every twelve (12) months during the Term, the City shall review Hoag's good faith substantial compliance with this Agreement (the "Annual Review"). After the Annual Review, the City's finding of good faith compliance by Hoag shall be conclusive for the purposes of future Annual Reviews or legal action between the Parties. Either Party may address any requirements of the Agreement during the Annual Review. However, fifteen (15) days' written Notice of any requirement to be addressed shall be made by the requesting Party. If, at the time of the review, an issue not previously identified in writing is required to be addressed, the review shall be continued at the request of either Party to afford sufficient time for analysis and preparation of a response.

5.2 Public Hearing. The Annual Review shall be conducted at a public hearing noticed in accordance with the provisions of Chapter 15.45 of the Newport Beach Municipal Code.

5.3 Information to be Provided to Hoag. The City shall mail to Hoag a copy of the staff report and related exhibits concerning Agreement performance a minimum of ten (10) days before the Annual Review.

5.4 Mitigation Review. The annual review shall include a detailed report of compliance with the various conditions and mitigation measures contained within the mitigation monitoring plan. The report shall include an analysis of the view impacts of buildings constructed in comparison to the anticipated views as depicted in the EIR. For the five year monitoring period imposed by the Department of Fish and Game Streambed Alteration Agreement entered into between the Department of Fish and Game and Hoag, the annual review shall also assess the success of any off-site wetlands mitigation. Five years after the completion of the Department of Fish and Game monitoring period, Hoag shall submit a final report assessing the success of the off-site wetlands mitigation in its annual review. If the survival and cover requirements set forth in the Streambed Alteration Agreement have not been met, Hoag shall be responsible for replacement planting to achieve these requirements. Hoag shall be found in compliance with this Agreement unless the City Council determines, based upon the

evidence presented at the Annual Review, that Hoag has not complied with all mitigation measures and conditions including those imposed as a result of subsequent environmental analysis, applicable to the grading of, or building on, the Property as of the date of the Annual Review.

5.5 Review Letter. If Hoag is found to be in compliance with the Agreement after the Annual Review, the City shall issue, within ten (10) days of Hoag's written request, a letter to Hoag stating that the Agreement remains in effect and Hoag is not in Default.

5.6 Estoppel Certificate. Either Party may at any time deliver written Notice to the other Party requesting an estoppel certificate (the "Estoppel Certificate") stating:

(a) The Agreement is in full force and effect and is a binding obligation of the Parties.

(b) The Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments.

(c) No Default in the performance of the requesting Party's obligations under the Agreement exists or, if a Default does exist, the nature and amount of any Default.

A Party receiving a request for an Estoppel Certificate shall provide a signed certificate to the requesting Party within thirty (30) days after receipt of the request. The Planning Director may sign Estoppel Certificates on behalf of the city. An Estoppel Certificate may be relied on by assignees and Mortgagees. The Estoppel Certificate shall be substantially in the same form as Exhibit "D."

5.7 Failure to Conduct Annual Review. The City's failure to conduct an Annual Review shall not constitute or be asserted by the City as Hoag's Default.

6. GENERAL PROVISIONS.

6.1 Effective Date. This Agreement and the obligations of the Parties shall be effective as of the Effective Date. However, this Agreement shall bind the Parties as of the Approval Date, subject only to the Adopting Ordinance becoming effective pursuant to California law.

6.2 Applicability to Coastal Zone. This Agreement shall not be applicable to those portions of the Property located within the Coastal Zone as defined by the California Coastal Act (Division

20, California Public Resources Code, beginning with Section 30000) until either (1) the required local coastal program for the Property has been certified by the California Coastal Commission or (2) the California Coastal Commission has approved this Agreement. This Subsection is intended solely to comply with the provisions of California Government Code Section 65869 and shall be of no force or effect if Section 65869 is repealed.

6.3 Term of Agreement. The term of this Agreement (the "Term") shall begin on the Effective Date and continue for twenty-five (25) years unless otherwise terminated or modified pursuant to this Agreement. Any modifications to this Agreement prior to effective certification of the City's Local Coastal Program (LCP), are subject to the review and approval of the Coastal Commission or its successor agency.

6.4 Assignment. Hoag has the absolute right to assign (see Section 2.5) its rights and/or delegate its obligations under this Agreement as part of an assignment of all or a portion of the Property. Any assignment shall be subject to the provisions of this Agreement. As long as Hoag owns any part of the Property, Hoag may assign the benefits of this Agreement without delegating the obligations for the portion of the Property assigned. If that occurs, however, the benefits assigned shall remain subject to the performance by Hoag of the corresponding obligations.

Where an assignment includes the delegation of both the benefits and the corresponding obligations, those obligations become solely the obligations of the assignee. If an assignee is in Default, then as to Hoag or any assignees not in Default, the Default shall not constitute their Default, give grounds for termination of their rights under this Agreement or be a basis for an enforcement action against them.

6.5 Amendment of Agreement.

(a) Subject to the provisions of Subsection (b), and subject to approval of the Coastal Commission or its successor agency prior to effective certification of the City's Local Coastal Program (LCP), this Agreement may be amended from time to time by the mutual consent of the Parties, or their successors in interest, but only in the manner provided by the Government Code and this Agreement. After any amendment, the term "Agreement" shall refer to the amended Agreement.

(b) The City Council shall not approve, and Hoag shall not request, any amendment to the provisions of the Master Plan or this Agreement that would increase the maximum

permitted gross floor area or the maximum permitted building height (within any lettered building envelope) above that established by the Master Plan as of the Effective Date of this Agreement. This Subsection shall prevail over any conflicting ordinance, resolution, policy or plan adopted by the City Council.

6.6 Enforcement. This Agreement is enforceable by each of the Parties and their respective successors and assigns.

6.7 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the twenty-five (25) year term;

(b) Entry, after all appeals have been exhausted, of a final judgment or issuance of a final order directing the City to set aside, withdraw, or abrogate the City's approval of this Agreement or any material part of the Project; or,

(c) The effective date of a Party's election to terminate the Agreement as provided in Section 9.3 of this Agreement.

6.8 Hoag shall defend, indemnify and hold harmless the City and its officers and employees with respect to any claim, loss or damage in any way related to the grading, excavation or stabilization of the slopes adjacent to the view parks by Hoag or its employees, agents contractors or representatives. This Section is not intended to impose liability on Hoag for the acts of persons other than Hoag or its agents, representatives or contractors.

6.9 Hoag shall enter into an agreement with City to accept ownership of, and responsibility for maintenance of, the existing methane gas venting flare and any device for collecting gas that is subsequently installed on the Property pursuant to conditions or mitigation measures imposed in conjunction with the Master Plan approval or subsequent environmental analysis.

7. CONFLICTS OF LAW.

7.1 Conflict with State and Federal Laws and Regulations. Where state or federal laws or regulations prevent compliance with one or more provisions of this Agreement, those provisions shall be modified, through revision or suspension, to the

extent necessary to comply with such state or federal laws or regulations and the modified Agreement shall remain in effect, subject to the following:

(a) the City shall not request modification of this Agreement pursuant to this provision unless and until the City Council makes a finding that such modification is required (as opposed to permitted) by state and federal laws or regulations;

(b) the modifications must be limited to those required (as opposed to permitted) by the state or federal laws;

(c) the modified Agreement must be consistent with the state or federal laws or regulations which required modification or suspension;

(d) the intended material benefits of this Agreement must still be received by each of the Parties after modification;

(e) neither the modification nor any applicable local, state, or federal laws or regulations, may render the modified Agreement impractical to enforce; and

(f) Hoag consents in writing to the modification.

(g) Any modifications, prior to effective certification of the City's Local Coastal Program (LCP) are subject to approval of the Coastal Commission or its successor agency.

Hoag shall have the right to seek judicial review of any proposed modification to ensure compliance with this Section.

7.2 Effect of Termination. If this Agreement is terminated as a result of changes in state or federal law, Hoag remains obligated to comply with the provisions of Section 8.2(a) and (b), unless Hoag has completed construction of less than twenty-five percent (25%) of the maximum permitted development.

8. **PUBLIC BENEFITS/EXACTIONS.**

8.1 Public Benefits. City and Hoag agree that this Agreement confers a substantial public benefit by enabling Hoag to construct facilities most appropriate to changes in medical technology and thereby better satisfy the health care needs of residents within its service area. In addition, the Master

Plan and this Agreement confer benefits on the public and nearby residents by imposing long term restrictions on the height, amount and location of development as well as the public improvements described in Section 8.2.

8.2 Exactions. Hoag shall, as a condition to the right to develop, do the following:

(a) Prior to commencement of development, irrevocably offer to dedicate and grade the proposed linear and consolidated view park identified in Figure 3.2.1 of Volume 1 of the EIR. The City shall accept the offer of dedication within sixty (60) days after the initial grading permit has been finalled by the City. The first stage of development shall include grading of the public linear and consolidated viewpark identified in Figure 3.2.1. of Volume I of the EIR. Hoag shall grade and excavate the slope adjacent to the proposed .28 (28/100) acre consolidated public view park and .52 (52/100) acre public linear view park in a way that ensures stability of the park and adjacent slopes. The grade (between the bicycle path and edge of slope) of the view parks shall be the minimum necessary to insure adequate drainage. The improvement for the linear and consolidated public parks shall be completed within three (3) years after the offer of dedication has been accepted by the City. The City shall ensure that adequate erosion control measures are implemented prior to construction.

(b) Subsequent to the approval of this Agreement by the Coastal Commission and the expiration of any statute of limitation for filing a legal challenge to this Agreement, the Master Plan, or the EIR, Hoag shall deposit Two Hundred and Fifty Thousand Dollars ($250,000.00) in an account, and at a financial institution, acceptable to City. The account shall be in the name of the City provided, however, Hoag shall have the right to access the funds in the event, but only to the extent that, Hoag constructs or installs the improvements described in (i) or (ii). Funds in the account shall be applied to the following projects (in order of priority upon notice to proceed served by City on Hoag):

(i) The construction of a sidewalk and installation of landscaping in the CalTrans right-of-way along the west side of Newport Boulevard southerly of Hospital Road;

(ii) The construction of facilities necessary to bring reclaimed water to West Newport and/or the Property;

Any funds remaining in the account after completion of the projects described in (i) and (ii) shall be used by the City to fund, in whole or in part, a public improvement in the vicinity of the property.

(c) City and Hoag shall conduct a study of possible future improvements in and around the easterly end of Semeniuk Slough that would, among other things, improve the appearance of the area and, potentially, serve as a component to improve public access from residential areas in West Newport to park land and public recreation facilities proposed in conjunction with development of the West Newport Oil Company property. The study shall analyze, among other things, the type of improvements that would improve the area without adversely impacting wetlands, the possible location of pedestrian trails and the potential for those trials to improve access to proposed recreational facilities, phasing of the improvements, potential public benefits, and the cost of the improvements. As a part of the study, Hoag and City shall meet and confer with resource agencies relative to the type and extent of improvements that may be permitted in or adjacent to wetlands. Hoag shall fund the study and participate in the cost of constructing any improvements in the area that the City Council determines are feasible and in the public interest, provided, however, the financial contribution of Hoag, including the costs of the study and improvements, shall not exceed Two Hundred Thousand Dollars ($200,000.00).

(d) Hoag's obligations pursuant to Subsection (c) are contingent on Coastal Commission approval of the Master Plan and attached as Exhibit C to this Agreement with no significant reduction in entitlement from that authorized in the Master Plan. Hoag's obligations pursuant to Subsection (b) shall be reduced through good faith negotiations in the event the Coastal Commission reduces entitlement by ten percent (10%) or more from that authorized in the Master Plan.

9. **DEFAULT, REMEDIES AND TERMINATION.**

9.1 General Provisions. In the event of a Default (see Section 2.11), the Party alleging a Default shall give the other Party

a written Notice of Default. The Notice of Default shall specify the nature of the alleged Default, and a reasonable manner and sufficient period of time (not less than thirty (30) days) in which the Default must be cured (the "Cure Period"). During the Cure Period, the Party charged shall not be considered in Default for the purposes of termination of the Agreement or institution of legal proceedings. If the alleged Default is cured within the Cure Period, then a Default shall be deemed not to exist.

9.2 Option to Institute Legal Proceedings or to Terminate. If an alleged Default is not cured within the Cure Period, the noticing Party must give the defaulting Party a Notice of intent to terminate the Agreement. Within thirty (30) days after giving of the Notice, the City Council shall hold a public hearing in the manner set forth in Government Code Sections 65865,65867, and 65868, as amended, to consider and review the matter.

9.3 Notice of Termination. After considering the evidence presented to the City Council, the Party alleging the Default, at its option, may give written Notice of termination of the Agreement to the other Party and the Agreement shall be terminated immediately upon giving the Notice. A termination shall be valid only if good cause exists and clear and convincing evidence was presented to the City Council to establish the existence of a Default. The findings of the City Council as to the existence of a Default shall have no weight in any legal proceeding brought to determine the existence of a Default. The validity of any termination may be challenged pursuant to Section 11.16, in which case the court must render an independent judgment, on the basis of clear and convincing evidence, as to the existence of good cause for termination. Termination may result only from a material Default of a material provision of this Agreement.

9.4 Waiver. Failure or delay in giving Notice of Default shall not waive a Party's right to give future Notice of the same or any other Default.

9.5 Default by Hoag. If the City alleges a Hoag Default, the City shall conduct a hearing utilizing the Annual Review procedures required by this Agreement before the City may commence legal proceedings to terminate this Agreement.

9.6 Default by the City. If Hoag alleges a City Default, Hoag, without limiting any of its other remedies, shall not be

obligated to proceed with or complete the Project or any phase of the Project, nor to perform any further obligations under the Agreement. Upon a City Default, any resulting delays in Hoag's performance shall neither be Hoag's Default nor constitute grounds for termination or cancellation of the Agreement by the City.

10.0 **ENCUMBRANCES AND RELEASES ON PROPERTY.**

10.1 Discretion to Encumber. Hoag may encumber all or any portion of the Property in any manner. The City acknowledges that lenders providing financing may require technical modifications to the Agreement which do not materially alter the intent of the Parties. The City agrees to meet, upon request, with Hoag and/or lenders to negotiate in good faith any lender request for modification. The City agrees to not withhold unreasonably its consent to such modification. Any such modification, prior to effective certification of the City's Local Coastal Program (LCP), is subject to the review and approval of the Executive Director of the Coastal Commission or its successor agency.

10.2 Entitlement to Written Notice of Default. Any Mortgagee and its successors and assigns, upon written request to the City, shall be entitled to receive from the City written Notice of any Hoag Default at the same time Hoag is provided with Notice pursuant to Section 9.1.

11.0 **MISCELLANEOUS PROVISIONS.**

11.1 Notices. All Notices (see Section 2.26) shall be written and delivered by personal delivery (including Federal Express and other commercial express delivery services providing acknowledgments or receipt), registered, certified, or express mail, or telegram to the addresses set forth below. Receipt shall be deemed complete as follows:

(a) For personal delivery, upon actual receipt;

(b) For registered, certified, or express mail, upon the delivery date or attempted delivery date as shown on the return receipt; and

(c) For telegram, upon the transmission of the telegram.

Notices shall be addressed as follows:

To the City: City Clerk
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92660
Attention: City Attorney
Attention: City Manager

To Hoag: Hoag Memorial Hospital Presbyterian
301 Newport Boulevard
Newport Beach, CA 92663
Attention: President

With a copy to:

Tim Paone
Paone, Callahan, McHolm & Winton
19100 Von Karman, 8th Floor
P.O. Box 19613
Irvine, CA 92713-9613

The addresses to which Notices shall be sent may be changed by giving Notice of a new address.

11.2 Enforced Delay;Extension of Time of Performance. Neither Party shall be deemed to be in Default where delays or non-performance are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, oil spills, casualties, acts of nature, unavailability of materials, governmental restrictions imposed or mandated by governmental entities, suspension of rights in accordance with the existence of unforeseen circumstances, litigation, or similar bases for excused performance. If written Notice of such delay is given to the other Party within thirty (30) days after such delay begins an extension of time for performance shall be granted in writing for the period of the delay, or longer as may be mutually agreed upon. In no event shall the term of this Agreement be extended as a result of the application of this Subsection.

11.3 Severability. If any material part of the Agreement is found by a court to be invalid, void, or illegal, the Parties shall modify the Agreement to implement the original intent of the Parties. These steps may include the waiver by either of the Parties of their right under the unenforceable provision. If, however, the Agreement objectively cannot be modified to implement the original intent of the Parties and the Party substantially benefitted by the material provision does not waive its rights under the unenforceable provision, the entire

Agreement shall become void. For purposes of this Section, and without excluding the possible materiality of other provisions of this Agreement, all provisions of Sections 3, 4 and 8 are deemed "material."

11.4 Entire Agreement. This Agreement constitutes the entire understanding and Agreement of the Parties regarding the subject matter of this Agreement. This Agreement supersedes all negotiations and previous agreements between the Parties regarding that subject matter.

11.5 Waivers. All waivers of the provisions of this Agreement must be in writing and signed by the Party making the waiver and, prior to effective certification of the City's Local Coastal Program (LCP), are subject to approval of the Coastal Commission or its successor agency.

11.6 Incorporation of Recitals. The Recitals set forth in Section 1 are part of this Agreement.

11.7 Covenant of Good Faith and Fair Dealing. Neither Party shall do anything which shall have the effect of harming or injuring the right of the other Party to receive the benefits of this Agreement.

11.8 Further Actions and Instruments. Upon the request of either Party, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

11.9 Successors and Assigns. Subject to Section 6.3 above, the burdens of this Agreement shall be binding upon, and the benefits of the Agreement inure to, all successors-in-interest and assigns of the Parties.

11.10 Construction of Agreement. All language in all parts of this Agreement shall be construed as a whole and given its fair meaning. The captions of the paragraphs and subparagraphs are for convenience only and shall not be considered or referred to in resolving questions of construction. This Agreement shall be governed by the laws of the State of California. This Agreement is not intended to impermissibly contract away the

legislative and governmental functions of the City, and in particular, the City's police powers or to surrender or abrogate the city's governmental powers over the Property.

11.11 Authority to Execute. The person executing this Agreement on behalf of Hoag warrants and represents that he/she has the authority to do so and the authority to bind Hoag to the performance of Hoag's obligations under this Agreement.

11.12 Consent. Any consent required by the Parties in carrying out the terms of this Agreement shall not unreasonably be withheld.

11.13 Effect on Title. This Agreement shall not continue as an encumbrance against any portion of the Property as to which this Agreement has terminated.

11.14 Recording. The City Clerk shall cause a copy of this Agreement to be executed by the City and recorded in the Official Records of Orange County no later than ten (10) days after the Effective Date. The recordation of this Agreement is deemed a ministerial act and the failure of the City to record the Agreement as required by this Section and Government Code Section 65868.5 does not make the Agreement void or ineffective.

11.15 Institution of Legal Action. In addition to any other rights or remedies, either Party may institute legal action to cure, correct, or remedy any Default, to enforce any provision of this Agreement, to enjoin any threatened or attempted violation of this Agreement, to recover damages for any Default, or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Superior Court of the County of Orange, State of California, or in the Federal District Court in the Central District of California.

11.16 Attorneys' Fees. In any arbitration, quasi-judicial, administrative, or judicial proceeding between the Parties initiated with respect to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all costs, expenses, and disbursements in connection with such action.

Date: 2-23-94, 1994

CITY OF NEWPORT BEACH

By: Clarence Turner
Clarence Turner, Mayor

Date: March 9, 1994

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

By: Albert J. Auer
Albert J. Auer
Chairman of the Board

wb\hoagda4.fnl
1/21/94

Exhibit A

LEGAL DESCRIPTION

The subject property is the following real property in the City of Newport Beach, County of Orange, State of California:

Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

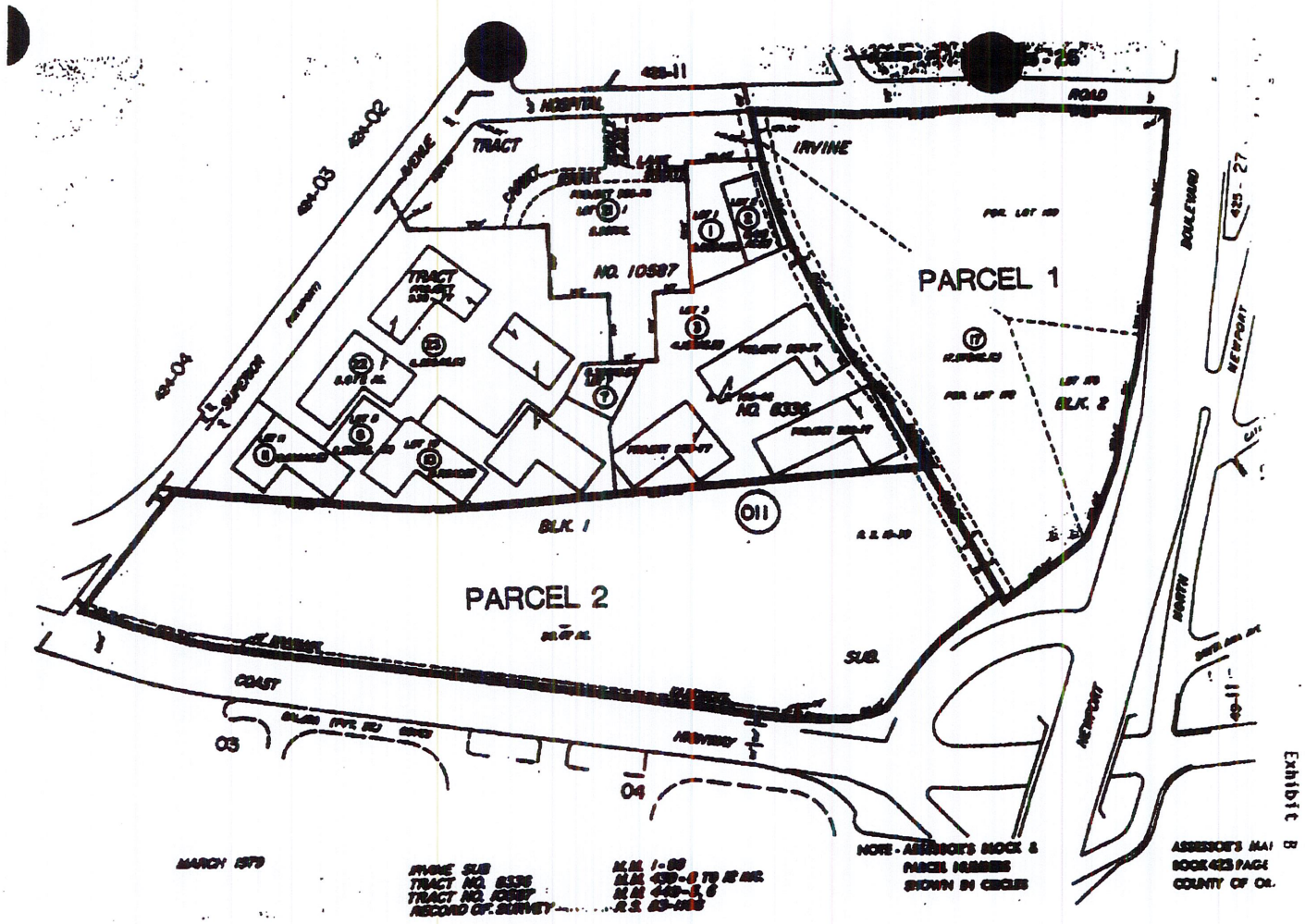

PARCEL 1
PARCEL 2
BLK. 1
BLK. 2
NO. 10587
NO. 8336
TRACT
IRVINE
HOSPITAL
ROAD
BOULEVARD
NEWPORT
NORTH
COAST
SUB.
011
03
04
MARCH 1979
IRVINE SUB
TRACT NO. 8336
TRACT NO. 10587
RECORD OF SURVEY
NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES
ASSESSOR'S MAP
BOOK 423 PAGE
COUNTY OF OR.

Exhibit B

Exhibit C

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
February 20, 1992

Adopted by the City Council
City of Newport Beach
Ordinance No. 92-3
May 26, 1992

TABLE OF CONTENTS

		Page Number
I.	Introduction	1
II.	General Notes	2
III.	Definitions	4
IV.	Development Plan	6
V.	District Regulations	11
VI.	Sign Program	20
VII.	Parking Program	22
VIII.	Landscape Regulations	24
IX.	Site Plan Review	27

EXHIBITS

		Page Number
1.	Planned Community Development Plan	7
2.	Internal Circulation	9
3.	Development Criteria	15

TABLES

1.	Statistical Analysis	10
2.	Parking Requirements	23

I. INTRODUCTION

Background

The Hoag Memorial Hospital Presbyterian Planned Community District in the City of Newport Beach has been developed in accordance with the Newport Beach General Plan. The purpose of this Planned Community District is to provide a method whereby property may be classified and developed for hospital-related uses. The specifications of this District are intended to provide land use and development standards supportive of the proposed use while ensuring compliance with the intent of all applicable regulatory codes.

The Planned Community District includes district regulations and a development plan for both the upper and lower campuses of Hoag Hospital. In general, over the long term, the upper campus will become oriented primarily towards emergency, acute and critical care (predominantly inpatient) uses and the lower campus will be developed with predominantly outpatient uses, residential care and support services.

Whenever the regulations contained in the Planned Community text conflict with the regulations of the Newport Beach Municipal Code, the regulations contained in the Planned Community text shall take precedence. The Municipal Code shall regulate this development when such regulations are not provided within these district regulations. All development within the Planned Community boundaries shall comply with all provisions of the Uniform Building Code and other governing building codes.

II. GENERAL NOTES

1. Water service to the Planned Community District will be provided by the City of Newport Beach.

2. Development of the subject property will be undertaken in accordance with the flood protection policies of the City of Newport Beach.

3. All development of the site is subject to the provisions of the City Council Policies K-5 and K-6 regarding archaeological and paleontological resources.

4. Except as otherwise stated in this text, the requirements of the Newport Beach Zoning Ordinance shall apply. The contents of this text notwithstanding, all construction within the boundaries of this Planned Community District shall comply with all provisions of the Uniform Building Code, other various codes related thereto and local amendments.

5. All buildings shall meet Title 24 requirements. Design of buildings shall take into account the location of building air intake to maximize ventilation efficiency, the incorporation of natural ventilation, and implementation of energy conserving heating and lighting systems.

6. Any fire equipment and access shall be approved by the Newport Beach Fire Department.

7. New mechanical appurtenances on building rooftops and utility vaults, excluding communications devices, on the upper campus shall be screened from view in a manner compatible with building materials. Rooftop mechanical appurtenances or utility vaults shall be screened on the lower campus. Noise shall not exceed 55 dBA at all property lines. No new mechanical appurtenances may exceed the building height limitations as defined in these district regulations.

8. Grading and erosion control shall be carried out in accordance with the provisions of the City of Newport Beach Grading Ordinance and shall be subject to permits issued by the Building and Planning Departments.

9. Sewage disposal facilities within the Planned Community will be provided by Orange County Sanitation District No. 5. Prior to issuance of any building permits it shall be demonstrated to the satisfaction of the Planning Department that adequate sewer facilities will be available. Prior to the occupancy of any structure it shall be further demonstrated that adequate sewer facilities exist.

10. Mass grading and grading by development phases shall be allowed provided that landscaping of exposed slopes shall be installed within 30 days of the completion of grading.

III. DEFINITIONS

Building Elevation:

1. a vertical distance of a building above or below a fixed reference level, i.e., MSL (mean sea level).

2. a flat scale drawing of the front, rear, or side of a building.

Building Envelope: the volume in which a building may be built as circumscribed by setback lines and maximum allowable building heights.

Building Height: the vertical distance measured from the finished grade to the highest point of the structure. At all points, the height measurement shall run with the slope of the land.

Emergency Room: a service and facility designated to provide acute emergency medical services for possible life threatening situations.

Fast Aid: low acuity medical treatment for non-life threatening situations.

General Plan: the General Plan of the City of Newport Beach and all elements thereof.

Grade: for the purpose of determining building height:

1. Finished - the ground level elevation which exists after any grading or other site preparation related to, or to be incorporated into, a proposed new development or alteration of existing developments. (Grades may be worked into buildings to allow for subterranean parking.)

2. Natural - the elevation of the ground surface in its natural state before man-made alterations.

3. Existing - the current elevation of ground surface.

Inpatient Uses: hospital patient services which require overnight stay.

Landscape Area: the landscape area shall include on-site walks, plazas, water, rooftop

landscaping and all other areas not devoted to building footprints or vehicular parking and drive surfaces.

Mean Sea Level: a reference or datum mark measuring land elevation using the average level of the ocean between high and low tides.

Outpatient Uses: hospital patient services which do not require overnight stay.

Residential Care: medically-oriented residential units that do not require the acuity level generally associated with inpatient services but require overnight stays.

Site Area: for the purpose of determining development area:

1. Gross - parcel area prior to dedications.

2. Net - parcel area after dedications.

Special Landscaped Street: West Coast Highway is designated as a special landscaped street, containing special landscape requirements.

Streets: reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way.

IV. DEVELOPMENT PLAN

Project Characteristics

The upper campus of Hoag Hospital is located on a triangular site of approximately 17.57 acres and is bounded by Newport Boulevard to the east, Hospital Road to the north and existing residential developments (the Versailles and Villa Balboa/Seafaire condominiums) to the west. The lower campus is located north of West Coast Highway, south of the Versailles and Villa Balboa/Seafaire Condominiums, west of Newport Boulevard and east of Superior Avenue. It contains approximately 20.41 acres and adjoins the upper campus at its eastern boundary. The upper campus is, and will continue to be, oriented towards inpatient functions, while the lower campus will be developed with predominantly outpatient, residential care and support services.

Development Plan

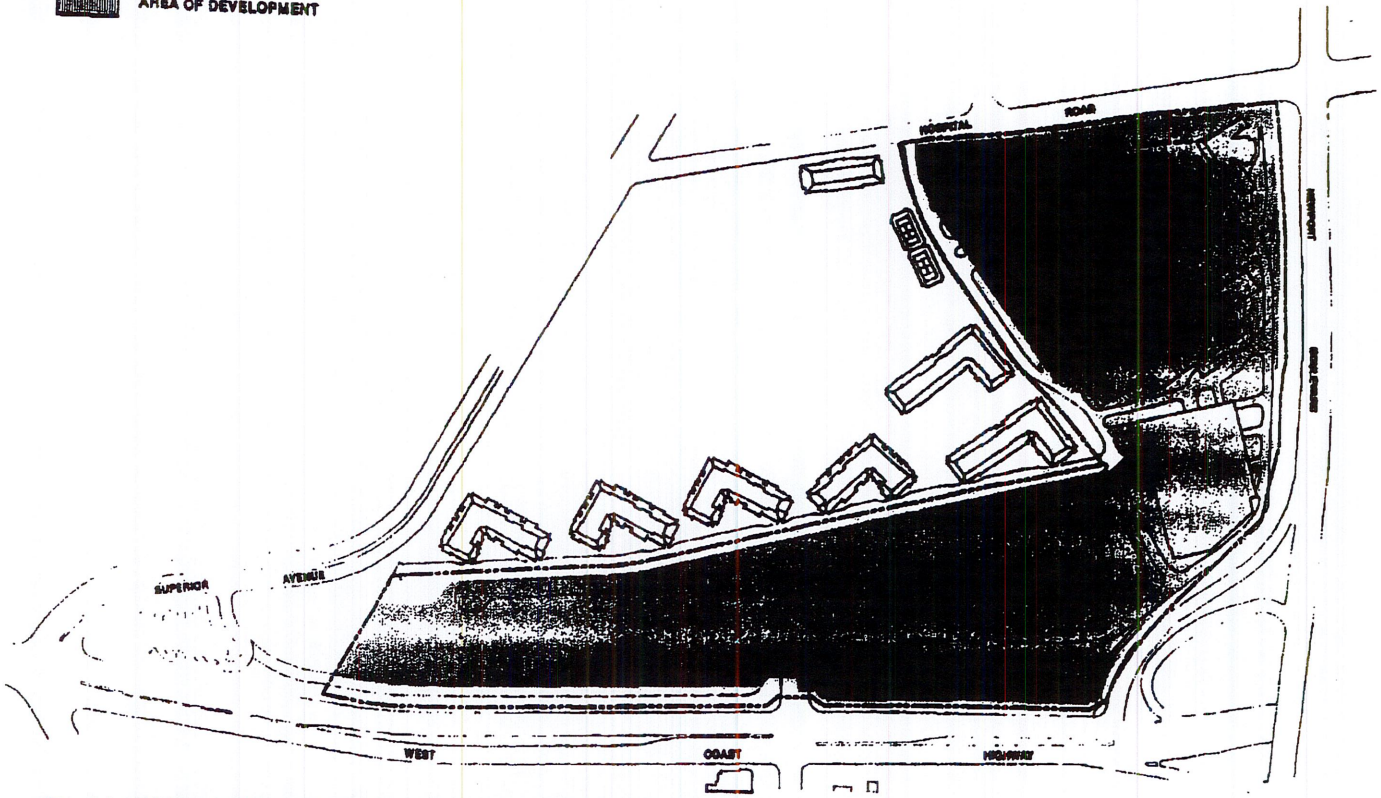
The Planned Community Development Plan for Hoag Hospital is shown on Exhibit 1. From 1990 to 2015, many of the existing buildings shown on the Development Plan for the upper campus may be redeveloped in order to functionally respond to the needs of the Hospital and conform to the requirements of State agencies.

The Development Plan includes a 0.8 acre view park adjacent to the bike trail between the lower campus and the Villa Balboa/Seafaire Condominiums. This view park includes a twenty-foot wide linear park area adjacent to the bike path (approximately 0.5 acres) and a consolidated view park at the westerly edge of the property (approximately 0.3 acres). A bike trail connection is also provided between the existing bike trails at the northern and southern boundaries of the lower campus. Access to the lower campus will be from West Coast Highway and Superior Avenue, as well as from Hospital Road, via the upper campus. Exhibit 2 shows the internal circulation for Hoag Hospital.

The Development Plan does not specify building locations or specific hospital related uses. Instead, a developable area is identified based on the regulations established for this Planned Community District. Because of the dynamic nature of the health care industry which leads to rapid technological changes that effect how health care services are delivered, the Development Plan for Hoag Hospital sets development caps as a function of allowable densities established by the Newport Beach General Plan.

LEGEND

AREA OF DEVELOPMENT



PLANNED COMMUNITY DEVELOPMENT PLAN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

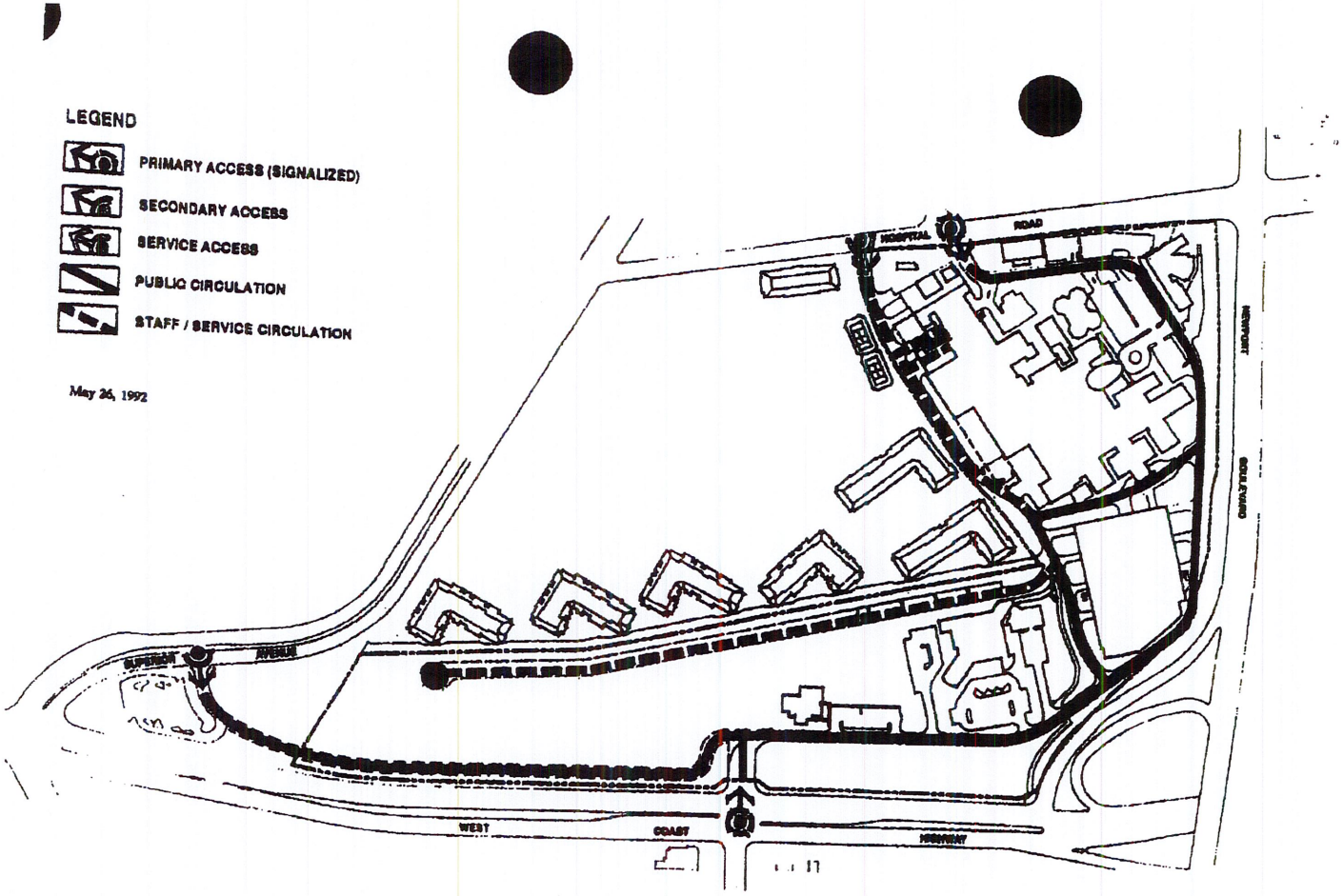
May 26, 1992

EXHIBIT 1

The statistical analysis (Table 1) provides a summary of a potential development profile for Hoag Hospital. In order to provide flexibility for the hospital to respond to changes in the health care industry, while at the same time ensuring that trip generation restrictions are adhered to and the overall development cap is not exceeded, this Development Plan allows Hoag Hospital to adjust the development profile provided in the statistical analysis. For example, if changing hospital needs necessitate the development of additional outpatient uses, this development would be allowed, consistent with the Development Plan, as long as a corresponding adjustment in square footage and trip generation for another use were to occur.

This Development Plan allows Hoag Hospital to adjust the development profile provided in the statistical analysis (Table 1) as long as the development limit (i.e., square feet) or the trip generation limit for the peak period (as identified in the Environmental Impact Report) established within each phase of development is not exceeded.

Adjustments to the Development Plan may be allowed if the total square footage or trip generation allowed in the current phase of development is exceeded, if the total development or trip generation allowed under the Development Plan is not exceeded.



VEHICULAR ACCESS

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 2

Table 1
STATISTICAL ANALYSIS[1]

Use	Square Feet
Lower Campus	
Existing:	
Outpatient Services (Hoag Cancer Center)	65,000
Child Care	7,800
Subtotal:	72,800
Phase I:	
Outpatient Services	115,000
Support Service	55,000
Administrative	30,000
Subtotal:	200,000
Phases II & III:	
Subtotal:	305,089
Total Lower Campus	577,889
Upper Campus	
Existing[2]:	480,000
Phase I:	
Outpatient Services	25,000
Inpatient	115,000
Subtotal:	140,000
Phases II & III:	145,349
Total Upper Campus	765,349
GRAND TOTAL	1,343,238[3]

[1] Full development of the upper and lower campuses is anticipated to occur over an approximate 20-year period and will likely occur in three, seven-year phases.

[2] Up to 50% of the existing upper campus may be redeveloped by master plan buildout.

[3] Based on development allowed under the General Plan at a floor area ratio to gross site area of .65 for the lower campus and 1.0 for the upper campus. Building Bulk limit for the lower campus is 0.90 for all structures which includes above grade covered parking.

V. DISTRICT REGULATIONS

The following regulations apply to all development within the Hoag Hospital Planned Community. The individual uses listed under the five permitted use categories is not an exhaustive list. Other hospital-related uses which fit into the five permitted use categories are allowed by definition. Prior to the issuance of a building permit, plot plans, elevations and any other such documents deemed necessary by the Planning, Building and Public Works Departments shall be submitted for the review and approval of the Planning, Building, and Public Works Departments.

A. Permitted Uses

1. Lower Campus

a) Hospital facilities, including, but not limited to:

i. Outpatient services:

- Antepartum Testing
- Cancer Center
- Skilled Nursing
- Rehabilitation
- Conditioning
- Surgery Center
- Clinical Center
- Day Hospital
- Back and Neck Center
- Biofeedback
- Breast Imaging Center
- CT Scan
- Dialysis
- EEG/EMG/NICE Laboratory
- First Aid Center
- Fertility Services
- G.I. Laboratory
- Laboratory
- Magnetic Resonance Imaging
- Nuclear Medicine
- Occupational Therapy
- Pediatrics
- Pharmacy
- Physical Therapy
- Pulmonary Services

- Radiation Therapy
- Radiology
- Respiratory Therapy
- Sleep Disorder Center
- Speech Therapy
- Ultrasound

ii. Administration:
- Admitting
- Auxiliary Office
- Business Offices
- Information
- Registration
- Patient Relations
- Social Services

iii. Support Services:
- Employee Child Care
- Health Education
- Power/Mechanical/Auxiliary Support and Storage
- Food Services
- Cashier
- Chapel/Chaplaincy Service
- Conference Center
- Dietitian
- Gift Shop
- Laboratory
- Medical Library
- Medical Records
- Pharmacy
- Engineering/Maintenance
- Shipping/Receiving
- Microwave, Satellite, and Other Communication Facilities

iv. Residential Care:
- Substance Abuse
- Mental Health Services
- Extended Care
- Hospice Care
- Self or Minimal Care
- Congregate Care

v. Medical/Support Offices

b) Methane gas flare burner, collection wells and associated system components.

c) Accessory uses normally incidental to hospital development.

d) Temporary structures and uses, including modular buildings.

2. Upper Campus

a) Hospital facilities, including, but not limited to:

i) Inpatient uses:
- Critical Care
- Emergency Care Unit
- Birth Suites
- Cardiology
- Cardiac Care Unit
- Intensive Care Unit
- Mother/Baby Unit
- Surgery/Waiting Rooms
- Radiology
- Laboratory
- Pharmacy

ii) Outpatient services as allowed on the lower campus

iii) Administrative uses as allowed on the lower campus

iv) Support services as allowed on the lower campus

v) Residential care as allowed on the lower campus

vi) Heliport (subject to Conditional Use Permit)

b) Accessory uses normally incidental to hospital development.

c) Temporary structures and uses, including modular buildings.

B. Prohibited Uses

1. Lower Campus

a) Emergency Room

b) Heliport

C. Maximum Building Height

The maximum building height of all buildings shall be in accordance with Exhibit 3 which established the following height zones:

1. Upper Campus Tower Zone - maximum building height not to exceed the existing tower (235 feet above mean sea level).

2. Upper Campus Midrise Zone - maximum building height not to exceed 140 feet above mean sea level.

3. Upper Campus Parking zone - maximum building height not to exceed 80 feet above mean sea level, exclusive of elevator tower.

4. Lower Campus Zone, Sub-Areas A, B, C, F and G - within each sub-area no building shall exceed the height of the existing slope and conform to the range of maximum building heights indicated on the development criteria Exhibit 3.

5. Lower Campus Zone, Sub-Areas D and E - maximum building height shall not exceed the height of the existing Hoag Cancer Center (57.5 feet above mean sea level).

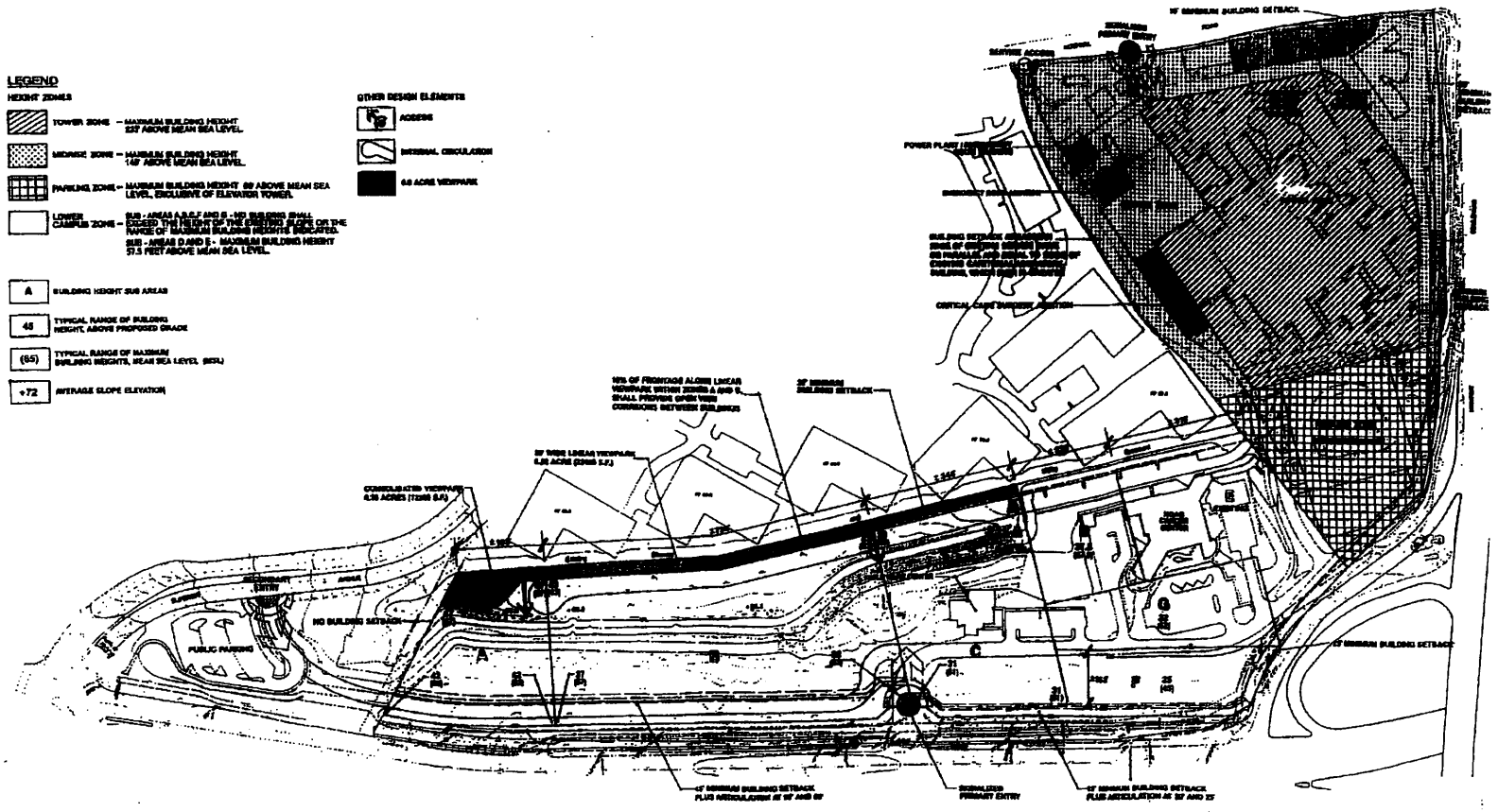
D. Setbacks

Setbacks for the Hoag Hospital Planned Community are shown on Exhibit 3.

1. Setbacks will be provided along property boundaries adjacent to the Villa Balboa / Seafaire Condominiums, as defined below:

a) Upper campus western boundary setback shall be the prolongation of the westerly edge of the existing cafeteria/laboratory building to the points of intersection with the easterly curb line of the existing service drive, then continuing along said line of the existing service drive.

b) Lower campus northern boundary, all of which will have a 20' minimum building setback.



DEVELOPMENT CRITERIA

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 3

May 26, 1992

2. The setback on West Coast Highway easterly of the hospital entry signal shall be 15 feet.

In addition, vertical articulation shall be required for buildings easterly of the signal within 150 feet of the West Coast Highway frontage, as follows:

1st Floor: Up to 18 feet in height no additional articulation is required. If the 1st floor exceeds 18 feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor (up to 32' in height): A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of 20 feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of 25 feet.

The setback on West Coast Highway westerly of the hospital entry signal shall be 45 feet.

In addition, vertical articulation shall be required for buildings westerly of the signal for buildings within 150 feet of the West Coast Highway frontage, as follows:

1st Floor: Up to 18 feet in height no additional articulation is required. If the 1st floor exceeds 18 feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor (up to 32' in height): A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of 55 feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of 65 feet.

In order to avoid any future structures in this area (within 150 feet of West Coast Highway) from presenting an unacceptable linear mass, no single structure shall be greater than 250 linear feet in width. Additionally, 20% of the linear frontage within 150 feet of West Coast Highway shall be open and unoccupied by buildings.

10% of the linear length of height zones A and B as viewed from the existing bicycle/pedestrian trail, exclusive of that area adjacent to the consolidated portion of the view park, shall be maintained as view corridors between buildings.

These requirements may be altered for individual buildings, if requested by the hospital, through the site plan review process defined in Section IX.

3. There will be no building setbacks along the boundary with CalTrans east property at Superior Avenue and West Coast Highway.

4. A 20 foot setback from property line shall be provided along Newport Boulevard from Hospital Road to a point 600 feet south; a 25 foot setback from property line shall be provided along the remainder of Newport Boulevard and along the Newport Boulevard/West Coast Highway Interchange.

5. A ten (10) foot building setback from the property line shall be provided along Hospital Road.

E. Lighting

The lighting systems shall be designed and maintained in such a manner as to conceal the light source and to minimize light spillage and glare to the adjacent residential uses. The plans shall be prepared and signed by a licensed Electrical Engineer.

F. Roof Treatment

Prior to the issuance of building permits, the project sponsor shall submit plans which illustrate that major mechanical equipment will not be located on the roof of any structure on the Lower Campus. Rather, such buildings will have clean rooftops. Minor rooftop equipment necessary for operating purposes will comply with all building height criteria, and shall be concealed and screened to blend into the building roof using materials compatible with roofing materials.

G. Signs

All signs shall be as specified under the Hoag Hospital Sign Program, Part VI.

H. Parking

All parking shall be as specified in Part VII, Hoag Hospital Parking Regulations.

I. Landscape

All landscaping shall be as specified in the Hoag Hospital Landscape Regulations, Part VIII.

J. Mechanical and Trash Enclosures

Prior to issuance of a building permit, the project sponsor shall submit plans to the City Planning Department which illustrate that all mechanical equipment and trash areas will be screened from public streets, alleys and adjoining properties.

K. Internal Circulation

1. Prior to the issuance of a grading permit for any of the proposed Master Plan facilities, the project sponsor shall implement a pilot program that controls usage of the Upper and Lower Campus service roads during non-working hours. Such controls may include requesting that the majority of vendors deliver products (other than emergency products) during working hours (i.e. 7:00 a.m. to 8:00 p.m.), signage to restrict use of the road by Hospital employees, physicians, patients and visitors during non-working hours, and other methods to restrict use. The Hospital will also request that vendors not deliver (i.e. scheduled and routine deliveries) on the weekends.

   This restriction specifically applies to scheduled and routine deliveries. The results of this program will be submitted to the City prior to the issuance of the grading permit. If such results indicate that such controls do not significantly impact the operations of the Hospital, and provided that requests for specified vendor delivery times is consistent with future Air Quality Management Plan procedures, the City may require that the program be implemented as hospital policy. If operation impacts are significant, other mitigation measures will be investigated at that time to reduce service road impacts to the adjacent residential units.

2. The lower campus service road shall include provisions for controlled access to limit usage to physicians and staff, and service vehicles.

L. Loading Dock

Within one year from the date of final approval of the Planned Community District Regulations and Development Plan by the California Coastal Commission, as an interim measure, the project sponsor shall implement an acoustical and/or landscape screen to provide a visual screen from and reduce noise to adjoining residences from the loading dock area.

The design process for the Critical Care Surgery Addition shall include an architectural and acoustical study to insure the inclusion of optimal acoustical screening of the loading dock area by that addition.

Subsequent to the construction of the Critical Care Surgery Addition, an additional acoustical study shall be conducted to assess the sound attenuation achieved by that addition. If no significant sound attenuation is achieved, the hospital shall submit an architectural and acoustical study assessing the feasibility and sound attenuation implications of enclosing the loading dock area. If enclosure is determined to be physically feasible and effective in reducing noise impacts along the service access road, enclosure shall be required. Any enclosure required pursuant to this requirement may encroach into any required setback upon the review and approval of a Modification as set forth in Chapter 20.81 of the Newport Beach Municipal Code.

VI. HOAG HOSPITAL SIGN PROGRAM

A. Purpose and Intent

1. The purpose of this Sign Program is to provide adequate, consistent and aesthetically pleasing on-building wall and ground-mounted signage based upon the provisions set forth by the City of Newport Beach Sign Ordinance and the information signage requirements of Hoag Hospital.

2. The intent of this Sign Program is to produce uniform standards for Hoag Hospital.

B. General Sign Standards

1. All signs visible at the exterior of any building or facility of the Hospital, ground mounted or on-building, may be illuminated or non-illuminated, depending upon need. Illumination method may be by external or internal source. No sign shall be constructed or installed to rotate, gyrate, blink or move, nor create the illusion of motion, in any fashion.

2. All signs attached to building or facility exteriors shall be flush or surface mounted as is appropriate to the architectural design features of said building or facility.

3. All signs together with the entirety of their supports, braces, guys, anchors, attachments and decor shall be properly maintained, legible, functional and safe with regard to appearance, structural integrity and electrical service.

4. All street signs shall be subject to review and approval of the City Traffic Engineer, and shall be in compliance with Ordinance 110-L.

C. Number of Signs Allowed

1. One (1) double-faced primary identification ground-mounted sign or two single faced gateway entry signs shall be allowed per street frontage. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Total maximum signage area shall not exceed two hundred (200) square feet and shall not exceed ten (10) feet in height per sign and street frontage. This sign may occur as a wall sign, to be located upon a project boundary perimeter wall, subject

to the same number and area maximums described above. This sign may also occur as part of an entry gateway system.

2. Secondary identification signs shall be allowed. This sign type shall not exceed a maximum height of 48" average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed thirty-five (35) square feet. This sign may occur as a wall sign to be located upon a project boundary perimeter wall, subject to the same number and area maximums described above.

3. Vehicular and pedestrian directional signs shall be allowed. This sign type may occur as a single-faced or double-faced sign. This sign type shall occur with the sign suspended between two upright supports having the same depth (thickness) as the sign cabinet described above.

4. Hospital identification signs shall be allowed upon hospital tower parapets, one (1) at each elevation. The elevation facing west (Villa Balboa property line) may not be illuminated.

5. On the lower campus, one (1) building-mounted identification sign will be allowed per structure and shall not be placed so as to directly face the Villa Balboa/Seafaire property. Such signs will be no higher than the roof line of the building upon which they are mounted.

VII. HOAG HOSPITAL PARKING REGULATIONS

A. General

1. Off-street parking for Hoag Hospital shall be provided on-site. Parking may be on surface lots, subterranean or in parking structures.

2. The design and layout of all parking areas shall be subject to the review and approval of the city Traffic Engineer and the Public Works Department.

3. Parking lot lighting shall be developed in accordance with City standards and shall be designed in a manner which minimizes impacts on adjacent land uses. Nighttime lighting shall be limited to that necessary for security and shielded down from any adjacent residential area. The plans shall be prepared and signed by a licensed electrical engineer, with a letter from the engineer stating that the requirements has been met. The lighting plan shall be subject to review and approval of the City Planning Department.

B. Requirements for Offstreet Parking

Parking requirements for specific sites shall be based upon the parking criteria established in Table 2. All parking shall be determined based upon building type and the area allotted to the following functions. Any area which is calculated as part of the total floor area limitation shall be included in the gross floor area to determine the parking requirement.

Table 2
PARKING REQUIREMENTS

Use Category	Parking Requirements
Outpatient Services	2.0 spaces/1,000 square feet*
Support	1.0 spaces/1,000 square feet*
Administrative	4.0 spaces/1,000 square feet*
Residential Care	1.0 spaces/1,000 square feet*
Medical Offices	4.0 spaces/1,000 square feet*
Inpatient	1.25 spaces/1,000 square feet**

* Parking requirements are based on a study performed by DKS Associates in May, 1987.

** Parking requirement is based on current Hoag Hospital parking demand.

VIII. HOAG HOSPITAL LANDSCAPE REGULATIONS

A. General

1. Detailed landscape and irrigation plans, prepared by a registered Architect or under the direction of a Landscape Architect, shall be reviewed by the Planning and Parks, Beaches and Recreation Departments and approved by the Public Work Departments prior to issuance of a building permit and installed prior to issuance of Certificate of Use and Occupancy. The Landscape Plan may include a concept for the roofs and the parking structures. Trees shall not be used, but a planter box or trellis system shall be designed to provide visual relief of parking structures. All landscaping shall conform to the building height limits established in this text.

2. Parking lot trees shall be no less than fifteen (15) gallon size.

3. Shrubs to be planted in containers shall not be less than one (1) gallon size. Ground covers will be planted from (1) gallon containers or from root cuttings.

4. Every effort should be made to avoid using plants with invasive and shallow root systems.

5. Earth berms shall be rounded and natural in character, designed to obscure automobiles and to add interest to the site. Wheel stops shall be so placed that damage to trees, irrigation units and shrubs is avoided.

6. Trees in parking lots should be limited in variety. Selection should be repeated to give continuity. Regular spacing is not required and irregular groupings may add interest. Care should be exercised to allow plants to grow and maintain their ultimate size without restriction.

7. Heavy emphasis shall be placed on the use of drought-resistant native and naturalized vegetation and the use of an irrigation system designed to avoid surface runoff and over-watering.

B. Maintenance

1. All planting areas are to be kept free of weeds and debris.

2. Lawn and ground covers are to be kept trimmed and/or mowed regularly.

3. All plantings are to be kept in a healthy and growing condition. Fertilization, cultivation and tree pruning are to be carried out as part of regular maintenance.

4. Irrigation systems are to be kept in working condition. Adjustment and cleaning of system should be part of regular maintenance.

5. Stakes, guys and ties on trees should be checked regularly for correct function; ties to be adjusted to avoid creating abrasions or girdling to the stems.

6. Damage to plantings created by vandalism, automobile or acts of nature shall be corrected within thirty (30) days.

C. Special Landscaped Street

West Coast Highway is designated in the Hoag Hospital Planned Community as a special landscaped street. A 15' building setback from right-of-way / property line is required along West Coast Highway. Only driveways, parking and signage are allowed in the setback area. Parking areas shall be screened from view of West Coast Highway with landscaped berms.

Landscaping along West Coast Highway shall consist of trees, ground cover and shrubbery. All unpaved areas not utilized for parking or circulation shall be landscaped in a similar manner. Tree size to be no less than twenty-four (24) inch box.

D. Villa Balboa Landscape Zone

The area between the Villa Balboa/Hoag property line and the loading dock service access road shall be landscaped except for any driveway, walkway, or other hardscape elements in said area. The purpose of the landscaping will be to screen and buffer residential units from hospital activities.

E. Parking Areas

A minimum of 5% of the surface parking areas shall be devoted to planting areas. Planting areas around building shall not be included in parking area. Planting of trees may be in groups and need not necessarily be in regular spacing. Alternative landscape programs may be developed, including perimeter parking area landscaping, berming and depressing of parking areas. Alternative landscape programs shall be subject to the review of the Parks, Beaches and Recreation Department and the approval of the Planning and Public Works Departments.

A rooftop landscaping program may be developed for parking structures and shall be subject to the review of the Parks, Beaches and Recreation Department and the approval of the Planning and Public Works Departments. Rooftop landscaping shall conform to height restrictions.

IX. SITE PLAN REVIEW.

A. Purpose

The City Council finds that development on the West Coast Highway frontage of the lower campus of Hoag Hospital may have the potential to affect the aesthetics of the West Newport area as viewed from surrounding arterial roadways. The effect of this section is to establish a Site Plan Review requirement by the Planning Commission for certain individual projects which are proposed by the hospital to differ from the setback, horizontal and vertical articulation requirements as set forth in Section V.D.2. to insure that these projects conform with the objectives of the General Plan and the Master Plan for Hoag Hospital.

B. Findings

The City finds, determines and declares that the establishment of Site Plan Review procedures contained in this section promotes the health, safety, and general welfare of the community by ensuring that the development of Hoag Hospital proceeds in a manner which will not result in inadequate and poorly planned landscape areas, excessive building bulk on arterial roadways, inappropriate placement of structures and impairment of the benefits of occupancy and use of existing properties in the area.

C. Application

Site Plan Review approval shall be obtained prior to the issuance of a grading or building permit for any new structure or the addition to an existing structure which does not conform to the provisions of Section V.D.2.

D. Plans and Diagrams to be Submitted

The following plans and diagrams shall be submitted to the Planning Commission for approval:

1. A plot plan, drawn to scale, showing the arrangement of buildings, driveways, pedestrian ways, off-street parking and off-street loading areas, landscaped areas, signs, fences and walks. The plot plan shall show the location of entrances and exits, and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and loading space, and areas for turning and maneuvering vehicles. The plot plan shall indicate how utility and drainage are to be provided.

2. A landscape plan, drawn to scale, showing the locations of existing trees proposed to be removed and proposed to be retained; and indicating the amount, type, and location of landscaped areas, planting beds and plant materials with adequate provisions for irrigation.

3. Grading plans when necessary to ensure development properly related to the site and to surrounding properties and structures.

4. Scale drawings of exterior lighting showing size, location, materials, intensity and relationship to adjacent streets and properties.

5. Architectural drawings, renderings or sketches, drawn to scale, showing all elevations of the proposed buildings and structures as they will appear upon completion.

6. Any other plans, diagrams, drawings or additional information necessary to adequately consider the proposed development and to determine compliance with the purposes of this chapter.

E. Fee

The applicant shall pay a fee as established by Resolution of the City Council to the City with each application for Site Plan Review under this chapter.

F. Standards

In addition to the general purposes set forth in sub-section B, in order to carry out the purposes of this chapter as established by said section, the site plan review procedures established by this Section shall be applied according to and in compliance with the following standards, when applicable:

1. The development is in compliance with all other provisions of the Planned Community Development Criteria and District Regulations (P-C Text);

2. Development shall be compatible with the character of the neighborhood and surrounding sites and shall not be detrimental to the orderly and harmonious development of the surroundings and of the City;

3. Development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways and properties, with special consideration given to the mass and bulk of buildings and the streetscape on West Coast Highway;

4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development.

G. Public Hearing - Required Notice

A public hearing shall be held on all Site Plan Review applications. Notice of such hearing shall be mailed not less than ten (10) days before the hearing date, postage prepaid, using addresses from the last equalized assessment roll or, alternatively, from such other records as contain more recent addresses, to owners of property within a radius of three hundred (300) feet of the exterior boundaries of the subject property. It shall be the responsibility of the applicant to obtain and provide to the City the names and addresses of owners as required by this Section. In addition to the mailed notice, such hearing shall be posted in not less than two conspicuous places on or close to the property at least ten (10) days prior to the hearing.

H. Action by the Planning Commission

If all applicable standards established by this Section are met, the Planning Commission shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Commission shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Commission shall be subject to review by the City Council either by appeal, or upon its own motion, or upon the request of the Commission. The action of the Commission on any Site Plan Review shall be final and effective twenty-one (21) days following the Commission action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Commission has requested a review of its decision, or unless the City Council, not more than twenty-one (21) days after the Commission action, on its own motion, elects to review and act on the action of the Commission, unless the applicant consents to an extension of time. The City Council may affirm, reverse or modify the decision. Such action by the City Council shall be final.

I. Appeal to the City Council

Any Site Plan Review decision of the Commission may be appealed to the City Council by the applicant or any other person, at any time within twenty-one (21) days after the date of the Commission decision. An appeal to the City Council shall be taken by filing a letter of appeal in duplicate, with the Planning Department. Such letter shall set forth the grounds upon which the appeal is based and shall be accompanied by a fee as established by Resolution of the City Council.

J. Action by the City Council

An appeal shall be heard and acted on by the City Council, and the City Council may affirm, reverse or modify the decision of the Commission. The decision of the City Council is final.

K. Expiration and Revocation of Site Plan Review Approvals

1. Expiration. Any Site Plan Review granted in accordance with the terms of this Title shall expire within 24 months from the date of approval if a building permit has not been issued prior to the expiration date and subsequently construction is diligently pursued until completion, unless at the time of approval the Planning Commission has specified a different period of time.

2. Violation of Terms. Any Site Plan Review granted in accordance with the terms of this Title may be revoked if any of the conditions or terms of such Site Plan Review are violated or if any law or ordinance is violated in connection therewith.

3. Hearing. The Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within 60 days after receipt of the recommendation of the Planning Commission.

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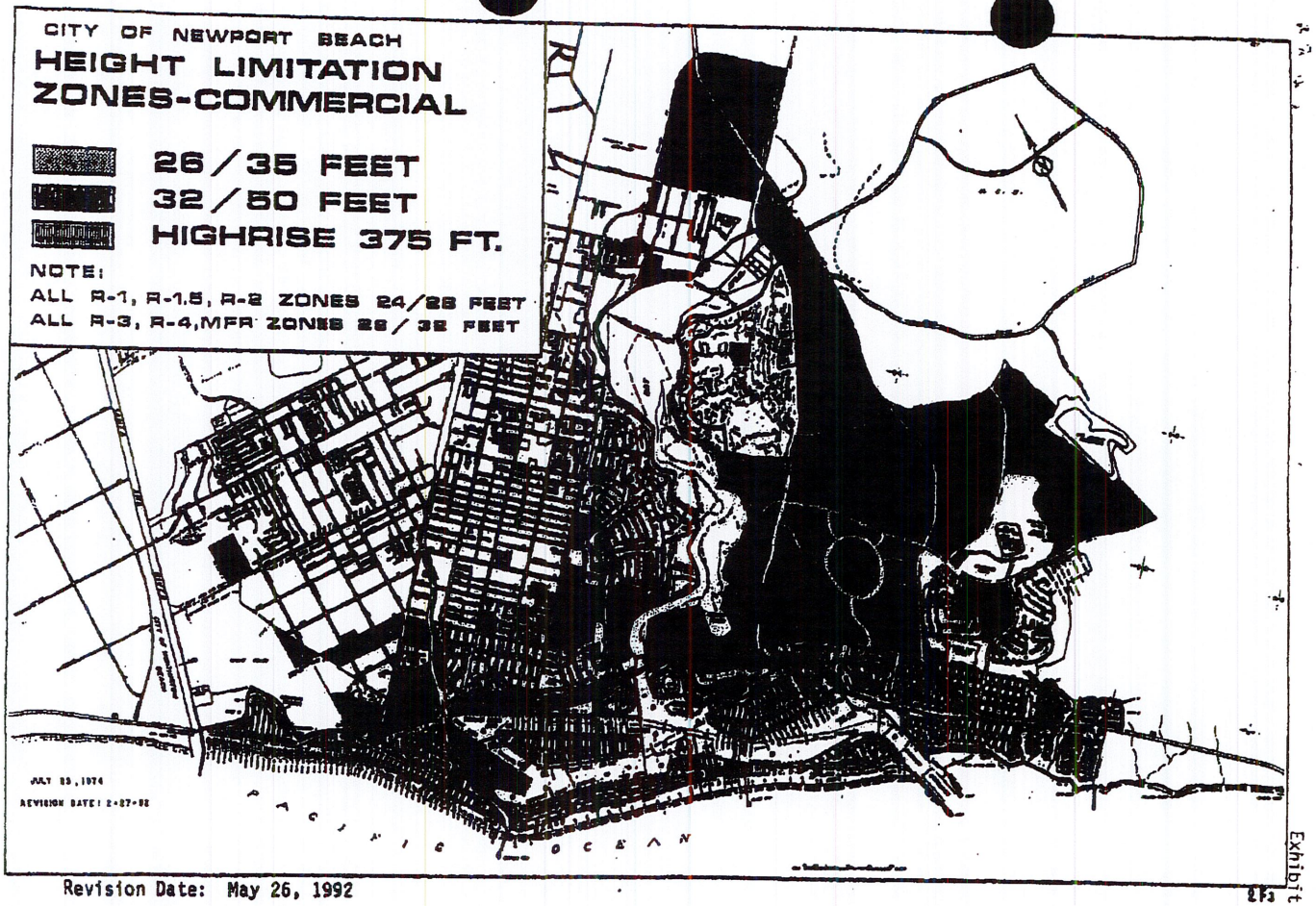

Revision Date: May 26, 1992

Exhibit D

EXHIBIT D
ESTOPPEL CERTIFICATE

Date Requested: _____
Date of Certificate: _____

On _____, the City of Newport Beach approved the "Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian" (the "Development Agreement").

This Estoppel Certificate certifies that, as of the "Date of Certificate" set forth above:

CHECK WHERE APPLICABLE

____ 1. The Development Agreement remains binding and effective;

____ 2. The Development Agreement has not been amended;

____ 3. The Development Agreement has been amended in the following respects:

_____
_____
_____
_____

____ 4. Neither Hoag nor any of its successors are in default under the Development Agreement;

____ 5. The following defaults exist under the Development Agreement:

_____
_____
_____
_____

This Estoppel Certificate may be relied upon by any transferee or mortgagee of any interest in the property which is subject of the Development Agreement.

CITY OF NEWPORT BEACH

BY: _____
NAME: _____
TITLE: _____

EXHIBIT D

[redacted]

EXHIBIT D

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5
DATED JUNE 17, 2008

This Document was electronically recorded by
ER Cert Mail D

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

[redacted] NO FEE
2008000289321 12:35pm 06/17/08
120 33 A17 56
0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00

RECORDING REQUEST BY, AND
WHEN RECORDED MAIL TO:

City Clerk
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

EXEMPT FROM FILING FEES CAL. GOV'T CODE § 6103
(Space above this line for Recorder's use)

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 27383

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

AND

THE CITY OF NEWPORT BEACH

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved May 13, 2008
Ordinance No. 2008-10

RECORDING REQUEST BY, AND
WHEN RECORDED MAIL TO:

City Clerk
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

EXEMPT FROM FILING FEES CAL. GOV'T CODE § 6103
(Space above this line for Recorder's use)

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 27383

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

AND

THE CITY OF NEWPORT BEACH

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved May 13, 2008
Ordinance No. 2008-10

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

(Hoag Memorial Hospital Presbyterian)

THIS AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5 ("Amendment") is entered into and effective on the date it is recorded with the Orange County Recorder (the "Effective Date") by and between the City of Newport Beach (hereinafter "City") and Hoag Memorial Hospital Presbyterian (hereinafter "Hoag").

RECITALS

1. The "RECITALS" to the Restated Development Agreement are amended to add new Sections 1.9 through Section 1.19(f) to read as follows:

1.9 Hoag Property. Hoag is the fee owner of approximately 38 acres of real property located in the City divided between the Upper Campus and the Lower Campus and more particularly described in Exhibit "A" and depicted on Exhibit "B" (the "Property").

1.10 Hoag Healthcare Services. Hoag is a modern, state-of-the-art acute care, not-for-profit hospital providing a comprehensive mix of healthcare services to treat virtually any routine or complex medical condition. Hoag features centers of excellence that include Hoag Cancer Center, Hoag Heart and Vascular Institute, Hoag Neuroscience Institute, Hoag Orthopedic Services and Hoag Women's Health Services, as well as advanced medical programs in many other specialties.

1.11 Hoag Community Benefit Programs. In addition to providing state-of-the-art hospital, diagnostic imaging and emergency room care medical services, Hoag is involved in many other community benefit programs such as police and SWAT team, fire department and paramedic support services, designating the City as the point of sale for major hospital equipment purchases and construction projects, providing financial and transportation support for the City's senior Oasis Center, and providing methane gas flare burnoff to mitigate methane gas fumes along Pacific Coast Highway. Hoag's community medicine program allocates approximately $10 million annually toward improving the community's overall health, primarily through disease prevention and wellness and health promotion, especially for those vulnerable and disadvantaged populations.

1.12 EIR No. 142 and P.C. Text. On May 26, 1992, the City Council of City ("City Council") certified the Hoag Hospital Master Plan Final EIR No. 142 and adopted the Hoag Memorial Hospital Presbyterian Master Plan ("Hoag Master Plan") and the Planned Community Development Criteria and District Regulations ("P.C. Text") setting forth the development standards and terms and conditions by which the Property may be developed, including the maximum permissible building area, building height limits and permitted land uses.

1.13 Square Footage of Buildable Area. Under the existing Hoag Master Plan and P.C. Text, the Property allows a total of 1,343,238 square feet of buildable area with 577,889 square feet allocated to the Lower Campus and 765,349 square feet allocated to the Upper Campus.

1.14 Development Agreement No. 5. On May 26, 1992, the City Council adopted Ordinance No. 92-4 approving Development Agreement No. 5 between the City and Hoag incorporating the Hoag Master Plan and P.C. Text and granting vested rights to Hoag to develop the Property pursuant to the Hoag Master Plan and P.C. Text for the term of the Development Agreement. The Development Agreement was recorded in the Official Records of Orange County, California on August 4, 1993 as Instrument No. 63-0522236.

1.15 Restated Development Agreement. On February 14, 1994, the City Council of City adopted Ordinance No. 94-8 approving an Amendment and Restatement of Development Agreement No. 5 ("Restated Development Agreement") incorporating certain provisions clarifying the role, review and approval authority of the California Coastal Commission for development of the Property to ensure consistency and compliance with the California Coastal Act. The Restated Development Agreement was recorded in the Official Records of Orange County, California on March 23, 1994 as Instrument No. 94-0207276.

1.16 First Amendment to P.C. Text. On August 13, 2002, the City Council adopted Ordinance No. 2002-17 approving the First Amendment to the P.C. Text to provide that certain non-occupied building areas are not counted towards the maximum permissible building floor areas for development of the Property.

1.17 Noise Limitation. The existing PC Text provides that noise generated from Hoag Hospital from new mechanical appurtenances shall not exceed 55 dBA at the Property lines. This noise limitation was established prior to the adoption of the City's

Noise Element in the General Plan and Noise Ordinance. It is proposed that noise generated and originating from the Property be governed by the City Noise Ordinance with certain exceptions.

1.18 Noise Attenuation. Hoag has taken significant actions to attenuate noise generated from mechanical equipment and has installed landscape screening and walls to mitigate and buffer noise and improve aesthetic impacts for adjacent residential properties.

1.19 Restated Development Agreement Amendments. The City and Hoag propose to further amend the Restated Development Agreement by this Amendment to incorporate references to: a Supplemental EIR; an amendment to the City General Plan; an increase in the Public Benefits; designation of the City as the point of sale to the extent allowed under applicable law; and amendments to the Hoag Hospital Planned Community Text ("P.C. Text") to, among other things:

(a) eliminate the reference to 1.0 Floor Area Ratio ("FAR") for the Upper Campus and the .65 FAR for the Lower Campus in the General Plan Land Use Element. In place of the reference to the FAR's, an absolute maximum allowable building area of 1,343,238 square feet will remain available for development of the entire Property comprised of the Upper Campus and the Lower Campus;

(b) maintain a cap under the General Plan Land Use Element Amendment for development of the Lower Campus at 577,889 square feet (if no square footage is reallocated) and establish a cap on development of the Upper Campus at 990,349 square feet (if all 225,000 square feet are reallocated from the Lower Campus to the Upper Campus);

(c) allow the transfer of up to 225,000 square feet of buildable area from the Lower Campus to the Upper Campus, which, if all 225,000 square feet are reallocated, would result in a maximum allowed density of 990,349 square feet for the Upper Campus and a reduction to permit 352,889 square feet of allowable development for the Lower Campus;

(d) to modify the noise standards applicable to the Property;

(e) delete a provision that required the City and Hoag to conduct a study of possible future improvements in and around the easterly end of the Semeniuk Slough, including a requirement that Hoag fund the study and potential future improvements in an amount not to exceed $200,000; and

(f) incorporate the Second Amendment to the P.C. Text.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Section 1.5 of the Restated Development Agreement entitled *Planning Commission/City Council Hearings* is amended to read as follows:

"1.5 Planning Commission/City Council Hearings. The Planning Commission, after giving appropriate notice, held public hearings to consider a development agreement, the proposed Master Plan, and the EIR on December 5, 1991, January 9, 1992, January 23, 1992, February 6, 1992 and February 20, 1992. The City Council conducted public hearings on the Master Plan, this Agreement and the EIR on March 23, 1992, March 30, 1992, April 13, 1992 and May 11, 1992. . The Planning Commission, after giving appropriate notice, held a public hearing to consider this Amendment, the Supplemental EIR, the General Plan Amendment, and the Second Amendment to the P.C. Text on January 31, 2008, February 7, 2008, March 6, 2008 and March 20, 2008. The City Council conducted a public hearing on this Amendment, the Supplemental EIR, the General Plan Amendment and the Second Amendment to the P.C. Text on April 16, 2008."

2. Section 1.8 of the Restated Development Agreement entitled *City Ordinance* is amended to read as follows:

"1.8 City Ordinance. On February 14, 1994, the City Council adopted Ordinance No. 94-8 approving a Restated Development Agreement No. 5 incorporating certain provisions clarifying the role, review and approval authority of the California Coastal Commission for development of the Property to ensure consistency and compliance with the California Coastal Act. The Adopting Ordinance became effective on March 16, 1994. On May 13, 2008, the City Council adopted Ordinance No. 2008-10 approving

this Amendment and authorizing the City to enter into this Amendment. The adopting ordinance will become effective on June 12, 2008."

3. Section 2.1 of the Restated Development Agreement entitled *The Adopting Ordinance* is amended to read as follows:

"2.1 The "Adopting Ordinance" refers to City Ordinance No. 94-8, adopted on February 14, 1994, by the City Council, which approved and authorized the City to enter into this Agreement. "Adopting Ordinance" further refers to Ordinance No. 2008-10 adopted on May 13, 2008 by the City Council, which approved and authorized the City to enter into this Amendment."

4. Section 2.2 of the Restated Development Agreement entitled *Agreement* is amended to read as follows:

"2.2 "Agreement" refers to the "Restated Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian," and this Amendment."

5. Section 2.13 of the Restated Development Agreement entitled *The EIR* is amended to read as follows:

"2.13 The "EIR" refers to final Environmental Impact Report No. 142 of the City of Newport Beach, and Supplemental Environmental Impact Report No. 142."

6. Section 2.23 of the Restated Development Agreement entitled *Master Plan* is amended to read as follows:

"2.23 "Master Plan" refers to the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan which was adopted by the City on May 26, 1992 (Exhibit "C"), as amended."

7. Section 3 of the Restated Development Agreement entitled *Conditions to Development* is amended to add a new paragraph after Subsection (f) to read as follows:

"Notwithstanding the provisions of this Section, any provisions set forth in this Amendment shall supersede and control over any inconsistencies with this Section."

8. Section 3.3 of the Restated Development Agreement entitled *Program EIR* is amended to read as follows:

> "3.3 Program EIR. Hoag acknowledges that the EIR is a "Program EIR" and includes Supplemental Environmental Impact Report No. 142. The EIR analyzes the impacts of construction phased over time and, pursuant to CEQA, City is under a continuing obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the request were fully addressed in the EIR. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIR, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIR. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA."

9. Section 4.1 of the Restated Development Agreement entitled *Right to Develop* is amended to read as follows:

> "4.1 Right to Develop. Subject to compliance with the provisions of Sections 3 and 8.2, Hoag shall have a vested right to develop and receive Project Specific Approvals for construction on the Property to the full extent permitted by the Master Plan, as amended. Subject to the provisions of Sections 3 and 8, City shall only take action which complies with and is consistent with the Master Plan, as amended, the Restated Development Agreement and this Amendment unless Hoag otherwise consents in writing. Subject to this Subsection, City shall have the authority to impose only those Exactions which are specifically described in this Agreement, except as expressly required (as opposed to permitted) by state or federal law."

10. Section 5.2 of the Restated Development Agreement entitled Mitigation Review is amended to read as follows:

> "5.2 Public Hearing. The Annual Review shall be conducted at a public hearing noticed in accordance with the provisions of Chapter 15.45 of the Newport Beach Municipal Code. Annual reviews should be scheduled in April of each year."

11. Section 5.4 of the Restated Development Agreement entitled Mitigation Review is amended to read as follows:

> "5.4 Mitigation Review. The annual review shall include a detailed report of compliance with the various conditions and mitigation measures contained within the mitigation monitoring plan. The report shall also include a noise regulation compliance assessment that includes noise measurements prepared by a qualified noise consultant on a yearly basis. The noise assessment shall identify noise regulation compliance issues and recommended measures to abate any noncompliance. The report shall include an analysis of the view impacts of buildings constructed in comparison to the anticipated views as depicted in the EIR. Hoag shall be found in compliance with this Agreement unless the City Council determines, based upon the evidence presented at the Annual Review, that Hoag has not complied with all mitigation measures and conditions including those imposed as a result of subsequent environmental analysis, applicable to the grading of, or building on, the Property as of the date of the Annual Review. Hoag shall pay the City administrative costs incurred in conducting Annual Reviews. Hoag shall reimburse the City for costs incurred by the City associated with Fluor Enterprises' review of the cogeneration plant during the 2008 Annual Review."

12. Section 8.2 of the Restated Development Agreement entitled *Exactions* is hereby amended to delete Subsection (c), which reads as follows:

> "(c) City and Hoag shall conduct a study of possible future improvements in and around the easterly end of Semeniuk Slough that would, among other things, improve the appearance of the area and, potentially, serve as a component to improve public access from residential areas in West Newport to park land and public recreation facilities proposed in conjunction with development of the West Newport Oil Company property. The study shall analyze, among other things, the type of improvements that would improve the area without adversely impacting wetlands, the possible location of pedestrian trials and the potential for those trails to improve access to proposed recreational facilities, phasing of the improvements, potential public benefits, and the cost of the improvements. As a part of the study, Hoag and City shall meet and confer with resource agencies relative to the type and extent of improvements that may be permitted in or adjacent to wetlands. Hoag shall fund the study and participate in the cost of constructing any improvements in the area that the City Council determines are feasible and in the public interest, provided, however, the financial contribution of Hoag, including the costs of the study and improvements, shall not exceed Two Hundred Thousand Dollars ($200,000.00)."

13. Section 8.2 of the Restated Development Agreement entitled *Exactions* is hereby amended to renumber Subsection (d) to Subsection (c); and to add a new Subsection (d) to read as follows:

> "(d) City and Hoag acknowledge and agree that the Restated Development Agreement and this Amendment confer private benefits on Hoag that should be balanced by commensurate public benefits in favor of the City. Accordingly, the City and Hoag intend to provide consideration to balance the private and public benefits by the imposition of a Development Agreement Fee, which fee shall be used to reimburse the City for public improvements in the area and to fund certain additional needed public improvements identified by the City. Hoag shall pay to the City a Development Agreement Fee of Three Million Dollars ($3,000,000). Payment of one-half of the Development Agreement Fee of $1.5 million shall be made upon the Effective Date of this Amendment. Payment of the remaining one-half of the Development Agreement Fee of $1.5 million shall be paid to City 12 months from the Effective Date of this Amendment or at the time of issuance of the first building permit by the City for development of a project on the Upper Campus as provided in Exhibit "C" attached to this Amendment, whichever occurs earlier.
>
> The first $1.5 million of the Development Agreement Fee shall be used to reimburse the City and/or pay for the costs associated with the following projects: (i) construction of the Superior Avenue medians extending from Ticonderoga Street to Dana Road; (ii) construction of the right-turn pocket for southbound Newport Boulevard to westbound Hospital Road; and (iii) funding of the operational improvements and traffic signal upgrade at the Hospital Road and Placentia intersection ("Priority Public Improvements"). Construction of the first two Priority Public Improvements listed above occurred during 2007, and the third is anticipated to occur in 2008. The City shall be obligated to pay the actual cost difference, if any, for construction of these Priority Public Improvements. However, if there are any funds remaining after construction of the Priority Public Improvements is completed, the City may retain the funds to be used for other City projects or services that benefit the public. The City shall also have the sole authority to decide the design, cost and scope of the Priority Public Improvements and the sufficiency of City's performance on the Public Improvement Projects shall not be subject to Hoag's approval.
>
> The balance of the Development Agreement Fee ($1.5 million) and any funds remaining after the construction of the Priority Public Improvements shall be used by the City in the City's sole discretion to

offset costs associated with other City and community projects or services that benefit the public such as, among other things, public parks (for example, Sunset View Consolidated Park), landscaping improvements adjacent to public right of ways, sound abatement programs, public buildings, public road improvements, water quality improvements, law enforcement, fire fighting, emergency preparedness and other public safety facilities."

14. A new section, Section 8.3, shall be added to the Restated Development Agreement entitled *Sales/Use Tax Origin,* to read as follows:

"8.3 Sales/ Use Tax Origin

(a) Hoag will include in its general contractor construction contract a provision that Hoag's general contractor and subcontractors, to the extent allowed by applicable law, will obtain a Board of Equalization sales/use tax subpermit for the jobsite at the Project Property and allocate all eligible sales and use tax payments for individual contracts over $5 million to the City. Hoag will provide Hoag's general contractor and subcontractors with the name and contact information of the City's Revenue Manager and notice of the Revenue Manager's availability to meet and confer with them on the implementation of the Board of Equalization sales/use tax subpermit procedures. Hoag will further include a notice in its general contractor construction contract that prior to beginning a qualified construction project, the general contractor and subcontractors are encouraged to meet with the City's Revenue Manager to review the process to be followed with respect to sales and use taxes. Hoag will further include a provision in its general contractor construction contract that the general contractor or subcontractors will certify in writing that the person(s) responsible for filing the tax return understands the process of reporting the tax to the City and will follow the guidelines set forth in the relevant sections of the Sales and Use Tax Regulations. Hoag shall not be responsible for failure of Hoag's general contractor or subcontractors to follow the procedures set forth in this Section.

Hoag, if readily available, shall provide to the City or any City designated representative the names, addresses, phone numbers and contact name of the general contractor and all subcontractors.

(b) Hoag will continue to follow the Direct Payment Permit Process established in the Revenue and Taxation Code and use the permit for all qualifying individual purchases in excess of $100,000 so that the local share of its sales/use tax payments is allocated to the City as the point of sale.

(c) It is understood and agreed that any fixtures, materials and equipment with a purchase total that exceeds $100,000 purchased directly by Hoag and shipped to Hoag's Newport Beach location may also be eligible for direct allocation of sales/use tax to the City. Upon request of the City, Hoag will provide City on a semi-annual basis with a list of purchases exceeding the $100,000 threshold during the preceding six-month period, including the amount of the purchase and, if readily available, the name and contact information for the vendor upon request by the City. The City agrees to review the semi-annual list of purchases made by Hoag and advise Hoag of any missed opportunities for direct allocation. Hoag agrees to file its Direct Payment Permit with vendors identified by the City in an effort to improve the direct allocation of the local share of sales/use tax payments in future periods."

15. A new section, Section 8.4, shall be added to the Restated Development Agreement entitled *Sunset View Park Improvements*, to read as follows:

"8.4 Hoag shall reimburse the City up to $ 150,000 for the installation of groundcover, shrubs and irrigation systems within the unimproved portion of Sunset View Park and Superior Avenue, approximately 20,500 square feet in area, located northerly of the cogeneration building. Reimbursement to the City shall be within 30 days of Hoag receiving an invoice from the City."

16. A new section, Section 8.5, shall be added to the Restated Development Agreement entitled *Cogeneration Plant Energy Curtailment*, to read as follows:

> "8.5 Hoag shall install a weather station capable of identifying ambient conditions necessary in documenting cogeneration plant and cooling tower operations. The weather station shall be tied into the cogeneration plant controls in order to maximize automatic responses to prevailing weather conditions, assisting in managing the operational changes and load shifting, as well as to provide periodic reports on plant operations.
>
> Hoag shall not construct or erect additional cooling towers within the Hoag Lower Campus.
>
> Hoag shall reduce the effective heat rejection by 33% at the existing cooling towers and such reduction shall be measured from a baseline (to be measured at the cooling towers) of operating three existing generators and absorption chillers at 100% of design capacity.
>
> This reduced capacity operation shall be implemented daily between November 1st and April 30th, between the hours of 7:00 AM and 7:00 PM when the relative humidity is equal to or above 60% and when ambient temperatures are equal to or less than 55 degrees Fahrenheit.

17. Section 11.1(c) of the Restated Development Agreement entitled *Notices* is hereby amended to delete:

"with a copy to: Tim Paone
Paone, Callahan, McHolm & Winton
19100 Von Karman, 8th Floor
P.O. Box 19613
Irvine, CA 92713-9613"

and to add:

"with a copy to: Dennis D. O'Neil
Hewitt & O'Neil LLP
19900 MacArthur Blvd., Suite 1050
Irvine, CA 92612

with a copy to: Gary McKitterick
Allen Matkins Leck Gamble Mallory & Natsis LLP
1900 Main Street, 5th Floor
Irvine, CA 92614-7321"

18. A new Section 11.17 shall be added to the Restated Development Agreement as follows:

"11.17 Indemnification/Hold Harmless. To the fullest extent permitted by law, Hoag 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 this Amendment, including, but not limited to, the approval of the Planned Community Text and/or the City's related California Environmental Quality Act determinations, the certification of the Supplemental Environmental Impact Report, the adoption of a Mitigation Program, and/or statement of overriding considerations for this Project. 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 Hoag, City, and/or the parties initiating or bringing such proceeding. Hoag 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. Hoag shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition."

19. Exhibit C of the Restated Development Agreement shall incorporate the First Amendment to the P.C. Text as part of this Second Amendment to the P.C. Text in revised Exhibit C entitled:

"HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY
DEVELOPMENT CRITERIA
AND
DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
March 20, 2008

Adopted by the City Council
City of Newport Beach
Ordinance No.2008-10
May 13, 2008"

20. Except as provided for in this Amendment and not otherwise superseded by this Amendment, the provisions set forth in the Restated Development Agreement, all of the other terms, conditions, provisions and exhibits of the Restated Development Agreement continue to have full force and effect as provided therein and this Amendment shall constitute an integral part of the Restated Development Agreement. Exhibits A through C constitute a part of this Amendment and are incorporated into this Amendment in full by this reference.

21. In the event there is any conflict between any provision of the Restated Development Agreement and this Amendment, the later approved and recorded document shall prevail in interpretation, operation and implementation.

22. The City Clerk shall cause a copy of this Amendment to be recorded with the Office of the County Recorder of Orange County, California within ten (10) days following the effective date of adoption of the Ordinance approving this Amendment.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to Development Agreement No. 5 to be binding as of the Effective Date.

CITY:

THE CITY OF NEWPORT BEACH, a municipal corporation of the State of California

By: _____
Edward D. Selich, Mayor

ATTEST:

_____
LaVonne Harkless, City Clerk

APPROVED AS TO FORM:

_____
For Robin Clauson, City Attorney

OWNER:

HOAG MEMORIAL HOSPITAL PRESBYTERIAN, a California nonprofit public benefit corporation

By: _____
Richard F. Afable, M.D.
President and CEO

(All Signatures to be Notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of ORANGE }

On JUNE 11, 2008 (Date) before me, LEILANI I. BROWN, NOTARY PUBLIC (Here Insert Name and Title of the Officer)

personally appeared EDWARD D. SALIGA (Name(s) of Signer(s))

LEILANI I. BROWN
Commission # 1633477
Notary Public - California
Orange County
My Comm. Expires Jan 25, 2010

LEILANI I. BROWN
Commission # 1633477
Notary Public - California
Orange County
My Comm. Expires Jan 25, 2010

Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Leilani I. Brown (Signature of Notary Public)

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange

On May 19, 2008 before me, Debora Hames, Notary Public
(Here insert name and title of the officer)

personally appeared Richard Afable

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Debora Hames
Signature of Notary Public

(Notary Seal)

DEBORA HAMES
Comm. # 1561848
NOTARY PUBLIC-CALIFORNIA
Orange County
My Comm. Expires March 20, 2009

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Amendment to Restated Development Agreement No. 5
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 33 Document Date 5-19-08

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☒ Corporate Officer
  President and CEO
  (Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they,~~ ~~is~~ /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

EXHIBIT A

LEGAL DESCRIPTION

The subject property is the following real property in the City of Newport Beach, County of Orange, State of California:

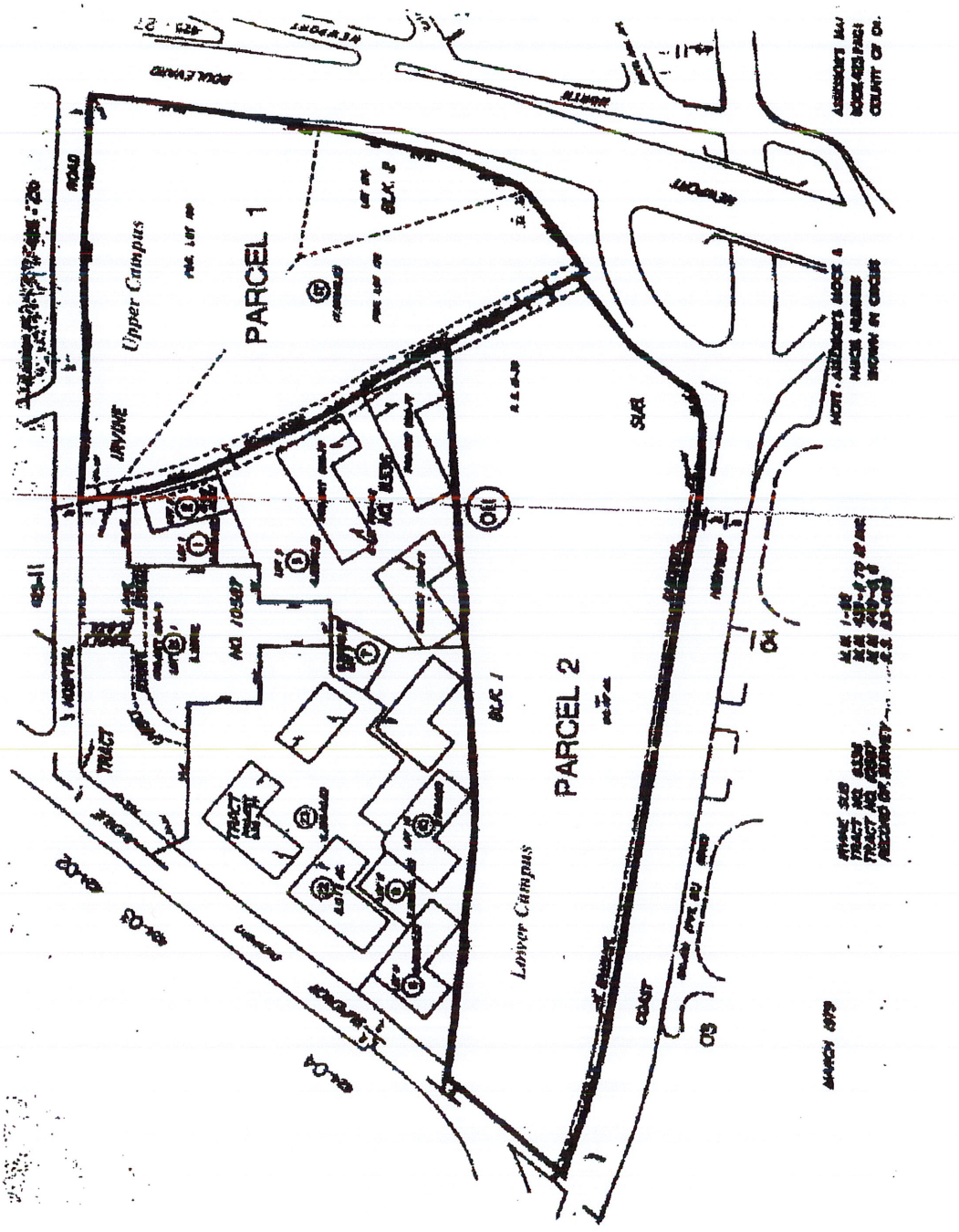
Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

EXHIBIT B



FINAL
5/16/08 10001.34
H&O: #58720 v1

EXHIBIT C

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Adopted May 13, 2008

Ordinance No. 2008-9

Effective June 12, 2008

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
March 20, 2008

Adopted by the City Council
City of Newport Beach
Ordinance No. 2008-10
May 13, 2008

TABLE OF CONTENTS

		Page Number
I.	INTRODUCTION	1
II.	GENERAL NOTES	2
III.	DEFINITIONS	3
IV.	DEVELOPMENT PLAN	5
V.	DISTRICT REGULATIONS	10
VI.	HOAG HOSPITAL SIGN PROGRAM	21
VII.	HOAG HOSPITAL PARKING REGULATIONS	23
VIII.	HOAG HOSPITAL LANDSCAPE REGULATIONS	24
IX.	SITE PLAN REVIEW.	27

LIST OF EXHIBITS

	Page Number
1. PLANNED COMMUNITY SITE AND BOUNDARY MAP	7
2. VEHICULAR ACCESS	8
3. DEVELOPMENT CRITERIA	14
4. PROPOSED SOUND WALL LOCATION PLAN	19
5. LOADING DOCK AREA LOCATION	20
6. LANDSCAPE MATRIX	32
7. LOWER CAMPUS LANDSCAPE IMPROVEMENT PLAN	33
8. COAST HIGHWAY LANDSCAPE SCREEN	34

LIST OF TABLES

1. BUILDING AREA STATISTICAL ANALYSIS	9
2. PARKING REQUIREMENTS	23

I. INTRODUCTION

Background

The Hoag Memorial Hospital Presbyterian Planned Community District in the City of Newport Beach has been developed in accordance with the Newport Beach General Plan. The purpose of this Planned Community District is to provide a method whereby property may be classified and developed for hospital-related uses. The specifications of this District are intended to provide land use and development standards supportive of the proposed use while ensuring compliance with the intent of all applicable regulatory codes.

The Planned Community District includes district regulations and a development plan for both the Upper and Lower Campuses of Hoag Hospital. In general, over the long term, the Upper Campus will become oriented primarily towards emergency, acute and critical care (predominantly inpatient) uses and the Lower Campus will be developed with predominantly outpatient uses, residential care and support services.

Whenever the regulations contained in the Planned Community text conflict with the regulations of the Newport Beach Municipal Code, the regulations contained in the Planned Community text shall take precedence. The Municipal Code shall regulate this development when such regulations are not provided within these district regulations. All development within the Planned Community boundaries shall comply with all provisions of the Uniform Building Code and other governing building codes.

III. DEFINITIONS

Building Elevation:

1. A vertical distance of a building above or below a fixed reference level, i.e., MSL (mean sea level).

2. A flat scale drawing of the front, rear, or side of a building.

Building Envelope: The volume in which a building may be built as circumscribed by setback lines and maximum allowable building heights.

Building Height: The vertical distance measured from the finished grade to the highest point of the structure. At all points, the height measurement shall run with the slope of the land.

Emergency Room: A service and facility designated to provide acute emergency medical services for possible life threatening situations.

Entitlement, Gross Floor Area: Any area of a building, or portion thereof, including the surrounding exterior walls, but excluding:

1. Area of a building utilized for stairwells and elevator shafts on levels other than the first level of a building in which they appear;

2. Area of a medical building, that is not used for general or routine occupancy but rather is for interstial or mechanical occupancies, that measures less than 19 feet from finished floor to ceiling;

3. As applied to new construction permits issued on or after August 13, 2002, area of a building used specifically for base isolation and structural system upgrades directly related to requirements of governmental agencies and is not for general or routine occupancy; and

4. As applied to new construction permits issued on or after August 13, 2002, enclosed rooftop mechanical levels not for general or routine occupancy.

First Aid: Low acuity medical treatment for non-life threatening situations.

General Plan: The General Plan of the City of Newport Beach and all elements thereof.

Grade: For the purpose of determining building height:

1. Finished - the ground level elevation which exists after any grading or other site preparation related to, or to be incorporated into, a proposed new development or alteration of existing developments. (Grades may be worked into buildings to allow for subterranean parking.)

II. GENERAL NOTES

1. Water service to the Planned Community District will be provided by the City of Newport Beach.

2. Development of the subject property will be undertaken in accordance with the flood protection policies of the City of Newport Beach.

3. All development of the site is subject to the provisions of the City Council Policies K-4 and K-5 regarding paleontological and archaeological resources.

4. Except as otherwise stated in this text, the requirements of the Newport Beach Zoning Ordinance shall apply. The contents of this text notwithstanding, all construction within the boundaries of this Planned Community District shall comply with all provisions of the Uniform Building Code, other various codes related thereto and local amendments.

5. All buildings shall meet Title 24 requirements or the requirements of the California Office of Statewide Health Planning and Development as applicable. Design of buildings shall take into account the location of building air intake to maximize ventilation efficiency, the incorporation of natural ventilation, and implementation of energy conserving heating and lighting systems.

6. Any fire equipment and access shall be approved by the Newport Beach Fire Department.

7. Excluding communications devices on the Upper Campus, new mechanical appurtenances on building rooftops and utility vaults on the Upper and Lower Campuses shall be screened from view in a manner compatible with building materials. Rooftop mechanical appurtenances or utility vaults shall be designed utilizing compatible architectural materials on the Lower Campus. No new mechanical appurtenances may exceed the building height limitations as defined in these district regulations.

8. Grading and erosion control shall be carried out in accordance with the provisions of the City of Newport Beach Excavation and Grading Code and shall be subject to permits issued by the Building and Planning Departments.

9. Sewage disposal facilities within the Planned Community will be provided by Orange County Sanitation District No. 5. Prior to issuance of any building permits it shall be demonstrated to the satisfaction of the Planning Department that adequate sewer facilities will be available. Prior to the occupancy of any structure it shall be further demonstrated that adequate sewer facilities exist.

10. Mass grading and grading by development phases shall be allowed provided that landscaping of exposed slopes shall commence within thirty (30) days of the completion of grading.

2. Natural - the elevation of the ground surface in its natural state before man-made alterations.

3. Existing - the current elevation of ground surface.

Inpatient Uses: Hospital patient services which require twenty-four (24) hour or more stays.

Landscape Area: The landscape area shall include on-site walks, plazas, water, rooftop landscaping and all other areas not devoted to building footprints or vehicular parking and drive surfaces.

Mean Sea Level: A reference or datum mark measuring land elevation using the average level of the ocean between high and low tides.

Outpatient Uses: Hospital patient services which do not exceed twenty-four (24) hours.

Residential Care: Medically-oriented residential units that do not require the acuity level generally associated with inpatient services but require overnight stays.

Site Area: For the purpose of determining development area:

1. Gross - parcel area prior to dedications.

2. Net - parcel area after dedications.

Streets: Reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way.

IV. DEVELOPMENT PLAN

Project Characteristics

The Upper Campus of Hoag Hospital is located on a triangular site of approximately 17.57 acres and is bounded by Newport Boulevard to the east, Hospital Road to the north and existing residential developments to the west. The Lower Campus is located north of West Coast Highway, south of the Sunset View linear and consolidated park and Villa Balboa Condominiums, west of Newport Boulevard and east of Superior Avenue. It contains approximately 37.38 total acres, including 8,603 square feet of land encumbered by a roadway easement. The Lower Campus adjoins the Upper Campus at its eastern boundary. The Upper Campus is, and will continue to be, oriented towards inpatient functions, while the Lower Campus will be developed with predominantly outpatient, residential care and support services.

Development Plan

The Planned Community Development Plan for Hoag Hospital is shown on Exhibit 1, *Planned Community Site and Boundary Map*. Through the year 2017, many of the existing buildings shown on the Development Plan for the Upper Campus may be redeveloped in order to functionally respond to the needs of the Hospital and conform to the requirements of State agencies.

Access to the Lower Campus will be from West Coast Highway and from Hospital Road, via the Upper Campus. Exhibit 2, *Vehicular Access*, shows the internal circulation for Hoag Hospital.

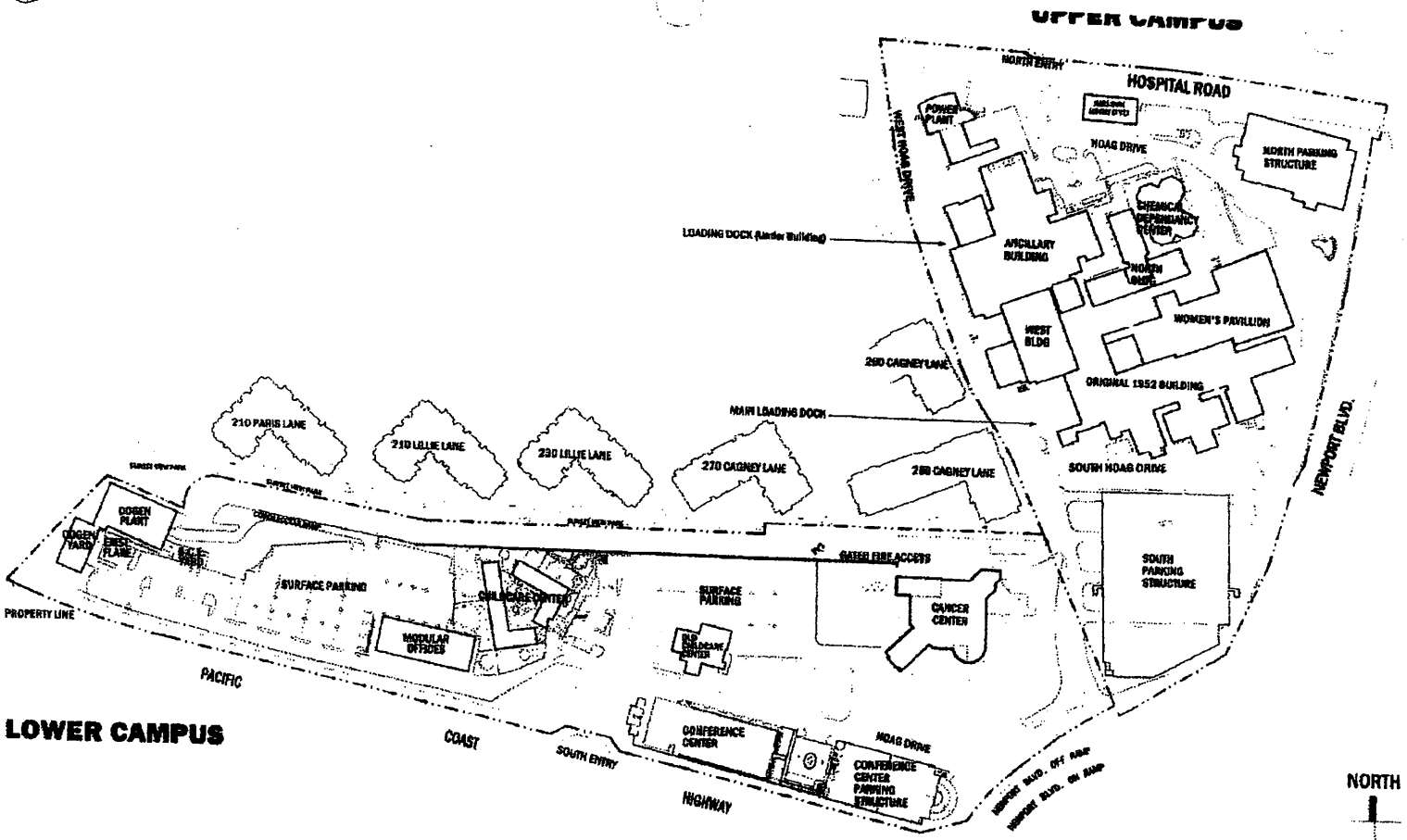
The Development Plan does not specify building locations or specific hospital-related uses. Instead, a developable area is identified based on the regulations established for this Planned Community District. Because of the dynamic nature of the health care industry which leads to rapid technological changes that effect how health care services are delivered, the Development Plan for Hoag Hospital sets development caps as a function of allowable densities established by the Newport Beach General Plan.

The maximum allowable building area for Hoag Hospital, which encompasses both the Lower Campus and the Upper Campus, is 1,343,238 square feet. Each Campus is also subject to a maximum allowable building area limit: the maximum allowable building area for the Upper Campus is 990,349 square feet; the maximum allowable building area for the Lower Campus is 577,889 square feet. Table 1, *Building Area Statistical Analysis*, provides a summary of allowable square footage for both the Upper and Lower Campuses.

Implementation, Program EIR and Subsequent Project Specific Approvals

Hoag has acknowledged that the Environmental Impact Report prepared for the development and implementation of the Hoag Master Plan pursuant to this Planned Community Development Plan is a "Program EIR." The City has prepared and certified two program Environmental Impact Reports - Hoag Hospital Master Plan Final Program EIR (Final EIR No. 142) and a Supplemental EIR for the Master Plan Update (SCH#1991071003). The EIRs analyze the impacts of construction phased over time and, pursuant to CEQA, the City is under a continuing

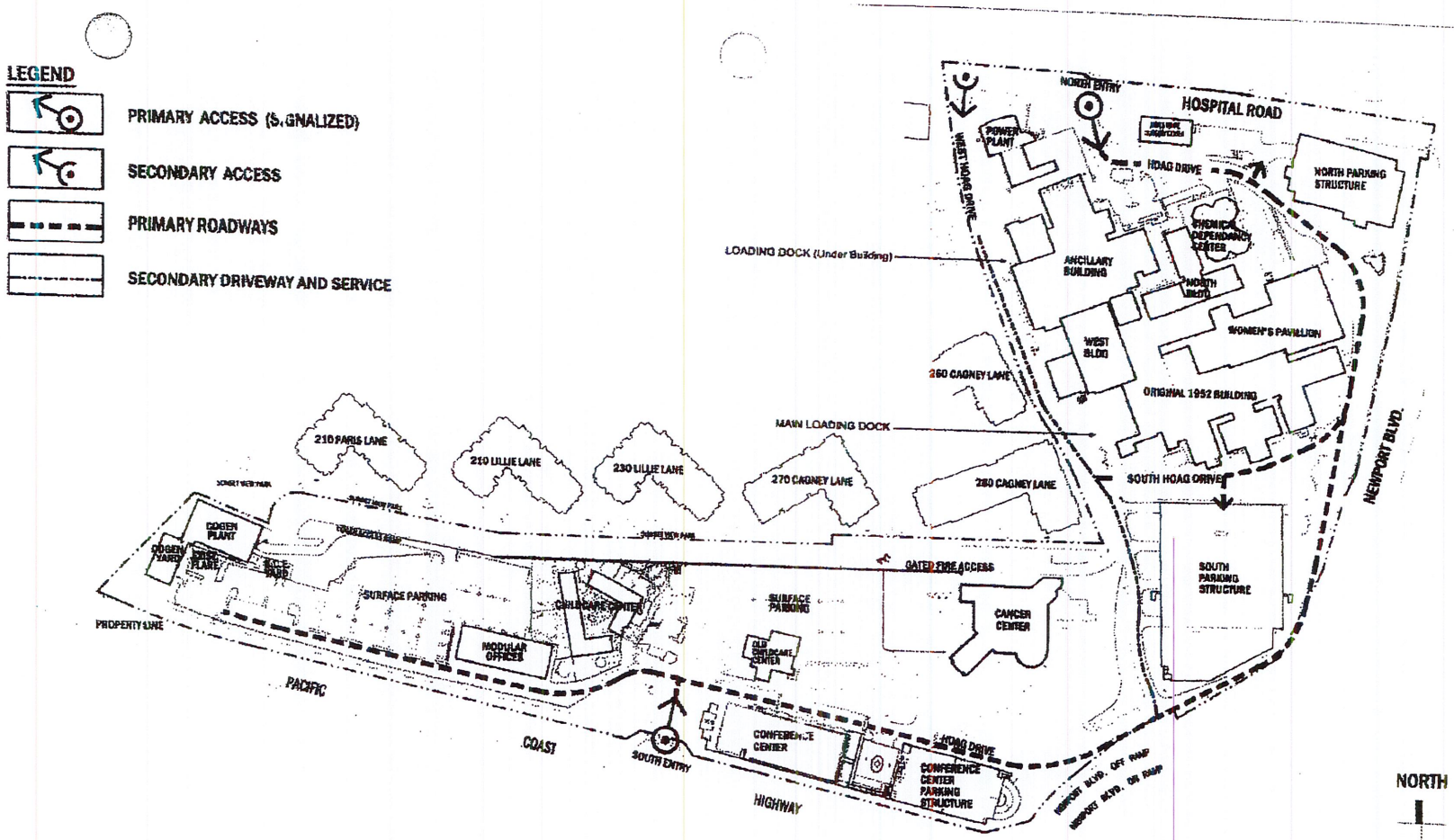
obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the requests were fully addressed in the EIRs. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIRs, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIRs. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA.



Note: Buildings labeled for identification purposes only

PLANNED COMMUNITY SITE AND BOUNDARY MAP
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 1
08.20.07
REVISED 01.22.08



Note: Buildings labeled for identification purposes only

VEHICULAR ACCESS
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 2
08.20.07
REVISED 01.22.08

V. DISTRICT REGULATIONS

The following regulations apply to all development within the Hoag Hospital Planned Community. The individual uses listed under the five permitted use categories are not an exhaustive list. Other hospital-related uses which fit into the five (5) permitted use categories are allowed. Prior to the issuance of a building permit, plot plans, elevations and any other such documents deemed necessary by the Planning, Building, Public Works, and Fire Departments shall be submitted for the review and approval of the Planning, Building, Public Works, and Fire Departments.

A. Permitted Uses

1. Lower Campus

a. Hospital facilities, including, but not limited to:

(1) Outpatient services:

(a) Antepartum Testing
(b) Cancer Center
(c) Skilled Nursing
(d) Rehabilitation
(e) Surgery Center
(f) Clinical Center
(g) Day Hospital
(h) Back and Neck Center
(i) Biofeedback
(j) Breast Imaging Center
(k) Dialysis
(l) EEG/EMG/NICE Laboratory
(m) First Aid Center
(n) Fertility Services
(o) G.I. Laboratory
(p) Magnetic Resonance Imaging
(q) Neurology
(r) Nuclear Medicine
(s) Occupational Therapy
(t) Pediatrics
(u) Pharmacy
(v) Physical Therapy
(w) Pulmonary Services
(x) Radiation Therapy
(y) Respiratory Therapy
(z) Sleep Disorder Center
(aa) Speech Therapy
(bb) Ultrasound
(cc) Urgent Care

(2) Administration:

(a) Admitting
(b) Auxiliary Office
(c) Business Offices
(d) Information Desk
(e) Registration
(f) Patient Relations
(g) Social Services

(3) Support Services:

(a) Employee Child Care
(b) Health Education
(c) Power/Mechanical/Auxiliary Support and Storage
(d) Food Services
(e) Cashier
(f) Chapel/Chaplaincy Service
(g) Conference Center
(h) Dietitian
(i) Gift Shop
(j) Laboratory
(k) Medical Library
(l) Medical Records
(m) Pharmacy
(n) Parking Facilities[4]
(o) Engineering/Maintenance
(p) Shipping/Receiving
(q) Microwave, Satellite, and Other Communication Facilities

(4) Residential Care:

(a) Substance Abuse
(b) Mental Health Services
(c) Extended Care
(d) Hospice Care
(e) Self or Minimal Care
(f) Congregate Care

(5) Medical/Support Offices

[4] Parking structures or decks do not count toward square-footage

b. Methane gas flare burner, collection wells and associated system components.

c. Accessory uses normally incidental to hospital development.

d. Temporary structures and uses, including modular buildings.

2. Upper Campus

a. Hospital facilities, including, but not limited to:

(1) Inpatient uses including, but not limited to:

(a) Critical Care
(b) Emergency Department
(c) Birthing Suites
(d) Cardiology
(e) Cardiac Care Unit
(f) Intensive Care Unit
(g) Mother/Baby Unit
(h) Surgery
(i) Laboratory
(j) Pharmacy
(k) Patient Beds

(2) Outpatient services as allowed on the Lower Campus

(3) Administrative uses as allowed on the Lower Campus

(4) Support services as allowed on the Lower Campus

(5) Residential care as allowed on the Lower Campus

(6) Heliport (subject to Conditional Use Permit)[5]

b. Accessory uses normally incidental to hospital development.

c. Temporary structures and uses, including modular buildings.

[5] Does not count toward square-footage

B. Prohibited Uses

1. Lower Campus

   a. Emergency Room

   b. Heliport

   c. Conversion of mechanical or structural spaces to uses that allow general or routine occupancy

2. Upper Campus

   a. Conversion of mechanical or structural spaces to uses that allow general or routine occupancy

C. Maximum Building Height

The maximum building height of all buildings shall be in accordance with Exhibit 3, *Development Criteria Plan*, which establishes the following height zones:

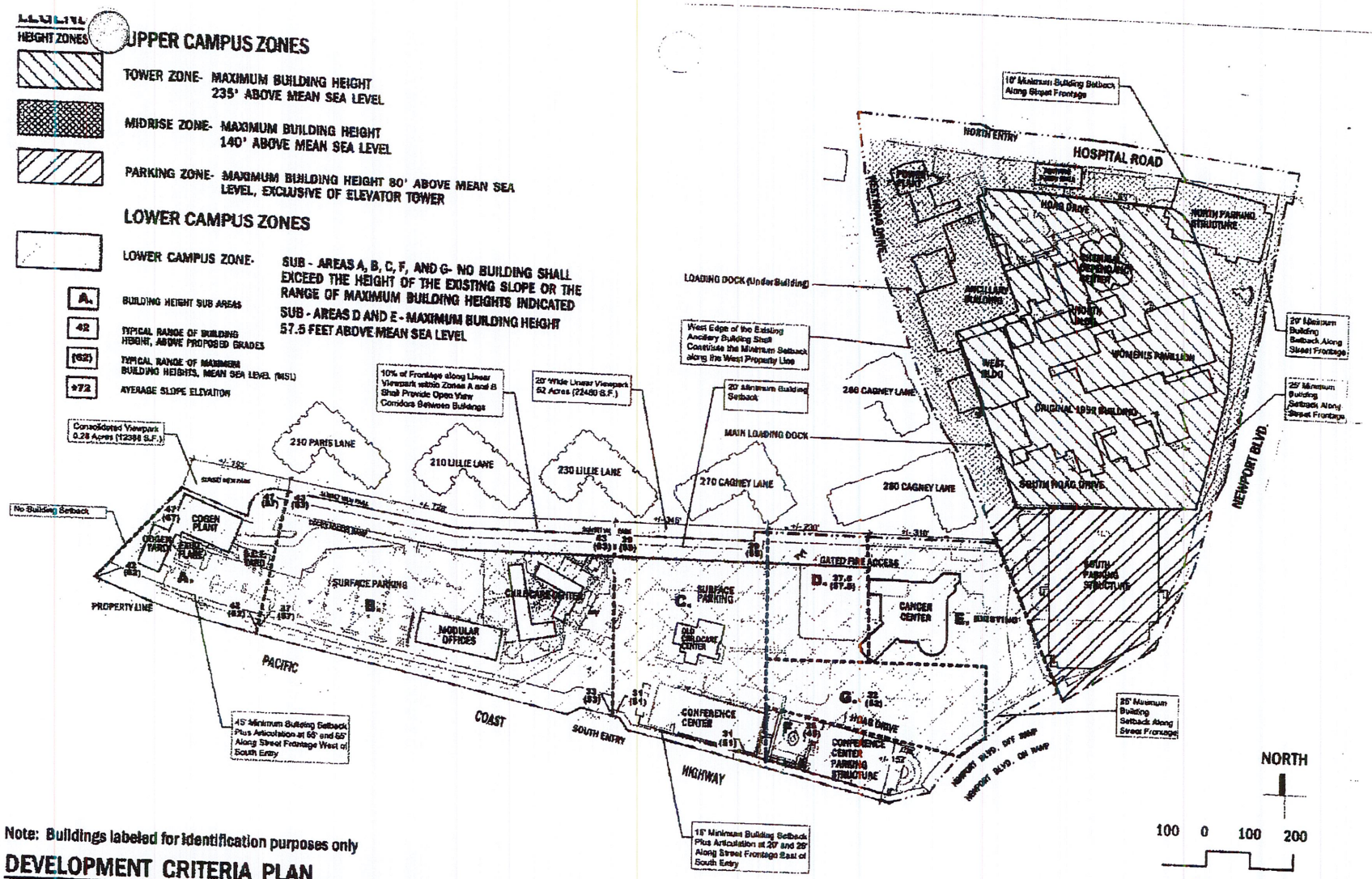
1. Upper Campus Tower Zone - maximum building height not to exceed the existing tower which is two-hundred thirty-five (235) feet above mean sea level.

2. Upper Campus Mid-rise Zone - maximum building height not to exceed one-hundred forty (140) feet above mean sea level.

3. Upper Campus Parking Zone - maximum building height not to exceed eighty (80) feet above mean sea level, exclusive of elevator towers.

4. Lower Campus Zone, Sub-Areas A, B, C, F and G - within each sub-area no building shall exceed the height of the existing slope and conform to the range of maximum building heights indicated by the development criteria shown on Exhibit 3.

5. Lower Campus Zone, Sub-Areas D and E - maximum building height shall not exceed the height of the existing Hoag Cancer Center which is fifty-seven and one-half (57.5) feet above mean sea level.



Note: Buildings labeled for identification purposes only

DEVELOPMENT CRITERIA PLAN
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 3
08.20.07
REVISED 01.22.08

D. Building Setbacks

Setbacks for the Hoag Hospital Planned Community are shown on Exhibit 3.

1. Setbacks will be provided along property boundaries adjacent to the Villa Balboa condominiums, as defined below:

   a. Upper Campus western boundary setback shall be the prolongation of the westerly edge of the existing cafeteria/laboratory building to the points of intersection with the easterly curb line of the existing service drive, then continuing along said line of the existing service drive.

   b. Lower Campus northern boundary, all of which will have a 20-foot minimum building setback.

2. The setback on West Coast Highway easterly of the hospital entry signal shall be fifteen (15) feet.

   In addition, vertical articulation shall be required for buildings easterly of the signal within one-hundred fifty (150) feet of the West Coast Highway frontage, as follows:

   1st Floor: Up to eighteen (18) feet in height no additional articulation is required. If the 1st floor exceeds eighteen (18) feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

   2nd Floor, up to thirty-two (32) feet in height: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of twenty (20) feet.

   3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of twenty-five (25) feet.

   The setback on West Coast Highway westerly of the hospital entry signal shall be forty-five (45) feet.

   In addition, vertical articulation shall be required for buildings westerly of the signal for buildings within one-hundred fifty (150) feet of the West Coast Highway frontage, as follows:

   1st Floor: Up to eighteen (18) feet in height no additional articulation is required. If the 1st floor exceeds eighteen (18) feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor, up to thirty-two (32) feet in height: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of fifty-five (55) feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of sixty-five (65) feet.

In order to avoid any future structures in this area (within 150 feet of West Coast Highway) from presenting an unacceptable linear mass, no single structure shall be greater than two-hundred fifty (250) linear feet in width. Additionally, 20% of the linear frontage within one-hundred fifty (150) feet of West Coast Highway shall be open and unoccupied by buildings.

10% of the linear length of Height Zones A and B as viewed from the existing bicycle/pedestrian trail, exclusive of that area adjacent to the consolidated portion of the view park, shall be maintained as view corridors between buildings.

These requirements may be altered for individual buildings, if requested by the hospital, through the site plan review process defined in Section IX.

3. There will be no building setbacks along the westerly boundary of the Lower Campus (adjacent to the municipal parking lot at Superior and West Coast Highway).

4. A twenty (20) foot setback from property line shall be provided along Newport Boulevard from Hospital Road to a point six-hundred (600) feet south; a twenty-five (25) foot setback from property line shall be provided along the remainder of Newport Boulevard and along the Newport Boulevard/West Coast Highway Interchange.

5. A ten (10) foot building setback from the property line shall be provided along Hospital Road.

E. Lighting

The lighting systems shall be designed and maintained in such a manner as to shield the light source and to minimize light spillage and glare to the adjacent residential uses. The plans shall be prepared and signed by a licensed Electrical Engineer.

F. Roof Treatment

Prior to the issuance of building permits, the project sponsor shall submit plans which illustrate that major mechanical equipment will not be located on the roof of any structure on the Lower Campus. Minor rooftop equipment, necessary for operating purposes, will comply with all building height criteria, and shall be designed and screened to blend into the building roof using materials compatible with roofing materials.

G. Signs

All signs shall be as specified under the Hoag Hospital Sign Program, Part VI.

H. Parking

All parking shall be as specified in Part VII, Hoag Hospital Parking Regulations.

I. Landscape

All landscaping shall be as specified in the Hoag Hospital Landscape Regulations, Part VIII.

J. Mechanical and Trash Areas

Prior to issuance of a building permit, the project sponsor shall submit plans to the City Planning Department which illustrate that all mechanical equipment and trash areas will be screened from public streets and immediately adjacent residential properties.

K. West Hoag Drive Circulation Limitations

The project sponsor shall continue to limit the use of that portion of West Hoag Drive adjacent to residential uses located on the Upper Campus. Deliveries to loading areas shall not occur after 8:00 PM or before 7:00 AM daily. The project sponsor shall physically restrict access to the roadway between these hours and appropriate signage indicating permitted delivery hours and access limitations shall be installed and maintained at all times. Night time deliveries and vehicular access to the loading area located along West Hoag Drive are allowed where critical supplies, services or materials are necessary for the continued operation of the hospital.

L. Loading Dock

The project sponsor shall provide a sound wall along West Hoag Drive as shown in the approximate location on Exhibit 4. Said wall shall be installed within 12 months of project approval, subject to issuance of required permits. To the maximum degree feasible, the sound wall shall be constructed to retain existing vegetation, which serves as a visual screen. Please refer to Section VIII, D. for additional landscaping requirements related to the sound wall. Mitigation measures to reduce the noise levels in the Loading Dock Area shall be incorporated into the design and operations of the hospital; such mitigation shall include relocation of the trash compactor and baler, limiting the hours of truck deliveries to the loading dock area, and enclosure of the trash compactor.

TABLE 1

BUILDING AREA STATISTICAL ANALYSIS

TOTAL OF LOWER CAMPUS & UPPER CAMPUS BUILDING AREAS - MAXIMUM ALLOWABLE: 1,343,238 SQUARE-FEET

	Site Area	Allowable Building Area	Existing[1]	Net Remaining	Maximum Allowable
UPPER CAMPUS	765,349 sq. ft.	765,349 sq. ft.	698,121 sq. ft.	67,228 sq. ft.	990,349 sq. ft.[2]
LOWER CAMPUS	862,815 sq. ft.	577,889 sq. ft.	188,149 sq. ft.	389,740 sq. ft.	577,889 sq. ft.
TOTALS	1,618,164 sq. ft.	1,343,238 sq. ft.	886,270 sq. ft.	456,968 sq. ft.	1,343,238 sq. ft.[3]

[1] As of the date of adoption.
[2] Up to 225,000 square-feet can be transferred from the Lower to the Upper Campus
[3] Demolition of some existing structures on the Upper Campus will occur to ensure maximum square-feet will not exceed 1,343,238 square-feet

M. Noise Standards

Noise generated at the Hoag Hospital property shall be governed by the City of Newport Beach Noise Ordinance, except as noted below for the Loading Dock Area. Refer to Exhibit 5, *Loading Dock Area Location,* for the location.

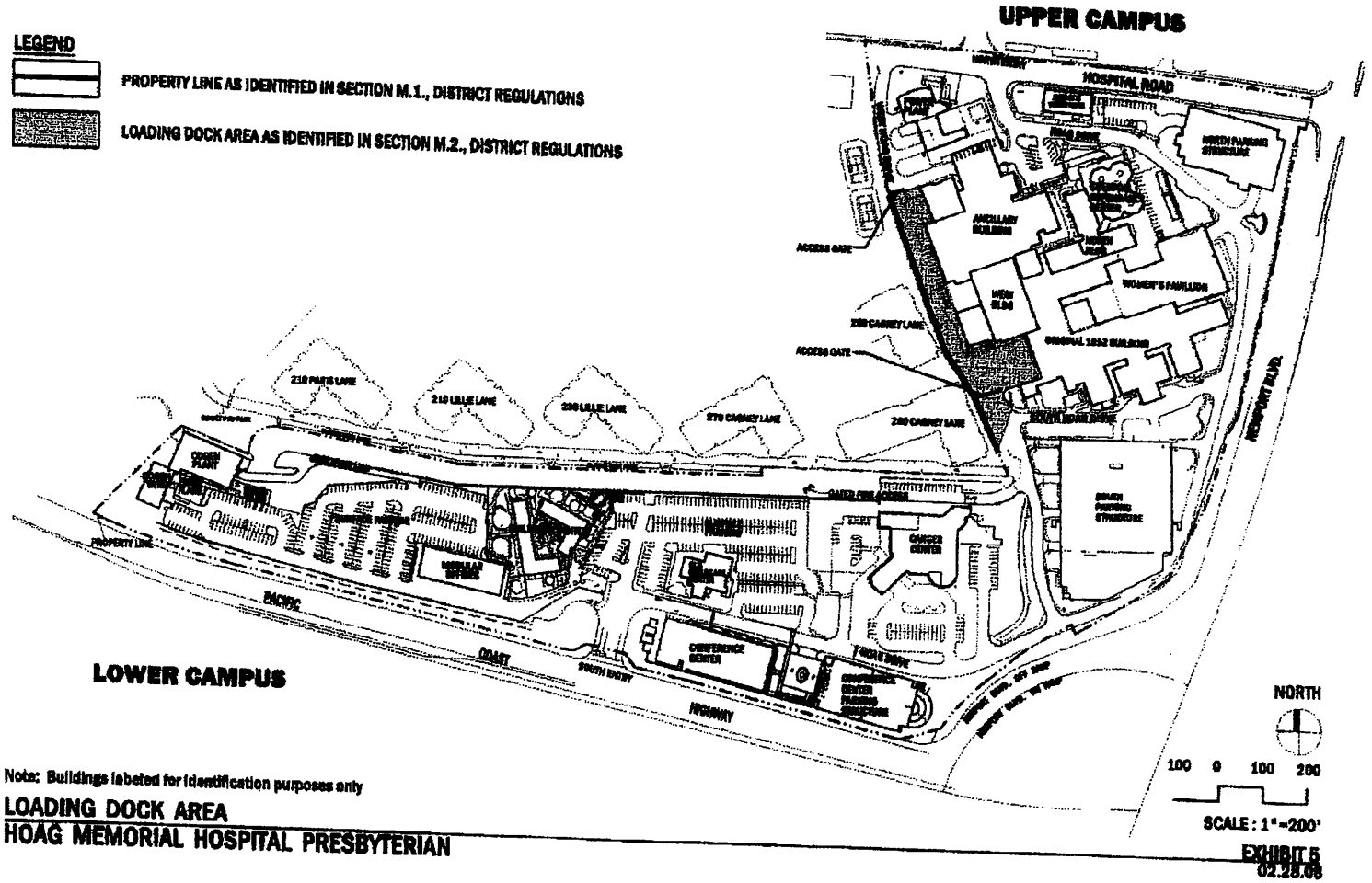
1. The applicable noise standard at the Hoag Hospital property line adjacent to the Loading Dock Area shall be as follows:

	7 AM – 10 PM	10 PM – 7 AM
	Daytime	Nighttime
Leq (15 min)	65 dBA	55 dBA

2. Within the Loading Dock Area during daytime hours, vehicles shall be exempt from applicable noise standards as listed above.

   Vehicle idling shall be prohibited on West Hoag Drive and within the loading dock areas, except that refrigerated vehicles may idle while at the loading docks when refrigeration is necessary.

   In addition, the grease pit cleaning which is exempt from the City Noise Ordinance as a maintenance activity shall occur on a Saturday between the hours of 11:00 AM and 3:00 PM.



Note: Buildings labeled for identification purposes only

LOADING DOCK AREA
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 5
02.28.08

VI. HOAG HOSPITAL SIGN PROGRAM

A. Purpose and Intent

1. The purpose of this Sign Program is to provide adequate, consistent and aesthetically pleasing on-building wall and ground-mounted signage based upon the provisions set forth by the City of Newport Beach Sign Ordinance and the information signage requirements of Hoag Hospital.

2. The intent of this Sign Program is to produce uniform standards for Hoag Hospital.

B. General Sign Standards

1. All signs visible at the exterior of any building or facility of the Hospital, ground-mounted or on-building, may be illuminated or non-illuminated, depending upon need. Illumination method may be by external or internal source. No sign shall be constructed or installed to rotate, gyrate, blink or move, or create the illusion of motion, in any fashion.

2. All signs attached to building or facility exteriors shall be mounted as is appropriate to the architectural design features of said building or facility.

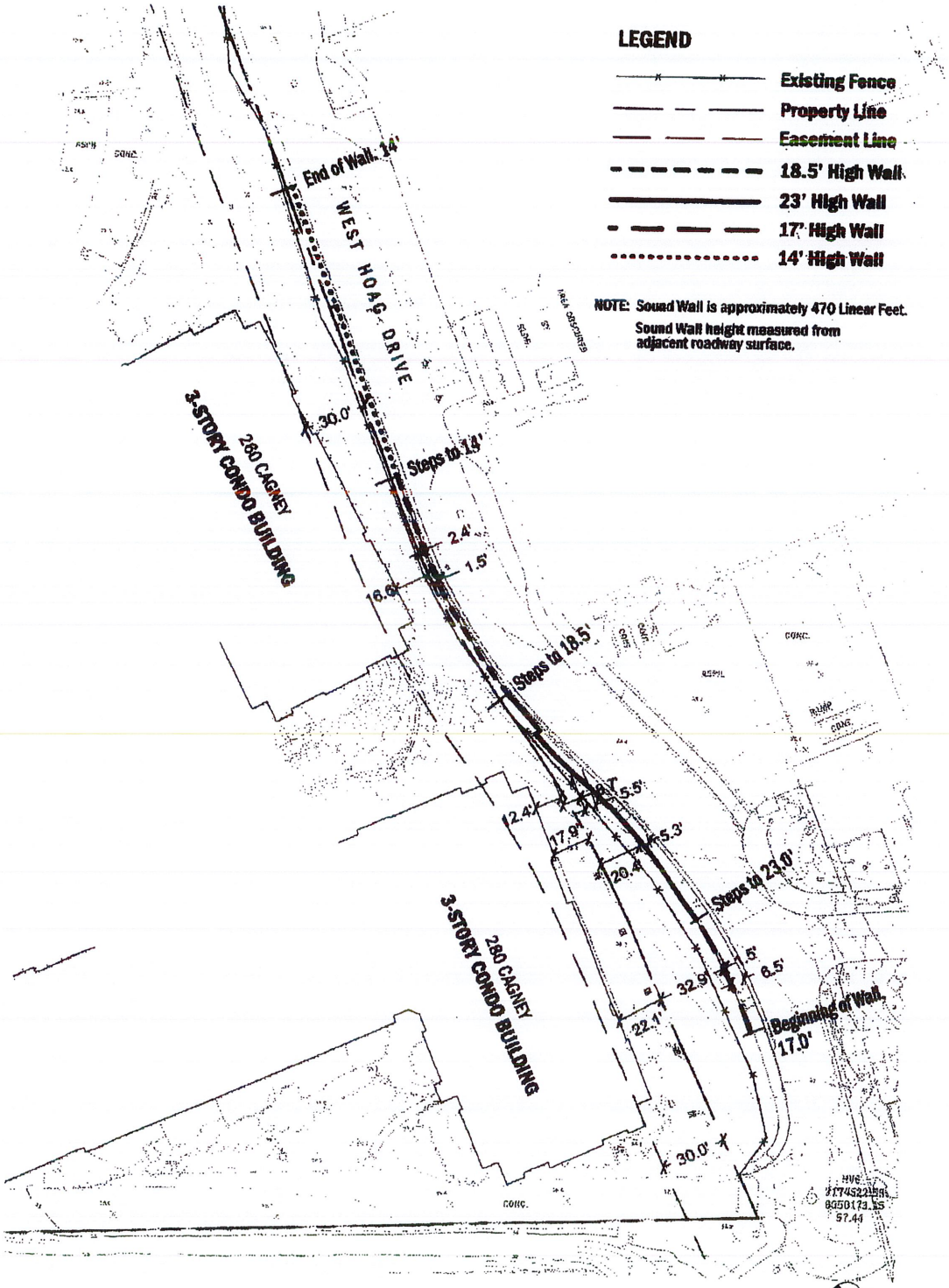
3. All signs together with the entirety of their supports, braces, guys, anchors, attachments and decor shall be properly maintained, legible, functional and safe with regard to appearance, structural integrity and electrical service.

4. All street signs shall be subject to review and approval of the City Traffic Engineer, and shall be in compliance with Ordinance 110-L.

5. For purposes of this section, a building shall be defined as any occupied structure or any occupied portion of a structure that is constructed as an addition to an existing structure and identified as a separate building for way finding purposes. Individual building numbers uniquely define the buildings on the Hoag campus.

C. Number of Signs Allowed

1. One (1) double-faced primary identification ground-mounted sign or two (2) single-faced gateway entry signs shall be allowed per street frontage. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Total maximum signage area shall not exceed two hundred (200) square feet and shall not exceed ten (10) feet in height per sign and street frontage. This sign may occur as a wall sign, to be located upon a project



SOUND WALL LOCATION PLAN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN April 3, 2008

0 40 80

EXHIBIT 4

boundary perimeter wall, subject to the same number and area maximums described above. This sign may also occur as part of an entry gateway system.

2. Primary entrance identification shall be allowed at the main entrance to the facility and at the main entrance to the Emergency Department. If freestanding, this sign type shall not exceed a maximum height of eight (8) feet average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed seventy (70) square feet.

3. Secondary building and entrance identification signs shall be allowed. If freestanding, this sign type shall not exceed a maximum height of nine (9) feet average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed fifty (50) square feet whether freestanding or wall-mounted.

4. Vehicular and pedestrian directional signs shall be allowed. This sign type may occur as a single-faced, double-faced, or triple-faced sign. The sign shall be sized to allow for proper readability given the number of lines of copy, speed of traffic, setback off the road and viewing distance. This sign type shall not exceed a maximum height of eleven (11) feet average height above finished grade.

5. Donor recognition signage shall be allowed, one (1) at each building elevation. Maximum sign area shall not exceed one hundred seventy-five (175) square feet for donor recognition signage.

6. Hospital identification signs shall be allowed upon hospital towers, one (1) at each elevation. The maximum sign area shall not exceed two hundred seventy-five (275) square feet. Any hospital identification signage on the elevation facing west (Villa Balboa property line) may not be illuminated.

7. On the Lower Campus, two (2) building-mounted identification signs will be allowed per structure and shall not be placed so as to directly face the Villa Balboa property. Such signs shall adhere to the requirements above for secondary building and entrance identification signage and shall be no higher than the roof line of the building upon which they are mounted.

8. Each public parking structure shall be allowed one (1) identification sign above each entrance and exit of the structure. The maximum sign area of each identification sign shall not exceed thirty (30) square feet. Adjacent regulatory parking signage does not count toward the maximum sign area.

VII. HOAG HOSPITAL PARKING REGULATIONS

A. General

1. Off-street parking for Hoag Hospital shall be provided on-site. Parking may be on surface lots, subterranean or in parking structures.

2. The design and layout of all parking areas shall be subject to the review and approval of the City Traffic Engineer and the Public Works Department.

3. Parking lot lighting shall be developed in accordance with City standards and shall be designed in a manner which minimizes impacts on adjacent land uses. Nighttime lighting shall be limited to that necessary for security and shielded down from any adjacent residential area. The plans shall be prepared and signed by a licensed electrical engineer, with a letter from the engineer stating that the requirements have been met. The lighting plan shall be subject to review and approval of the City Planning Department.

B. Requirements for Off-Street Parking

Parking requirements for specific sites shall be based upon the parking criteria established in Table 2. All parking shall be determined based upon the area allocated to the use categories.

TABLE 2

PARKING REQUIREMENTS

Use Category	Parking Requirements
Outpatient Services	2.31 spaces/1,000 square feet (1)
Support	0.0 spaces/1,000 square feet (1)(2)
Administrative	5.3 spaces/1,000 square feet (1)
Residential Care	1.0 spaces/1,000 square feet (3)
Medical Offices	4.0 spaces/1,000 square feet (3)
Inpatient	2.35 spaces/1,000 square feet (1)

(1) Parking factor based on parking analysis prepared by Linscott, Law & Greenspan dated October 15, 2001 for Traffic Study 2001-002 approved by Planning Commission Resolution No. 1542.
(2) Support Services generates parking demand that is accounted for in one of the other categories.
(3) Parking requirements based upon a study prepared by LSA Associates dated September 27, 1991.

VIII. HOAG HOSPITAL LANDSCAPE REGULATIONS

A. General

1. Detailed landscape and irrigation plans, prepared by a registered Architect or under the direction of a Landscape Architect, shall be reviewed by the City prior to issuance of a Certificate of Use and Occupancy. The Landscape Plan shall include a concept for rooftop parking and parking structures if proposed for the Lower Campus. Trees shall not be used, however planter boxes, green roof treatments or trellis systems shall be designed to provide added visual relief of rooftop parking or parking structures. All rooftop or top of parking structure landscaping proposals shall conform to the building height limits established in this text.

2. Parking lot trees shall be no less than twenty-four (24) inch box size.

3. Shrubs to be planted in containers shall not be less than five (5) gallon size. Ground covers will be planted from one (1) gallon containers or from rooted cuttings.

4. Every effort should be made to avoid using plants with invasive and shallow root systems.

5. Earth berms shall be rounded and natural in character, designed to obscure automobiles and to add interest to the site. Wheel stops shall be so placed as necessary to avoid damage to trees, irrigation systems, shrubs and other planting materials.

6. Trees in parking lots should be limited in variety. Selection should be repeated to give continuity. Regular spacing or the introduction of irregular groupings may also be considered to add interest and variety. Care should be exercised to allow plants to grow and maintain their mature size without restriction.

7. Emphasis shall be placed on the use of native, drought-tolerant, non-invasive plants on the Lower Campus. On the Upper Campus, naturalized vegetation selections, as well as those plants allowed on the Lower Campus, will be emphasized. Automatically controlled irrigation systems shall be designed to avoid surface runoff and over-watering.

8. Installation and maintenance of landscape, screening and irrigation systems per Exhibit #6, Exhibit #7 and Exhibit #8. All improvements shall be shown on landscape and irrigation plans to be reviewed and approved by the Planning Department and which shall be in substantial compliance with the Exhibits #6, #7 and #8. Hoag shall complete all of the improvements within the timelines set forth in Exhibit #6.

B. Maintenance

1. All planting areas are to be kept free of weeds and debris and cultivated as necessary to maintain.

2. Lawn and ground cover areas are to be kept trimmed and/or mowed regularly.

3. All plantings are to be kept in a healthy and growing condition. Fertilization, cultivation and tree pruning are to be carried out as part of a regularly scheduled annual maintenance program.

4. Irrigation systems are to be kept in good working condition at all times. On-going monitoring, adjustments and cleaning of systems are to be part of regular maintenance procedures.

5. Stakes, guys and tree ties on trees should be checked regularly for correct function; ties shall be adjusted to avoid creating abrasions or girdling of branches or central leaders.

6. Damage to plantings created by vandalism, automobile or acts of nature shall be corrected within thirty (30) days.

7. Plantings and irrigation are to be maintained in accordance with the approved plans.

C. Special Landscaped Street

West Coast Highway is designated in the Hoag Hospital Planned Community as a special landscaped street. A fifteen (15) foot building setback from right-of-way/property line is required along West Coast Highway. Only driveways, parking and signage structures are allowed in the setback areas. Parking areas shall be screened from view of West Coast Highway with landscaped berms.

Landscaping along West Coast Highway shall consist of trees, ground cover and shrubbery. All unpaved areas not utilized for parking or circulation shall be landscaped in a similar manner. Installed trees are to be no smaller than twenty-four (24) inch box.

D. Villa Balboa Landscape Zone

The area between the Hoag property line and the sound wall will be referred to as the Villa Balboa Landscape Zone. This portion of the Hoag Hospital property will have a specific landscape process to ensure consultation with Villa Balboa on the planting and maintenance of the area. Existing landscaping on Villa Balboa's side of the wall shall be preserved to the extent feasible or replaced with specimen plant material as designated on a plan to be approved by the Planning Director after consultation with the Villa Balboa Community Association. The plan

IX. SITE PLAN REVIEW

A. Purpose

The Council finds that development on the Lower Campus of Hoag Hospital may have the potential to affect the aesthetics of the community. The effect of this section is to establish a Site Plan Review requirement for certain individual projects - to insure that these projects conform with the goals and policies of the General Plan, provisions of this Planned Community Development Plan, the Development Agreement and the standards set forth below in sub-section F. The following classifications of projects are subject to the Site Plan Review:

Planning Commission review:

1. Any project that differs from setback, horizontal and vertical articulation requirements as set forth in Section V.D.2.

Planning Director's review:

1. Any project that could have the potential to generate emissions that could have an impact to visual resources.
2. Any project that could have the potential to generate emissions creating objectionable odors or other impacts to air quality.
3. Replacement of existing cooling towers, ~~except for casualty.~~

B. Findings

The City finds, determines and declares that the establishment of Site Plan Review procedures contained in this section promotes the health, safety, and general welfare of the community by ensuring that the development of Hoag Hospital proceeds in a manner which will not result in inadequate and poorly planned landscape areas, excessive building bulk on arterial roadways, inappropriate placement of structures and impairment of the benefits of occupancy and use of existing properties in the area.

C. Application

Site Plan Review approval shall be obtained for any new structure or the addition to an existing structure, as outlined in Section IX.A above, prior to the issuance of a grading or building permit or issuance of an approval in concept for Coastal Commission or Office of Statewide Health Planning and Development review.

D. Plans and Diagrams to be Submitted

The following plans and diagrams shall be submitted to the Planning Commission for approval:

shall also include sufficient additional landscaping to screen or soften the soundwall required pursuant to Section V.L. Hoag shall maintain all landscaping on Hoag's property and to the extent new plant material is installed as a result of wall construction by Hoag on the Villa Balboa property adjacent to the Villa Balboa Landscape Zone (with their permission), Hoag shall maintain such new plant material on Villa Balboa's property for a period of two years after installation to ensure healthy growth. All landscape installation shall occur within 45 days of the completion of the wall or earlier. Any future modifications made to said wall and landscaping shall be reviewed and approved by the Planning Director.

E. Parking Areas

A minimum of 5% of the surface parking areas shall be devoted to planting areas. Planting areas around building shall not be included in parking area landscape calculations. Planting of trees may be in groups and need not be regularly spaced. Alternative landscape programs may be developed, including perimeter parking area landscaping, berming and depressing of parking areas to provide additional screening. Alternative landscape programs shall be subject to the review of the Newport Beach Planning Department.

A rooftop landscaping program shall be developed for parking structures and rooftop parking proposed for the Lower Campus and shall be subject to the review and the approval of the Newport Beach Planning Department.

1. A plot plan, drawn to scale, showing the arrangement of buildings, driveways, pedestrian ways, off-street parking and off-street loading areas, landscaped areas, signs, fences and walks. The plot plan shall show the location of entrances and exits, and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and loading space, and areas for turning and maneuvering vehicles. The plot plan shall indicate how utility and drainage are to be provided.

2. A landscape plan, drawn to scale, showing the locations of existing trees (proposed to be removed and proposed to be retained); and indicating the amount, type, and location of any landscaped areas, planting beds and plant materials with adequate provisions for automatic irrigation.

3. Grading plans when necessary to ensure development properly related to the site and to surrounding properties and structures.

4. Scale drawings of exterior lighting showing size, location, materials, intensity and relationship to adjacent streets and properties.

5. Architectural drawings, renderings or sketches, drawn to scale, showing all elevations of the proposed buildings and structures as they will appear upon completion.

6. Any other plans, diagrams, drawings or additional information necessary to adequately consider the proposed development and to determine compliance with the purposes of this chapter.

E. Fee

The applicant shall pay a fee as established by Resolution of the City Council to the City with each application for Site Plan Review under this chapter.

F. Standards

In addition to the general purposes set forth in sub-section A, in order to carry out the purposes of this chapter as established by said section, the Site Plan Review procedures established by this Section shall be applied according to and in compliance with the following standards, when applicable:

1. The development is in compliance with all other provisions of the Planned Community Development Criteria and District Regulations (P-C Text);

2. Development shall be compatible with the character of the neighborhood and surrounding sites and shall not be detrimental to the orderly and harmonious development of the surroundings and of the City;

3. Development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways and properties, with special

consideration given to the mass and bulk of buildings and the streetscape on West Coast Highway;

4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development.

5. Potential impacts shall be mitigated to less than significant levels.

G. Public Hearing - Required Notice

A public hearing shall be held on all Site Plan Review applications. Notice of such hearing shall be mailed not less than ten (10) days before the hearing date, postage prepaid, using addresses from the last equalized assessment roll or, alternatively, from such other records as contain more recent addresses, to owners of property within a radius of three hundred (300) feet of the exterior boundaries of the subject property. It shall be the responsibility of the applicant to obtain and provide to the City the names and addresses of owners as required by this Section. In addition to the mailed notice, such hearing shall be posted in not less than two (2) conspicuous places on or close to the property at least ten (10) days prior to the hearing.

H. Action by the Planning Director

If all applicable standards established by this Section are met, the Planning Director shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Director shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Director shall be subject to review by the Planning Commission either by appeal, or upon its own motion, or upon the request of the Planning Director. The action of the Planning Director on any Site Plan Review shall be final and effective twenty-one (21) days following the Director's action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Planning Director has requested a review of its decision, or unless the Planning Commission, not more than twenty-one (21) days after the Director's action, on its own motion, elects to review and act on the action of the Director, unless the applicant consents to an extension of time. The Planning Commission may affirm, reverse or modify the decision. Such action by the Planning Commission shall be final, unless subsequently appealed or reviewed.

I. Action by the Planning Commission

If all applicable standards established by this Section are met, the Planning Commission shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Commission shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Commission shall be subject to review by the City Council either by appeal, or upon its own motion, or upon the request of the Commission. The action of the Commission on any Site Plan Review shall be final and effective twenty-one (21) days following the Commission action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Commission has requested a review of its decision, or unless the City Council, not more than twenty-one (21) days after the Commission action, on its own motion, elects to review and act on the action of the Commission, unless the applicant consents to an extension of time. The City Council may affirm, reverse or modify the decision. Such action by the City Council shall be final.

J. Appeal to the City Council

Any Site Plan Review decision of the Commission may be appealed to the City Council by the applicant or any other person, at any time within twenty-one (21) days after the date of the Commission decision. An appeal to the City Council shall be taken by filing a letter of appeal in duplicate, with the Planning Department. Such letter shall set forth the grounds upon which the appeal is based and shall be accompanied by a fee as established by Resolution of the City Council.

K. Action by the City Council

An appeal shall be heard and acted on by the City Council within sixty (60) days of filing a letter of appeal, and the City Council may affirm, reverse or modify the decision of the Commission. The decision of the City Council is final.

L. Expiration and Revocation of Site Plan Review Approvals

1. Expiration. Any Site Plan Review granted in accordance with the terms of this Title shall expire within twenty-four (24) months from the date of approval if a building permit has not been issued prior to the expiration date and subsequently construction is diligently pursued until completion, unless at the time of approval the Planning Commission has specified a different period of time.

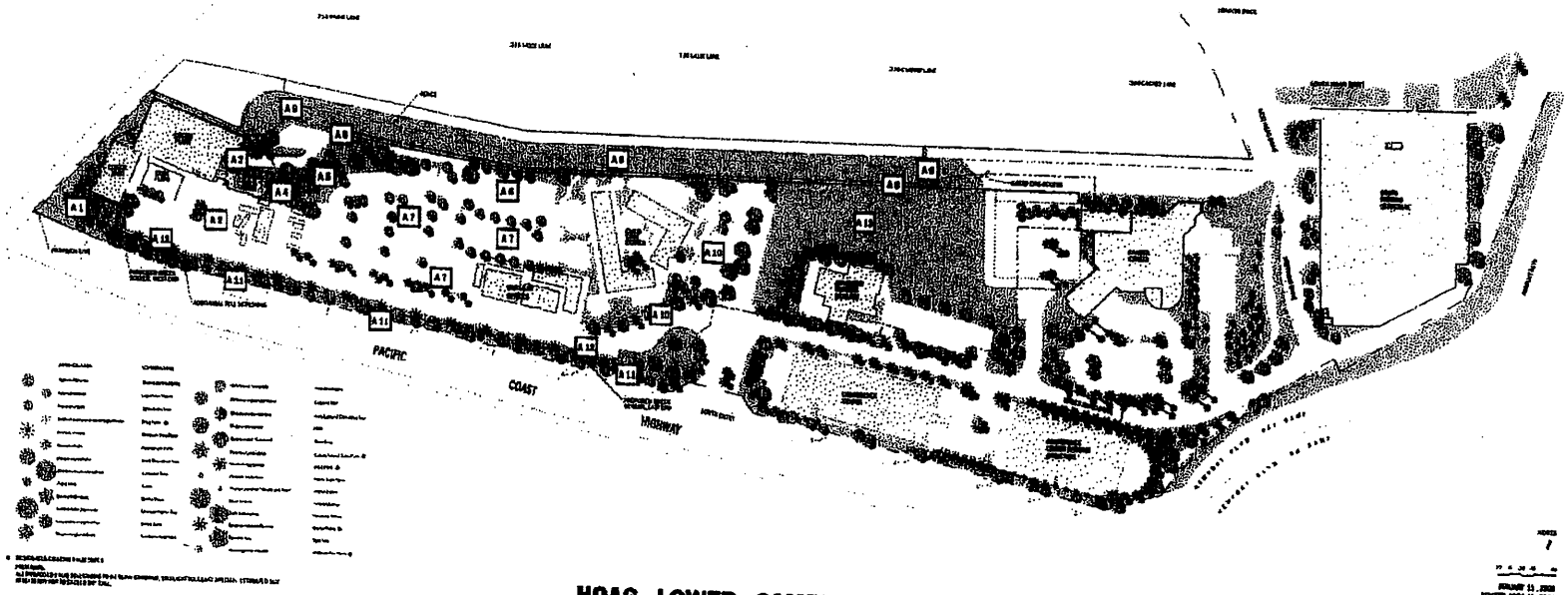
2. Violation of Terms. Any Site Plan Review granted in accordance with the terms of this Title may be revoked if any of the conditions or terms of such Site Plan Review are violated or if any law or ordinance is violated in connection there with.

3. Hearing. The Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten (10) days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within sixty (60) days after receipt of the recommendation of the Planning Commission.

Location	Area	Description	Landscape Element	Schedule	Government/Agency Status	Anticipated Outcome / Effect
Hoag Lower Campus	Area 1 - Co Gen	Additional tree planting per community request	Add 5, 48" box evergreen screen trees and new irrigation	Nov 2007 Installed	Project completed	Screen/soften views of west and of Co Gen Building
						From PCH
	Area 2 - Co Gen	Additional tree planting per community request	Add 3, 48" box evergreen screen trees and new irrigation	To commence May 2008. Install completion July 2008.	Coastal Comm. Approved 2/08	Added screening of Co Gen Flare
	Area 3 - Co Gen	Add green screen fabrics per community request	Attach metal green screen lattice structure to cover east building elevation	To commence May 2008. Install completion July 2008.	Coastal Comm. Approved 2/08	Screen/soften specific views of Co Gen Building
			Plant flowering vines to cover green screen	To commence May 2008. Install completion July 2008.	Coastal Comm. Approved 2/08	Screen/soften specific views of Co Gen Building
	[illegible]	Clean up and regrade area with added shrub and groundcover planting	Additional shrubs, groundcover and new irrigation system added upon completion of wall project.	Nov 2007 Installed	Project completed	Added visual quality and erosion control
	[illegible]	Tree shrub and groundcover planting	24 trees, shrubs and groundcover plantings and new water conserving irrigation system	Nov 2007 Installed	Project completed	Added campus visual quality screening and erosion control
			Installed as part of Lower Campus Wall Project			
	[illegible]	Trees and shrub planting	6, 24" box evergreen screen trees	Nov 2007 Installed	Project completed	Screen and soften views of retaining wall
			Installed as part of Lower Campus Wall Project			
	[illegible]	Tree planting	12, 36" box flowering trees and 4 fan palm trees and irrigation system at end islands	Nov 2007 Installed	Project completed	Soften views of open parking lot areas
			Installed as part of Lower Campus Wall Project			Increased shade and visual enhancement to parking area
	[illegible]	Tree planting	Install 23, 36" box flowering trees and 3 fan palm trees	Installed no later than Dec 2009	Installation shall commence no later than 60 days of CDP issuance by the Coastal Comm	Soften views of open parking lot areas and increase shade and visual enhancement to parking areas.
Hoag Lower Campus	[illegible]	Flowering bougainvillea shrub planting	550, bougainvillea shrubs installed as part of Lower Campus Wall Project	Nov 2007 Installed	Project completed	Colorful edge definition and softening of views along top of retaining wall
	[illegible]	Regrade area add fence shrub and groundcover planting	Shrubs, groundcover, fencing and new irrigation system	Installed no later than Dec 2009	Installation shall commence no later than 120 days of CDP issuance by the Coastal Comm	Enhanced overall campus visual quality, safety and erosion control
	[illegible]	Additional trees shrubs & groundcover planting	17 trees, shrubs and groundcover and new irrigation system	Dec 2007 Installed	Project completed	Added Visual Quality, Parking area screening and building drop off and entry area definition
Hoag Lower Campus	[illegible]	Replace trees, shrub and groundcover and enhance planting areas	Trees, shrub & groundcovers and new irrigation system	Installation schedule Dec. 2009	Pending city approval in concept and Coastal Comm Approval	Improve & unify campus planting character along PCH frontage after utilities installed
	[illegible]	Additional green screen and tree/shrub planting	Install approx. 870 linear feet of green screen along PCH frontage	Installed no later than Dec 2009	Immediately upon issuance of an Approval in Concept (AIC) by the City of Newport Beach an application shall be submitted for said improvements to the Coastal Comm. Construction of said improvements shall be completed no later than 18 months after CDP issuance by the Coastal Comm.	Screen views of west parking Lot from PCH
	[illegible]	Temporary native hydroseed groundcover Planting	Add coastal wild flower and grass Hydroseed planting until permanent parking lot with landscape improvements added.	Hydroseed and irrigation Installed Dec 2007	Hydroseed and irrigation completed	Erosion/dust control and enhanced visual quality pending future parking area installation
	Color Code Indicating Current Project Status					
	Green		Indicates current improvements that have been installed per previous approvals			
	Yellow		Indicates improvements installed but not apart of required permits			
	[illegible]		Indicates improvements in design phase yet to be submitted for city or agency approvals			
	Red		Indicates improvements proposed but not approved for installation			
						R/Hdo Ltd. 1/15/08 Revised 4/15/08 for City Council Meeting

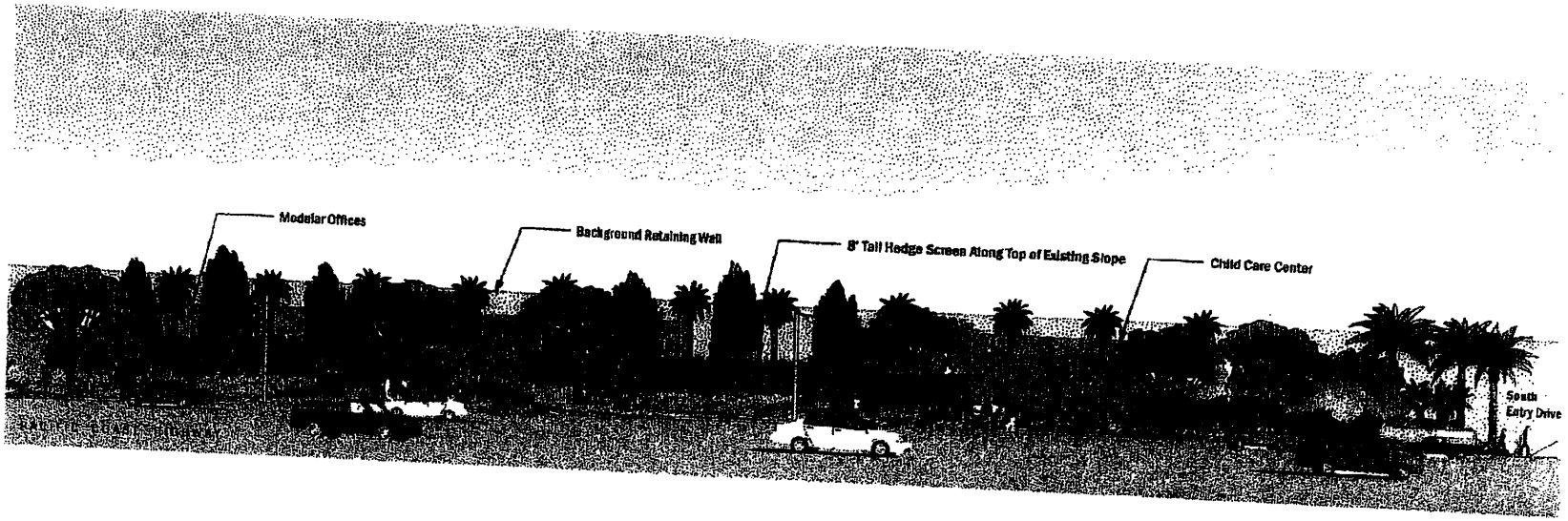
Exhibit #6

4/16/2009



HOAG LOWER CAMPUS IMPROVEMENT PLAN

Exhibit #7



Rabben/Heimar

PARTIAL ELEVATION - PCH LANDSCAPE SCREEN (DRAFT)

Hoag Memorial Hospital Presbyterian
Newport Beach, CA

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LaVonne M. Harkless, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2008-10 as duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 13th day of May 2008, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Henn, Rosansky, Curry, Daigle, Gardner, Mayor Selich

Noes: None

Absent: Webb

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 14th day of May 2008.

LaVonne M. Harkless
City Clerk
City of Newport Beach, California

(Seal)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LAVONNE M. HARKLESS, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2008-10 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Daily Pilot, a daily newspaper of general circulation on the following date, to wit: May 17, 2008.

In witness whereof, I have hereunto subscribed my name this _____ day of _____ 2008.

_____
City Clerk
City of Newport Beach, California

EXHIBIT E

SECOND AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660
Attn: City Clerk

(Space Above This Line Is for Recorder's Use Only)

This Agreement is recorded at the request and for the benefit of the City of Newport Beach and is exempt from the payment of a recording fee pursuant to Government Code §§ 6103 and 27383.

SECOND AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

THE CITY OF NEWPORT BEACH

AND

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved February __, 2019
Ordinance No. 2019-__

SECOND AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

(Pursuant to California Government Code sections 65864-65869.5)

This SECOND AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT ("**Second Amendment**") is entered into and effective on the date it is recorded with the Orange County Recorder ("**Effective Date**") by and between the CITY OF NEWPORT BEACH, a California municipal corporation ("**City**"), on the one hand, and HOAG MEMORIAL HOSPITAL PRESBYTERIAN, a California nonprofit public benefit corporation ("**Hoag**"), on the other. City and Hoag are sometimes collectively referred to in this Second Amendment as the "**Parties**" and individually as a "**Party**."

RECITALS

A. Hoag is the fee owner of approximately thirty eight (38) acres of real property located in the City of Newport Beach, County of Orange, State of California, located at 1 Hoag Drive (Assessor's Parcel No.'s 423-011-30, 423-011-28), ("**Property**"). The Property is more particularly described in the legal description attached hereto and as Exhibit C and incorporated herein by reference, and as more particularly depicted as attached hereto in Exhibit D and incorporated herein by reference.

B. City and Hoag entered into that certain Development Agreement dated February 14, 1994, for reference purposes and recorded in the Official Records of Orange County on March 23, 1994, as document number 94-0207276 ("**Agreement**").

C. City and Hoag entered into that certain Amendment to Restated Development Agreement No. 5 dated June 17, 2008, and recorded in the Official Records of Orange County on the same date, as document number 2008000289321 ("**Amendment**"). All terms not otherwise defined in this Second Amendment shall have the meanings given them in the Amendment and the Agreement.

D. Under the Agreement, the Term of the Agreement was for twenty five (25) years and the Parties now desire to enter into this Second Amendment to the Agreement to extend the Term another six (6) months.

E. On March 13, 2007, the City Council adopted Ordinance No. 2007-6, entitled "Ordinance Amending Chapter 15.45 of City of Newport Beach Municipal Code ("NBMC") Regarding Development Agreements" that amended the terms of NBMC Section 15.45 (the "**Development Agreement Statute and Ordinance**"). This Second Amendment is consistent with the Development Agreement Statute and Ordinance.

G. This Second Amendment is consistent with the City of Newport Beach General Plan, including without limitation the General Plan's designation of the Property as "Private Institutions - PI," and the Amendment and Agreement.

H. On January 17, 2019, the Planning Commission held a properly noticed public hearing on this Second Amendment and considered the testimony and information submitted by City staff, Hoag, and members of the public. On January 17, 2019, consistent with applicable provisions of the Development Agreement Statute and Ordinance, the Planning Commission

adopted Resolution No. PC2019-003, recommending the City Council approve this Second Amendment.

I. In recognition of the significant public benefits that the Agreement, as amended, provides, the City Council has found that this Second Amendment: (i) is consistent with the City of Newport Beach General Plan as of the date of the Agreement, the Amendment, and this Second Amendment; (ii) is in the best interests of the health, safety, and general welfare of City, its residents, and the public; (iii) is entered into pursuant to, and constitutes a present exercise of, City's police power; (iv) is consistent and has been approved consistent with the final Environmental Impact Report (FEIR No. 142) ("**FEIR**") and the supplemental Environmental Impact Report (EIR No. ER2007-003) (SCH#1991071003) ("**EIR**") that have been certified by the City Council on or before the Agreement Date, which analyzed the environmental effects of the proposed development of the Project on the Property, and all of the findings, conditions of approval and mitigation measures related thereto; and (v) is consistent and has been approved consistent with provisions of California Government Code section 65867 and NBMC chapter 15.45.

J. On February 26, 2019, the City Council held a properly noticed public hearing on this Second Amendment and considered the testimony and information submitted by City staff, Hoag, and members of the public. On _____, 2019, consistent with applicable provisions of the Development Agreement Statute and Ordinance, the City Council held second reading and adopted Ordinance No. 2019-__, finding the Second Amendment to be consistent with the City of Newport Beach General Plan and approving this Second Amendment.

AGREEMENT

NOW, THEREFORE, City and Hoag agree as follows:

1. **Term of Agreement**. Section 6.3 is hereby amended in its entirety to read as follows:

> "Term of Agreement. The term of this Agreement (the "Term") shall begin on the Effective Date and continue until September 15, 2019, unless otherwise terminated or modified pursuant to this Agreement. Any modifications to this Agreement prior to effective certification of the City's Local Coastal Program ("LCP"), are subject to the review and approval of the Coastal Commission or its successor agency."

2. **Full Force and Effect**. Except as modified by this Second Amendment, the Agreement and Amendment, attached hereto as Exhibit A and Exhibit B, respectively, are incorporated into this Second Amendment and shall remain in full force and effect.

3. **Recitals**. The Recitals set forth above are true and correct and incorporated herein by reference.

4. **Counterparts**. This Second Amendment may be signed by the Parties in different counterparts and the signature pages combined shall create a single document binding on all Parties.

5. **Recordation**. The City Clerk of City shall record this Second Amendment in the Office of the County Recorder of the County of Orange within the period required by California Government Code section 65868.5 and City of Newport Beach Municipal Code section 15.45.100.

[SIGNATURE PAGE FOLLOWS]

Attachments - Exhibit A: Development Agreement dated February 14, 1994

Exhibit B: Amendment to Restated Development Agreement No. 5 dated June 17, 2008

Exhibit C: Legal Description

Exhibit D: Legal Depiction

SIGNATURE PAGE TO
SECOND AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

CITY:

CITY OF NEWPORT BEACH,
a California municipal corporation and charter city

By: _____
Diane B. Dixon, Mayor

ATTEST:

By: _____
Leilani I. Brown, City Clerk

APPROVED AS TO FORM:

By: _____
Aaron C. Harp, City Attorney

HOAG:

HOAG MEMORIAL HOSPITAL
PRESBYTERIAN,
a California nonprofit public benefit corporation

By:_____
Name: Sanford Smith, AIA
Title: Senior Vice President Real Estate & Facilities

By:_____
Name: Andrew Guarni
Title: Senior Vice President and Chief Financial Officer

(All Signatures to Be Notarized)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20____ before me, _____, Notary Public, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20_____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss.*
On _____, 20_____ before me, _____, Notary Public, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

EXHIBIT A

DEVELOPMENT AGREEMENT DATED FEBRUARY 14, 1994

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 6103

Recording Requested By and
When Recorded Return to:

City Clerk/by P. M.
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

DOC # 94-0207276
23-MAR-1994 03:59 PM

Recorded in Official Records
of Orange County, California
Lee A. Branch, County Recorder
Page 1 of 61 Fees: $ 0.00
Tax: $ 0.00



61
R
1
OF -

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF NEWPORT BEACH

AND

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

Approved February 14, 1994
Ordinance No. 94-8

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into between the City of Newport Beach (the "City"), and Hoag Memorial Hospital Presbyterian ("Hoag").

1. **RECITALS**. This Agreement relates to the following:

1.1 Purpose of Agreement. This Agreement is intended to:

(a) Enable Hoag to adapt to the ever changing health care needs of those residents within its service area by authorizing design parameters of new or additional facilities in a manner that will allow Hoag to respond to rapid changes in medical and health care technology and delivery systems.

(b) Establish strict, binding limits on the amount and height of permitted development as well as ensure compliance with numerous conditions on the density, location, and timing of construction to minimize, to the extent feasible, any environmental impacts of Hoag's proposed expansion.

(c) Impose exactions such as dedication of property, construction of public improvements and/or the installation of landscaping visible to the public, which, when considered in conjunction with the public services provided by Hoag, benefit the general public.

1.2 Authorization. This Agreement is authorized by, and is consistent with, the provisions of 65864 et seq. of the Government Code of the State of California, and Chapter 15.45 of the Newport Beach Municipal Code.

1.3 Interest of Hoag. Hoag is the legal and/or equitable owner of approximately forty (40) acres of real property located in the City and more particularly described in Exhibit "A" and depicted in Exhibit "B" (the "Property").

1.4 Development of the Property. This Agreement authorizes development on the Property consistent with the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan ("Master Plan", a copy of which is attached to this Agreement as Exhibit "C" and incorporated by reference when appropriate), subject to the conditions and mitigation measures identified in Environmental Impact Report No. 142 and imposed by the City Council as conditions to approval of the Master Plan and this Agreement and, for all development within

the coastal zone subject to approval of a coastal development permit by the California Coastal Commission or its successor agency.

1.5 Planning Commission/City Council Hearings. The Planning Commission, after giving appropriate notice, held public hearings to consider a development agreement, the proposed Master Plan, and the EIR on December 5, 1991, January 9, 1992, January 23, 1992, February 6, 1992, and February 20, 1992. The City Council conducted public hearings on the Master Plan, this Agreement and the EIR on March 23, 1992, March 30, 1992, April 13, 1992 and May 11, 1992.

1.6 Consistency. This Agreement is consistent with the various elements of the Newport Beach General Plan, the Master Plan, and other applicable ordinances, plans, and policies of the City. This Agreement is also consistent with the purpose and intent of state and local laws authorizing development agreements in that it represents comprehensive planning, provides certainty in the approval of subsequent projects subject to compliance with conditions, reduces the economic costs of development by providing assurance to Hoag that it may generally proceed with projects in accordance with existing regulations, and provides assurance to adjoining property owners that limits on the height of structures and amount of development as specified in the Master Plan and this Agreement will remain in full force and effect for a period of twenty-five (25) years.

1.7 Police Power. The City Council has determined that this Agreement is in the best interests of the health, safety and general welfare of the City, its residents and the public, was entered into pursuant to, and represents a valid exercise of, the City's police power, and has been approved in accordance with the provisions of state and local law that establish procedures for the approval of development agreements.

1.8 City Ordinance. On February 14, 1994, the City Council adopted Ordinance No. 94-8 approving this Agreement and authorizing the City to enter into this Agreement. The Adopting Ordinance will become effective on March 16, 1994.

2. DEFINITIONS.

2.1 The "Adopting Ordinance" refers to City Ordinance No. 94-8, adopted on February 14, 1994, by the City Council, which approved and authorized the City to enter into this Agreement.

2.2 "Agreement" refers to this "Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian".

2.3 "Annual Review" refers to the review of Hoag's good faith compliance with this Agreement and conditions on development as set forth in Section 5.

2.4 The "Approval Date" means the date on which the City Council voted to adopt the Adopting Ordinance.

2.5 All forms of use of the verb "assign" and the nouns "assignment" and "assignee" shall include all contexts of hypothecations, sales, conveyances, transfers, leases, and assignments.

2.55 "California Coastal Commission" refers to the California State Resources Agency established under the California Coastal Act of 1976.

2.6 "CEQA" and the "CEQA Guidelines" refers to the California Environmental Quality Act and the CEQA Guidelines promulgated by the Secretary of Resources of the State of California, including any amendments adopted subsequent to the Effective Date.

2.7 "City" refers to the City of Newport Beach, California.

2.8 "City Council" refers to the City Council of the City.

2.9 "Cure Period" refers to the period of time during which a Default may be cured pursuant to Section 9.

2.10 A "day" or "days" refers to a calendar day, unless expressly stated to be a business day.

2.11 A "Default" refers to any material default, breach, or violation of the provisions of this Agreement. A "City Default" refers to a Default by the City, while a "Hoag Default" refers to a default by Hoag.

2.12 The "Effective Date" refers to the effective date of the Adopting Ordinance and is the effective date of this Agreement. provided however, the Agreement has been approved by the California Coastal Commission, and the Executive Director of the Coastal Commission is in receipt of a copy of this Agreement signed by both parties.

2.13 The "EIR" refers to final Environmental Impact Report No. 142 of the City of Newport Beach and Supplemental Environmental Impact Report No. 142.

2.14 An "Estoppel Certificate" refers to the document certifying the status of this Agreement required by Section 5.6 in the form of Exhibit "D".

2.15 An "Exaction" refers to those specific dedications and improvements required of Hoag and set forth in Section 8.2 below.

2.16 An "Exhibit" refers to an exhibit to this Agreement. All Exhibits are incorporated as a substantive part of this Agreement. The Exhibits to this Agreement are:

Exhibit A:	Legal Description of the Property
Exhibit B:	Map of the Property
Exhibit C:	The Master Plan
Exhibit D:	Estoppel Certificate

2.17 "Existing General Regulations" means those General Regulations approved by the City on or before the Approval Date (irrespective of their effective date) and not rescinded or superseded by City action taken on or before the Approval Date.

2.18 "Future General Regulations" means those General Regulations (see Section 2.19 below) adopted by the City after the Approval Date.

2.19 "General Regulations" means those ordinances, rules, regulations, policies, and guidelines of the City, which are generally applicable to the use of land and/or construction within the City and include, the Fair Share Traffic Contribution Fee Ordinance, Uniform Building Codes and water and sewer connection and fee ordinances.

2.20 "General Plan" refers to the City's General Plan in effect on the Approval Date, plus all amendments to the General Plan adopted by the City on or before the Approval Date and effective prior to the Effective Date.

2.21 "Hoag" refers to Hoag Memorial Hospital Presbyterian, a non-profit corporation.

2.22 "Includes" and all contexts and forms of the words "includes" and "including" shall be interpreted to also state "but not limited to."

2.23 "Master Plan" refers to the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan which was adopted by the City on May 26, 1992 (Exhibit "C").

2.24 "Mortgagee" refers to the holder of a beneficial interest under any mortgage, deed of trust, sale-leaseback agreement, or other

transaction under which all or a portion of the Property, including those portions acquired by assignees, is used as security (a "Mortgage") or the owner of any interest in all or any portion of the Property under a Mortgage, including those portions acquired by assignees.

2.25 "Notice" refers to any written notice or demand between the Parties required or permitted by this Agreement.

2.26 The "Parties" refers to the City and Hoag and a "Party" shall refer to either of the Parties.

2.27 "Planning Commission" refers to the Planning Commission of the City.

2.28 The "Project" refers to the proposed development of the Property pursuant to the Master Plan and this Agreement.

2.29 "Project Specific Approvals" means all site-specific (meaning specifically applicable to the Property only and not generally applicable to some or all other properties within the City) plans, subdivision maps, permits, or other entitlement. Project Specific Approvals include subdivision maps, site plan review, conditional use permits, coastal development permits, variances, grading and building permits, as well as amendments or modifications to those plans, maps and permits. Project Specific Approvals does not include Existing or Future General Regulations.

2.30 The "Property" refers to the real property described on Exhibit "A" and depicted on Exhibit "B."

3. CONDITIONS TO DEVELOPMENT.

3.1 Introduction. The provisions of this Section express the intent of the parties regarding the extent to which this Agreement vests Hoag's right to proceed with the development described in the Master Plan. Hoag acknowledges that its right to proceed with development described in the Master Plan is subject to numerous conditions and mitigation measures including the following:

(a) The specific limitations and restrictions contained in the Master Plan;

(b) Conditions and mitigation measures imposed by the City Council to mitigate significant effects identified in the EIR;

(c) Conditions imposed by the City as a result of subsequent or supplemental environmental analysis pursuant to provisions of CEQA and the CEQA Guidelines;

(d) Conditions imposed by the City Council in conjunction with the approval of Traffic Study No. 81 and Variance No. 1180;

(e) Compliance with the terms and conditions specified in this Agreement.

(f) Compliance with Existing General Regulations.

3.2 Compliance with Master Plan Conditions/Mitigation Measures. Hoag acknowledges that City Council approval of the Master Plan and this Agreement was subject to compliance with numerous conditions and mitigation measures designed to minimize or eliminate the significant adverse effects of the Project and ensure the health, safety, and welfare of nearby residents as well as Hoag patients and employees. Many of these conditions and mitigation measures impose specific development standards and requirements to be implemented in conjunction with further study and analysis of site or subsurface conditions before grading or construction. Specific mitigation measures that require compliance with, or satisfaction of, standards before grading or construction can occur include the following:

(a) Slope excavation techniques which insure stability;

(b) Grading and excavation techniques which minimize disturbance to adjacent residents and the general public;

(c) Identification of potential faults on site and construction of buildings pursuant to recommendations of certified geologists and in a manner which insures that nearby residents, Hoag patients and Hoag employees are not exposed to a significant risk of injury;

(d) Evaluation of soil corrosivity and removal of corrosive soils or use of corrosion resistant construction materials;

(e) Mitigation of impacts caused by removal of wetlands through off-site restoration as required by resource agencies;

(f) Preparation and approval of a project trip generation study prior to development of Phase I of the Master Plan (if Hoag proposes a land use other than specified in the approved Traffic Study);

(g) Preparation and approval of a project trip generation study as a condition to construction of development in Phases II and III of the Master Plan;

(h) Preparation and approval of a Traffic Phasing Ordinance analysis prior to construction of development in Phase II and Phase III of the Master Plan;

(i) Preparation of a view impact analysis of each proposed building prior to issuance of permits;

(j) Analysis and mitigation of emissions in accordance with the regulations of the South Coast Air Quality Management District;

(k) Preparation and approval of a construction phasing and traffic control plan for each phase of development.

Hoag's right to develop the Property pursuant to the Master Plan is contingent upon compliance with, and satisfaction of, the conditions and mitigation measures imposed by the City Council as of the Approval Date, conditions imposed by the California Coastal Commission required for approval of coastal development permits, as well as conditions and mitigation measures resulting from subsequent environmental analysis as specified in Paragraph 3.3.

3.25 Future Coastal Act discretionary review may result in specific mitigation measures to ensure consistency with the Coastal Act that require compliance with, or satisfaction of, standards before grading or construction can occur.

3.3 Program EIR. Hoag acknowledges that the EIR is a "Program EIR." The EIR analyzes the impacts of construction phased over time and, pursuant to CEQA, City is under a continuing obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the request were fully addressed in the EIR. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIR, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIR. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA.

3.4 Mitigation Monitoring Plan. City shall prepare a Mitigation Monitoring Plan ("Plan") within sixty (60) days after the Effective Date. Hoag shall not submit any application for Project Specific Approval until the Plan has been approved by the City Council and the Executive Director of the Coastal Commission or the appropriate entity of its successor agency.

The Plan shall comply with and satisfy the requirements of CEQA and the Guidelines and the Coastal Act. The Plan shall be available to the public upon request.

3.5 Compliance with General Regulations. Hoag is required to comply with the Existing General Regulations. As to those Existing General Regulations which require the payment of fees, costs, and expenses, Hoag shall pay the fee, cost, or expense required as of the date on which Hoag submits the application for Project Specific Approval. Hoag shall also comply with any Future General Regulations that do not impair Hoag's ability to develop the Property in accordance with the density, intensity, height and location of development specified in the Master Plan. Hoag shall also comply with all provisions of the Uniform Building Code, whether adopted before or after the Approval Date, which are in effect at the time applications for Project Specific Approvals are submitted. Hoag shall also comply with the Coastal Act and the City's certified Local Coastal Program.

4. RIGHT TO DEVELOPMENT.

4.1 Right to Develop. Subject to compliance with the provisions of Sections 3 and 8.2, Hoag shall have a vested right to develop and receive Project Specific Approvals for construction on the Property to the full extent permitted by the Master Plan. Subject to the provisions of Sections 3 and 8, City shall only take action which complies with and is consistent with the Master Plan and this Agreement unless Hoag otherwise consents in writing. Subject to this Subsection, City shall have the authority to impose only those Exactions which are specifically described in this Agreement, except as expressly required (as opposed to permitted) by state or federal law.

4.2 Reservations or Dedications of Land. Except as expressly provided in this Agreement, no dedications or reservations of the Property shall be required of Hoag in conjunction with the application or issuance of any Project Specific Approvals.

4.3 Conflicting Measures. Except as expressly provided in this Agreement, no initiative measure, moratorium, referendum (except as provided in Government Code Section 65857.5), ordinance, statute or other provision of law which in any way limits or restricts development of the Property to the full extent permitted by the Master Plan and this Agreement (including density, intensity, timing, phasing, and sequencing) shall be applied to the Property during the term of this Agreement.

4.4 Time for Construction and Completion of Project. Subject to the provisions of this Agreement and the Master Plan, Hoag shall have the right to decide the timing, phasing, and sequencing of construction on the Property and shall be entitled to apply for, and receive approval of, in a timely manner, permits or approvals at any time.

5. ANNUAL REVIEW.

5.1 City and Hoag Responsibilities. At least every twelve (12) months during the Term, the City shall review Hoag's good faith substantial compliance with this Agreement (the "Annual Review"). After the Annual Review, the City's finding of good faith compliance by Hoag shall be conclusive for the purposes of future Annual Reviews or legal action between the Parties. Either Party may address any requirements of the Agreement during the Annual Review. However, fifteen (15) days' written Notice of any requirement to be addressed shall be made by the requesting Party. If, at the time of the review, an issue not previously identified in writing is required to be addressed, the review shall be continued at the request of either Party to afford sufficient time for analysis and preparation of a response.

5.2 Public Hearing. The Annual Review shall be conducted at a public hearing noticed in accordance with the provisions of Chapter 15.45 of the Newport Beach Municipal Code.

5.3 Information to be Provided to Hoag. The City shall mail to Hoag a copy of the staff report and related exhibits concerning Agreement performance a minimum of ten (10) days before the Annual Review.

5.4 Mitigation Review. The annual review shall include a detailed report of compliance with the various conditions and mitigation measures contained within the mitigation monitoring plan. The report shall include an analysis of the view impacts of buildings constructed in comparison to the anticipated views as depicted in the EIR. For the five year monitoring period imposed by the Department of Fish and Game Streambed Alteration Agreement entered into between the Department of Fish and Game and Hoag, the annual review shall also assess the success of any off-site wetlands mitigation. Five years after the completion of the Department of Fish and Game monitoring period, Hoag shall submit a final report assessing the success of the off-site wetlands mitigation in its annual review. If the survival and cover requirements set forth in the Streambed Alteration Agreement have not been met, Hoag shall be responsible for replacement planting to achieve these requirements. Hoag shall be found in compliance with this Agreement unless the City Council determines, based upon the

evidence presented at the Annual Review, that Hoag has not complied with all mitigation measures and conditions including those imposed as a result of subsequent environmental analysis, applicable to the grading of, or building on, the Property as of the date of the Annual Review.

5.5 Review Letter. If Hoag is found to be in compliance with the Agreement after the Annual Review, the City shall issue, within ten (10) days of Hoag's written request, a letter to Hoag stating that the Agreement remains in effect and Hoag is not in Default.

5.6 Estoppel Certificate. Either Party may at any time deliver written Notice to the other Party requesting an estoppel certificate (the "Estoppel Certificate") stating:

(a) The Agreement is in full force and effect and is a binding obligation of the Parties.

(b) The Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments.

(c) No Default in the performance of the requesting Party's obligations under the Agreement exists or, if a Default does exist, the nature and amount of any Default.

A Party receiving a request for an Estoppel Certificate shall provide a signed certificate to the requesting Party within thirty (30) days after receipt of the request. The Planning Director may sign Estoppel Certificates on behalf of the city. An Estoppel Certificate may be relied on by assignees and Mortgagees. The Estoppel Certificate shall be substantially in the same form as Exhibit "D."

5.7 Failure to Conduct Annual Review. The City's failure to conduct an Annual Review shall not constitute or be asserted by the City as Hoag's Default.

6. GENERAL PROVISIONS.

6.1 Effective Date. This Agreement and the obligations of the Parties shall be effective as of the Effective Date. However, this Agreement shall bind the Parties as of the Approval Date, subject only to the Adopting Ordinance becoming effective pursuant to California law.

6.2 Applicability to Coastal Zone. This Agreement shall not be applicable to those portions of the Property located within the Coastal Zone as defined by the California Coastal Act (Division

20, California Public Resources Code, beginning with Section 30000) until either (1) the required local coastal program for the Property has been certified by the California Coastal Commission or (2) the California Coastal Commission has approved this Agreement. This Subsection is intended solely to comply with the provisions of California Government Code Section 65869 and shall be of no force or effect if Section 65869 is repealed.

6.3 Term of Agreement. The term of this Agreement (the "Term") shall begin on the Effective Date and continue for twenty-five (25) years unless otherwise terminated or modified pursuant to this Agreement. Any modifications to this Agreement prior to effective certification of the City's Local Coastal Program (LCP), are subject to the review and approval of the Coastal Commission or its successor agency.

6.4 Assignment. Hoag has the absolute right to assign (see Section 2.5) its rights and/or delegate its obligations under this Agreement as part of an assignment of all or a portion of the Property. Any assignment shall be subject to the provisions of this Agreement. As long as Hoag owns any part of the Property, Hoag may assign the benefits of this Agreement without delegating the obligations for the portion of the Property assigned. If that occurs, however, the benefits assigned shall remain subject to the performance by Hoag of the corresponding obligations.

Where an assignment includes the delegation of both the benefits and the corresponding obligations, those obligations become solely the obligations of the assignee. If an assignee is in Default, then as to Hoag or any assignees not in Default, the Default shall not constitute their Default, give grounds for termination of their rights under this Agreement or be a basis for an enforcement action against them.

6.5 Amendment of Agreement.

(a) Subject to the provisions of Subsection (b), and subject to approval of the Coastal Commission or its successor agency prior to effective certification of the City's Local Coastal Program (LCP), this Agreement may be amended from time to time by the mutual consent of the Parties, or their successors in interest, but only in the manner provided by the Government Code and this Agreement. After any amendment, the term "Agreement" shall refer to the amended Agreement.

(b) The City Council shall not approve, and Hoag shall not request, any amendment to the provisions of the Master Plan or this Agreement that would increase the maximum

permitted gross floor area or the maximum permitted building height (within any lettered building envelope) above that established by the Master Plan as of the Effective Date of this Agreement. This Subsection shall prevail over any conflicting ordinance, resolution, policy or plan adopted by the City Council.

6.6 Enforcement. This Agreement is enforceable by each of the Parties and their respective successors and assigns.

6.7 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the twenty-five (25) year term;

(b) Entry, after all appeals have been exhausted, of a final judgment or issuance of a final order directing the City to set aside, withdraw, or abrogate the City's approval of this Agreement or any material part of the Project; or,

(c) The effective date of a Party's election to terminate the Agreement as provided in Section 9.3 of this Agreement.

6.8 Hoag shall defend, indemnify and hold harmless the City and its officers and employees with respect to any claim, loss or damage in any way related to the grading, excavation or stabilization of the slopes adjacent to the view parks by Hoag or its employees, agents contractors or representatives. This Section is not intended to impose liability on Hoag for the acts of persons other than Hoag or its agents, representatives or contractors.

6.9 Hoag shall enter into an agreement with City to accept ownership of, and responsibility for maintenance of, the existing methane gas venting flare and any device for collecting gas that is subsequently installed on the Property pursuant to conditions or mitigation measures imposed in conjunction with the Master Plan approval or subsequent environmental analysis.

7. CONFLICTS OF LAW.

7.1 Conflict with State and Federal Laws and Regulations. Where state or federal laws or regulations prevent compliance with one or more provisions of this Agreement, those provisions shall be modified, through revision or suspension, to the

extent necessary to comply with such state or federal laws or regulations and the modified Agreement shall remain in effect, subject to the following:

(a) the City shall not request modification of this Agreement pursuant to this provision unless and until the City Council makes a finding that such modification is required (as opposed to permitted) by state and federal laws or regulations;

(b) the modifications must be limited to those required (as opposed to permitted) by the state or federal laws;

(c) the modified Agreement must be consistent with the state or federal laws or regulations which required modification or suspension;

(d) the intended material benefits of this Agreement must still be received by each of the Parties after modification;

(e) neither the modification nor any applicable local, state, or federal laws or regulations, may render the modified Agreement impractical to enforce; and

(f) Hoag consents in writing to the modification.

(g) Any modifications, prior to effective certification of the City's Local Coastal Program (LCP) are subject to approval of the Coastal Commission or its successor agency.

Hoag shall have the right to seek judicial review of any proposed modification to ensure compliance with this Section.

7.2 Effect of Termination. If this Agreement is terminated as a result of changes in state or federal law, Hoag remains obligated to comply with the provisions of Section 8.2(a) and (b), unless Hoag has completed construction of less than twenty-five percent (25%) of the maximum permitted development.

8. **PUBLIC BENEFITS/EXACTIONS.**

8.1 Public Benefits. City and Hoag agree that this Agreement confers a substantial public benefit by enabling Hoag to construct facilities most appropriate to changes in medical technology and thereby better satisfy the health care needs of residents within its service area. In addition, the Master

Plan and this Agreement confer benefits on the public and nearby residents by imposing long term restrictions on the height, amount and location of development as well as the public improvements described in Section 8.2.

8.2 Exactions. Hoag shall, as a condition to the right to develop, do the following:

(a) Prior to commencement of development, irrevocably offer to dedicate and grade the proposed linear and consolidated view park identified in Figure 3.2.1 of Volume 1 of the EIR. The City shall accept the offer of dedication within sixty (60) days after the initial grading permit has been finalled by the City. The first stage of development shall include grading of the public linear and consolidated viewpark identified in Figure 3.2.1. of Volume I of the EIR. Hoag shall grade and excavate the slope adjacent to the proposed .28 (28/100) acre consolidated public view park and .52 (52/100) acre public linear view park in a way that ensures stability of the park and adjacent slopes. The grade (between the bicycle path and edge of slope) of the view parks shall be the minimum necessary to insure adequate drainage. The improvement for the linear and consolidated public parks shall be completed within three (3) years after the offer of dedication has been accepted by the City. The City shall ensure that adequate erosion control measures are implemented prior to construction.

(b) Subsequent to the approval of this Agreement by the Coastal Commission and the expiration of any statute of limitation for filing a legal challenge to this Agreement, the Master Plan, or the EIR, Hoag shall deposit Two Hundred and Fifty Thousand Dollars ($250,000.00) in an account, and at a financial institution, acceptable to City. The account shall be in the name of the City provided, however, Hoag shall have the right to access the funds in the event, but only to the extent that, Hoag constructs or installs the improvements described in (i) or (ii). Funds in the account shall be applied to the following projects (in order of priority upon notice to proceed served by City on Hoag):

(i) The construction of a sidewalk and installation of landscaping in the CalTrans right-of-way along the west side of Newport Boulevard southerly of Hospital Road;

(ii) The construction of facilities necessary to bring reclaimed water to West Newport and/or the Property;

Any funds remaining in the account after completion of the projects described in (i) and (ii) shall be used by the City to fund, in whole or in part, a public improvement in the vicinity of the property.

(c) City and Hoag shall conduct a study of possible future improvements in and around the easterly end of Semeniuk Slough that would, among other things, improve the appearance of the area and, potentially, serve as a component to improve public access from residential areas in West Newport to park land and public recreation facilities proposed in conjunction with development of the West Newport Oil Company property. The study shall analyze, among other things, the type of improvements that would improve the area without adversely impacting wetlands, the possible location of pedestrian trails and the potential for those trials to improve access to proposed recreational facilities, phasing of the improvements, potential public benefits, and the cost of the improvements. As a part of the study, Hoag and City shall meet and confer with resource agencies relative to the type and extent of improvements that may be permitted in or adjacent to wetlands. Hoag shall fund the study and participate in the cost of constructing any improvements in the area that the City Council determines are feasible and in the public interest, provided, however, the financial contribution of Hoag, including the costs of the study and improvements, shall not exceed Two Hundred Thousand Dollars ($200,000.00).

(d) Hoag's obligations pursuant to Subsection (c) are contingent on Coastal Commission approval of the Master Plan and attached as Exhibit C to this Agreement with no significant reduction in entitlement from that authorized in the Master Plan. Hoag's obligations pursuant to Subsection (b) shall be reduced through good faith negotiations in the event the Coastal Commission reduces entitlement by ten percent (10%) or more from that authorized in the Master Plan.

9. **DEFAULT, REMEDIES AND TERMINATION.**

9.1 General Provisions. In the event of a Default (see Section 2.11), the Party alleging a Default shall give the other Party

a written Notice of Default. The Notice of Default shall specify the nature of the alleged Default, and a reasonable manner and sufficient period of time (not less than thirty (30) days) in which the Default must be cured (the "Cure Period"). During the Cure Period, the Party charged shall not be considered in Default for the purposes of termination of the Agreement or institution of legal proceedings. If the alleged Default is cured within the Cure Period, then a Default shall be deemed not to exist.

9.2 Option to Institute Legal Proceedings or to Terminate. If an alleged Default is not cured within the Cure Period, the noticing Party must give the defaulting Party a Notice of intent to terminate the Agreement. Within thirty (30) days after giving of the Notice, the City Council shall hold a public hearing in the manner set forth in Government Code Sections 65865,65867, and 65868, as amended, to consider and review the matter.

9.3 Notice of Termination. After considering the evidence presented to the City Council, the Party alleging the Default, at its option, may give written Notice of termination of the Agreement to the other Party and the Agreement shall be terminated immediately upon giving the Notice. A termination shall be valid only if good cause exists and clear and convincing evidence was presented to the City Council to establish the existence of a Default. The findings of the City Council as to the existence of a Default shall have no weight in any legal proceeding brought to determine the existence of a Default. The validity of any termination may be challenged pursuant to Section 11.16, in which case the court must render an independent judgment, on the basis of clear and convincing evidence, as to the existence of good cause for termination. Termination may result only from a material Default of a material provision of this Agreement.

9.4 Waiver. Failure or delay in giving Notice of Default shall not waive a Party's right to give future Notice of the same or any other Default.

9.5 Default by Hoag. If the City alleges a Hoag Default, the City shall conduct a hearing utilizing the Annual Review procedures required by this Agreement before the City may commence legal proceedings to terminate this Agreement.

9.6 Default by the City. If Hoag alleges a City Default, Hoag, without limiting any of its other remedies, shall not be

obligated to proceed with or complete the Project or any phase of the Project, nor to perform any further obligations under the Agreement. Upon a City Default, any resulting delays in Hoag's performance shall neither be Hoag's Default nor constitute grounds for termination or cancellation of the Agreement by the City.

10.0 **ENCUMBRANCES AND RELEASES ON PROPERTY.**

10.1 Discretion to Encumber. Hoag may encumber all or any portion of the Property in any manner. The City acknowledges that lenders providing financing may require technical modifications to the Agreement which do not materially alter the intent of the Parties. The City agrees to meet, upon request, with Hoag and/or lenders to negotiate in good faith any lender request for modification. The City agrees to not withhold unreasonably its consent to such modification. Any such modification, prior to effective certification of the City's Local Coastal Program (LCP), is subject to the review and approval of the Executive Director of the Coastal Commission or its successor agency.

10.2 Entitlement to Written Notice of Default. Any Mortgagee and its successors and assigns, upon written request to the City, shall be entitled to receive from the City written Notice of any Hoag Default at the same time Hoag is provided with Notice pursuant to Section 9.1.

11.0 **MISCELLANEOUS PROVISIONS.**

11.1 Notices. All Notices (see Section 2.26) shall be written and delivered by personal delivery (including Federal Express and other commercial express delivery services providing acknowledgments or receipt), registered, certified, or express mail, or telegram to the addresses set forth below. Receipt shall be deemed complete as follows:

(a) For personal delivery, upon actual receipt;

(b) For registered, certified, or express mail, upon the delivery date or attempted delivery date as shown on the return receipt; and

(c) For telegram, upon the transmission of the telegram.

Notices shall be addressed as follows:

To the City: City Clerk
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92660
Attention: City Attorney
Attention: City Manager

To Hoag: Hoag Memorial Hospital Presbyterian
301 Newport Boulevard
Newport Beach, CA 92663
Attention: President

With a copy to:

Tim Paone
Paone, Callahan, McHolm & Winton
19100 Von Karman, 8th Floor
P.O. Box 19613
Irvine, CA 92713-9613

The addresses to which Notices shall be sent may be changed by giving Notice of a new address.

11.2 Enforced Delay; Extension of Time of Performance. Neither Party shall be deemed to be in Default where delays or non-performance are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, oil spills, casualties, acts of nature, unavailability of materials, governmental restrictions imposed or mandated by governmental entities, suspension of rights in accordance with the existence of unforeseen circumstances, litigation, or similar bases for excused performance. If written Notice of such delay is given to the other Party within thirty (30) days after such delay begins an extension of time for performance shall be granted in writing for the period of the delay, or longer as may be mutually agreed upon. In no event shall the term of this Agreement be extended as a result of the application of this Subsection.

11.3 Severability. If any material part of the Agreement is found by a court to be invalid, void, or illegal, the Parties shall modify the Agreement to implement the original intent of the Parties. These steps may include the waiver by either of the Parties of their right under the unenforceable provision. If, however, the Agreement objectively cannot be modified to implement the original intent of the Parties and the Party substantially benefitted by the material provision does not waive its rights under the unenforceable provision, the entire

Agreement shall become void. For purposes of this Section, and without excluding the possible materiality of other provisions of this Agreement, all provisions of Sections 3, 4 and 8 are deemed "material."

11.4 Entire Agreement. This Agreement constitutes the entire understanding and Agreement of the Parties regarding the subject matter of this Agreement. This Agreement supersedes all negotiations and previous agreements between the Parties regarding that subject matter.

11.5 Waivers. All waivers of the provisions of this Agreement must be in writing and signed by the Party making the waiver and, prior to effective certification of the City's Local Coastal Program (LCP), are subject to approval of the Coastal Commission or its successor agency.

11.6 Incorporation of Recitals. The Recitals set forth in Section 1 are part of this Agreement.

11.7 Covenant of Good Faith and Fair Dealing. Neither Party shall do anything which shall have the effect of harming or injuring the right of the other Party to receive the benefits of this Agreement.

11.8 Further Actions and Instruments. Upon the request of either Party, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

11.9 Successors and Assigns. Subject to Section 6.3 above, the burdens of this Agreement shall be binding upon, and the benefits of the Agreement inure to, all successors-in-interest and assigns of the Parties.

11.10 Construction of Agreement. All language in all parts of this Agreement shall be construed as a whole and given its fair meaning. The captions of the paragraphs and subparagraphs are for convenience only and shall not be considered or referred to in resolving questions of construction. This Agreement shall be governed by the laws of the State of California. This Agreement is not intended to impermissibly contract away the

legislative and governmental functions of the City, and in particular, the City's police powers or to surrender or abrogate the city's governmental powers over the Property.

11.11 Authority to Execute. The person executing this Agreement on behalf of Hoag warrants and represents that he/she has the authority to do so and the authority to bind Hoag to the performance of Hoag's obligations under this Agreement.

11.12 Consent. Any consent required by the Parties in carrying out the terms of this Agreement shall not unreasonably be withheld.

11.13 Effect on Title. This Agreement shall not continue as an encumbrance against any portion of the Property as to which this Agreement has terminated.

11.14 Recording. The City Clerk shall cause a copy of this Agreement to be executed by the City and recorded in the Official Records of Orange County no later than ten (10) days after the Effective Date. The recordation of this Agreement is deemed a ministerial act and the failure of the City to record the Agreement as required by this Section and Government Code Section 65868.5 does not make the Agreement void or ineffective.

11.15 Institution of Legal Action. In addition to any other rights or remedies, either Party may institute legal action to cure, correct, or remedy any Default, to enforce any provision of this Agreement, to enjoin any threatened or attempted violation of this Agreement, to recover damages for any Default, or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Superior Court of the County of Orange, State of California, or in the Federal District Court in the Central District of California.

11.16 Attorneys' Fees. In any arbitration, quasi-judicial, administrative, or judicial proceeding between the Parties initiated with respect to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all costs, expenses, and disbursements in connection with such action.

Date: 2-23-94, 1994

CITY OF NEWPORT BEACH

By: Clarence Turner
Clarence Turner, Mayor

Date: March 9, 1994

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

By: Albert J. Auer
Albert J. Auer
Chairman of the Board

wb\hoagda4.fnl
1/21/94

Exhibit A

LEGAL DESCRIPTION

The subject property is the following real property in the City of Newport Beach, County of Orange, State of California:

Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

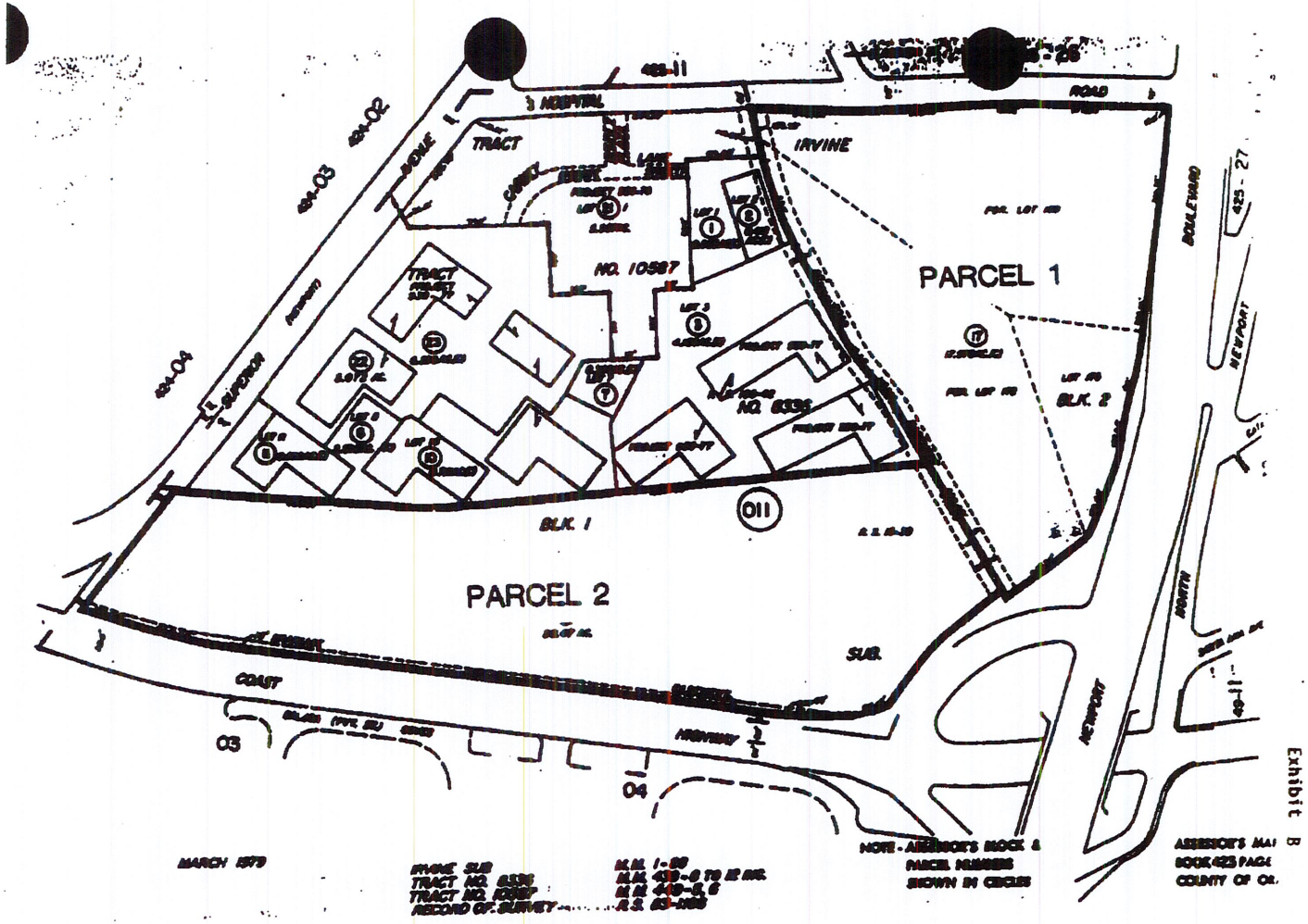

PARCEL 1
PARCEL 2
IRVINE
TRACT
NO. 10587
NO. 6536
BLK. 1
BLK. 2
011
COAST
HIGHWAY
NEWPORT
BOULEVARD
MARCH 1979
NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES
Exhibit B

Exhibit C

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
February 20, 1992

Adopted by the City Council
City of Newport Beach
Ordinance No. 92-3
May 26, 1992

TABLE OF CONTENTS

		Page Number
I.	Introduction	1
II.	General Notes	2
III.	Definitions	4
IV.	Development Plan	6
V.	District Regulations	11
VI.	Sign Program	20
VII.	Parking Program	22
VIII.	Landscape Regulations	24
IX.	Site Plan Review	27

EXHIBITS

		Page Number
1.	Planned Community Development Plan	7
2.	Internal Circulation	9
3.	Development Criteria	15

TABLES

1.	Statistical Analysis	10
2.	Parking Requirements	23

I. INTRODUCTION

Background

The Hoag Memorial Hospital Presbyterian Planned Community District in the City of Newport Beach has been developed in accordance with the Newport Beach General Plan. The purpose of this Planned Community District is to provide a method whereby property may be classified and developed for hospital-related uses. The specifications of this District are intended to provide land use and development standards supportive of the proposed use while ensuring compliance with the intent of all applicable regulatory codes.

The Planned Community District includes district regulations and a development plan for both the upper and lower campuses of Hoag Hospital. In general, over the long term, the upper campus will become oriented primarily towards emergency, acute and critical care (predominantly inpatient) uses and the lower campus will be developed with predominantly outpatient uses, residential care and support services.

Whenever the regulations contained in the Planned Community text conflict with the regulations of the Newport Beach Municipal Code, the regulations contained in the Planned Community text shall take precedence. The Municipal Code shall regulate this development when such regulations are not provided within these district regulations. All development within the Planned Community boundaries shall comply with all provisions of the Uniform Building Code and other governing building codes.

II. GENERAL NOTES

1. Water service to the Planned Community District will be provided by the City of Newport Beach.

2. Development of the subject property will be undertaken in accordance with the flood protection policies of the City of Newport Beach.

3. All development of the site is subject to the provisions of the City Council Policies K-5 and K-6 regarding archaeological and paleontological resources.

4. Except as otherwise stated in this text, the requirements of the Newport Beach Zoning Ordinance shall apply. The contents of this text notwithstanding, all construction within the boundaries of this Planned Community District shall comply with all provisions of the Uniform Building Code, other various codes related thereto and local amendments.

5. All buildings shall meet Title 24 requirements. Design of buildings shall take into account the location of building air intake to maximize ventilation efficiency, the incorporation of natural ventilation, and implementation of energy conserving heating and lighting systems.

6. Any fire equipment and access shall be approved by the Newport Beach Fire Department.

7. New mechanical appurtenances on building rooftops and utility vaults, excluding communications devices, on the upper campus shall be screened from view in a manner compatible with building materials. Rooftop mechanical appurtenances or utility vaults shall be screened on the lower campus. Noise shall not exceed 55 dBA at all property lines. No new mechanical appurtenances may exceed the building height limitations as defined in these district regulations.

8. Grading and erosion control shall be carried out in accordance with the provisions of the City of Newport Beach Grading Ordinance and shall be subject to permits issued by the Building and Planning Departments.

9. Sewage disposal facilities within the Planned Community will be provided by Orange County Sanitation District No. 5. Prior to issuance of any building permits it shall be demonstrated to the satisfaction of the Planning Department that adequate sewer facilities will be available. Prior to the occupancy of any structure it shall be further demonstrated that adequate sewer facilities exist.

10. Mass grading and grading by development phases shall be allowed provided that landscaping of exposed slopes shall be installed within 30 days of the completion of grading.

III. DEFINITIONS

Building Elevation:

1. a vertical distance of a building above or below a fixed reference level, i.e., MSL (mean sea level).

2. a flat scale drawing of the front, rear, or side of a building.

Building Envelope: the volume in which a building may be built as circumscribed by setback lines and maximum allowable building heights.

Building Height: the vertical distance measured from the finished grade to the highest point of the structure. At all points, the height measurement shall run with the slope of the land.

Emergency Room: a service and facility designated to provide acute emergency medical services for possible life threatening situations.

Fast Aid: low acuity medical treatment for non-life threatening situations.

General Plan: the General Plan of the City of Newport Beach and all elements thereof.

Grade: for the purpose of determining building height:

1. Finished - the ground level elevation which exists after any grading or other site preparation related to, or to be incorporated into, a proposed new development or alteration of existing developments. (Grades may be worked into buildings to allow for subterranean parking.)

2. Natural - the elevation of the ground surface in its natural state before man-made alterations.

3. Existing - the current elevation of ground surface.

Inpatient Uses: hospital patient services which require overnight stay.

Landscape Area: the landscape area shall include on-site walks, plazas, water, rooftop

landscaping and all other areas not devoted to building footprints or vehicular parking and drive surfaces.

Mean Sea Level: a reference or datum mark measuring land elevation using the average level of the ocean between high and low tides.

Outpatient Uses: hospital patient services which do not require overnight stay.

Residential Care: medically-oriented residential units that do not require the acuity level generally associated with inpatient services but require overnight stays.

Site Area: for the purpose of determining development area:

1. Gross - parcel area prior to dedications.

2. Net - parcel area after dedications.

Special Landscaped Street: West Coast Highway is designated as a special landscaped street, containing special landscape requirements.

Streets: reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way.

IV. DEVELOPMENT PLAN

Project Characteristics

The upper campus of Hoag Hospital is located on a triangular site of approximately 17.57 acres and is bounded by Newport Boulevard to the east, Hospital Road to the north and existing residential developments (the Versailles and Villa Balboa/Seafaire condominiums) to the west. The lower campus is located north of West Coast Highway, south of the Versailles and Villa Balboa/Seafaire Condominiums, west of Newport Boulevard and east of Superior Avenue. It contains approximately 20.41 acres and adjoins the upper campus at its eastern boundary. The upper campus is, and will continue to be, oriented towards inpatient functions, while the lower campus will be developed with predominantly outpatient, residential care and support services.

Development Plan

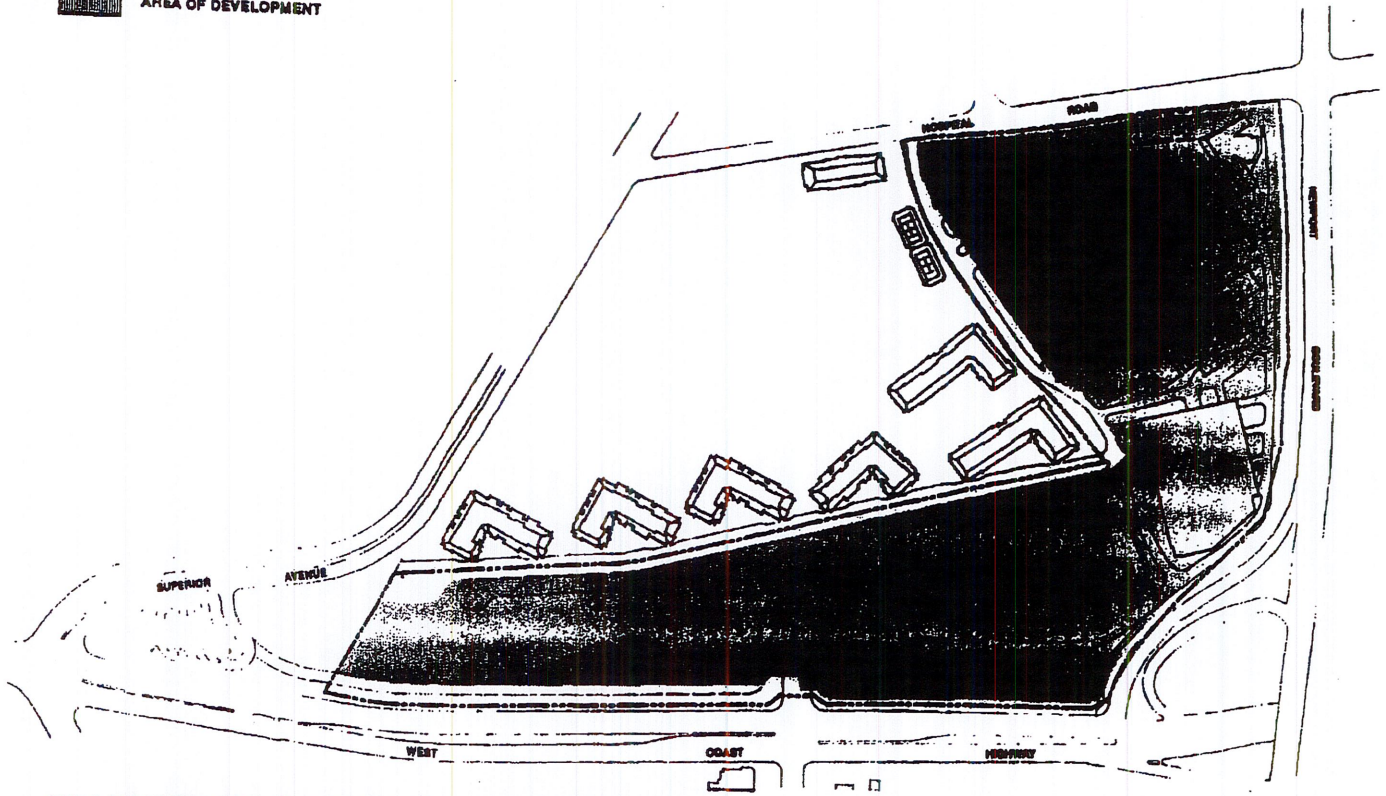
The Planned Community Development Plan for Hoag Hospital is shown on Exhibit 1. From 1990 to 2015, many of the existing buildings shown on the Development Plan for the upper campus may be redeveloped in order to functionally respond to the needs of the Hospital and conform to the requirements of State agencies.

The Development Plan includes a 0.8 acre view park adjacent to the bike trail between the lower campus and the Villa Balboa/Seafaire Condominiums. This view park includes a twenty-foot wide linear park area adjacent to the bike path (approximately 0.5 acres) and a consolidated view park at the westerly edge of the property (approximately 0.3 acres). A bike trail connection is also provided between the existing bike trails at the northern and southern boundaries of the lower campus. Access to the lower campus will be from West Coast Highway and Superior Avenue, as well as from Hospital Road, via the upper campus. Exhibit 2 shows the internal circulation for Hoag Hospital.

The Development Plan does not specify building locations or specific hospital related uses. Instead, a developable area is identified based on the regulations established for this Planned Community District. Because of the dynamic nature of the health care industry which leads to rapid technological changes that effect how health care services are delivered, the Development Plan for Hoag Hospital sets development caps as a function of allowable densities established by the Newport Beach General Plan.

LEGEND

AREA OF DEVELOPMENT



PLANNED COMMUNITY DEVELOPMENT PLAN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

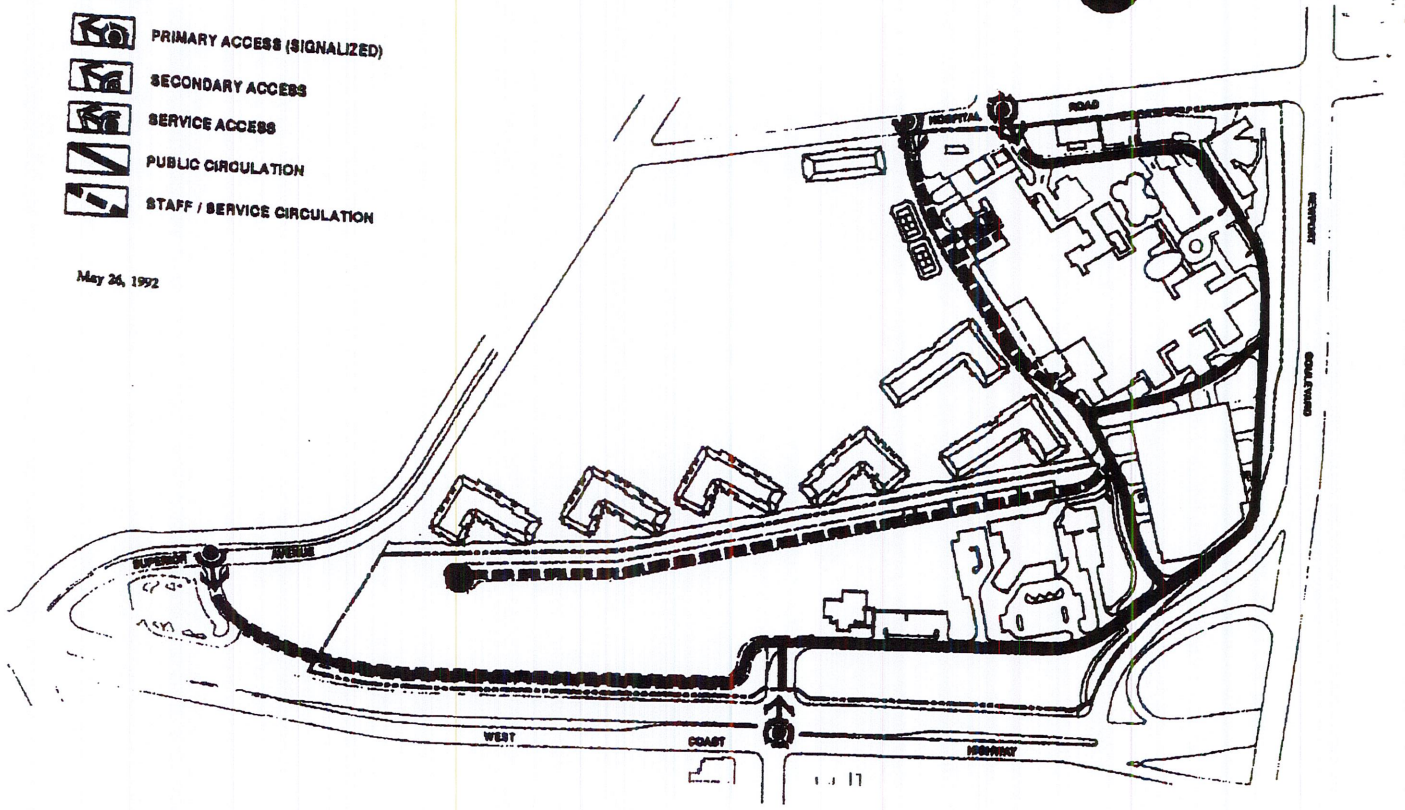
May 26, 1992

EXHIBIT 1

The statistical analysis (Table 1) provides a summary of a potential development profile for Hoag Hospital. In order to provide flexibility for the hospital to respond to changes in the health care industry, while at the same time ensuring that trip generation restrictions are adhered to and the overall development cap is not exceeded, this Development Plan allows Hoag Hospital to adjust the development profile provided in the statistical analysis. For example, if changing hospital needs necessitate the development of additional outpatient uses, this development would be allowed, consistent with the Development Plan, as long as a corresponding adjustment in square footage and trip generation for another use were to occur.

This Development Plan allows Hoag Hospital to adjust the development profile provided in the statistical analysis (Table 1) as long as the development limit (i.e., square feet) or the trip generation limit for the peak period (as identified in the Environmental Impact Report) established within each phase of development is not exceeded.

Adjustments to the Development Plan may be allowed if the total square footage or trip generation allowed in the current phase of development is exceeded, if the total development or trip generation allowed under the Development Plan is not exceeded.



VEHICULAR ACCESS

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 2

Table 1
STATISTICAL ANALYSIS[1]

Use	Square Feet
Lower Campus	
Existing:	
Outpatient Services (Hoag Cancer Center)	65,000
Child Care	7,800
Subtotal:	72,800
Phase I:	
Outpatient Services	115,000
Support Service	55,000
Administrative	30,000
Subtotal:	200,000
Phases II & III:	
Subtotal:	305,089
Total Lower Campus	**577,889**
Upper Campus	
Existing[2]:	**480,000**
Phase I:	
Outpatient Services	25,000
Inpatient	115,000
Subtotal:	140,000
Phases II & III:	145,349
Total Upper Campus	**765,349**
GRAND TOTAL	**1,343,238[3]**

[1] Full development of the upper and lower campuses is anticipated to occur over an approximate 20-year period and will likely occur in three, seven-year phases.

[2] Up to 50% of the existing upper campus may be redeveloped by master plan buildout.

[3] Based on development allowed under the General Plan at a floor area ratio to gross site area of .65 for the lower campus and 1.0 for the upper campus. Building Bulk limit for the lower campus is 0.90 for all structures which includes above grade covered parking.

V. DISTRICT REGULATIONS

The following regulations apply to all development within the Hoag Hospital Planned Community. The individual uses listed under the five permitted use categories is not an exhaustive list. Other hospital-related uses which fit into the five permitted use categories are allowed by definition. Prior to the issuance of a building permit, plot plans, elevations and any other such documents deemed necessary by the Planning, Building and Public Works Departments shall be submitted for the review and approval of the Planning, Building, and Public Works Departments.

A. Permitted Uses

1. Lower Campus

a) Hospital facilities, including, but not limited to:

i. Outpatient services:

- Antepartum Testing
- Cancer Center
- Skilled Nursing
- Rehabilitation
- Conditioning
- Surgery Center
- Clinical Center
- Day Hospital
- Back and Neck Center
- Biofeedback
- Breast Imaging Center
- CT Scan
- Dialysis
- EEG/EMG/NICE Laboratory
- First Aid Center
- Fertility Services
- G.I. Laboratory
- Laboratory
- Magnetic Resonance Imaging
- Nuclear Medicine
- Occupational Therapy
- Pediatrics
- Pharmacy
- Physical Therapy
- Pulmonary Services

- Radiation Therapy
- Radiology
- Respiratory Therapy
- Sleep Disorder Center
- Speech Therapy
- Ultrasound

ii. Administration:
- Admitting
- Auxiliary Office
- Business Offices
- Information
- Registration
- Patient Relations
- Social Services

iii. Support Services:
- Employee Child Care
- Health Education
- Power/Mechanical/Auxiliary Support and Storage
- Food Services
- Cashier
- Chapel/Chaplaincy Service
- Conference Center
- Dietitian
- Gift Shop
- Laboratory
- Medical Library
- Medical Records
- Pharmacy
- Engineering/Maintenance
- Shipping/Receiving
- Microwave, Satellite, and Other Communication Facilities

iv. Residential Care:
- Substance Abuse
- Mental Health Services
- Extended Care
- Hospice Care
- Self or Minimal Care
- Congregate Care

v. Medical/Support Offices

b) Methane gas flare burner, collection wells and associated system components.

c) Accessory uses normally incidental to hospital development.

d) Temporary structures and uses, including modular buildings.

2. Upper Campus

a) Hospital facilities, including, but not limited to:

i) Inpatient uses:

- Critical Care
- Emergency Care Unit
- Birth Suites
- Cardiology
- Cardiac Care Unit
- Intensive Care Unit
- Mother/Baby Unit
- Surgery/Waiting Rooms
- Radiology
- Laboratory
- Pharmacy

ii) Outpatient services as allowed on the lower campus

iii) Administrative uses as allowed on the lower campus

iv) Support services as allowed on the lower campus

v) Residential care as allowed on the lower campus

vi) Heliport (subject to Conditional Use Permit)

b) Accessory uses normally incidental to hospital development.

c) Temporary structures and uses, including modular buildings.

B. Prohibited Uses

1. Lower Campus

a) Emergency Room

b) Heliport

C. Maximum Building Height

The maximum building height of all buildings shall be in accordance with Exhibit 3 which established the following height zones:

1. Upper Campus Tower Zone - maximum building height not to exceed the existing tower (235 feet above mean sea level).

2. Upper Campus Midrise Zone - maximum building height not to exceed 140 feet above mean sea level.

3. Upper Campus Parking zone - maximum building height not to exceed 80 feet above mean sea level, exclusive of elevator tower.

4. Lower Campus Zone, Sub-Areas A, B, C, F and G - within each sub-area no building shall exceed the height of the existing slope and conform to the range of maximum building heights indicated on the development criteria Exhibit 3.

5. Lower Campus Zone, Sub-Areas D and E - maximum building height shall not exceed the height of the existing Hoag Cancer Center (57.5 feet above mean sea level).

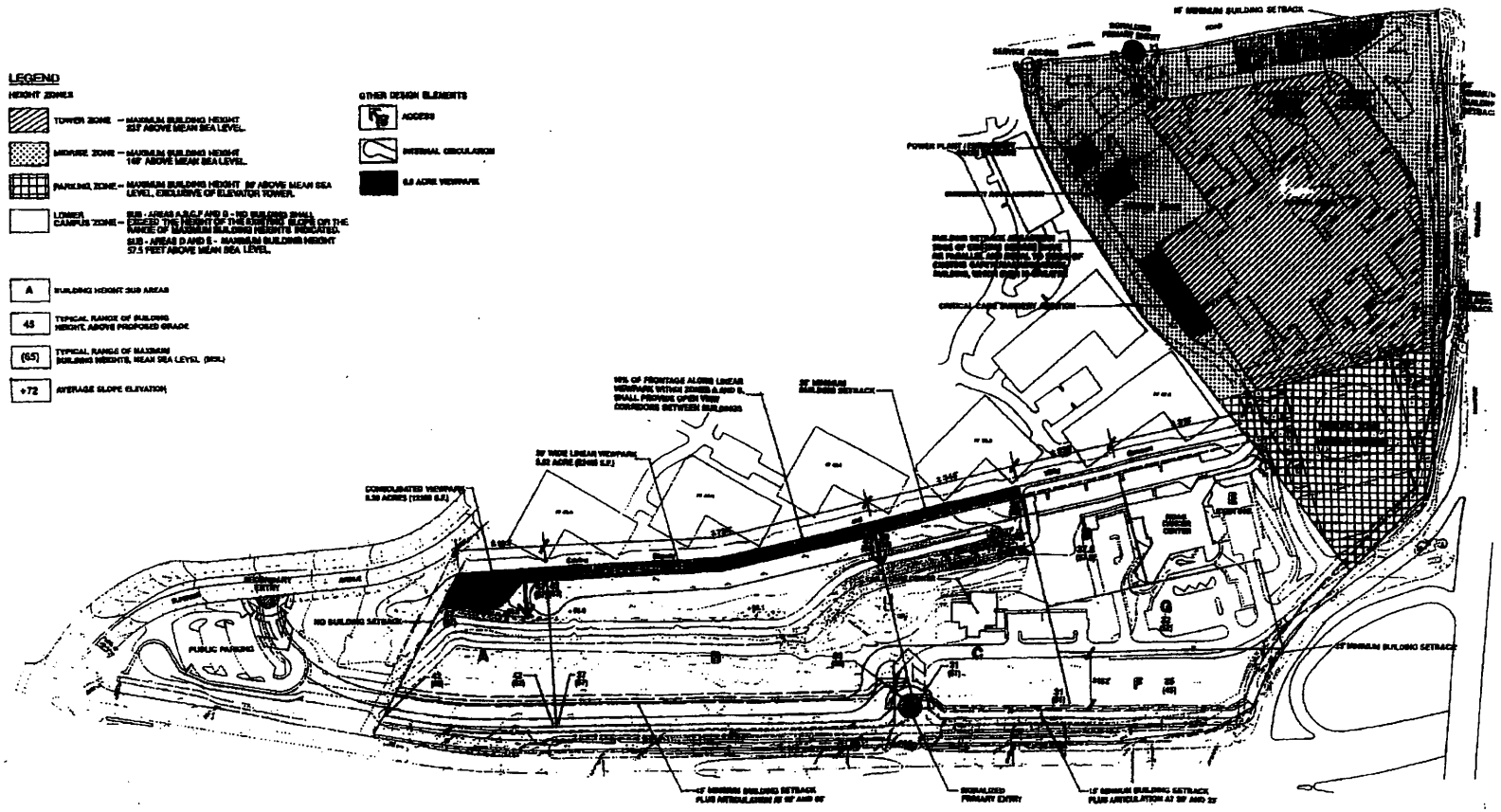
D. Setbacks

Setbacks for the Hoag Hospital Planned Community are shown on Exhibit 3.

1. Setbacks will be provided along property boundaries adjacent to the Villa Balboa / Seafaire Condominiums, as defined below:

a) Upper campus western boundary setback shall be the prolongation of the westerly edge of the existing cafeteria/laboratory building to the points of intersection with the easterly curb line of the existing service drive, then continuing along said line of the existing service drive.

b) Lower campus northern boundary, all of which will have a 20' minimum building setback.



DEVELOPMENT CRITERIA

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 3

May 26, 1992

2. The setback on West Coast Highway easterly of the hospital entry signal shall be 15 feet.

In addition, vertical articulation shall be required for buildings easterly of the signal within 150 feet of the West Coast Highway frontage, as follows:

1st Floor: Up to 18 feet in height no additional articulation is required. If the 1st floor exceeds 18 feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor (up to 32' in height): A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of 20 feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of 25 feet.

The setback on West Coast Highway westerly of the hospital entry signal shall be 45 feet.

In addition, vertical articulation shall be required for buildings westerly of the signal for buildings within 150 feet of the West Coast Highway frontage, as follows:

1st Floor: Up to 18 feet in height no additional articulation is required. If the 1st floor exceeds 18 feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor (up to 32' in height): A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of 55 feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of 65 feet.

In order to avoid any future structures in this area (within 150 feet of West Coast Highway) from presenting an unacceptable linear mass, no single structure shall be greater than 250 linear feet in width. Additionally, 20% of the linear frontage within 150 feet of West Coast Highway shall be open and unoccupied by buildings.

10% of the linear length of height zones A and B as viewed from the existing bicycle/pedestrian trail, exclusive of that area adjacent to the consolidated portion of the view park, shall be maintained as view corridors between buildings.

These requirements may be altered for individual buildings, if requested by the hospital, through the site plan review process defined in Section IX.

3. There will be no building setbacks along the boundary with CalTrans east property at Superior Avenue and West Coast Highway.

4. A 20 foot setback from property line shall be provided along Newport Boulevard from Hospital Road to a point 600 feet south; a 25 foot setback from property line shall be provided along the remainder of Newport Boulevard and along the Newport Boulevard/West Coast Highway Interchange.

5. A ten (10) foot building setback from the property line shall be provided along Hospital Road.

E. Lighting

The lighting systems shall be designed and maintained in such a manner as to conceal the light source and to minimize light spillage and glare to the adjacent residential uses. The plans shall be prepared and signed by a licensed Electrical Engineer.

F. Roof Treatment

Prior to the issuance of building permits, the project sponsor shall submit plans which illustrate that major mechanical equipment will not be located on the roof of any structure on the Lower Campus. Rather, such buildings will have clean rooftops. Minor rooftop equipment necessary for operating purposes will comply with all building height criteria, and shall be concealed and screened to blend into the building roof using materials compatible with roofing materials.

G. Signs

All signs shall be as specified under the Hoag Hospital Sign Program, Part VI.

H. Parking

All parking shall be as specified in Part VII, Hoag Hospital Parking Regulations.

I. Landscape

All landscaping shall be as specified in the Hoag Hospital Landscape Regulations, Part VIII.

J. Mechanical and Trash Enclosures

Prior to issuance of a building permit, the project sponsor shall submit plans to the City Planning Department which illustrate that all mechanical equipment and trash areas will be screened from public streets, alleys and adjoining properties.

K. Internal Circulation

1. Prior to the issuance of a grading permit for any of the proposed Master Plan facilities, the project sponsor shall implement a pilot program that controls usage of the Upper and Lower Campus service roads during non-working hours. Such controls may include requesting that the majority of vendors deliver products (other than emergency products) during working hours (i.e. 7:00 a.m. to 8:00 p.m.), signage to restrict use of the road by Hospital employees, physicians, patients and visitors during non-working hours, and other methods to restrict use. The Hospital will also request that vendors not deliver (i.e. scheduled and routine deliveries) on the weekends.

   This restriction specifically applies to scheduled and routine deliveries. The results of this program will be submitted to the City prior to the issuance of the grading permit. If such results indicate that such controls do not significantly impact the operations of the Hospital, and provided that requests for specified vendor delivery times is consistent with future Air Quality Management Plan procedures, the City may require that the program be implemented as hospital policy. If operation impacts are significant, other mitigation measures will be investigated at that time to reduce service road impacts to the adjacent residential units.

2. The lower campus service road shall include provisions for controlled access to limit usage to physicians and staff, and service vehicles.

L. Loading Dock

Within one year from the date of final approval of the Planned Community District Regulations and Development Plan by the California Coastal Commission, as an interim measure, the project sponsor shall implement an acoustical and/or landscape screen to provide a visual screen from and reduce noise to adjoining residences from the loading dock area.

The design process for the Critical Care Surgery Addition shall include an architectural and acoustical study to insure the inclusion of optimal acoustical screening of the loading dock area by that addition.

Subsequent to the construction of the Critical Care Surgery Addition, an additional acoustical study shall be conducted to assess the sound attenuation achieved by that addition. If no significant sound attenuation is achieved, the hospital shall submit an architectural and acoustical study assessing the feasibility and sound attenuation implications of enclosing the loading dock area. If enclosure is determined to be physically feasible and effective in reducing noise impacts along the service access road, enclosure shall be required. Any enclosure required pursuant to this requirement may encroach into any required setback upon the review and approval of a Modification as set forth in Chapter 20.81 of the Newport Beach Municipal Code.

VI. HOAG HOSPITAL SIGN PROGRAM

A. Purpose and Intent

1. The purpose of this Sign Program is to provide adequate, consistent and aesthetically pleasing on-building wall and ground-mounted signage based upon the provisions set forth by the City of Newport Beach Sign Ordinance and the information signage requirements of Hoag Hospital.

2. The intent of this Sign Program is to produce uniform standards for Hoag Hospital.

B. General Sign Standards

1. All signs visible at the exterior of any building or facility of the Hospital, ground mounted or on-building, may be illuminated or non-illuminated, depending upon need. Illumination method may be by external or internal source. No sign shall be constructed or installed to rotate, gyrate, blink or move, nor create the illusion of motion, in any fashion.

2. All signs attached to building or facility exteriors shall be flush or surface mounted as is appropriate to the architectural design features of said building or facility.

3. All signs together with the entirety of their supports, braces, guys, anchors, attachments and decor shall be properly maintained, legible, functional and safe with regard to appearance, structural integrity and electrical service.

4. All street signs shall be subject to review and approval of the City Traffic Engineer, and shall be in compliance with Ordinance 110-L.

C. Number of Signs Allowed

1. One (1) double-faced primary identification ground-mounted sign or two single faced gateway entry signs shall be allowed per street frontage. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Total maximum signage area shall not exceed two hundred (200) square feet and shall not exceed ten (10) feet in height per sign and street frontage. This sign may occur as a wall sign, to be located upon a project boundary perimeter wall, subject

to the same number and area maximums described above. This sign may also occur as part of an entry gateway system.

2. Secondary identification signs shall be allowed. This sign type shall not exceed a maximum height of 48" average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed thirty-five (35) square feet. This sign may occur as a wall sign to be located upon a project boundary perimeter wall, subject to the same number and area maximums described above.

3. Vehicular and pedestrian directional signs shall be allowed. This sign type may occur as a single-faced or double-faced sign. This sign type shall occur with the sign suspended between two upright supports having the same depth (thickness) as the sign cabinet described above.

4. Hospital identification signs shall be allowed upon hospital tower parapets, one (1) at each elevation. The elevation facing west (Villa Balboa property line) may not be illuminated.

5. On the lower campus, one (1) building-mounted identification sign will be allowed per structure and shall not be placed so as to directly face the Villa Balboa/Seafaire property. Such signs will be no higher than the roof line of the building upon which they are mounted.

VII. HOAG HOSPITAL PARKING REGULATIONS

A. General

1. Off-street parking for Hoag Hospital shall be provided on-site. Parking may be on surface lots, subterranean or in parking structures.

2. The design and layout of all parking areas shall be subject to the review and approval of the city Traffic Engineer and the Public Works Department.

3. Parking lot lighting shall be developed in accordance with City standards and shall be designed in a manner which minimizes impacts on adjacent land uses. Nighttime lighting shall be limited to that necessary for security and shielded down from any adjacent residential area. The plans shall be prepared and signed by a licensed electrical engineer, with a letter from the engineer stating that the requirements has been met. The lighting plan shall be subject to review and approval of the City Planning Department.

B. Requirements for Offstreet Parking

Parking requirements for specific sites shall be based upon the parking criteria established in Table 2. All parking shall be determined based upon building type and the area allotted to the following functions. Any area which is calculated as part of the total floor area limitation shall be included in the gross floor area to determine the parking requirement.

Table 2
PARKING REQUIREMENTS

Use Category	Parking Requirements
Outpatient Services	2.0 spaces/1,000 square feet*
Support	1.0 spaces/1,000 square feet*
Administrative	4.0 spaces/1,000 square feet*
Residential Care	1.0 spaces/1,000 square feet*
Medical Offices	4.0 spaces/1,000 square feet*
Inpatient	1.25 spaces/1,000 square feet**

* Parking requirements are based on a study performed by DKS Associates in May, 1987.

** Parking requirement is based on current Hoag Hospital parking demand.

VIII. HOAG HOSPITAL LANDSCAPE REGULATIONS

A. General

1. Detailed landscape and irrigation plans, prepared by a registered Architect or under the direction of a Landscape Architect, shall be reviewed by the Planning and Parks, Beaches and Recreation Departments and approved by the Public Work Departments prior to issuance of a building permit and installed prior to issuance of Certificate of Use and Occupancy. The Landscape Plan may include a concept for the roofs and the parking structures. Trees shall not be used, but a planter box or trellis system shall be designed to provide visual relief of parking structures. All landscaping shall conform to the building height limits established in this text.

2. Parking lot trees shall be no less than fifteen (15) gallon size.

3. Shrubs to be planted in containers shall not be less than one (1) gallon size. Ground covers will be planted from (1) gallon containers or from root cuttings.

4. Every effort should be made to avoid using plants with invasive and shallow root systems.

5. Earth berms shall be rounded and natural in character, designed to obscure automobiles and to add interest to the site. Wheel stops shall be so placed that damage to trees, irrigation units and shrubs is avoided.

6. Trees in parking lots should be limited in variety. Selection should be repeated to give continuity. Regular spacing is not required and irregular groupings may add interest. Care should be exercised to allow plants to grow and maintain their ultimate size without restriction.

7. Heavy emphasis shall be placed on the use of drought-resistant native and naturalized vegetation and the use of an irrigation system designed to avoid surface runoff and over-watering.

B. Maintenance

1. All planting areas are to be kept free of weeds and debris.

2. Lawn and ground covers are to be kept trimmed and/or mowed regularly.

3. All plantings are to be kept in a healthy and growing condition. Fertilization, cultivation and tree pruning are to be carried out as part of regular maintenance.

4. Irrigation systems are to be kept in working condition. Adjustment and cleaning of system should be part of regular maintenance.

5. Stakes, guys and ties on trees should be checked regularly for correct function; ties to be adjusted to avoid creating abrasions or girdling to the stems.

6. Damage to plantings created by vandalism, automobile or acts of nature shall be corrected within thirty (30) days.

C. Special Landscaped Street

West Coast Highway is designated in the Hoag Hospital Planned Community as a special landscaped street. A 15' building setback from right-of-way / property line is required along West Coast Highway. Only driveways, parking and signage are allowed in the setback area. Parking areas shall be screened from view of West Coast Highway with landscaped berms.

Landscaping along West Coast Highway shall consist of trees, ground cover and shrubbery. All unpaved areas not utilized for parking or circulation shall be landscaped in a similar manner. Tree size to be no less than twenty-four (24) inch box.

D. Villa Balboa Landscape Zone

The area between the Villa Balboa/Hoag property line and the loading dock service access road shall be landscaped except for any driveway, walkway, or other hardscape elements in said area. The purpose of the landscaping will be to screen and buffer residential units from hospital activities.

E. Parking Areas

A minimum of 5% of the surface parking areas shall be devoted to planting areas. Planting areas around building shall not be included in parking area. Planting of trees may be in groups and need not necessarily be in regular spacing. Alternative landscape programs may be developed, including perimeter parking area landscaping, berming and depressing of parking areas. Alternative landscape programs shall be subject to the review of the Parks, Beaches and Recreation Department and the approval of the Planning and Public Works Departments.

A rooftop landscaping program may be developed for parking structures and shall be subject to the review of the Parks, Beaches and Recreation Department and the approval of the Planning and Public Works Departments. Rooftop landscaping shall conform to height restrictions.

IX. SITE PLAN REVIEW.

A. Purpose

The City Council finds that development on the West Coast Highway frontage of the lower campus of Hoag Hospital may have the potential to affect the aesthetics of the West Newport area as viewed from surrounding arterial roadways. The effect of this section is to establish a Site Plan Review requirement by the Planning Commission for certain individual projects which are proposed by the hospital to differ from the setback, horizontal and vertical articulation requirements as set forth in Section V.D.2. to insure that these projects conform with the objectives of the General Plan and the Master Plan for Hoag Hospital.

B. Findings

The City finds, determines and declares that the establishment of Site Plan Review procedures contained in this section promotes the health, safety, and general welfare of the community by ensuring that the development of Hoag Hospital proceeds in a manner which will not result in inadequate and poorly planned landscape areas, excessive building bulk on arterial roadways, inappropriate placement of structures and impairment of the benefits of occupancy and use of existing properties in the area.

C. Application

Site Plan Review approval shall be obtained prior to the issuance of a grading or building permit for any new structure or the addition to an existing structure which does not conform to the provisions of Section V.D.2.

D. Plans and Diagrams to be Submitted

The following plans and diagrams shall be submitted to the Planning Commission for approval:

1. A plot plan, drawn to scale, showing the arrangement of buildings, driveways, pedestrian ways, off-street parking and off-street loading areas, landscaped areas, signs, fences and walks. The plot plan shall show the location of entrances and exits, and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and loading space, and areas for turning and maneuvering vehicles. The plot plan shall indicate how utility and drainage are to be provided.

2. A landscape plan, drawn to scale, showing the locations of existing trees proposed to be removed and proposed to be retained; and indicating the amount, type, and location of landscaped areas, planting beds and plant materials with adequate provisions for irrigation.

3. Grading plans when necessary to ensure development properly related to the site and to surrounding properties and structures.

4. Scale drawings of exterior lighting showing size, location, materials, intensity and relationship to adjacent streets and properties.

5. Architectural drawings, renderings or sketches, drawn to scale, showing all elevations of the proposed buildings and structures as they will appear upon completion.

6. Any other plans, diagrams, drawings or additional information necessary to adequately consider the proposed development and to determine compliance with the purposes of this chapter.

E. Fee

The applicant shall pay a fee as established by Resolution of the City Council to the City with each application for Site Plan Review under this chapter.

F. Standards

In addition to the general purposes set forth in sub-section B, in order to carry out the purposes of this chapter as established by said section, the site plan review procedures established by this Section shall be applied according to and in compliance with the following standards, when applicable:

1. The development is in compliance with all other provisions of the Planned Community Development Criteria and District Regulations (P-C Text);

2. Development shall be compatible with the character of the neighborhood and surrounding sites and shall not be detrimental to the orderly and harmonious development of the surroundings and of the City;

3. Development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways and properties, with special consideration given to the mass and bulk of buildings and the streetscape on West Coast Highway;

4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development.

G. Public Hearing - Required Notice

A public hearing shall be held on all Site Plan Review applications. Notice of such hearing shall be mailed not less than ten (10) days before the hearing date, postage prepaid, using addresses from the last equalized assessment roll or, alternatively, from such other records as contain more recent addresses, to owners of property within a radius of three hundred (300) feet of the exterior boundaries of the subject property. It shall be the responsibility of the applicant to obtain and provide to the City the names and addresses of owners as required by this Section. In addition to the mailed notice, such hearing shall be posted in not less than two conspicuous places on or close to the property at least ten (10) days prior to the hearing.

H. Action by the Planning Commission

If all applicable standards established by this Section are met, the Planning Commission shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Commission shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Commission shall be subject to review by the City Council either by appeal, or upon its own motion, or upon the request of the Commission. The action of the Commission on any Site Plan Review shall be final and effective twenty-one (21) days following the Commission action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Commission has requested a review of its decision, or unless the City Council, not more than twenty-one (21) days after the Commission action, on its own motion, elects to review and act on the action of the Commission, unless the applicant consents to an extension of time. The City Council may affirm, reverse or modify the decision. Such action by the City Council shall be final.

I. Appeal to the City Council

Any Site Plan Review decision of the Commission may be appealed to the City Council by the applicant or any other person, at any time within twenty-one (21) days after the date of the Commission decision. An appeal to the City Council shall be taken by filing a letter of appeal in duplicate, with the Planning Department. Such letter shall set forth the grounds upon which the appeal is based and shall be accompanied by a fee as established by Resolution of the City Council.

J. Action by the City Council

An appeal shall be heard and acted on by the City Council, and the City Council may affirm, reverse or modify the decision of the Commission. The decision of the City Council is final.

K. Expiration and Revocation of Site Plan Review Approvals

1. Expiration. Any Site Plan Review granted in accordance with the terms of this Title shall expire within 24 months from the date of approval if a building permit has not been issued prior to the expiration date and subsequently construction is diligently pursued until completion, unless at the time of approval the Planning Commission has specified a different period of time.

2. Violation of Terms. Any Site Plan Review granted in accordance with the terms of this Title may be revoked if any of the conditions or terms of such Site Plan Review are violated or if any law or ordinance is violated in connection therewith.

3. Hearing. The Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within 60 days after receipt of the recommendation of the Planning Commission.

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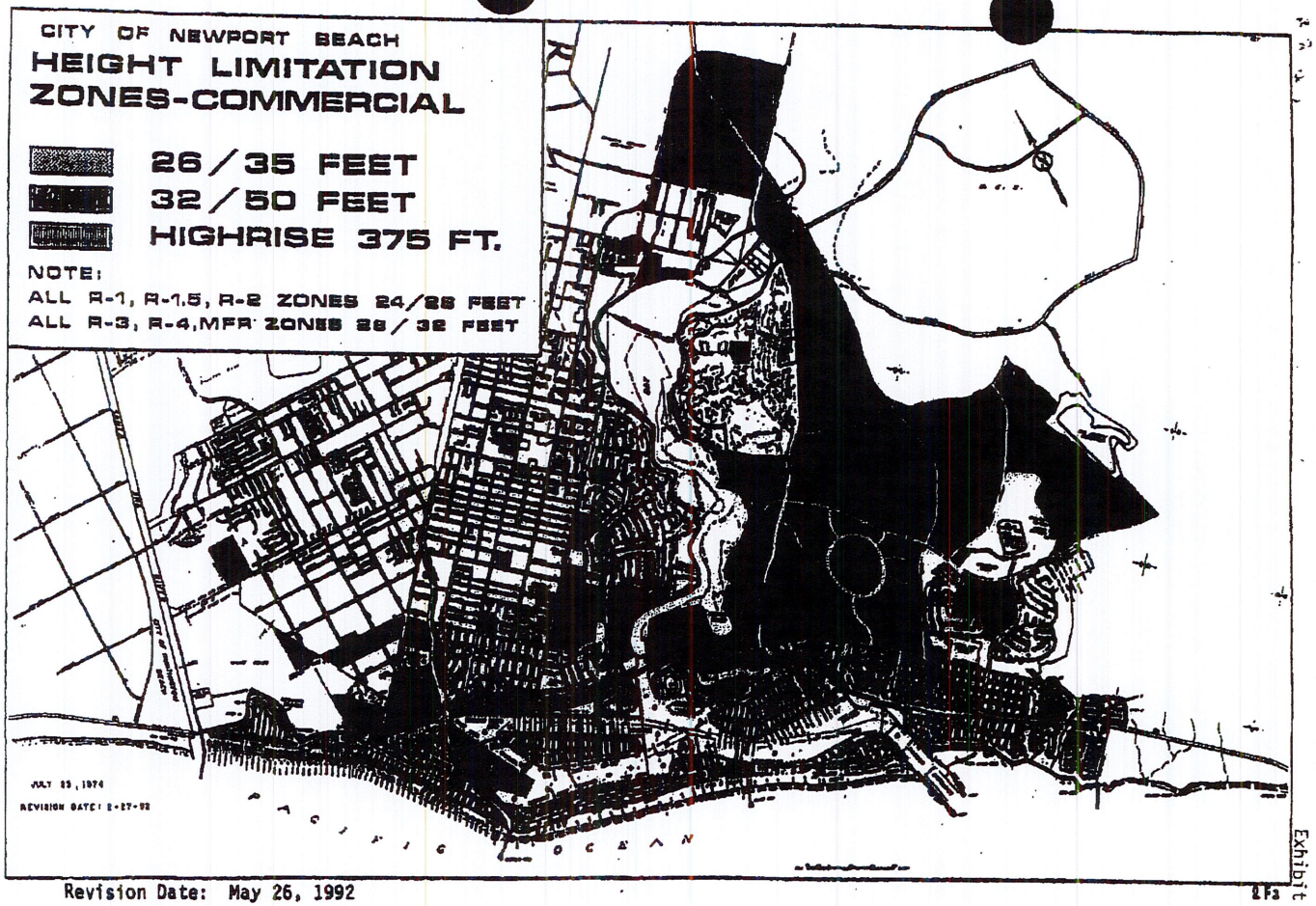

Revision Date: May 26, 1992

Exhibit D

EXHIBIT D
ESTOPPEL CERTIFICATE

Date Requested: _____
Date of Certificate: _____

On _____, the City of Newport Beach approved the "Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian" (the "Development Agreement").

This Estoppel Certificate certifies that, as of the "Date of Certificate" set forth above:

CHECK WHERE APPLICABLE

____ 1. The Development Agreement remains binding and effective;

____ 2. The Development Agreement has not been amended;

____ 3. The Development Agreement has been amended in the following respects:

_____
_____
_____
_____

____ 4. Neither Hoag nor any of its successors are in default under the Development Agreement;

____ 5. The following defaults exist under the Development Agreement:

_____
_____
_____
_____

This Estoppel Certificate may be relied upon by any transferee or mortgagee of any interest in the property which is subject of the Development Agreement.

CITY OF NEWPORT BEACH

BY: _____
NAME: _____
TITLE: _____

[redacted]

EXHIBIT B

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5
DATED JUNE 17, 2008

This Document was electronically recorded by
ER Cert Mail D

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

[redacted] NO FEE
2008000289321 12:35pm 06/17/08
120 33 A17 56
0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00

RECORDING REQUEST BY, AND
WHEN RECORDED MAIL TO:

City Clerk
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

EXEMPT FROM FILING FEES CAL. GOV'T CODE § 6103
(Space above this line for Recorder's use)

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 27383

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

AND

THE CITY OF NEWPORT BEACH

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved May 13, 2008
Ordinance No. 2008-10

RECORDING REQUEST BY, AND
WHEN RECORDED MAIL TO:

City Clerk
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

EXEMPT FROM FILING FEES CAL. GOV'T CODE § 6103
(Space above this line for Recorder's use)

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE 27383

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

BETWEEN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

AND

THE CITY OF NEWPORT BEACH

(Pursuant to California Government Code Sections 65864-65869.5 and Newport Beach Municipal Code Chapter 15.45)

Approved May 13, 2008
Ordinance No. 2008-10

AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5

(Hoag Memorial Hospital Presbyterian)

THIS AMENDMENT TO RESTATED DEVELOPMENT AGREEMENT NO. 5 ("Amendment") is entered into and effective on the date it is recorded with the Orange County Recorder (the "Effective Date") by and between the City of Newport Beach (hereinafter "City") and Hoag Memorial Hospital Presbyterian (hereinafter "Hoag").

RECITALS

1. The "RECITALS" to the Restated Development Agreement are amended to add new Sections 1.9 through Section 1.19(f) to read as follows:

1.9 Hoag Property. Hoag is the fee owner of approximately 38 acres of real property located in the City divided between the Upper Campus and the Lower Campus and more particularly described in Exhibit "A" and depicted on Exhibit "B" (the "Property").

1.10 Hoag Healthcare Services. Hoag is a modern, state-of-the-art acute care, not-for-profit hospital providing a comprehensive mix of healthcare services to treat virtually any routine or complex medical condition. Hoag features centers of excellence that include Hoag Cancer Center, Hoag Heart and Vascular Institute, Hoag Neuroscience Institute, Hoag Orthopedic Services and Hoag Women's Health Services, as well as advanced medical programs in many other specialties.

1.11 Hoag Community Benefit Programs. In addition to providing state-of-the-art hospital, diagnostic imaging and emergency room care medical services, Hoag is involved in many other community benefit programs such as police and SWAT team, fire department and paramedic support services, designating the City as the point of sale for major hospital equipment purchases and construction projects, providing financial and transportation support for the City's senior Oasis Center, and providing methane gas flare burnoff to mitigate methane gas fumes along Pacific Coast Highway. Hoag's community medicine program allocates approximately $10 million annually toward improving the community's overall health, primarily through disease prevention and wellness and health promotion, especially for those vulnerable and disadvantaged populations.

1.12 EIR No. 142 and P.C. Text. On May 26, 1992, the City Council of City ("City Council") certified the Hoag Hospital Master Plan Final EIR No. 142 and adopted the Hoag Memorial Hospital Presbyterian Master Plan ("Hoag Master Plan") and the Planned Community Development Criteria and District Regulations ("P.C. Text") setting forth the development standards and terms and conditions by which the Property may be developed, including the maximum permissible building area, building height limits and permitted land uses.

1.13 Square Footage of Buildable Area. Under the existing Hoag Master Plan and P.C. Text, the Property allows a total of 1,343,238 square feet of buildable area with 577,889 square feet allocated to the Lower Campus and 765,349 square feet allocated to the Upper Campus.

1.14 Development Agreement No. 5. On May 26, 1992, the City Council adopted Ordinance No. 92-4 approving Development Agreement No. 5 between the City and Hoag incorporating the Hoag Master Plan and P.C. Text and granting vested rights to Hoag to develop the Property pursuant to the Hoag Master Plan and P.C. Text for the term of the Development Agreement. The Development Agreement was recorded in the Official Records of Orange County, California on August 4, 1993 as Instrument No. 63-0522236.

1.15 Restated Development Agreement. On February 14, 1994, the City Council of City adopted Ordinance No. 94-8 approving an Amendment and Restatement of Development Agreement No. 5 ("Restated Development Agreement") incorporating certain provisions clarifying the role, review and approval authority of the California Coastal Commission for development of the Property to ensure consistency and compliance with the California Coastal Act. The Restated Development Agreement was recorded in the Official Records of Orange County, California on March 23, 1994 as Instrument No. 94-0207276.

1.16 First Amendment to P.C. Text. On August 13, 2002, the City Council adopted Ordinance No. 2002-17 approving the First Amendment to the P.C. Text to provide that certain non-occupied building areas are not counted towards the maximum permissible building floor areas for development of the Property.

1.17 Noise Limitation. The existing PC Text provides that noise generated from Hoag Hospital from new mechanical appurtenances shall not exceed 55 dBA at the Property lines. This noise limitation was established prior to the adoption of the City's

Noise Element in the General Plan and Noise Ordinance. It is proposed that noise generated and originating from the Property be governed by the City Noise Ordinance with certain exceptions.

1.18 Noise Attenuation. Hoag has taken significant actions to attenuate noise generated from mechanical equipment and has installed landscape screening and walls to mitigate and buffer noise and improve aesthetic impacts for adjacent residential properties.

1.19 Restated Development Agreement Amendments. The City and Hoag propose to further amend the Restated Development Agreement by this Amendment to incorporate references to: a Supplemental EIR; an amendment to the City General Plan; an increase in the Public Benefits; designation of the City as the point of sale to the extent allowed under applicable law; and amendments to the Hoag Hospital Planned Community Text ("P.C. Text") to, among other things:

(a) eliminate the reference to 1.0 Floor Area Ratio ("FAR") for the Upper Campus and the .65 FAR for the Lower Campus in the General Plan Land Use Element. In place of the reference to the FAR's, an absolute maximum allowable building area of 1,343,238 square feet will remain available for development of the entire Property comprised of the Upper Campus and the Lower Campus;

(b) maintain a cap under the General Plan Land Use Element Amendment for development of the Lower Campus at 577,889 square feet (if no square footage is reallocated) and establish a cap on development of the Upper Campus at 990,349 square feet (if all 225,000 square feet are reallocated from the Lower Campus to the Upper Campus);

(c) allow the transfer of up to 225,000 square feet of buildable area from the Lower Campus to the Upper Campus, which, if all 225,000 square feet are reallocated, would result in a maximum allowed density of 990,349 square feet for the Upper Campus and a reduction to permit 352,889 square feet of allowable development for the Lower Campus;

(d) to modify the noise standards applicable to the Property;

(e) delete a provision that required the City and Hoag to conduct a study of possible future improvements in and around the easterly end of the Semeniuk Slough, including a requirement that Hoag fund the study and potential future improvements in an amount not to exceed $200,000; and

(f) incorporate the Second Amendment to the P.C. Text.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Section 1.5 of the Restated Development Agreement entitled *Planning Commission/City Council Hearings* is amended to read as follows:

"1.5 Planning Commission/City Council Hearings. The Planning Commission, after giving appropriate notice, held public hearings to consider a development agreement, the proposed Master Plan, and the EIR on December 5, 1991, January 9, 1992, January 23, 1992, February 6, 1992 and February 20, 1992. The City Council conducted public hearings on the Master Plan, this Agreement and the EIR on March 23, 1992, March 30, 1992, April 13, 1992 and May 11, 1992. . The Planning Commission, after giving appropriate notice, held a public hearing to consider this Amendment, the Supplemental EIR, the General Plan Amendment, and the Second Amendment to the P.C. Text on January 31, 2008, February 7, 2008, March 6, 2008 and March 20, 2008. The City Council conducted a public hearing on this Amendment, the Supplemental EIR, the General Plan Amendment and the Second Amendment to the P.C. Text on April 16, 2008."

2. Section 1.8 of the Restated Development Agreement entitled *City Ordinance* is amended to read as follows:

"1.8 City Ordinance. On February 14, 1994, the City Council adopted Ordinance No. 94-8 approving a Restated Development Agreement No. 5 incorporating certain provisions clarifying the role, review and approval authority of the California Coastal Commission for development of the Property to ensure consistency and compliance with the California Coastal Act. The Adopting Ordinance became effective on March 16, 1994. On May 13, 2008, the City Council adopted Ordinance No. 2008-10 approving

this Amendment and authorizing the City to enter into this Amendment. The adopting ordinance will become effective on June 12, 2008."

3. Section 2.1 of the Restated Development Agreement entitled *The Adopting Ordinance* is amended to read as follows:

"2.1 The "Adopting Ordinance" refers to City Ordinance No. 94-8, adopted on February 14, 1994, by the City Council, which approved and authorized the City to enter into this Agreement. "Adopting Ordinance" further refers to Ordinance No. 2008-10 adopted on May 13, 2008 by the City Council, which approved and authorized the City to enter into this Amendment."

4. Section 2.2 of the Restated Development Agreement entitled *Agreement* is amended to read as follows:

"2.2 "Agreement" refers to the "Restated Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian," and this Amendment."

5. Section 2.13 of the Restated Development Agreement entitled *The EIR* is amended to read as follows:

"2.13 The "EIR" refers to final Environmental Impact Report No. 142 of the City of Newport Beach, and Supplemental Environmental Impact Report No. 142."

6. Section 2.23 of the Restated Development Agreement entitled *Master Plan* is amended to read as follows:

"2.23 "Master Plan" refers to the Hoag Memorial Hospital Presbyterian Master Plan and Planned Community Development Plan which was adopted by the City on May 26, 1992 (Exhibit "C"), as amended."

7. Section 3 of the Restated Development Agreement entitled *Conditions to Development* is amended to add a new paragraph after Subsection (f) to read as follows:

"Notwithstanding the provisions of this Section, any provisions set forth in this Amendment shall supersede and control over any inconsistencies with this Section."

8. Section 3.3 of the Restated Development Agreement entitled *Program EIR* is amended to read as follows:

> "3.3 Program EIR. Hoag acknowledges that the EIR is a "Program EIR" and includes Supplemental Environmental Impact Report No. 142. The EIR analyzes the impacts of construction phased over time and, pursuant to CEQA, City is under a continuing obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the request were fully addressed in the EIR. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIR, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIR. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA."

9. Section 4.1 of the Restated Development Agreement entitled *Right to Develop* is amended to read as follows:

> "4.1 Right to Develop. Subject to compliance with the provisions of Sections 3 and 8.2, Hoag shall have a vested right to develop and receive Project Specific Approvals for construction on the Property to the full extent permitted by the Master Plan, as amended. Subject to the provisions of Sections 3 and 8, City shall only take action which complies with and is consistent with the Master Plan, as amended, the Restated Development Agreement and this Amendment unless Hoag otherwise consents in writing. Subject to this Subsection, City shall have the authority to impose only those Exactions which are specifically described in this Agreement, except as expressly required (as opposed to permitted) by state or federal law."

10. Section 5.2 of the Restated Development Agreement entitled Mitigation Review is amended to read as follows:

> "5.2 Public Hearing. The Annual Review shall be conducted at a public hearing noticed in accordance with the provisions of Chapter 15.45 of the Newport Beach Municipal Code. Annual reviews should be scheduled in April of each year."

11. Section 5.4 of the Restated Development Agreement entitled Mitigation Review is amended to read as follows:

> "5.4 Mitigation Review. The annual review shall include a detailed report of compliance with the various conditions and mitigation measures contained within the mitigation monitoring plan. The report shall also include a noise regulation compliance assessment that includes noise measurements prepared by a qualified noise consultant on a yearly basis. The noise assessment shall identify noise regulation compliance issues and recommended measures to abate any noncompliance. The report shall include an analysis of the view impacts of buildings constructed in comparison to the anticipated views as depicted in the EIR. Hoag shall be found in compliance with this Agreement unless the City Council determines, based upon the evidence presented at the Annual Review, that Hoag has not complied with all mitigation measures and conditions including those imposed as a result of subsequent environmental analysis, applicable to the grading of, or building on, the Property as of the date of the Annual Review. Hoag shall pay the City administrative costs incurred in conducting Annual Reviews. Hoag shall reimburse the City for costs incurred by the City associated with Fluor Enterprises' review of the cogeneration plant during the 2008 Annual Review."

12. Section 8.2 of the Restated Development Agreement entitled *Exactions* is hereby amended to delete Subsection (c), which reads as follows:

> "(c) City and Hoag shall conduct a study of possible future improvements in and around the easterly end of Semeniuk Slough that would, among other things, improve the appearance of the area and, potentially, serve as a component to improve public access from residential areas in West Newport to park land and public recreation facilities proposed in conjunction with development of the West Newport Oil Company property. The study shall analyze, among other things, the type of improvements that would improve the area without adversely impacting wetlands, the possible location of pedestrian trials and the potential for those trails to improve access to proposed recreational facilities, phasing of the improvements, potential public benefits, and the cost of the improvements. As a part of the study, Hoag and City shall meet and confer with resource agencies relative to the type and extent of improvements that may be permitted in or adjacent to wetlands. Hoag shall fund the study and participate in the cost of constructing any improvements in the area that the City Council determines are feasible and in the public interest, provided, however, the financial contribution of Hoag, including the costs of the study and improvements, shall not exceed Two Hundred Thousand Dollars ($200,000.00)."

13. Section 8.2 of the Restated Development Agreement entitled *Exactions* is hereby amended to renumber Subsection (d) to Subsection (c); and to add a new Subsection (d) to read as follows:

> "(d) City and Hoag acknowledge and agree that the Restated Development Agreement and this Amendment confer private benefits on Hoag that should be balanced by commensurate public benefits in favor of the City. Accordingly, the City and Hoag intend to provide consideration to balance the private and public benefits by the imposition of a Development Agreement Fee, which fee shall be used to reimburse the City for public improvements in the area and to fund certain additional needed public improvements identified by the City. Hoag shall pay to the City a Development Agreement Fee of Three Million Dollars ($3,000,000). Payment of one-half of the Development Agreement Fee of $1.5 million shall be made upon the Effective Date of this Amendment. Payment of the remaining one-half of the Development Agreement Fee of $1.5 million shall be paid to City 12 months from the Effective Date of this Amendment or at the time of issuance of the first building permit by the City for development of a project on the Upper Campus as provided in Exhibit "C" attached to this Amendment, whichever occurs earlier.
>
> The first $1.5 million of the Development Agreement Fee shall be used to reimburse the City and/or pay for the costs associated with the following projects: (i) construction of the Superior Avenue medians extending from Ticonderoga Street to Dana Road; (ii) construction of the right-turn pocket for southbound Newport Boulevard to westbound Hospital Road; and (iii) funding of the operational improvements and traffic signal upgrade at the Hospital Road and Placentia intersection ("Priority Public Improvements"). Construction of the first two Priority Public Improvements listed above occurred during 2007, and the third is anticipated to occur in 2008. The City shall be obligated to pay the actual cost difference, if any, for construction of these Priority Public Improvements. However, if there are any funds remaining after construction of the Priority Public Improvements is completed, the City may retain the funds to be used for other City projects or services that benefit the public. The City shall also have the sole authority to decide the design, cost and scope of the Priority Public Improvements and the sufficiency of City's performance on the Public Improvement Projects shall not be subject to Hoag's approval.
>
> The balance of the Development Agreement Fee ($1.5 million) and any funds remaining after the construction of the Priority Public Improvements shall be used by the City in the City's sole discretion to

offset costs associated with other City and community projects or services that benefit the public such as, among other things, public parks (for example, Sunset View Consolidated Park), landscaping improvements adjacent to public right of ways, sound abatement programs, public buildings, public road improvements, water quality improvements, law enforcement, fire fighting, emergency preparedness and other public safety facilities."

14. A new section, Section 8.3, shall be added to the Restated Development Agreement entitled *Sales/Use Tax Origin*, to read as follows:

"8.3 Sales/ Use Tax Origin

(a) Hoag will include in its general contractor construction contract a provision that Hoag's general contractor and subcontractors, to the extent allowed by applicable law, will obtain a Board of Equalization sales/use tax subpermit for the jobsite at the Project Property and allocate all eligible sales and use tax payments for individual contracts over $5 million to the City. Hoag will provide Hoag's general contractor and subcontractors with the name and contact information of the City's Revenue Manager and notice of the Revenue Manager's availability to meet and confer with them on the implementation of the Board of Equalization sales/use tax subpermit procedures. Hoag will further include a notice in its general contractor construction contract that prior to beginning a qualified construction project, the general contractor and subcontractors are encouraged to meet with the City's Revenue Manager to review the process to be followed with respect to sales and use taxes. Hoag will further include a provision in its general contractor construction contract that the general contractor or subcontractors will certify in writing that the person(s) responsible for filing the tax return understands the process of reporting the tax to the City and will follow the guidelines set forth in the relevant sections of the Sales and Use Tax Regulations. Hoag shall not be responsible for failure of Hoag's general contractor or subcontractors to follow the procedures set forth in this Section.

Hoag, if readily available, shall provide to the City or any City designated representative the names, addresses, phone numbers and contact name of the general contractor and all subcontractors.

(b) Hoag will continue to follow the Direct Payment Permit Process established in the Revenue and Taxation Code and use the permit for all qualifying individual purchases in excess of $100,000 so that the local share of its sales/use tax payments is allocated to the City as the point of sale.

(c) It is understood and agreed that any fixtures, materials and equipment with a purchase total that exceeds $100,000 purchased directly by Hoag and shipped to Hoag's Newport Beach location may also be eligible for direct allocation of sales/use tax to the City. Upon request of the City, Hoag will provide City on a semi-annual basis with a list of purchases exceeding the $100,000 threshold during the preceding six-month period, including the amount of the purchase and, if readily available, the name and contact information for the vendor upon request by the City. The City agrees to review the semi-annual list of purchases made by Hoag and advise Hoag of any missed opportunities for direct allocation. Hoag agrees to file its Direct Payment Permit with vendors identified by the City in an effort to improve the direct allocation of the local share of sales/use tax payments in future periods."

15. A new section, Section 8.4, shall be added to the Restated Development Agreement entitled *Sunset View Park Improvements*, to read as follows:

"8.4 Hoag shall reimburse the City up to $ 150,000 for the installation of groundcover, shrubs and irrigation systems within the unimproved portion of Sunset View Park and Superior Avenue, approximately 20,500 square feet in area, located northerly of the cogeneration building. Reimbursement to the City shall be within 30 days of Hoag receiving an invoice from the City."

16. A new section, Section 8.5, shall be added to the Restated Development Agreement entitled *Cogeneration Plant Energy Curtailment,* to read as follows:

> "8.5 Hoag shall install a weather station capable of identifying ambient conditions necessary in documenting cogeneration plant and cooling tower operations. The weather station shall be tied into the cogeneration plant controls in order to maximize automatic responses to prevailing weather conditions, assisting in managing the operational changes and load shifting, as well as to provide periodic reports on plant operations.
>
> Hoag shall not construct or erect additional cooling towers within the Hoag Lower Campus.
>
> Hoag shall reduce the effective heat rejection by 33% at the existing cooling towers and such reduction shall be measured from a baseline (to be measured at the cooling towers) of operating three existing generators and absorption chillers at 100% of design capacity.
>
> This reduced capacity operation shall be implemented daily between November 1st and April 30th, between the hours of 7:00 AM and 7:00 PM when the relative humidity is equal to or above 60% and when ambient temperatures are equal to or less than 55 degrees Fahrenheit.

17. Section 11.1(c) of the Restated Development Agreement entitled *Notices* is hereby amended to delete:

"with a copy to: Tim Paone
Paone, Callahan, McHolm & Winton
19100 Von Karman, 8th Floor
P.O. Box 19613
Irvine, CA 92713-9613"

and to add:

"with a copy to: Dennis D. O'Neil
Hewitt & O'Neil LLP
19900 MacArthur Blvd., Suite 1050
Irvine, CA 92612

with a copy to: Gary McKitterick
Allen Matkins Leck Gamble Mallory & Natsis LLP
1900 Main Street, 5th Floor
Irvine, CA 92614-7321"

18. A new Section 11.17 shall be added to the Restated Development Agreement as follows:

"11.17 Indemnification/Hold Harmless. To the fullest extent permitted by law, Hoag 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 this Amendment, including, but not limited to, the approval of the Planned Community Text and/or the City's related California Environmental Quality Act determinations, the certification of the Supplemental Environmental Impact Report, the adoption of a Mitigation Program, and/or statement of overriding considerations for this Project. 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 Hoag, City, and/or the parties initiating or bringing such proceeding. Hoag 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. Hoag shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition."

19. Exhibit C of the Restated Development Agreement shall incorporate the First Amendment to the P.C. Text as part of this Second Amendment to the P.C. Text in revised Exhibit C entitled:

"HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY
DEVELOPMENT CRITERIA
AND
DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
March 20, 2008

Adopted by the City Council
City of Newport Beach
Ordinance No.2008-10
May 13, 2008"

20. Except as provided for in this Amendment and not otherwise superseded by this Amendment, the provisions set forth in the Restated Development Agreement, all of the other terms, conditions, provisions and exhibits of the Restated Development Agreement continue to have full force and effect as provided therein and this Amendment shall constitute an integral part of the Restated Development Agreement. Exhibits A through C constitute a part of this Amendment and are incorporated into this Amendment in full by this reference.

21. In the event there is any conflict between any provision of the Restated Development Agreement and this Amendment, the later approved and recorded document shall prevail in interpretation, operation and implementation.

22. The City Clerk shall cause a copy of this Amendment to be recorded with the Office of the County Recorder of Orange County, California within ten (10) days following the effective date of adoption of the Ordinance approving this Amendment.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to Development Agreement No. 5 to be binding as of the Effective Date.

CITY:

THE CITY OF NEWPORT BEACH, a municipal corporation of the State of California

By: _____
Edward D. Selich, Mayor

ATTEST:

_____
LaVonne Harkless, City Clerk

APPROVED AS TO FORM:

_____
For Robin Clauson, City Attorney

OWNER:

HOAG MEMORIAL HOSPITAL PRESBYTERIAN, a California nonprofit public benefit corporation

By: _____
Richard F. Afable, M.D.
President and CEO

(All Signatures to be Notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of ORANGE }

On JUNE 11, 2008 (Date) before me, LEILANI I. BROWN, NOTARY PUBLIC (Here Insert Name and Title of the Officer),

personally appeared EDWARD D. SAUCH (Name(s) of Signer(s))

LEILANI I. BROWN
Commission # 1633477
Notary Public - California
Orange County
My Comm. Expires Jan 25, 2010

LEILANI I. BROWN
Commission # 1633477
Notary Public - California
Orange County
My Comm. Expires Jan 25, 2010

Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Leilani I. Brown (Signature of Notary Public)

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange

On May 19, 2008 before me, Debora Hames, Notary Public
(Here insert name and title of the officer)

personally appeared Richard Afable

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Debora Hames
Signature of Notary Public

(Notary Seal)

DEBORA HAMES
Comm. # 1561048
NOTARY PUBLIC-CALIFORNIA
Orange County
My Comm. Expires March 20, 2009

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Amendment to Restated Development Agreement No. 5
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 33 Document Date 5-19-08

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☒ Corporate Officer
  President And CEO
  (Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

EXHIBIT A

LEGAL DESCRIPTION

The subject property is the following real property in the City of Newport Beach, County of Orange, State of California:

Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2:

That portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

EXHIBIT B

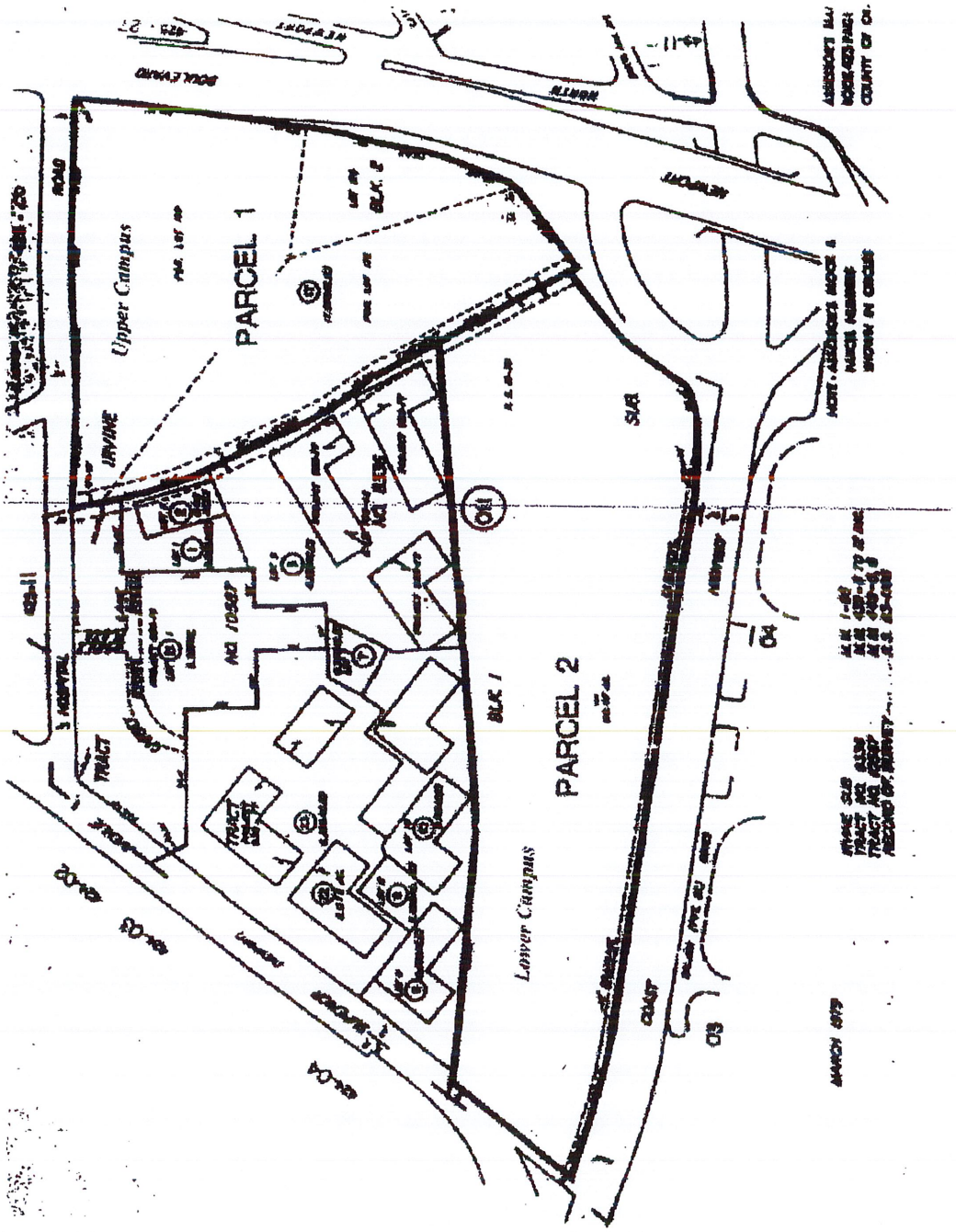

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EXHIBIT C

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Adopted May 13, 2008

Ordinance No. 2008-9

Effective June 12, 2008

HOAG MEMORIAL HOSPITAL PRESBYTERIAN

PLANNED COMMUNITY DEVELOPMENT CRITERIA AND DISTRICT REGULATIONS

Recommended for Approval
by the Planning Commission
March 20, 2008

Adopted by the City Council
City of Newport Beach
Ordinance No. 2008-10
May 13, 2008

TABLE OF CONTENTS

		Page Number
I.	INTRODUCTION	1
II.	GENERAL NOTES	2
III.	DEFINITIONS	3
IV.	DEVELOPMENT PLAN	5
V.	DISTRICT REGULATIONS	10
VI.	HOAG HOSPITAL SIGN PROGRAM	21
VII.	HOAG HOSPITAL PARKING REGULATIONS	23
VIII.	HOAG HOSPITAL LANDSCAPE REGULATIONS	24
IX.	SITE PLAN REVIEW.	27

LIST OF EXHIBITS

	Page Number
1. PLANNED COMMUNITY SITE AND BOUNDARY MAP	7
2. VEHICULAR ACCESS	8
3. DEVELOPMENT CRITERIA	14
4. PROPOSED SOUND WALL LOCATION PLAN	19
5. LOADING DOCK AREA LOCATION	20
6. LANDSCAPE MATRIX	32
7. LOWER CAMPUS LANDSCAPE IMPROVEMENT PLAN	33
8. COAST HIGHWAY LANDSCAPE SCREEN	34

LIST OF TABLES

1. BUILDING AREA STATISTICAL ANALYSIS	9
2. PARKING REQUIREMENTS	23

I. INTRODUCTION

Background

The Hoag Memorial Hospital Presbyterian Planned Community District in the City of Newport Beach has been developed in accordance with the Newport Beach General Plan. The purpose of this Planned Community District is to provide a method whereby property may be classified and developed for hospital-related uses. The specifications of this District are intended to provide land use and development standards supportive of the proposed use while ensuring compliance with the intent of all applicable regulatory codes.

The Planned Community District includes district regulations and a development plan for both the Upper and Lower Campuses of Hoag Hospital. In general, over the long term, the Upper Campus will become oriented primarily towards emergency, acute and critical care (predominantly inpatient) uses and the Lower Campus will be developed with predominantly outpatient uses, residential care and support services.

Whenever the regulations contained in the Planned Community text conflict with the regulations of the Newport Beach Municipal Code, the regulations contained in the Planned Community text shall take precedence. The Municipal Code shall regulate this development when such regulations are not provided within these district regulations. All development within the Planned Community boundaries shall comply with all provisions of the Uniform Building Code and other governing building codes.

II. GENERAL NOTES

1. Water service to the Planned Community District will be provided by the City of Newport Beach.

2. Development of the subject property will be undertaken in accordance with the flood protection policies of the City of Newport Beach.

3. All development of the site is subject to the provisions of the City Council Policies K-4 and K-5 regarding paleontological and archaeological resources.

4. Except as otherwise stated in this text, the requirements of the Newport Beach Zoning Ordinance shall apply. The contents of this text notwithstanding, all construction within the boundaries of this Planned Community District shall comply with all provisions of the Uniform Building Code, other various codes related thereto and local amendments.

5. All buildings shall meet Title 24 requirements or the requirements of the California Office of Statewide Health Planning and Development as applicable. Design of buildings shall take into account the location of building air intake to maximize ventilation efficiency, the incorporation of natural ventilation, and implementation of energy conserving heating and lighting systems.

6. Any fire equipment and access shall be approved by the Newport Beach Fire Department.

7. Excluding communications devices on the Upper Campus, new mechanical appurtenances on building rooftops and utility vaults on the Upper and Lower Campuses shall be screened from view in a manner compatible with building materials. Rooftop mechanical appurtenances or utility vaults shall be designed utilizing compatible architectural materials on the Lower Campus. No new mechanical appurtenances may exceed the building height limitations as defined in these district regulations.

8. Grading and erosion control shall be carried out in accordance with the provisions of the City of Newport Beach Excavation and Grading Code and shall be subject to permits issued by the Building and Planning Departments.

9. Sewage disposal facilities within the Planned Community will be provided by Orange County Sanitation District No. 5. Prior to issuance of any building permits it shall be demonstrated to the satisfaction of the Planning Department that adequate sewer facilities will be available. Prior to the occupancy of any structure it shall be further demonstrated that adequate sewer facilities exist.

10. Mass grading and grading by development phases shall be allowed provided that landscaping of exposed slopes shall commence within thirty (30) days of the completion of grading.

III. DEFINITIONS

Building Elevation:

1. A vertical distance of a building above or below a fixed reference level, i.e., MSL (mean sea level).

2. A flat scale drawing of the front, rear, or side of a building.

Building Envelope: The volume in which a building may be built as circumscribed by setback lines and maximum allowable building heights.

Building Height: The vertical distance measured from the finished grade to the highest point of the structure. At all points, the height measurement shall run with the slope of the land.

Emergency Room: A service and facility designated to provide acute emergency medical services for possible life threatening situations.

Entitlement, Gross Floor Area: Any area of a building, or portion thereof, including the surrounding exterior walls, but excluding:

1. Area of a building utilized for stairwells and elevator shafts on levels other than the first level of a building in which they appear;

2. Area of a medical building, that is not used for general or routine occupancy but rather is for interstial or mechanical occupancies, that measures less than 19 feet from finished floor to ceiling;

3. As applied to new construction permits issued on or after August 13, 2002, area of a building used specifically for base isolation and structural system upgrades directly related to requirements of governmental agencies and is not for general or routine occupancy; and

4. As applied to new construction permits issued on or after August 13, 2002, enclosed rooftop mechanical levels not for general or routine occupancy.

First Aid: Low acuity medical treatment for non-life threatening situations.

General Plan: The General Plan of the City of Newport Beach and all elements thereof.

Grade: For the purpose of determining building height:

1. Finished - the ground level elevation which exists after any grading or other site preparation related to, or to be incorporated into, a proposed new development or alteration of existing developments. (Grades may be worked into buildings to allow for subterranean parking.)

2. Natural - the elevation of the ground surface in its natural state before man-made alterations.

3. Existing - the current elevation of ground surface.

Inpatient Uses: Hospital patient services which require twenty-four (24) hour or more stays.

Landscape Area: The landscape area shall include on-site walks, plazas, water, rooftop landscaping and all other areas not devoted to building footprints or vehicular parking and drive surfaces.

Mean Sea Level: A reference or datum mark measuring land elevation using the average level of the ocean between high and low tides.

Outpatient Uses: Hospital patient services which do not exceed twenty-four (24) hours.

Residential Care: Medically-oriented residential units that do not require the acuity level generally associated with inpatient services but require overnight stays.

Site Area: For the purpose of determining development area:

1. Gross - parcel area prior to dedications.

2. Net - parcel area after dedications.

Streets: Reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way.

IV. DEVELOPMENT PLAN

Project Characteristics

The Upper Campus of Hoag Hospital is located on a triangular site of approximately 17.57 acres and is bounded by Newport Boulevard to the east, Hospital Road to the north and existing residential developments to the west. The Lower Campus is located north of West Coast Highway, south of the Sunset View linear and consolidated park and Villa Balboa Condominiums, west of Newport Boulevard and east of Superior Avenue. It contains approximately 37.38 total acres, including 8,603 square feet of land encumbered by a roadway easement. The Lower Campus adjoins the Upper Campus at its eastern boundary. The Upper Campus is, and will continue to be, oriented towards inpatient functions, while the Lower Campus will be developed with predominantly outpatient, residential care and support services.

Development Plan

The Planned Community Development Plan for Hoag Hospital is shown on Exhibit 1, *Planned Community Site and Boundary Map*. Through the year 2017, many of the existing buildings shown on the Development Plan for the Upper Campus may be redeveloped in order to functionally respond to the needs of the Hospital and conform to the requirements of State agencies.

Access to the Lower Campus will be from West Coast Highway and from Hospital Road, via the Upper Campus. Exhibit 2, *Vehicular Access*, shows the internal circulation for Hoag Hospital.

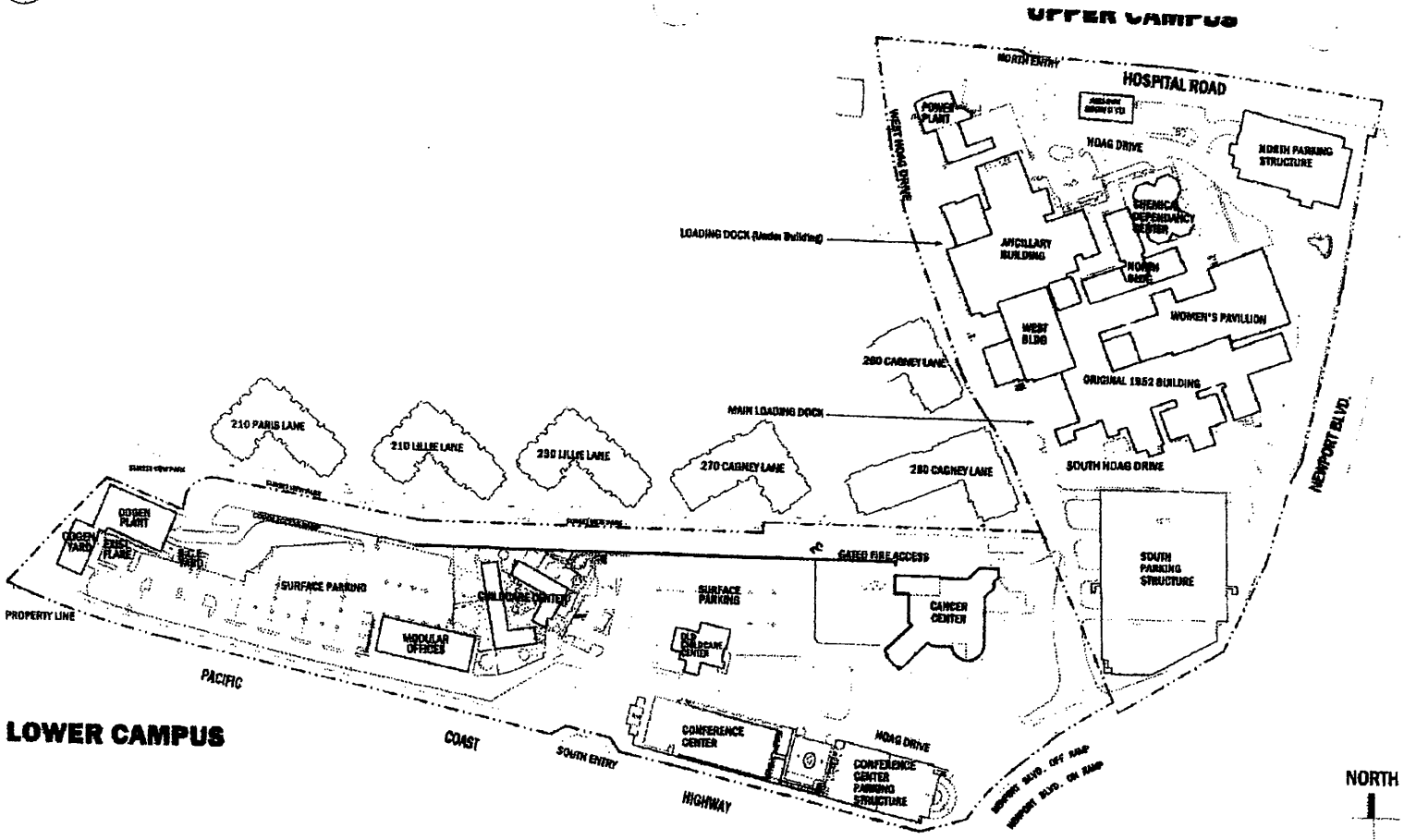
The Development Plan does not specify building locations or specific hospital-related uses. Instead, a developable area is identified based on the regulations established for this Planned Community District. Because of the dynamic nature of the health care industry which leads to rapid technological changes that effect how health care services are delivered, the Development Plan for Hoag Hospital sets development caps as a function of allowable densities established by the Newport Beach General Plan.

The maximum allowable building area for Hoag Hospital, which encompasses both the Lower Campus and the Upper Campus, is 1,343,238 square feet. Each Campus is also subject to a maximum allowable building area limit: the maximum allowable building area for the Upper Campus is 990,349 square feet; the maximum allowable building area for the Lower Campus is 577,889 square feet. Table 1, *Building Area Statistical Analysis*, provides a summary of allowable square footage for both the Upper and Lower Campuses.

Implementation, Program EIR and Subsequent Project Specific Approvals

Hoag has acknowledged that the Environmental Impact Report prepared for the development and implementation of the Hoag Master Plan pursuant to this Planned Community Development Plan is a "Program EIR." The City has prepared and certified two program Environmental Impact Reports - Hoag Hospital Master Plan Final Program EIR (Final EIR No. 142) and a Supplemental EIR for the Master Plan Update (SCH#1991071003). The EIRs analyze the impacts of construction phased over time and, pursuant to CEQA, the City is under a continuing

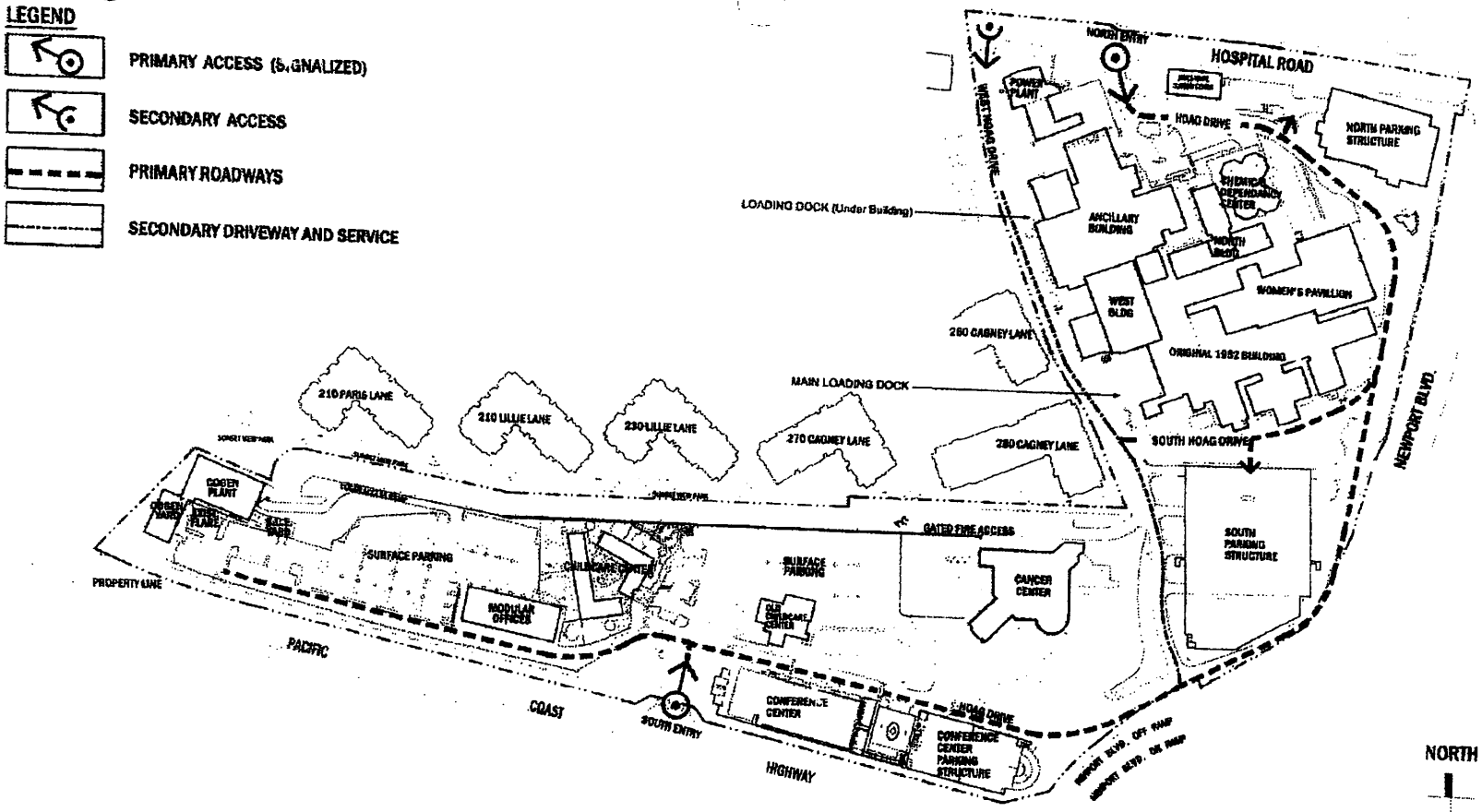
obligation to analyze Hoag's requests for Project Specific Approvals to ensure the environmental impacts associated with the requests were fully addressed in the EIRs. Subsequent environmental documentation is required if this analysis reveals environmental impacts not fully addressed in the program EIRs, identifies new impacts, or concludes the specific request is not consistent with the project described in the EIRs. Hoag acknowledges the right and obligation of the City and the Coastal Commission or its successor agency to impose additional conditions as the result of the subsequent environmental analysis required by CEQA.



Note: Buildings labeled for identification purposes only

PLANNED COMMUNITY SITE AND BOUNDARY MAP
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 1
08.20.07
REVISED 01.22.08



Note: Buildings labeled for identification purposes only

VEHICULAR ACCESS
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 2
08.20.07
REVISED 01.22.08

TABLE 1

BUILDING AREA STATISTICAL ANALYSIS

TOTAL OF LOWER CAMPUS & UPPER CAMPUS BUILDING AREAS - MAXIMUM ALLOWABLE: 1,343,238 SQUARE-FEET

	Site Area	Allowable Building Area	Existing[1]	Net Remaining	Maximum Allowable
UPPER CAMPUS	765,349 sq. ft.	765,349 sq. ft.	698,121 sq. ft.	67,228 sq. ft.	990,349 sq. ft.[2]
LOWER CAMPUS	862,815 sq. ft.	577,889 sq. ft.	188,149 sq. ft.	389,740 sq. ft.	577,889 sq. ft.
TOTALS	1,618,164 sq. ft.	1,343,238 sq. ft.	886,270 sq. ft.	456,968 sq. ft.	1,343,238 sq. ft.[3]

[1] As of the date of adoption.
[2] Up to 225,000 square-feet can be transferred from the Lower to the Upper Campus
[3] Demolition of some existing structures on the Upper Campus will occur to ensure maximum square-feet will not exceed 1,343,238 square-feet

V. DISTRICT REGULATIONS

The following regulations apply to all development within the Hoag Hospital Planned Community. The individual uses listed under the five permitted use categories are not an exhaustive list. Other hospital-related uses which fit into the five (5) permitted use categories are allowed. Prior to the issuance of a building permit, plot plans, elevations and any other such documents deemed necessary by the Planning, Building, Public Works, and Fire Departments shall be submitted for the review and approval of the Planning, Building, Public Works, and Fire Departments.

A. Permitted Uses

1. Lower Campus

a. Hospital facilities, including, but not limited to:

(1) Outpatient services:

(a) Antepartum Testing
(b) Cancer Center
(c) Skilled Nursing
(d) Rehabilitation
(e) Surgery Center
(f) Clinical Center
(g) Day Hospital
(h) Back and Neck Center
(i) Biofeedback
(j) Breast Imaging Center
(k) Dialysis
(l) EEG/EMG/NICE Laboratory
(m) First Aid Center
(n) Fertility Services
(o) G.I. Laboratory
(p) Magnetic Resonance Imaging
(q) Neurology
(r) Nuclear Medicine
(s) Occupational Therapy
(t) Pediatrics
(u) Pharmacy
(v) Physical Therapy
(w) Pulmonary Services
(x) Radiation Therapy
(y) Respiratory Therapy
(z) Sleep Disorder Center
(aa) Speech Therapy
(bb) Ultrasound
(cc) Urgent Care

(2) Administration:

(a) Admitting
(b) Auxiliary Office
(c) Business Offices
(d) Information Desk
(e) Registration
(f) Patient Relations
(g) Social Services

(3) Support Services:

(a) Employee Child Care
(b) Health Education
(c) Power/Mechanical/Auxiliary Support and Storage
(d) Food Services
(e) Cashier
(f) Chapel/Chaplaincy Service
(g) Conference Center
(h) Dietitian
(i) Gift Shop
(j) Laboratory
(k) Medical Library
(l) Medical Records
(m) Pharmacy
(n) Parking Facilities[4]
(o) Engineering/Maintenance
(p) Shipping/Receiving
(q) Microwave, Satellite, and Other Communication Facilities

(4) Residential Care:

(a) Substance Abuse
(b) Mental Health Services
(c) Extended Care
(d) Hospice Care
(e) Self or Minimal Care
(f) Congregate Care

(5) Medical/Support Offices

[4] Parking structures or decks do not count toward square-footage

b. Methane gas flare burner, collection wells and associated system components.

c. Accessory uses normally incidental to hospital development.

d. Temporary structures and uses, including modular buildings.

2. Upper Campus

a. Hospital facilities, including, but not limited to:

(1) Inpatient uses including, but not limited to:

(a) Critical Care
(b) Emergency Department
(c) Birthing Suites
(d) Cardiology
(e) Cardiac Care Unit
(f) Intensive Care Unit
(g) Mother/Baby Unit
(h) Surgery
(i) Laboratory
(j) Pharmacy
(k) Patient Beds

(2) Outpatient services as allowed on the Lower Campus

(3) Administrative uses as allowed on the Lower Campus

(4) Support services as allowed on the Lower Campus

(5) Residential care as allowed on the Lower Campus

(6) Heliport (subject to Conditional Use Permit)[5]

b. Accessory uses normally incidental to hospital development.

c. Temporary structures and uses, including modular buildings.

[5] Does not count toward square-footage

B. Prohibited Uses

1. Lower Campus

   a. Emergency Room

   b. Heliport

   c. Conversion of mechanical or structural spaces to uses that allow general or routine occupancy

2. Upper Campus

   a. Conversion of mechanical or structural spaces to uses that allow general or routine occupancy

C. Maximum Building Height

The maximum building height of all buildings shall be in accordance with Exhibit 3, *Development Criteria Plan*, which establishes the following height zones:

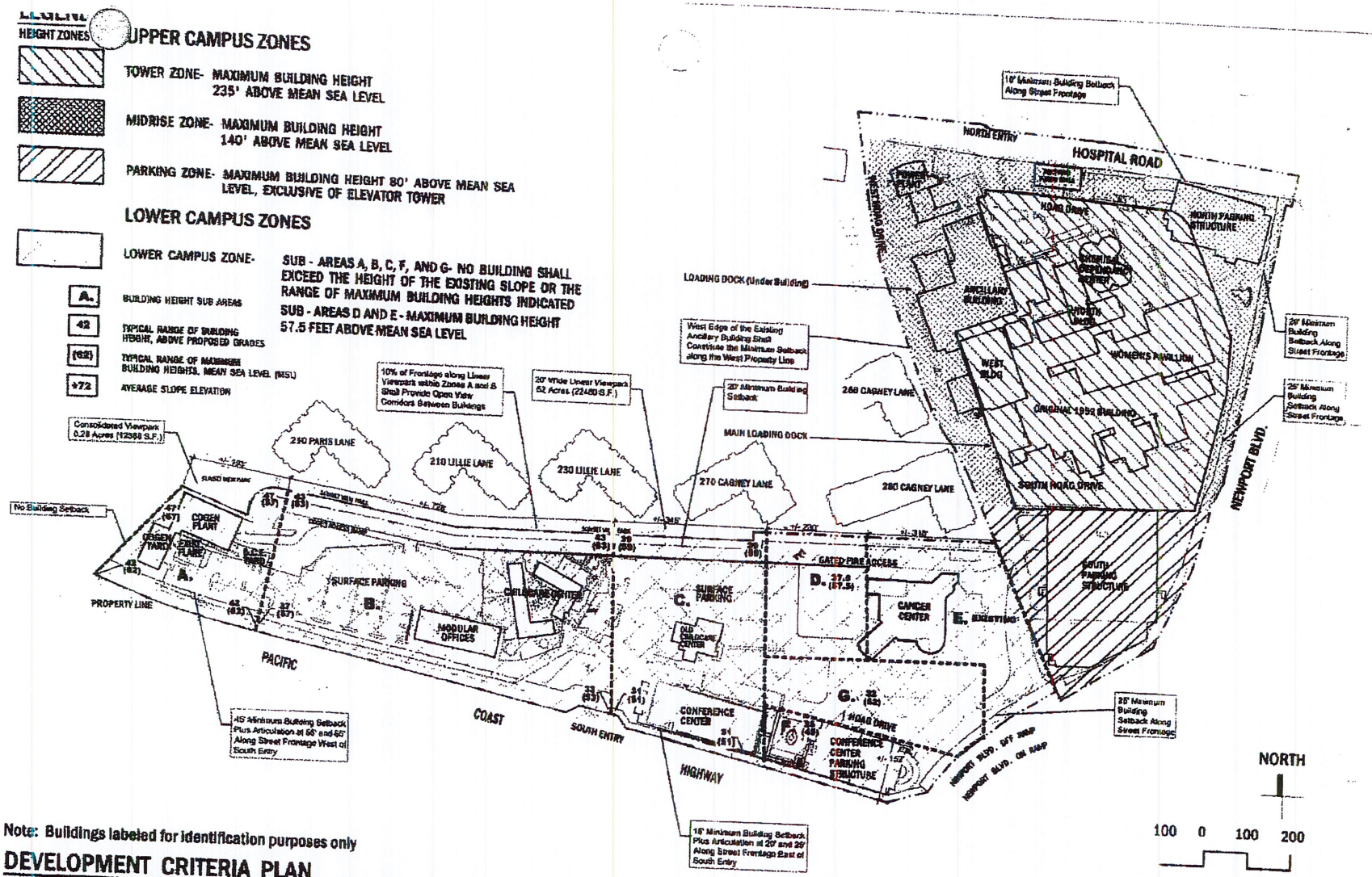
1. Upper Campus Tower Zone - maximum building height not to exceed the existing tower which is two-hundred thirty-five (235) feet above mean sea level.

2. Upper Campus Mid-rise Zone - maximum building height not to exceed one-hundred forty (140) feet above mean sea level.

3. Upper Campus Parking Zone - maximum building height not to exceed eighty (80) feet above mean sea level, exclusive of elevator towers.

4. Lower Campus Zone, Sub-Areas A, B, C, F and G - within each sub-area no building shall exceed the height of the existing slope and conform to the range of maximum building heights indicated by the development criteria shown on Exhibit 3.

5. Lower Campus Zone, Sub-Areas D and E - maximum building height shall not exceed the height of the existing Hoag Cancer Center which is fifty-seven and one-half (57.5) feet above mean sea level.



Note: Buildings labeled for identification purposes only

DEVELOPMENT CRITERIA PLAN
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 3
08.20.07
REVISED 01.22.08

D. Building Setbacks

Setbacks for the Hoag Hospital Planned Community are shown on Exhibit 3.

1. Setbacks will be provided along property boundaries adjacent to the Villa Balboa condominiums, as defined below:

   a. Upper Campus western boundary setback shall be the prolongation of the westerly edge of the existing cafeteria/laboratory building to the points of intersection with the easterly curb line of the existing service drive, then continuing along said line of the existing service drive.

   b. Lower Campus northern boundary, all of which will have a 20-foot minimum building setback.

2. The setback on West Coast Highway easterly of the hospital entry signal shall be fifteen (15) feet.

   In addition, vertical articulation shall be required for buildings easterly of the signal within one-hundred fifty (150) feet of the West Coast Highway frontage, as follows:

   1st Floor: Up to eighteen (18) feet in height no additional articulation is required. If the 1st floor exceeds eighteen (18) feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

   2nd Floor, up to thirty-two (32) feet in height: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of twenty (20) feet.

   3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of twenty-five (25) feet.

   The setback on West Coast Highway westerly of the hospital entry signal shall be forty-five (45) feet.

   In addition, vertical articulation shall be required for buildings westerly of the signal for buildings within one-hundred fifty (150) feet of the West Coast Highway frontage, as follows:

   1st Floor: Up to eighteen (18) feet in height no additional articulation is required. If the 1st floor exceeds eighteen (18) feet in height, it shall be subject to the articulation requirements of the 2nd Floor.

2nd Floor, up to thirty-two (32) feet in height: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 2nd floor setback of fifty-five (55) feet.

3rd Floor and above: A minimum of 20% of the building frontage shall be articulated in such a manner as to result in an average 3rd floor and above setback of sixty-five (65) feet.

In order to avoid any future structures in this area (within 150 feet of West Coast Highway) from presenting an unacceptable linear mass, no single structure shall be greater than two-hundred fifty (250) linear feet in width. Additionally, 20% of the linear frontage within one-hundred fifty (150) feet of West Coast Highway shall be open and unoccupied by buildings.

10% of the linear length of Height Zones A and B as viewed from the existing bicycle/pedestrian trail, exclusive of that area adjacent to the consolidated portion of the view park, shall be maintained as view corridors between buildings.

These requirements may be altered for individual buildings, if requested by the hospital, through the site plan review process defined in Section IX.

3. There will be no building setbacks along the westerly boundary of the Lower Campus (adjacent to the municipal parking lot at Superior and West Coast Highway).

4. A twenty (20) foot setback from property line shall be provided along Newport Boulevard from Hospital Road to a point six-hundred (600) feet south; a twenty-five (25) foot setback from property line shall be provided along the remainder of Newport Boulevard and along the Newport Boulevard/West Coast Highway Interchange.

5. A ten (10) foot building setback from the property line shall be provided along Hospital Road.

E. Lighting

The lighting systems shall be designed and maintained in such a manner as to shield the light source and to minimize light spillage and glare to the adjacent residential uses. The plans shall be prepared and signed by a licensed Electrical Engineer.

F. Roof Treatment

Prior to the issuance of building permits, the project sponsor shall submit plans which illustrate that major mechanical equipment will not be located on the roof of any structure on the Lower Campus. Minor rooftop equipment, necessary for operating purposes, will comply with all building height criteria, and shall be designed and screened to blend into the building roof using materials compatible with roofing materials.

G. Signs

All signs shall be as specified under the Hoag Hospital Sign Program, Part VI.

H. Parking

All parking shall be as specified in Part VII, Hoag Hospital Parking Regulations.

I. Landscape

All landscaping shall be as specified in the Hoag Hospital Landscape Regulations, Part VIII.

J. Mechanical and Trash Areas

Prior to issuance of a building permit, the project sponsor shall submit plans to the City Planning Department which illustrate that all mechanical equipment and trash areas will be screened from public streets and immediately adjacent residential properties.

K. West Hoag Drive Circulation Limitations

The project sponsor shall continue to limit the use of that portion of West Hoag Drive adjacent to residential uses located on the Upper Campus. Deliveries to loading areas shall not occur after 8:00 PM or before 7:00 AM daily. The project sponsor shall physically restrict access to the roadway between these hours and appropriate signage indicating permitted delivery hours and access limitations shall be installed and maintained at all times. Night time deliveries and vehicular access to the loading area located along West Hoag Drive are allowed where critical supplies, services or materials are necessary for the continued operation of the hospital.

L. Loading Dock

The project sponsor shall provide a sound wall along West Hoag Drive as shown in the approximate location on Exhibit 4. Said wall shall be installed within 12 months of project approval, subject to issuance of required permits. To the maximum degree feasible, the sound wall shall be constructed to retain existing vegetation, which serves as a visual screen. Please refer to Section VIII, D. for additional landscaping requirements related to the sound wall. Mitigation measures to reduce the noise levels in the Loading Dock Area shall be incorporated into the design and operations of the hospital; such mitigation shall include relocation of the trash compactor and baler, limiting the hours of truck deliveries to the loading dock area, and enclosure of the trash compactor.

M. Noise Standards

Noise generated at the Hoag Hospital property shall be governed by the City of Newport Beach Noise Ordinance, except as noted below for the Loading Dock Area. Refer to Exhibit 5, *Loading Dock Area Location,* for the location.

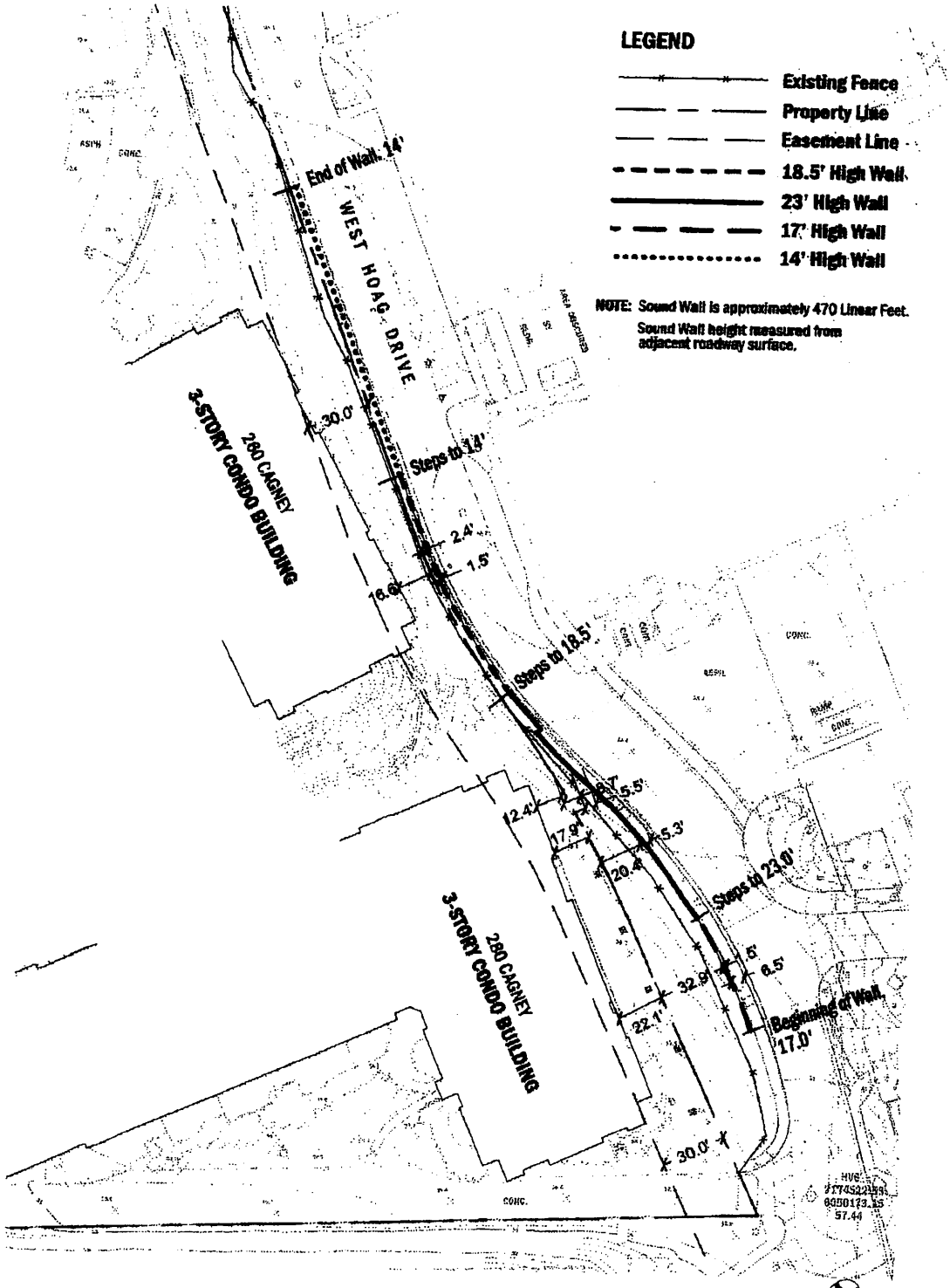
1. The applicable noise standard at the Hoag Hospital property line adjacent to the Loading Dock Area shall be as follows:

	7 AM – 10 PM	10 PM – 7 AM
	Daytime	Nighttime
Leq (15 min)	65 dBA	55 dBA

2. Within the Loading Dock Area during daytime hours, vehicles shall be exempt from applicable noise standards as listed above.

   Vehicle idling shall be prohibited on West Hoag Drive and within the loading dock areas, except that refrigerated vehicles may idle while at the loading docks when refrigeration is necessary.

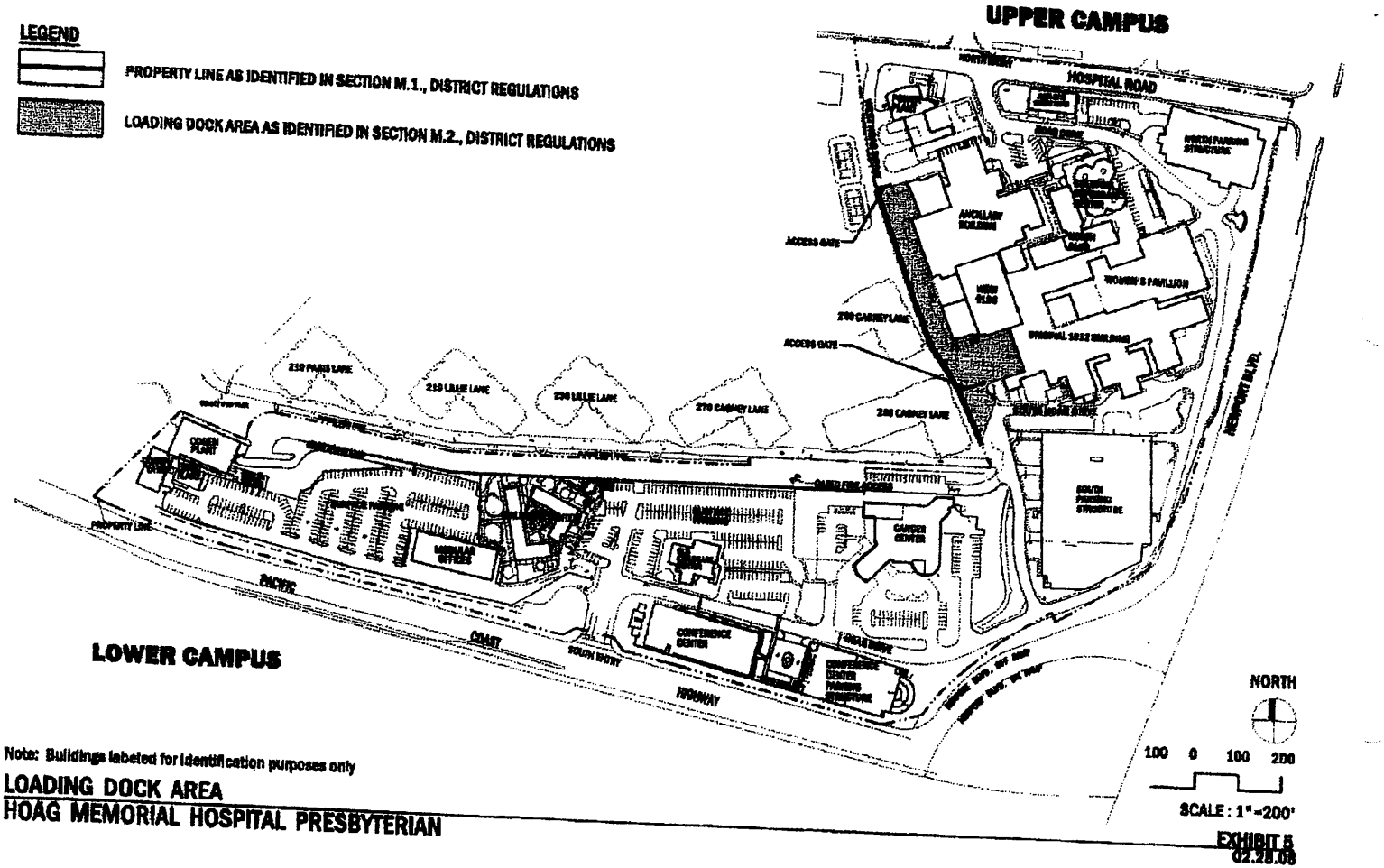
   In addition, the grease pit cleaning which is exempt from the City Noise Ordinance as a maintenance activity shall occur on a Saturday between the hours of 11:00 AM and 3:00 PM.



SOUND WALL LOCATION PLAN

HOAG MEMORIAL HOSPITAL PRESBYTERIAN April 3, 2008

EXHIBIT 4



Note: Buildings labeled for identification purposes only

LOADING DOCK AREA
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

EXHIBIT 5
02.28.08

VI. HOAG HOSPITAL SIGN PROGRAM

A. Purpose and Intent

1. The purpose of this Sign Program is to provide adequate, consistent and aesthetically pleasing on-building wall and ground-mounted signage based upon the provisions set forth by the City of Newport Beach Sign Ordinance and the information signage requirements of Hoag Hospital.

2. The intent of this Sign Program is to produce uniform standards for Hoag Hospital.

B. General Sign Standards

1. All signs visible at the exterior of any building or facility of the Hospital, ground-mounted or on-building, may be illuminated or non-illuminated, depending upon need. Illumination method may be by external or internal source. No sign shall be constructed or installed to rotate, gyrate, blink or move, or create the illusion of motion, in any fashion.

2. All signs attached to building or facility exteriors shall be mounted as is appropriate to the architectural design features of said building or facility.

3. All signs together with the entirety of their supports, braces, guys, anchors, attachments and decor shall be properly maintained, legible, functional and safe with regard to appearance, structural integrity and electrical service.

4. All street signs shall be subject to review and approval of the City Traffic Engineer, and shall be in compliance with Ordinance 110-L.

5. For purposes of this section, a building shall be defined as any occupied structure or any occupied portion of a structure that is constructed as an addition to an existing structure and identified as a separate building for way finding purposes. Individual building numbers uniquely define the buildings on the Hoag campus.

C. Number of Signs Allowed

1. One (1) double-faced primary identification ground-mounted sign or two (2) single-faced gateway entry signs shall be allowed per street frontage. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Total maximum signage area shall not exceed two hundred (200) square feet and shall not exceed ten (10) feet in height per sign and street frontage. This sign may occur as a wall sign, to be located upon a project

boundary perimeter wall, subject to the same number and area maximums described above. This sign may also occur as part of an entry gateway system.

2. Primary entrance identification shall be allowed at the main entrance to the facility and at the main entrance to the Emergency Department. If freestanding, this sign type shall not exceed a maximum height of eight (8) feet average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed seventy (70) square feet.

3. Secondary building and entrance identification signs shall be allowed. If freestanding, this sign type shall not exceed a maximum height of nine (9) feet average height above finished grade. In the case of a sign occurring upon a slope, the average height shall be established by measuring the sign height at the mid-point of the sign length perpendicular to the slope direction. Maximum sign area shall not exceed fifty (50) square feet whether freestanding or wall-mounted.

4. Vehicular and pedestrian directional signs shall be allowed. This sign type may occur as a single-faced, double-faced, or triple-faced sign. The sign shall be sized to allow for proper readability given the number of lines of copy, speed of traffic, setback off the road and viewing distance. This sign type shall not exceed a maximum height of eleven (11) feet average height above finished grade.

5. Donor recognition signage shall be allowed, one (1) at each building elevation. Maximum sign area shall not exceed one hundred seventy-five (175) square feet for donor recognition signage.

6. Hospital identification signs shall be allowed upon hospital towers, one (1) at each elevation. The maximum sign area shall not exceed two hundred seventy-five (275) square feet. Any hospital identification signage on the elevation facing west (Villa Balboa property line) may not be illuminated.

7. On the Lower Campus, two (2) building-mounted identification signs will be allowed per structure and shall not be placed so as to directly face the Villa Balboa property. Such signs shall adhere to the requirements above for secondary building and entrance identification signage and shall be no higher than the roof line of the building upon which they are mounted.

8. Each public parking structure shall be allowed one (1) identification sign above each entrance and exit of the structure. The maximum sign area of each identification sign shall not exceed thirty (30) square feet. Adjacent regulatory parking signage does not count toward the maximum sign area.

VII. HOAG HOSPITAL PARKING REGULATIONS

A. General

1. Off-street parking for Hoag Hospital shall be provided on-site. Parking may be on surface lots, subterranean or in parking structures.

2. The design and layout of all parking areas shall be subject to the review and approval of the City Traffic Engineer and the Public Works Department.

3. Parking lot lighting shall be developed in accordance with City standards and shall be designed in a manner which minimizes impacts on adjacent land uses. Nighttime lighting shall be limited to that necessary for security and shielded down from any adjacent residential area. The plans shall be prepared and signed by a licensed electrical engineer, with a letter from the engineer stating that the requirements have been met. The lighting plan shall be subject to review and approval of the City Planning Department.

B. Requirements for Off-Street Parking

Parking requirements for specific sites shall be based upon the parking criteria established in Table 2. All parking shall be determined based upon the area allocated to the use categories.

TABLE 2

PARKING REQUIREMENTS

Use Category	Parking Requirements
Outpatient Services	2.31 spaces/1,000 square feet (1)
Support	0.0 spaces/1,000 square feet (1)(2)
Administrative	5.3 spaces/1,000 square feet (1)
Residential Care	1.0 spaces/1,000 square feet (3)
Medical Offices	4.0 spaces/1,000 square feet (3)
Inpatient	2.35 spaces/1,000 square feet (1)

(1) Parking factor based on parking analysis prepared by Linscott, Law & Greenspan dated October 15, 2001 for Traffic Study 2001-002 approved by Planning Commission Resolution No. 1542.
(2) Support Services generates parking demand that is accounted for in one of the other categories.
(3) Parking requirements based upon a study prepared by LSA Associates dated September 27, 1991.

VIII. HOAG HOSPITAL LANDSCAPE REGULATIONS

A. General

1. Detailed landscape and irrigation plans, prepared by a registered Architect or under the direction of a Landscape Architect, shall be reviewed by the City prior to issuance of a Certificate of Use and Occupancy. The Landscape Plan shall include a concept for rooftop parking and parking structures if proposed for the Lower Campus. Trees shall not be used, however planter boxes, green roof treatments or trellis systems shall be designed to provide added visual relief of rooftop parking or parking structures. All rooftop or top of parking structure landscaping proposals shall conform to the building height limits established in this text.

2. Parking lot trees shall be no less than twenty-four (24) inch box size.

3. Shrubs to be planted in containers shall not be less than five (5) gallon size. Ground covers will be planted from one (1) gallon containers or from rooted cuttings.

4. Every effort should be made to avoid using plants with invasive and shallow root systems.

5. Earth berms shall be rounded and natural in character, designed to obscure automobiles and to add interest to the site. Wheel stops shall be so placed as necessary to avoid damage to trees, irrigation systems, shrubs and other planting materials.

6. Trees in parking lots should be limited in variety. Selection should be repeated to give continuity. Regular spacing or the introduction of irregular groupings may also be considered to add interest and variety. Care should be exercised to allow plants to grow and maintain their mature size without restriction.

7. Emphasis shall be placed on the use of native, drought-tolerant, non-invasive plants on the Lower Campus. On the Upper Campus, naturalized vegetation selections, as well as those plants allowed on the Lower Campus, will be emphasized. Automatically controlled irrigation systems shall be designed to avoid surface runoff and over-watering.

8. Installation and maintenance of landscape, screening and irrigation systems per Exhibit #6, Exhibit #7 and Exhibit #8. All improvements shall be shown on landscape and irrigation plans to be reviewed and approved by the Planning Department and which shall be in substantial compliance with the Exhibits #6, #7 and #8. Hoag shall complete all of the improvements within the timelines set forth in Exhibit #6.

B. Maintenance

1. All planting areas are to be kept free of weeds and debris and cultivated as necessary to maintain.

2. Lawn and ground cover areas are to be kept trimmed and/or mowed regularly.

3. All plantings are to be kept in a healthy and growing condition. Fertilization, cultivation and tree pruning are to be carried out as part of a regularly scheduled annual maintenance program.

4. Irrigation systems are to be kept in good working condition at all times. On-going monitoring, adjustments and cleaning of systems are to be part of regular maintenance procedures.

5. Stakes, guys and tree ties on trees should be checked regularly for correct function; ties shall be adjusted to avoid creating abrasions or girdling of branches or central leaders.

6. Damage to plantings created by vandalism, automobile or acts of nature shall be corrected within thirty (30) days.

7. Plantings and irrigation are to be maintained in accordance with the approved plans.

C. Special Landscaped Street

West Coast Highway is designated in the Hoag Hospital Planned Community as a special landscaped street. A fifteen (15) foot building setback from right-of-way/property line is required along West Coast Highway. Only driveways, parking and signage structures are allowed in the setback areas. Parking areas shall be screened from view of West Coast Highway with landscaped berms.

Landscaping along West Coast Highway shall consist of trees, ground cover and shrubbery. All unpaved areas not utilized for parking or circulation shall be landscaped in a similar manner. Installed trees are to be no smaller than twenty-four (24) inch box.

D. Villa Balboa Landscape Zone

The area between the Hoag property line and the sound wall will be referred to as the Villa Balboa Landscape Zone. This portion of the Hoag Hospital property will have a specific landscape process to ensure consultation with Villa Balboa on the planting and maintenance of the area. Existing landscaping on Villa Balboa's side of the wall shall be preserved to the extent feasible or replaced with specimen plant material as designated on a plan to be approved by the Planning Director after consultation with the Villa Balboa Community Association. The plan

shall also include sufficient additional landscaping to screen or soften the soundwall required pursuant to Section V.L. Hoag shall maintain all landscaping on Hoag's property and to the extent new plant material is installed as a result of wall construction by Hoag on the Villa Balboa property adjacent to the Villa Balboa Landscape Zone (with their permission), Hoag shall maintain such new plant material on Villa Balboa's property for a period of two years after installation to ensure healthy growth. All landscape installation shall occur within 45 days of the completion of the wall or earlier. Any future modifications made to said wall and landscaping shall be reviewed and approved by the Planning Director.

E. Parking Areas

A minimum of 5% of the surface parking areas shall be devoted to planting areas. Planting areas around building shall not be included in parking area landscape calculations. Planting of trees may be in groups and need not be regularly spaced. Alternative landscape programs may be developed, including perimeter parking area landscaping, berming and depressing of parking areas to provide additional screening. Alternative landscape programs shall be subject to the review of the Newport Beach Planning Department.

A rooftop landscaping program shall be developed for parking structures and rooftop parking proposed for the Lower Campus and shall be subject to the review and the approval of the Newport Beach Planning Department.

IX. SITE PLAN REVIEW

A. Purpose

The Council finds that development on the Lower Campus of Hoag Hospital may have the potential to affect the aesthetics of the community. The effect of this section is to establish a Site Plan Review requirement for certain individual projects - to insure that these projects conform with the goals and policies of the General Plan, provisions of this Planned Community Development Plan, the Development Agreement and the standards set forth below in sub-section F. The following classifications of projects are subject to the Site Plan Review:

Planning Commission review:

1. Any project that differs from setback, horizontal and vertical articulation requirements as set forth in Section V.D.2.

Planning Director's review:

1. Any project that could have the potential to generate emissions that could have an impact to visual resources.
2. Any project that could have the potential to generate emissions creating objectionable odors or other impacts to air quality.
3. Replacement of existing cooling towers, ~~except for casualty.~~

B. Findings

The City finds, determines and declares that the establishment of Site Plan Review procedures contained in this section promotes the health, safety, and general welfare of the community by ensuring that the development of Hoag Hospital proceeds in a manner which will not result in inadequate and poorly planned landscape areas, excessive building bulk on arterial roadways, inappropriate placement of structures and impairment of the benefits of occupancy and use of existing properties in the area.

C. Application

Site Plan Review approval shall be obtained for any new structure or the addition to an existing structure, as outlined in Section IX.A above, prior to the issuance of a grading or building permit or issuance of an approval in concept for Coastal Commission or Office of Statewide Health Planning and Development review.

D. Plans and Diagrams to be Submitted

The following plans and diagrams shall be submitted to the Planning Commission for approval:

1. A plot plan, drawn to scale, showing the arrangement of buildings, driveways, pedestrian ways, off-street parking and off-street loading areas, landscaped areas, signs, fences and walks. The plot plan shall show the location of entrances and exits, and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and loading space, and areas for turning and maneuvering vehicles. The plot plan shall indicate how utility and drainage are to be provided.

2. A landscape plan, drawn to scale, showing the locations of existing trees (proposed to be removed and proposed to be retained); and indicating the amount, type, and location of any landscaped areas, planting beds and plant materials with adequate provisions for automatic irrigation.

3. Grading plans when necessary to ensure development properly related to the site and to surrounding properties and structures.

4. Scale drawings of exterior lighting showing size, location, materials, intensity and relationship to adjacent streets and properties.

5. Architectural drawings, renderings or sketches, drawn to scale, showing all elevations of the proposed buildings and structures as they will appear upon completion.

6. Any other plans, diagrams, drawings or additional information necessary to adequately consider the proposed development and to determine compliance with the purposes of this chapter.

E. Fee

The applicant shall pay a fee as established by Resolution of the City Council to the City with each application for Site Plan Review under this chapter.

F. Standards

In addition to the general purposes set forth in sub-section A, in order to carry out the purposes of this chapter as established by said section, the Site Plan Review procedures established by this Section shall be applied according to and in compliance with the following standards, when applicable:

1. The development is in compliance with all other provisions of the Planned Community Development Criteria and District Regulations (P-C Text);

2. Development shall be compatible with the character of the neighborhood and surrounding sites and shall not be detrimental to the orderly and harmonious development of the surroundings and of the City;

3. Development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways and properties, with special

consideration given to the mass and bulk of buildings and the streetscape on West Coast Highway;

4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development.

5. Potential impacts shall be mitigated to less than significant levels.

G. Public Hearing - Required Notice

A public hearing shall be held on all Site Plan Review applications. Notice of such hearing shall be mailed not less than ten (10) days before the hearing date, postage prepaid, using addresses from the last equalized assessment roll or, alternatively, from such other records as contain more recent addresses, to owners of property within a radius of three hundred (300) feet of the exterior boundaries of the subject property. It shall be the responsibility of the applicant to obtain and provide to the City the names and addresses of owners as required by this Section. In addition to the mailed notice, such hearing shall be posted in not less than two (2) conspicuous places on or close to the property at least ten (10) days prior to the hearing.

H. Action by the Planning Director

If all applicable standards established by this Section are met, the Planning Director shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Director shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Director shall be subject to review by the Planning Commission either by appeal, or upon its own motion, or upon the request of the Planning Director. The action of the Planning Director on any Site Plan Review shall be final and effective twenty-one (21) days following the Director's action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Planning Director has requested a review of its decision, or unless the Planning Commission, not more than twenty-one (21) days after the Director's action, on its own motion, elects to review and act on the action of the Director, unless the applicant consents to an extension of time. The Planning Commission may affirm, reverse or modify the decision. Such action by the Planning Commission shall be final, unless subsequently appealed or reviewed.

I. Action by the Planning Commission

If all applicable standards established by this Section are met, the Planning Commission shall approve the development. Conditions may be applied when the proposed development does not comply with applicable standards and shall be such as to bring said development into conformity.

If the development is disapproved, the Commission shall specify the standard or standards that are not met.

A Site Plan Review decision of the Planning Commission shall be subject to review by the City Council either by appeal, or upon its own motion, or upon the request of the Commission. The action of the Commission on any Site Plan Review shall be final and effective twenty-one (21) days following the Commission action thereon unless, within the twenty-one (21) day appeal period an appeal in writing has been filed by the applicant, or any other person, the Commission has requested a review of its decision, or unless the City Council, not more than twenty-one (21) days after the Commission action, on its own motion, elects to review and act on the action of the Commission, unless the applicant consents to an extension of time. The City Council may affirm, reverse or modify the decision. Such action by the City Council shall be final.

J. Appeal to the City Council

Any Site Plan Review decision of the Commission may be appealed to the City Council by the applicant or any other person, at any time within twenty-one (21) days after the date of the Commission decision. An appeal to the City Council shall be taken by filing a letter of appeal in duplicate, with the Planning Department. Such letter shall set forth the grounds upon which the appeal is based and shall be accompanied by a fee as established by Resolution of the City Council.

K. Action by the City Council

An appeal shall be heard and acted on by the City Council within sixty (60) days of filing a letter of appeal, and the City Council may affirm, reverse or modify the decision of the Commission. The decision of the City Council is final.

L. Expiration and Revocation of Site Plan Review Approvals

1. Expiration. Any Site Plan Review granted in accordance with the terms of this Title shall expire within twenty-four (24) months from the date of approval if a building permit has not been issued prior to the expiration date and subsequently construction is diligently pursued until completion, unless at the time of approval the Planning Commission has specified a different period of time.

2. Violation of Terms. Any Site Plan Review granted in accordance with the terms of this Title may be revoked if any of the conditions or terms of such Site Plan Review are violated or if any law or ordinance is violated in connection there with.

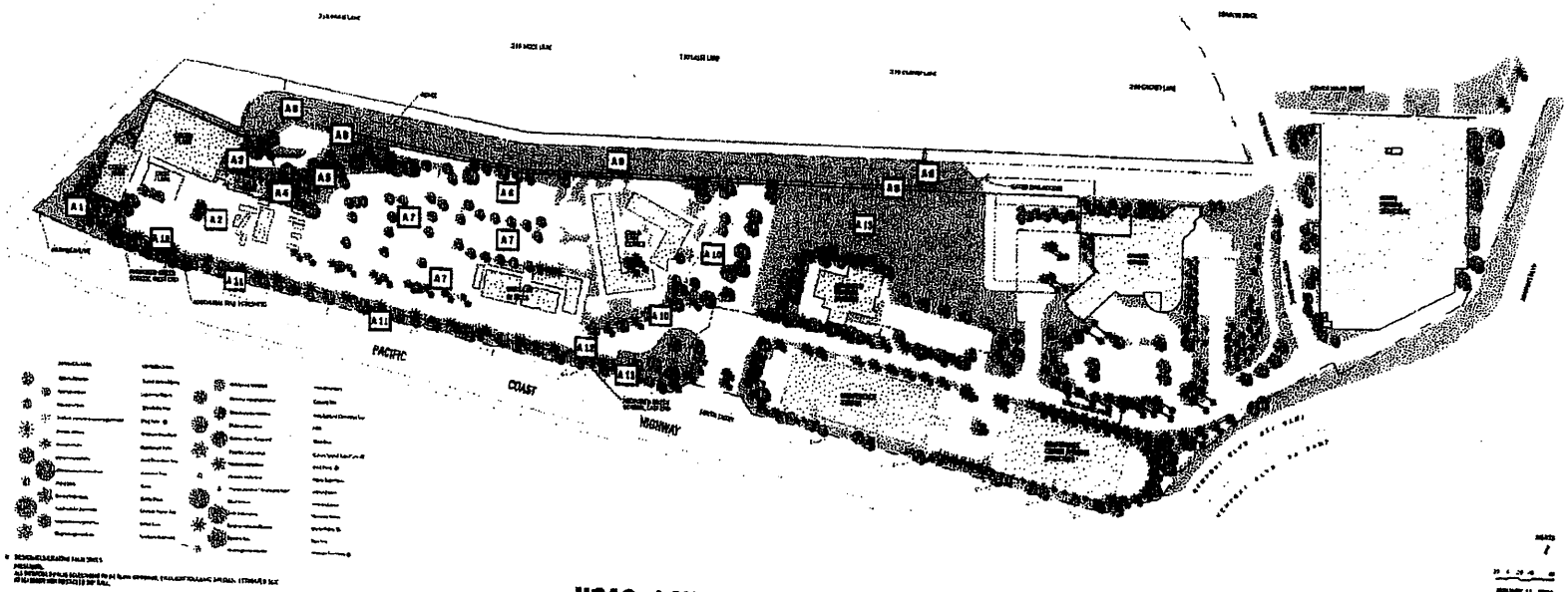
3. Hearing. The Planning Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee at least ten (10) days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within sixty (60) days after receipt of the recommendation of the Planning Commission.

Location	Area	Description	Landscape Element	Schedule	Government/Agency Status	Anticipated Outcome / Effect
Hoag Lower Campus	Area 1 - Co Gen	Additional tree planting per community request	Add 5, 48" box evergreen screen trees and new irrigation	Nov 2007 Installed	Project completed	Screen/soften views of west end of Co Gen Building
						From PCH
	Area 2 - Co Gen	Additional tree planting per community request	Add 3, 48" box evergreen screen trees and new irrigation	To commence May 2008. Install completion July 2008.	Coastal Comm. Approved 2/08	Added screening of Co Gen Flare
	Area 3 - Co Gen	Add green screen fences per community request	Attach metal green screen lattice structure to cover east building elevation	To commence May 2008. Install completion July 2008.	Coastal Comm. Approved 2/08	Screen/soften specific views of Co Gen Building
			Plant flowering vines to cover green screen	To commence May 2008. Install completion July 2008.	Coastal Comm. Approved 2/08	Screen/soften specific views of Co Gen Building
	Area 4 - Co Gen Slope	Clean up and regrade area with added shrub and groundcover planting	Additional shrubs, groundcover and new irrigation system added upon completion of wall project.	Nov 2007 Installed	Project completed	Added visual quality and erosion control
	Area 5 - Lower Campus Wall	Tree shrub and groundcover planting	24 trees, shrubs and groundcover plantings and new water conserving irrigation system	Nov 2007 Installed	Project completed	Added campus visual quality screening and erosion control
			Installed as part of Lower Campus Wall Project			
	Area 6 - Lower Campus Wall	Trees and shrub planting	8, 24" box evergreen screen trees	Nov 2007 Installed	Project completed	Screen and soften views of retaining wall
			Installed as part of Lower Campus Wall Project			
	Area 7 - Lower Parking Lot	Tree planting	12, 36" box flowering trees and 4 ftm palm trees and irrigation system at end islands	Nov 2007 Installed	Project completed	Soften views of open parking lot areas
			Installed as part of Lower Campus Wall Project			Increased shade and visual enhancement to parking area
	Area 8 - Lower Parking Lot	Tree planting	Install 23, 36" box flowering trees and 3 ftm palm trees	Installed no later than Dec 2009	Installation shall commence no later than 60 days of CDP issuance by the Coastal Comm	Soften views of open parking lot areas and increase shade and visual enhancement to parking areas.
Hoag Lower Campus	Area 9 - Lower Campus Wall	Flowering baugainvillea shrub planting	650, baugainvillea shrubs installed as part of Lower Campus Wall Project	Nov 2007 Installed	Project completed	Colorful edge definition and softening of views along top of retaining wall
	Area 10 - Lower Campus Wall	Regrade area add fence shrub and groundcover planting	Shrubs, groundcover, fencing and new irrigation system	Installed no later than Dec 2009	Installation shall commence no later than 120 days of CDP issuance by the Coastal Comm	Enhanced overall campus visual quality, safety and erosion control
	Area 11 - Lower Campus Wall	Additional trees shrubs & groundcover planting	17 trees, shrubs and groundcover and new irrigation system	Dec 2007 Installed	Project completed	Added Visual Quality. Parking area screening and building drop off and entry area definition
	Area 12 - Lower Campus Wall	Replace trees, shrub and groundcover and entrance planting areas	Trees, shrub & groundcovers and new irrigation system	Installation schedule Dec. 2009	Pending city approval in concept and Coastal Comm Approval	Improve & unify campus planting character along PCH frontage after utilities installed
	Area 13 - Lower Campus Wall	Additional green screen and tree/shrub planting	Install approx. 870 lineal feet of green screen along PCH frontage	Installed no later than Dec 2009	Immediately upon issuance of an Approval in Concept (AIC) by the City of Newport Beach an application shall be submitted for said improvements to the Coastal Comm. Construction of said improvements shall be completed no later than 18 months after CDP issuance by the Coastal Comm.	Screen views of west parking Lot from PCH
	Area 14 - Lower Campus Wall	Temporary native hydroseed groundcover Planting	Add coastal wild flower and grass Hydroseed planting until permanent parking lot with landscape improvements added.	Hydroseed and irrigation installed Dec 2007	Hydroseed and irrigation completed	Erosion/dust control and enhanced visual quality pending future parking area installation

Color Code Indicating Current Project Status

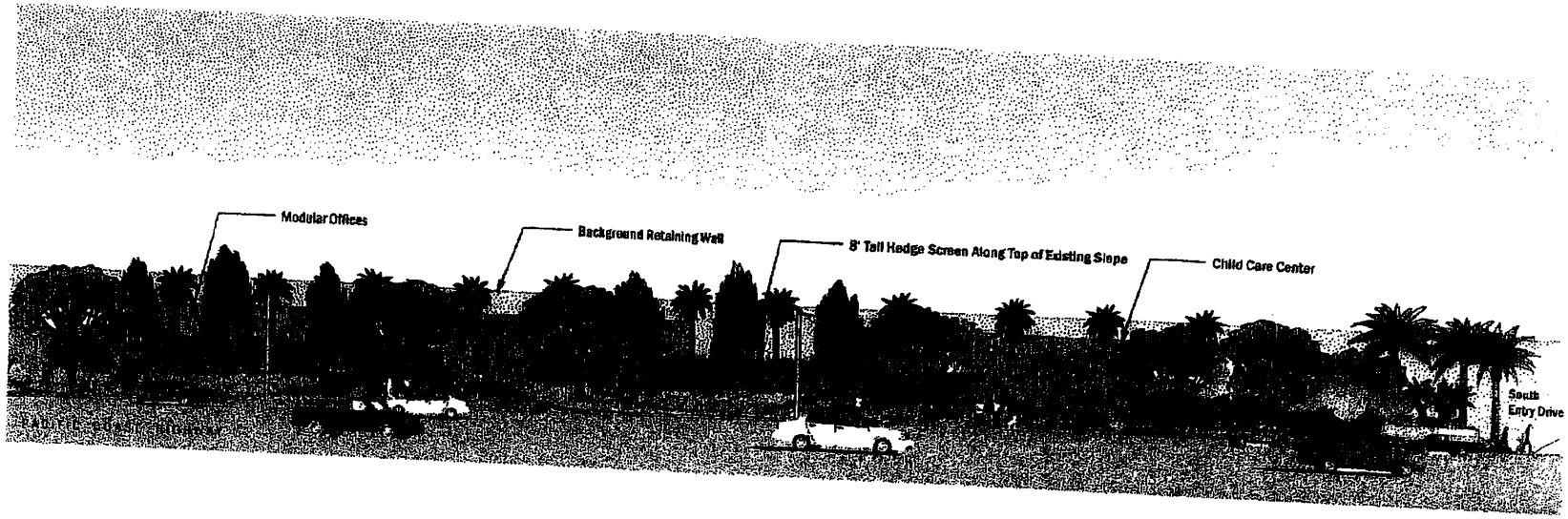
Green	Indicates current improvements that have been installed per previous approvals
Yellow	Indicates improvements installed but not apprl of required permits
Blue	Indicates improvements in design phase yet to be submitted for city or agency approvals
Red	Indicates improvements proposed but not approved for installation

RRdo Ltd. 1/15/08
Revised 4/15/08 for City Council Meeting



HOAG LOWER CAMPUS IMPROVEMENT PLAN

Exhibit #7



Rabban/Herman

PARTIAL ELEVATION - PCH LANDSCAPE SCREEN (DRAFT)

Hoag Memorial Hospital Presbyterian
Newport Beach, CA

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LaVonne M. Harkless, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2008-10 as duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 13th day of May 2008, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Henn, Rosansky, Curry, Daigle, Gardner, Mayor Selich

Noes: None

Absent: Webb

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 14th day of May 2008.

LaVonne M. Harkless
City Clerk
City of Newport Beach, California

(Seal)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LAVONNE M. HARKLESS, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2008-10 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Daily Pilot, a daily newspaper of general circulation on the following date, to wit: May 17, 2008.

In witness whereof, I have hereunto subscribed my name this _____ day of _____ 2008.

City Clerk
City of Newport Beach, California

EXHIBIT C

LEGAL DESCRIPTION OF PROPERTY

Parcel 1:

That portion of Lots 169 and 170 in Block 2 and a portion of Lot 172 in Block 1 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

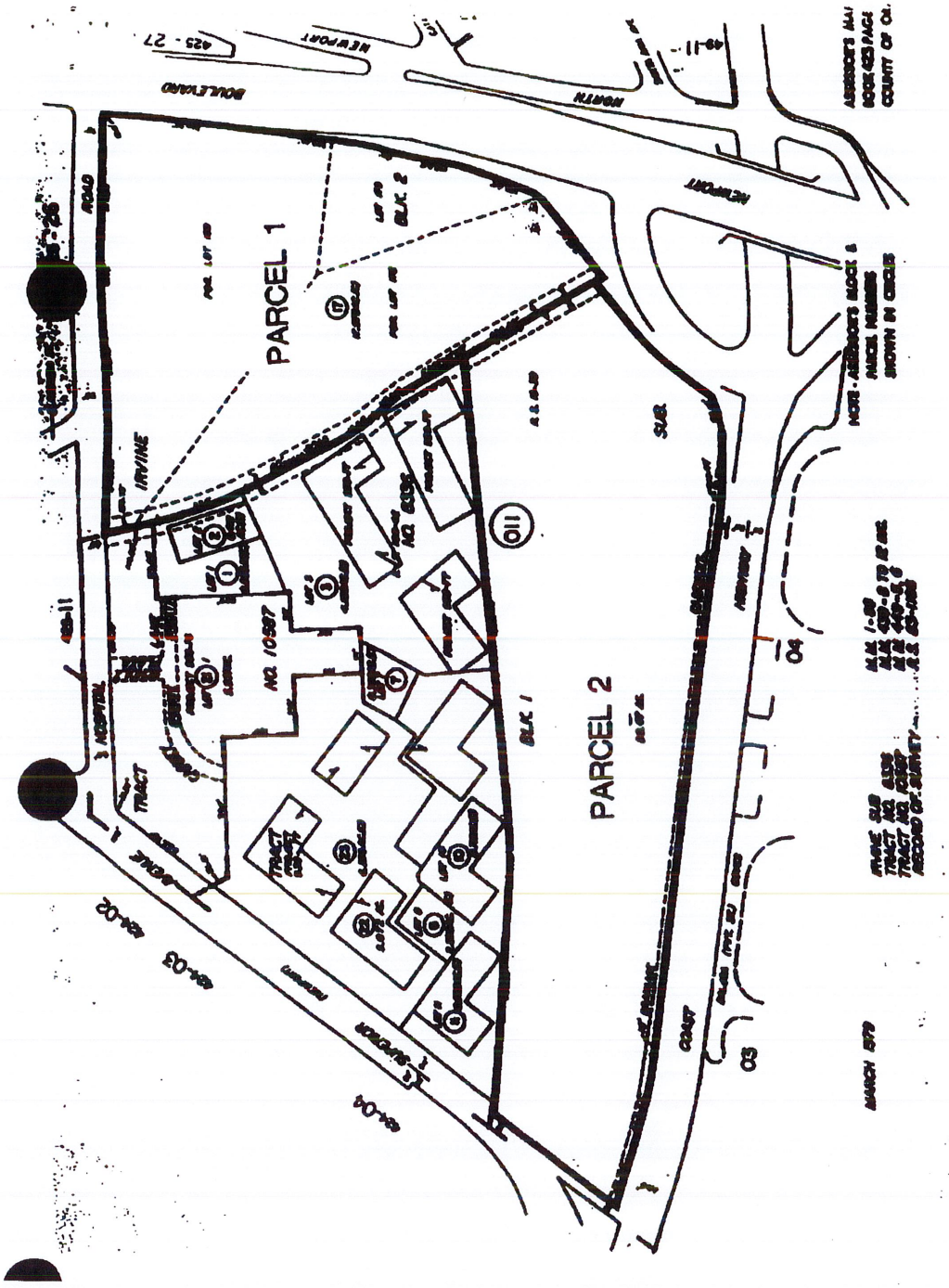
Parcel 2:

That portion of Lot 172 of Irvine Subdivision, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Maps, Records of Orange County, California.

EXHIBIT D

LEGAL DEPICTION OF PROPERTY

Exhibit B


PARCEL 1
PARCEL 2
BLK. 1
BLK. 2
NO. 10587
NO. 8336
IRVINE
TRACT
NEWPORT
NORTH
BOULEVARD
ROAD
COAST
SUB.
HIGHWAY
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49-11
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011
MARCH 1979

EXHIBIT F

MELINDA HOAG SMITH CENTER FOR HEALTHY LIVING AGENCY PARTNERS

Melinda Hoag Smith Center for Healthy Living



hoag

Melinda Hoag Smith
Center for Healthy Living

The Melinda Hoag Smith Center for Healthy Living (MHSCHL) is a robust one-stop-shop of interconnected and supportive services that promote health and well-being. The Center houses a wide variety of non-profit partner agencies and the programs that address key issues affecting the health of our community. The Center provides culturally sensitive services and resources that enable prevention, address the root causes of disease and improve health outcomes. Services are offered in English and/or Spanish depending on the program.

There is no fee to become a member of the Center. The membership provides access to a majority of agencies and services, at no cost, however there may be health insurance prerequisites.

For more information or to set an appointment, please call us at 949-764-6551 or stop by for an in person visit.

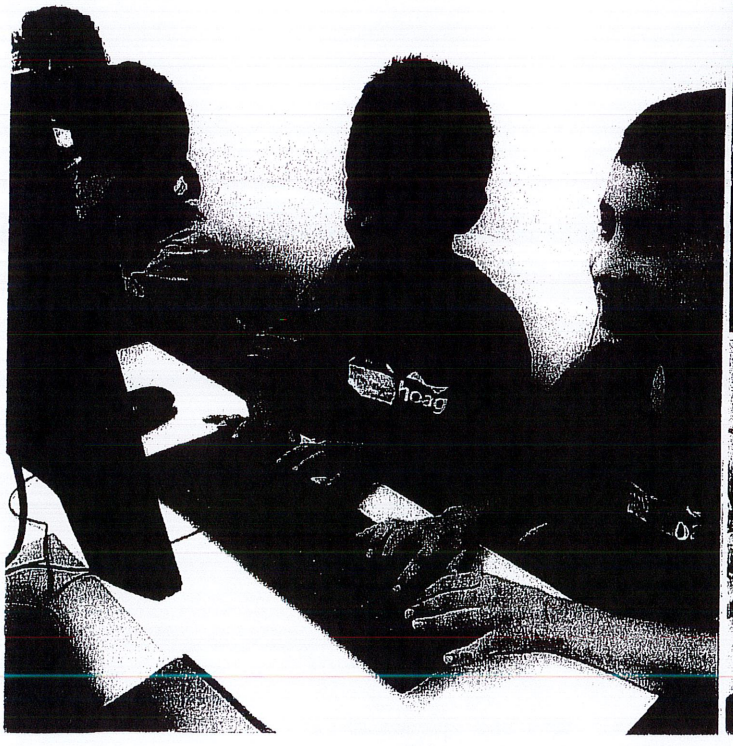
Hours of Operation:
Monday-Friday 8 a.m. – 7 p.m. | Saturday 8 a.m. – 4 p.m.

Vision

Inspire and empower our community to take control of their own health and wellbeing. Provide culturally sensitive services and resources that enable prevention, address the root causes of disease and improve health outcomes. Offer services that meet the needs of the whole person: mind, body and spirit.

Mission

To work synergistically in a shared location with our partner agencies and community residents to bridge the gaps in services, build capacity and maximize impact in our under-resourced communities.







Partner agencies and programs offered include:

AGENCY	SERVICES PROVIDED
Academy of International Dance	Ballet and hip-hop classes
Art and Creativity 4 Healing	Art workshops designed to aid with stress reduction and to increase coping skills
Be the Change Yoga	Yoga classes for all levels
Big Brothers Big Sisters of OC	Youth mentoring for those 6 -16 years of age
Cancer Kinship	Mentorship, education and support programming for cancer patients in any stage of diagnosis, treatment or remission
Children's Bureau	General needs assessment, case management and linkage to resources Healthy Habits educational series
Children's Health Connection	Provides connections to health services, health screenings and health education along with safety equipment
CHOC PODER (Prevention of Obesity and Diabetes through Education and Resources)	Health and wellness education including nutrition and physical fitness
CIELO – (Community for Innovation, Entrepreneurship, Leadership & Opportunities)	Support and educational workshops related to business and entrepreneurial skills, resume writing, financial and computer literacy
Community Action Partnership	Healthy Couples/Families workshops which focus on enhancing interpersonal skills and problem solving skills
Costa Mesa Family Resource Center	Social, educational and support services for children and families. Services offered in English/Spanish. Collaborative partners: Human Options, Children's Bureau, Girls Inc., Raise Foundation, Help Me Grow, and Strong Families Strong Children.
Council on Aging	English as a Second Language (ESL) classes for adults; Balance and Mobility classes; computer skills classes; HICAP – support & education regarding MediCare benefits
CPR, First Aid Certification	CPR and First Aid Certification for adults
Crime Survivors	Support groups, self-defense classes and resources for victims of crimes
Drumming Circles	Stress reduction drumming circles for adults
Girls Inc.	Afterschool programming for boys & girls: homework support; spring and summer camps; dance classes; Science Technology, Engineering, Arts and Math (STEAM) classes
Help Me Grow OC	Developmental screenings for young children; resources for enhancing child development
Hoag – ASPIRE (After School Program: Intervention and Resiliency Education)	Intensive Outpatient Program (IOP) for 13-17 year olds experienc ng mental health difficulties; program guides teens and their families through skills-based training. (Need private health insurance)
Hoag – Case Management	Case management and linkage to resources
Hoag – Health Coaching	Health and wellness coaching
Hoag – Health Ministries	Faith community nursing outreach, seasonal flu clinic and blood pressure clinics
Hoag – Mental Health Center	Short term outpatient counseling services for individuals, couples and/or families Support groups and educational classes English, Spanish and Farsi speaking therapist (Sliding-scale fee)
Hoag – OC Vital Brain Aging Program	Complimentary memory screening for adults over age 45
Hoag – Promotora/Community Health Worker	Support and resources for adults experiencing stress and mental health challenges
Human Options	Domestic violence prevention and intervention services, counseling, parenting classes, PEP (Personal Empowerment Program), support groups
MOMS OC	Preparation for childbirth classes, Mommy & Me classes
NAMI – National Alliance for the Mentally Ill	Support groups and educational classes for family members and caregivers who have a loved one (child or adult) living with mental illness
Olive Crest	Parenting classes
Orange County Department of Child Support Services	Assistance for parents with obtaining, modifying and collecting child support
Orange County Public Health Nursing	Nursing case management, nursing assessment, health education

Partner agencies and programs offered include:

AGENCY	SERVICES PROVIDED
Pilates	Pilates classes for adults
Project Youth, OC Bar Foundation	Youth diversion programs – "SHORTSTOP" and "Stop Short of Addiction"; Health and wellness programing for women – "Madres Unidas"
Project Self Sufficiency	Support, mentoring and linkage to resources for single parents enrolled in college
Public Law Center	Civil legal services and individual counseling focusing on family law related matters for low income adults and families
Raise Foundation	Linkage to resources, assistance with applications for government programs: MediCal, CalFresh (food stamps); CalWorks (Cash aid); Volunteer opportunities through: Youth Advisory Council (YAC); Community Engagement Advisory Committee (CEAC)
Second Harvest	Food distribution for families in need (must be an adult to participate)
SOS Children & Family Health Center	Full scope primary care including preventive health care, urgent medical care and chronic disease management (health insurance requirements and/or sliding scale available)
SOS Dr. Robert & Dorothy Beauchamp Child and Family Dental Center	General and specialty dental services for infants to adults
SPIN – Serving People in Need	Housing assistance for families in need, GAPP –guided assistance to permanent placement
Strong Families Strong Children	Team of peer navigators and clinical case managers help provide support, resources, and counseling for active duty or veteran family members
Susan G. Komen OC	Breast health and cancer prevention education, mammogram screenings, survivor support groups
United Way	Tax preparation assistance for low income families
Youth Employment Services	Securing and maintaining employment assistance for 16-24 year olds
Zumba	Zumba classes for adults and Zumbini classes for adult caregivers and young children

Melinda Hoag Smith Center for Healthy Living

307 Placentia Avenue
Newport Beach, CA 92663

On the corner of Placentia and Hospital Road (across the street from Hoag Hospital). Entrance to parking lot is off Placentia.

