

**CITY OF NEWPORT BEACH  
STAFF ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Planning Department  
Javier Garcia, Zoning Administrator  
[jgarcia@city.newport-beach.ca.us](mailto:jgarcia@city.newport-beach.ca.us)

SUBJECT: Report of actions taken by Planning Director, Zoning Administrator and/or Planning Department staff for the week ending November 7, 2008

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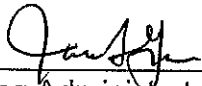
Item 1: Newport Bay Hospital – Planning Director's Use Permit No. UP2005-045  
(PA2005-197)  
1501 East 16th Street

The Planning Director approved the applicants request to permit the continued use of temporary re-locatable trailers for office and related storage-use previously authorized by Use Permit No. 1510 and 1510 (Amended).

Approved – November 7, 2008

Council District 3

Prepared and submitted by: -



Zoning Administrator Javier S. Garcia, AICP

APPEAL:

The decision of the Planning Director may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

c: David Lepo, Planning Director (e-mail)  
Sharon Wood, Assistant City Manager (e-mail)  
David Keely, Public Works Senior Civil Engineer (e-mail)  
Jim Campbell, Senior Planner (e-mail)  
Code Enforcement Division (e-mail)  
Sgt. Ron Vallercamp, Vice/Narcotics (e-mail)  
Iris Lee, Public Works (e-mail)  
Evelyn Tseng, Revenue (e-mail)



**USE PERMIT NO. UP2005-045**

(PA2005-197)

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

Staff Person: Javier S. Garcia, 644-3206  
Appeal Period: 14 days after approval date

**Application:** Planning Director's Use Permit No. UP2005-045 (PA2005-197)

**Applicant:** Newport Bay Hospital

**Site Address:** 1501 East 16th Street

**Legal Description:** Portion of Lot 148, Tract 1218

***Request as Modified and Approved:***

To permit the continued use of temporary re-locatable trailers for office and related storage-use previously authorized by Use Permit No. 1510 and 1510 (Amended). The three temporary structures installed without benefit of building permits include:

- 1.) one modular building for office and conference uses measuring 1,344 sq. ft., requested duration of one additional year or more - approved to June 30, 2009;
- 2.) a storage container of 320 sq. ft., requested duration of 90 days – approved to January 31, 2009; and
- 3.) a storage container measuring 160 sq. ft., requested duration of one year or more – approved to January 31, 2009. The temporary structures have been in place for more than 5 years and the applicant has requested that they be allowed to remain for durations of between one year and 90 days, as specified in the attached request letter. The property is located in the APF District.

**DIRECTOR'S ACTION:** **APPROVED - NOVEMBER 7, 2008**

**Application Request**

The Planning Director in approving this application analyzed issues with regard to FAR Compliance and the parking requirements. The detailed discussion can be found in the attached Appendix. In consideration of those aspects, the Planning Director determined in this case that the proposal would not be detrimental to persons, property or improvements in the neighborhood. Additionally, that the use permit, as approved, would be consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code, and made the following findings:

1. The proposed development is consistent with the Land Use Element of the General Plan (and the Local Coastal Program), and is compatible with the surrounding land uses.

2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 11 (Accessory Structures).
3. The required number of off-street parking spaces exist on the lot for the proposed establishment as required by Municipal Code Regulations.
4. The approval of Use Permit number UP2005-045 will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of the city for the following reasons:
  - The proposed use for office and storage is a temporary support use for the primary healthcare facility use.
  - The neighboring uses will not be adversely affected by the proposed temporary uses since the healthcare facilities are a permitted use in the District.
5. This approval will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of the city since the short term use of relocatable trailers and storage containers are temporary and will be removed in the short term and do not result in or create any adverse negative effects.

### **CONDITIONS**

1. Development shall be in substantial conformance with the approved site plan, floor plan and elevation(s), except as noted in the following conditions.
2. A building permit for the office trailer installation shall be obtained from the Building Department and the appropriate clean-up deposit (if applicable) shall be posted to insure maintenance and clean up of the subject property after removal of the temporary office trailer and storage containers.
3. This temporary use shall terminate upon evidence that the facility is operating in violation of any of the conditions of approval or upon receipt of unresolved complaints.
4. The office trailer is solely for temporary office use associated with the healthcare facility until permanent facilities are either constructed on site or provided off site. The use of the trailer for overnight or residential use is prohibited. The use of the office trailer shall be allowed for a period not to extend beyond June 30, 2009. The office trailer shall then be removed from the site. This approval cannot be extended. The applicant shall contact the Code Enforcement Division or the Planning Department to schedule an inspection to verify removal of the storage containers in accordance with this approval.

5. The two storage containers are solely for temporary storage use associated with the healthcare facility until permanent facilities are either constructed on site or provided off site. The use of the storage containers shall be allowed for a period not to extend beyond January 31, 2009. The storage containers identified in this application shall be removed and that portion of the site shall be returned to general parking lot use on or before January 31, 2009. This approval for temporary use cannot be extended. However, this approval does not preclude the applicant from filing a use permit for permanent or semi-permanent retention of the temporary structures in accordance with an amendment to the Use Permit No. 1510 or its amendments which established the healthcare facility. The applicant shall contact the Code Enforcement Division or the Planning Department to schedule an inspection to verify removal of the storage containers in accordance with this approval.
6. All mechanical equipment associated with the temporary office trailer shall be screened from view of adjacent properties and adjacent public streets, and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
7. The project shall comply with State Disabled Access requirements.
8. Storage outside of the existing buildings, temporary office trailer, or storage containers in the front, sides or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
9. Prior to issuance of the certificate of occupancy or final of building permits, the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm control of light and glare specified in the previous condition of approval above.
10. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a gate), or otherwise screened from view of neighboring properties except when placed for pick-up by refuse collection agencies. The trash dumpsters shall have a top which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.

### **STANDARD CITY REQUIREMENTS**

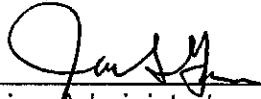
1. All signs shall conform to the provisions of Chapter 20.67 of the Municipal Code.
2. The Planning Director or the Planning Commission may add to or modify conditions of approval to this use permit, or revoke this permit upon a determination that the operation which is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
3. Applicable Fairshare Fee Contributions shall be paid prior to issuance of Building Permits for the three structures involved.

4. This approval shall expire unless exercised within 24 months from the end of the appeal period, in accordance with Section 20.91.050 of the Newport Beach Municipal Code.

**APPEAL PERIOD**

The decision of the Planning Director may be appealed by the applicant or any interested party to the Planning Commission within 14 days of the decision date. Any appeal filed shall be accompanied by a filing fee of \$600.00.

On behalf of Planning Director David Lepo,



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Zoning Administrator Javier S. Garcia, AICP

Attachments: Appendix

Vicinity Map

Email dated June 27, 2008 with Narrative dated March 23, 2007

Floor Plans of Office, Storage Containers and Aerial Photo of Property

Letter from applicant dated August 15, 2008 with site plan

Letter from Lessors (Owner) of Subject Property dated September 8, 2008

Opposition Letter dated July 3, 2008 – William B. Brinckloe, Jr, Attorney At Law

## APPENDIX

### Background

The applicant has provided a narrative, dated March 23, 2007, that describes the sequence of events that led up to the installation of the office trailer and the storage containers. The staff recommendation to restrict the duration of the two storage containers for removal on or before January 31, 2009, provides adequate time for the applicant to make arrangements to relocate the materials and files stored within the containers. The files, if required to be located on site, can be temporarily stored in the office building by elimination of the classroom/training area.

The restriction for removal of the office trailer provides adequate time for the applicant to locate or begin construction of replacement offices on site or at an off site location. The limited durations of this approval do not preclude the applicant from pursuing design and construction of permanent building area on site to accommodate the office and storage needs of the facility. Such permanent additions will require the approval of an amendment to Use Permit No. 1510 by the Planning Commission.

### FAR Compliance

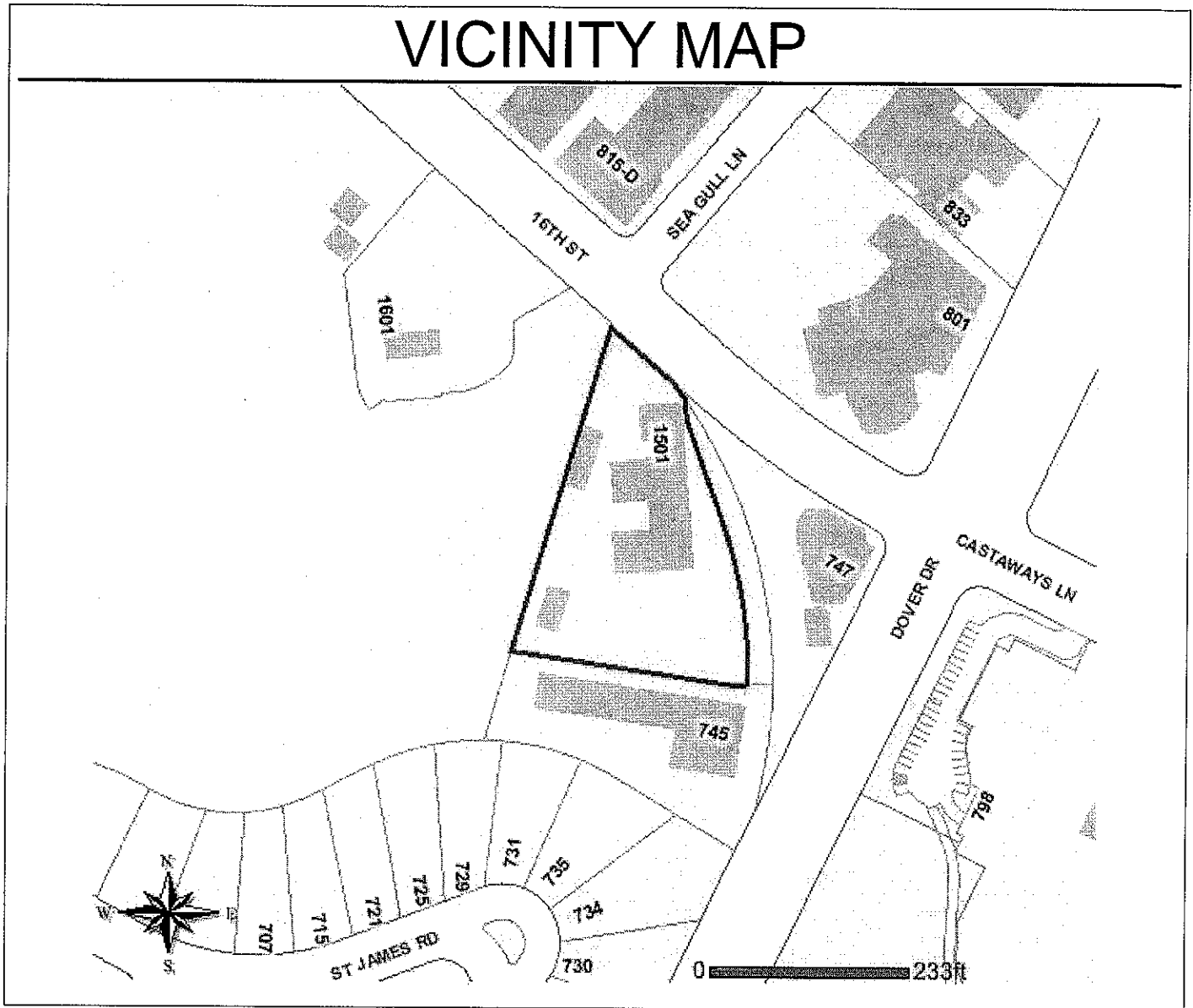
In accordance with Chapter 20.63 of the Newport Beach Municipal Code and the Land Use Element of the General Plan, floor area limitations apply to temporary structures as well as permanent structures. Therefore, the area of the temporary structures were revised for compliance with those provisions and found to be within the code limitations for the property as required. Additionally, Fairshare Fee Contributions are also applicable and will be payable at issuance of building permits.

It should be noted that the placement of the temporary office, large and small storage containers and subsequent delays in the processing of this application have afforded applicant use of both the office and storage containers in excess of 14 years, 8 years and 10 years time; respectively. Therefore, staff believes that with such long durations of use the applicant should have provided permanent area within the building long ago. The intent of the Zoning Code provisions for temporary use is for limited time duration to accommodate immediate or short term needs until a permanent solution can be addressed. Continued use of temporary structures is not in the best interest of the City or the surrounding neighborhood.

### Parking Requirement

In accordance with the provisions of Chapter 20.66 Municipal Code, parking for general retail commercial use is one space for each 250 square feet. Staff believes that the proposed use will not increase the parking demand of the subject facility since the use of the trailers is additional temporary support office and storage to the healthcare use.

# VICINITY MAP



Planning Director's Use Permit UP2005-045  
Project No. PA2005-197

**Site Address**

**1501 East 16th Street**

**Garcia, Jay**

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**From:** jamprk3@aol.com  
**Sent:** Friday, June 27, 2008 4:45 PM  
**To:** Garcia, Jay  
**Cc:** Beaconservice@aol.com; bhoyle@prodigy.net; KEmanuel@Nossaman.com; Garciamay, Ruby  
**Subject:** Response to Email of 6/26/08 from Ruby Garciamay

Dear Mr. Garcia:

In response to Ruby's email of 6/26/08, there are changes to the information which was provided to you on March 27, 2007, as follows:

1. The Modular Office Building was placed on its current site on January 13, 1994, where it has remained since that date.
2. Storage Container #<sup>smaller</sup>2 was placed in its current location on April 17, 1998, as previously described on March 23, 2007. Through our invoices, we have determined that Storage Container #<sup>larger</sup>2 was placed in its current location on or about February 16, 2000, rather than the Date September 2, 2001 as reported on March 23, 2007.

Regarding items 1, 2 & 3, as outlined in the 6/26/08 email, Mr. Brian Hoyle will be providing those items to you as soon as they are available.

Jim Parkhurst



March 23, 2007

Dear Mr. Garcia:

This is in response to your email of 3/15/07. Mr. Hoyle reports that he did provide the updated mailing list to the Administrative Staff for the City of Newport Beach on Thursday, March 15, 2007, regarding those individuals that have been affected by the storage/office units identified in Newport Bay Hospital's retroactive Permit Request.

In response to your questions, I will attempt to answer them in the order in which they were presented:

- 1. Has there been any change in the number or location of the modular office and storage units on the premises? :*

The answer is no. The Modular Office Building was on-site at 1501 E. 16th Street when Beacon Healthcare Services, Inc. initiated the original Lease with Newport Hospital Corporation that commenced on January 1, 1994. The previous lessee, Century Healthcare, from Tulsa, Oklahoma, leased both 1501 E. 16th Street and 745 Dover Drive, the adjacent property. It is my understanding that this Modular Building was relocated to 1501 E. 16th Street sometime in March/April, 1993, by Century Healthcare. Century Healthcare utilized the Modular Building at 745 Dover Drive as a classroom for the adolescent psychiatric patients that they treated at that time.

Concerning the two Storage Containers, the smaller unit, which is referred to as Container 2 in the original Permit Request, was purchased and placed in its current location on April 17, 1998, whereas the larger unit, Container 1, was purchased and placed in its current location on September 2, 2001.

- 2. What are the conditions of approval that will limit the timeframe of some of those units:*

Our original Permit Request, dated August 5, 2005, was for a Permanent Use Permit and perhaps a variance, if necessary. Our goal in filing this Permit Request was to be in compliance with any and all requirements by the City of Newport Beach. Since the Modular Building was on-site when the hospital leased the property (1993/1994), we had no reason to conclude that we were not in compliance with this Building. Regarding the two Storage Containers, this was clearly an oversight on my part. If I had known then that a Permit(s) was required, I would have filed the appropriate Request.

As stated above, the first unit was placed on-site IN APRIL, 1998, with no comments (negative or positive) from anyone in the neighboring area. The second unit was placed on-site in SEPTEMBER, 2001, with no comments, etc. until late July/early August of 2005, when we received a visit and notice from the City of Newport Beach because of a complaint. After receipt of your email of 1/26/2007, wherein you indicated that we could proceed without delay with a Temporary Permit, this seemed to be the best approach to be in compliance with the City of Newport Beach and provide us with additional time to address the Gallant issues.

To directly answer the above question, our goal in requesting a Temporary Permit is to be able to proceed expeditiously to be in compliance with the City of Newport Beach and to provide

additional time to resolve any complaints by neighbors, etc. It is not to limit the timeframe for use of any of the three units.

3. *Provide the need and justification for each of the units involved:*

- A. **Newport Bay Hospital:** When Newport Bay Hospital (NBH) was founded and licensed in 1994, it was the first free-standing, acute psychiatric hospital in the USA that was dedicated to senior mental health services. At that time, senior mental health services were provided as Distinct Part Units within a medical-surgical hospital. Translated, the patients were "shoe horned" into a wing of a med/surg hospital, usually on the third or fourth floor, with little or no access outside the hospital. NBH has provided a single level campus with a single-focus healthcare model with plenty of outdoor access for our patients. If I had known then (1993/1994) what I know now, we would have leased the 945 Dover property as well. As a minimum, it would have provided us with additional space and would have eliminated the current complaints.

At one time, there were at least fifteen (15) free-standing, acute psychiatric hospitals in Orange County. Today, NBH is the last free-standing, acute psychiatric hospital in Orange County, California. As such, NBH has been operating at near or full capacity (34 beds), with a waiting list. NBH currently dispenses an average of over 15,000 medications per month. We have a tremendous need for ancillary space to accommodate medical records, medical supplies, business office storage, personnel offices and meeting room spaces.

B. **Modular Office Building:** This building provides six functions for the hospital:

1. **Offices for Assessment & Referral/Intake** – This is the group of three individuals that are responsible for assuring that all patients that are admitted to NBH are appropriate. This function requires a tremendous amount of information about each patient, their clinical background and their family history.
2. **Program Improvement/Risk Management Offices** – This function is performed by Registered Nurses to assure that the hospital, our staff and our programs are continually improving regarding best practices and critical thinking.
3. **Medical Leadership Office** – We have a designated office within the hospital for our Chief of Staff, but periodically there is another physician utilizing that office for either dictation or meeting with a patient and their family. Space in the Modular Office is used when this occurs.
4. **Telepsychiatry Services** – Under the leadership of Richard Dorsey, MD, we installed and have been providing telepsychiatry services for over two years to patients that are located in remote areas of Northern California. The major reason that I was delayed in writing this response is that I returned last night from a trip to New Orleans regarding NBH and Dr. Dorsey providing services to many of the victims of Hurricane Katrina in August/September 2005. There is a major shortage of psychiatrists (only one in four-five have returned to that area), and we are working with the appropriate officials to provide that service remotely from NBH.
5. **Group Meetings/Training** (including satellite capability)
  - a. Clinical Staff meetings/training
  - b. Medical Staff meetings/training
  - c. Administration meetings/training
  - d. Governance Board meetings

6. Storage as required

C. Storage Containers

I know of no medical facility in the USA that has an abundance of space, and particularly storage space. The state and federal laws require a minimum of a 3-day supply of food, water and medical supplies for emergency/disaster purposes; and NBH sits adjacent to the Newport Mesa fault line and directly under the flight pattern of John Wayne Airport.

1. Storage Container 2

This unit was placed into service on April 17, 1998. It is at 95% capacity and is used to store Medical Records which must, by law, be maintained for seven (7) years after a patient is discharged and for business office and personnel files.

2. Storage Container 1

This unit was placed into service on September 2, 2001. It is at 80% capacity and used for medical and business supplies. Unlike the operation under Century Healthcare, which provided services to adolescents, NBH provides medical services predominantly to seniors. This means that we have to have a supply of items and materials that require incremental space, such as wheelchairs, geri-chairs, walkers, diapers, lap buddies, oxygen tanks, respirators, IV poles, etc.

*4. The intent of a temporary permit is for temporary use and not permanent installation of re-locatable structures that take up required parking and that, by definition of the Zoning Code, also require parking.*

The issue of temporary vs permanent permit was addressed in 2., above. Regarding Parking Spaces, each of the three mobile units were placed on the site such that the number of parking spaces were not reduced. Because the previous operator of 1501 E. 16<sup>th</sup> Street operated the hospital as an adolescent hospital, there was a very obtrusive, unsightly tennis/sports court which was surrounded by a 20-foot plus fence to keep the teenagers inside the grounds. Prior to locating Container 2 on its current site on April 17, 1998, we removed the 20-foot plus fencing from around the tennis/sports court to ensure that:

- A. Container 2 could be placed so that it did not eliminate any parking spaces,
- B. We used the previous tennis/sports court to increase the number of parking spaces available,
- C. Additional space was made available for ambulance access for patient admission/discharge from the hospital, and
- D. The attractiveness of the grounds were improved, particularly after we resurfaced the entire parking areas.

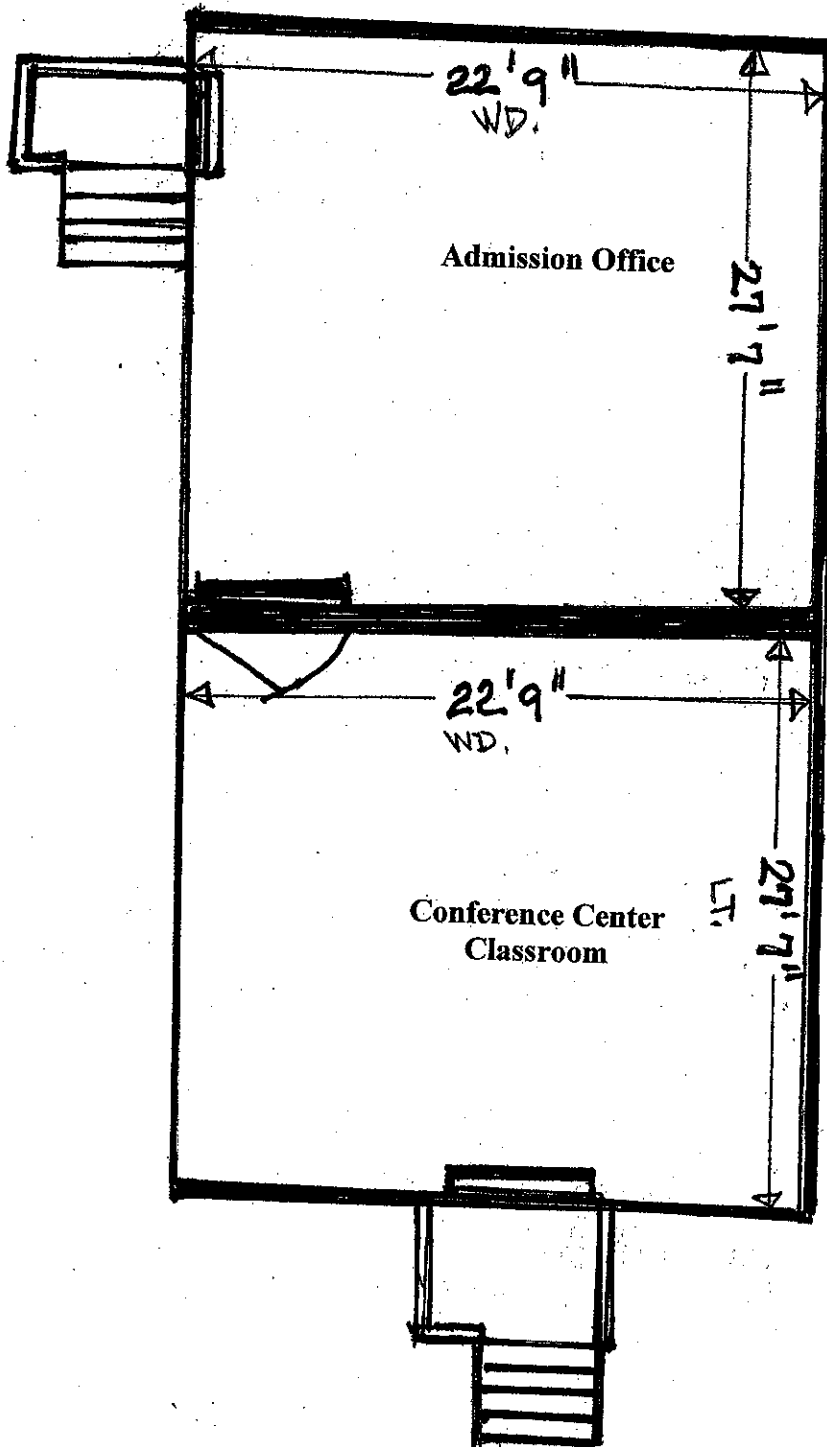
*5. Such a request would require approval of a Use Permit by the Planning Commission and would include a waiver of a portion of the required parking.*

We are prepared to follow whatever the required procedures are for the City of Newport Beach. Regarding a waiver for parking requirements, as indicated in 4.B., above, we have increased the number of parking spaces by utilizing the tennis/sports court vs reducing the number of original parking spaces.

Sincerely,  
James E. Parkhurst

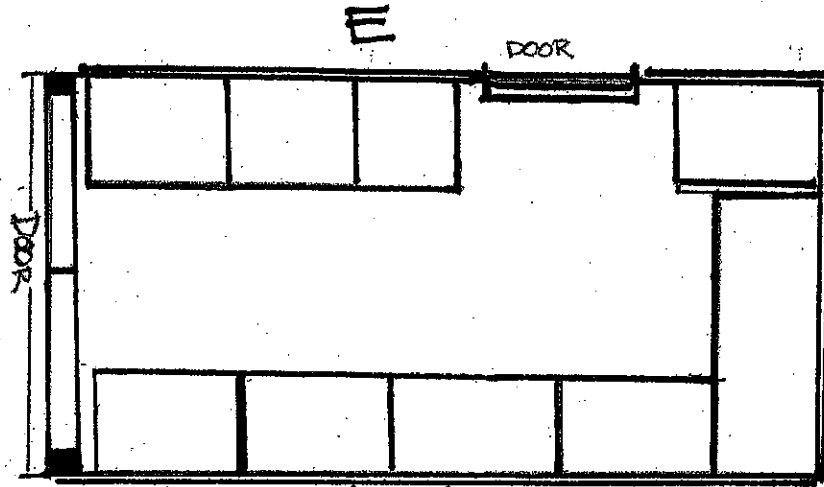
NEWPORT BAY HOSPITAL  
MODULAR BUILDING

23'7"



56'3"

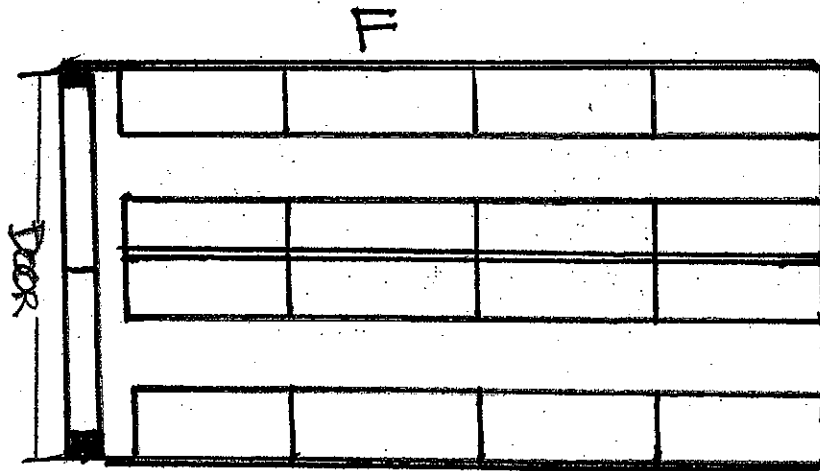
CONTAINER #1



320\*

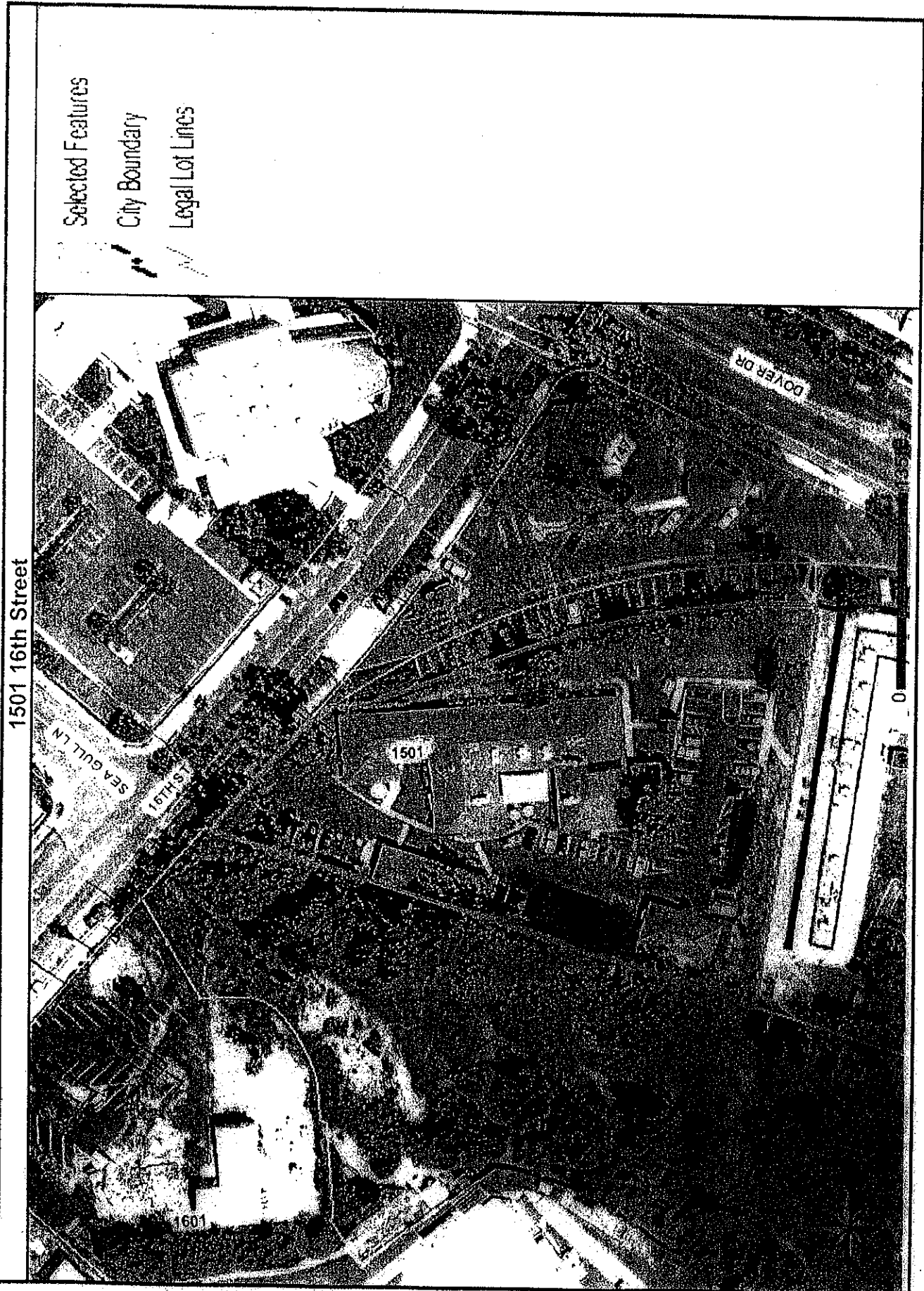
40' X 8' X 8'6"  
LT. WD. HT.

CONTAINER #2



160\*

20' X 8' X 8'6"  
LT. WD. HT.





Newport  
Bay  
Hospital

August 15, 2008

RECEIVED BY  
PLANNING DEPARTMENT

AUG 19 2008

CITY OF NEWPORT BEACH

**Javier S. Garcia, Senior Planner,  
Planning Department  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, CA 92663**

**Re: NEWPORT BAY HOSPITAL PERMIT**

**Dear Mr. Garcia:**

In follow up to your email of 8/1/08, and after several discussions with our attorney, Ms. Kathy Emanuel, and recommendations from City Attorney, Aaron Harp, we would like to proceed as follows:

**Storage Container #1 (Smaller Unit), per the original application site map.**

- Request Temporary Permit.

**Storage Container #2 (Larger Unit), per the original application site map.**

- Request 90 day use permit.

**Modular Building, which contains offices, storage and meeting space.**

- Request Temporary permit.

We plan to remove Storage Container #2 within the next 90 day period. A Temporary Permit for Container #1 and the Modular Building will provide us time to explore all potential alternatives.

The last request that we had from your Planning Department was to provide the Notification Labels to adjacent property owners, which we submitted on 7/21/08. Please let me know if there is additional information needed from us, or if you have any further questions regarding this request.

Sincerely,

**James E. Parkhurst  
Administrator**

*Geriatric Mental Health Services*

1501 East 16th Street  
Newport Beach, CA 92663

(714) 650-9750  
(800) 360-9900 • FAX 650-9751  
(714) 650-9700 (24 hour info/referral)

Newport Bay Hospital  
 1501 E. 16th Street  
 Newport Beach, CA 92663  
 Tel: (949)860-9760/Fax: (949)860-9781

Building 1 -  
 Licensed Hospital

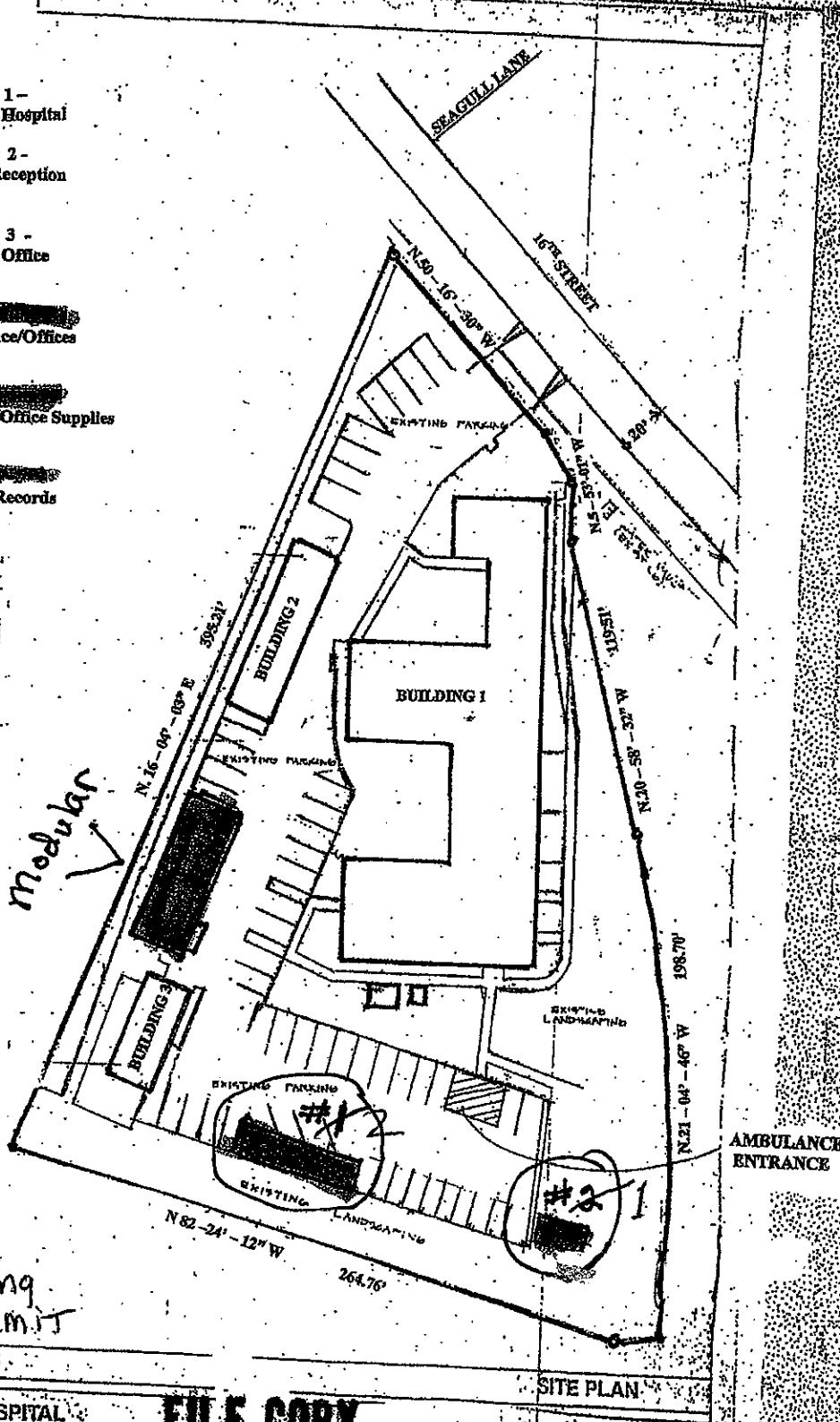
Building 2 -  
 Admin/Reception

Building 3 -  
 Business Office

Conference/Offices

Medical/Office Supplies

Medical Records



*modular*

*Requesting  
 Use Permit*

HOSPITAL

**FILE COPY**

SITE PLAN

PA2005-197 for UP2005-045  
 1501 EAST 16TH STREET  
 Newport Bay Hospital



LAW OFFICES  
**WIEZOREK & PAYNE**  
5305 EAST SECOND ST., SUITE 204  
LONG BEACH, CALIFORNIA 90803  
(562) 433-0386  
FAX (562) 433-8926

Anthony F. Wiezorek,  
A Professional Corporation

Geoffrey S. Payne,  
A Professional Corporation

Writer's Email Address  
[gpayne@wiezorekpayne.com](mailto:gpayne@wiezorekpayne.com)

September 8, 2008

RECEIVED BY  
PLANNING DEPARTMENT

SEP 08 2008

**Via Facsimile: (949) 644-3229**  
Planning Department  
City of Newport Beach  
3300 Newport Boulevard, Bldg. C  
Newport Beach, California 92663

**CITY OF NEWPORT BEACH**

**Re: Planning Director's Use Permit No. UP2005-045**

**Subject Property: 1501 E. 16<sup>th</sup> Street, Newport Beach, CA**

**Bank of the West v. Newport Hospital Corporation, et al.;**  
**Orange County Superior Court Case No. 07HL01088**

**To Whom It May Concern:**

This law firm represents the ground lessors ("Owners") of the subject Property and the owners of the property immediately adjacent to the south of the subject Property, 745 Dover Drive, Newport Beach. This letter serves to object to the issuance by the City of Newport Beach of a use or any other type of permit for the three (3) temporary structures for which permission to leave them in place has been sought by the applicant Newport Bay Hospital ("Applicant") for the reasons set forth below.

First, the subject structures and their being on the subject Property are the subject of a lawsuit between Applicant and Owners, which lawsuit is identified in the reference section of this letter. The lawsuit alleges that these structures have been placed on the subject Property in violation of the terms of the Ground Lease dated December 5, 1956, as amended, between the parties, in violation of the Declaration of Restrictions dated April 2, 1947 encumbering the subject Property, and in violation of City codes and ordinances.

Second, and as stated above, the Ground Lease between Applicant and the Owners prohibits installing and maintaining such structures on the subject Property.

Third, and as stated above, the Restrictions that encumber the subject Property and other properties in the area prohibit installing and maintaining such structures on the subject Property.

Planning Department  
City of Newport Beach  
September 8, 2008  
Page 2

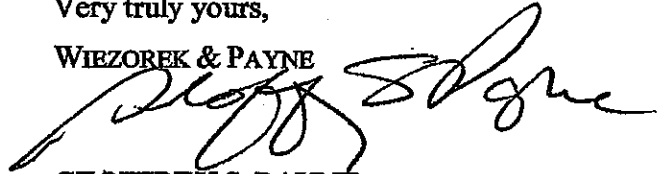
Last, the structures are an eyesore and a nuisance.

Owners reserve the right to make further objections on the public record, and hereby respectfully request that this letter be included in the public record.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,

WIEZOREK & PAYNE

A handwritten signature in black ink, appearing to read 'Geoffrey S. Payne', written over the printed name.

GEOFFREY S. PAYNE

GSP:le  
Enclosure

WILLIAM B. BRINCKLOE, JR.  
Attorney At Law

9841 Irvine Center Drive, Suite 220  
Irvine, California 92618-4316

RECEIVED

Tel (949) 475-6993  
Fax (949) 475-6999  
wbb@transactionlaw.net

July 3, 2008

JUL 09 2008

CITY ATTORNEY'S OFFICE  
CITY OF NEWPORT BEACH

Aaron C. Harp, Esq.  
City of Newport Beach  
Office of the City Attorney  
3300 Newport Boulevard  
Newport Beach, California 92658

Re: City of Newport Beach (the "City") Use Permit Application (the "Application") for the Property Located at 1501 East 16<sup>th</sup> Street, Newport Beach, California (the "Property")

Dear Aaron:

This letter shall serve to confirm the substance of the discussions in our telephone conference this afternoon with Geoff Payne. As we discussed, Geoff and I represent Bank of the West, as trustee of the Testamentary Trust of Earl W. Stanley, the Donna Gallant Trust and the Rex and Earlynn Albright Family Trust, the owners of the Property.

In your correspondence to me dated June 12, 2008, you stated the City had determined the Lessee of the Property could proceed with the processing of the Application without obtaining the consent and/or approval of the owners. However, you confirmed today the decision of the City to allow the Application to be processed did not constitute an approval by the City of the merits of the Application.

Specifically, you noted the Application required a public hearing, which would be noticed in accordance with the procedures of the City. Also, you stated any decision on the Application would be subject to the review and appeal process of the City.

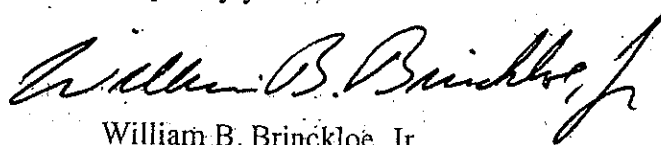
The temporary modular structure and shipping containers on the Property that are the subject of the Application violate both the terms of the Ground Lease of the Property and the covenants, conditions and restrictions governing the Property. As we mentioned, the owners have instituted a lawsuit against the Lessee to enforce the terms of the documents, which is to be tried in November.

Also, as Geoff and I informed you, the owners of the Property own an adjacent property located at 745 Dover Drive, Newport Beach that they are in the process of redeveloping with a first-class medical office building. The presence of the temporary modular structure and the shipping containers detract from the value and aesthetics of 745 Dover Drive, which also constitutes a violation of the Ground Lease.

Thus, this letter shall reaffirm the opposition of the owners of the Property to the Application. Pursuant to your request, attached is a special notice request list of the parties the City is requested to provide notices to in connection with the Application.

If you have any questions regarding the foregoing, please advise me. Thank you.

Very truly yours,



William B. Brinckloe, Jr.

Enclosure

cc: Ms. Jonna Greenlee (via e-mail)  
Ms. Cheryl Kelley (via e-mail)  
Geoffrey S. Payne, Esq. (via e-mail)

Special Notice Request  
Use Permit Application at 1501 East 16<sup>th</sup> Street, Newport Beach

Mr. Paul Gallant  
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