

HOSPITAL-NEIGHBORHOOD ASSOCIATION
AGREEMENT

MARCH 3, 1983

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THIS AGREEMENT is made as of this 3rd day of March, 1983, by and among ALTA BATES HOSPITAL, a non-profit corporation established under the laws of the State of California (hereinafter "Hospital"), BATEMAN NEIGHBORHOOD ASSOCIATION, a California non-profit corporation, FAIRVIEW PARK NEIGHBORHOOD ASSOCIATION, an unincorporated association, CLAREMONT-ELMWOOD NEIGHBORHOOD ASSOCIATION, a California non-profit corporation, and WILLARD PARK NEIGHBORHOOD ASSOCIATION, an unincorporated association (hereinafter collectively "Neighborhood Associations").

This Agreement is made by said Neighborhood Associations for the benefit of the owners of parcels of that real property situated in the area of the City of Berkeley and the City of Oakland, described more particularly as "The Benefitted Estate" in Exhibit 1 attached hereto (hereinafter "property owners"). The Agreement may be enforced by the Hospital or, pursuant to the terms of Paragraph 4, by the Neighborhood Associations or the Property Owners.

WHEREAS, the Hospital has filed applications for an amendment to its use permit and a variance with the City of Berkeley (hereinafter "City") seeking the City's approval of a plan of replacement and development of the Hospital's

main campus, bounded by Ashby Avenue, Regent Street, South Hospital Drive and Colby Street in the City; and

WHEREAS, the Neighborhood Associations, residents of the neighborhoods surrounding the Hospital's main campus and the property owners have opposed the Hospital's applications on the grounds that they would be adversely affected by the granting of the Hospital's applications, including adverse impacts on their health, quality of life, and the value of their property; and

WHEREAS, the Hospital may, in the future, desire to further expand its proposed new East Building by the addition of one complete floor and three partial floors for patient care purposes; and

WHEREAS, the Neighborhood Associations, the residents of the neighborhoods surrounding the Hospital's main campus, and the property owners wish to avoid any adverse impacts resulting from future Hospital construction, replacement and development; and

WHEREAS, the Hospital, the Neighborhood Associations, residents of the neighborhoods surrounding the Hospital's main campus, and the property owners wish to avoid the cost, inconvenience, and uncertainty resulting from a continued dispute regarding the Hospital's pending applications, wish to avoid future disputes, and wish to agree to specified future Hospital development notwithstanding possible adverse effects therefrom; and

WHEREAS, the Hospital and the Neighborhood Associations have reached several understandings as to the present and future use and development of the Hospital's main campus, adjacent properties owned by it, and the surrounding neighborhoods on the basis of which the Neighborhood Associations are prepared to support the Hospital's application for a variance and amendment to its use permit (except as to that portion of the application pertaining to expansion of neonatal and perinatal services) and to support certain future Hospital construction, replacement and development.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Each Neighborhood Association agrees:

A. To file, on or before March 3, 1983, written statements with the Board of Adjustments of the City in support of the Hospital's application for a lot coverage variance and amendment to its use permit necessary to permit the Hospital to construct the East Building and Southwest Building, each consisting of a basement plus two above-grade floors, as described in Applications No. U.P. 10679 and Var. 999. Included in such support is to be the statement that the mitigation measures listed on Exhibit No. 2 attached hereto are sufficient in respect to the Hospital's application and that no additional mitigation measures should be imposed.

B. To file, on or before March 3, 1983, a written statement of neutrality regarding the Hospital's application for an amendment to its use permit authorizing

the addition of six intensive care neonatal beds and ten perinatal beds and thereafter not to oppose, before the City, such application. The Neighborhood Associations expressly reserve the right to oppose the granting of a Certificate of Need authorizing the addition of such beds before the Office of Statewide Health Planning and Development (OSHPD) and the Alameda-Contra Costa County Health Systems Agency (HSA), and the Hospital expressly agrees that it will not rely upon the Neighborhood Associations' non-opposition to its use permit application for any purpose before OSHPD or HSA.

(C.) Not to appeal to the City Council from a decision of the Board of Adjustments granting the Hospital's applications on terms consistent with this Agreement and the Declaration of Covenants and Restrictions attached hereto as Exhibit 3 (hereinafter "Declaration"), and in the event of an appeal by a third party (whether or not he or she is a member of one of the Neighborhood Associations) to support the Hospital before the City Council by filing written statements of support and presenting oral testimony, as the Hospital may reasonably request.

D. Not to institute any legal action challenging the Board of Adjustments' or City Council's action in granting the Hospital's applications on terms consistent with this Agreement and the Declaration, and in the event of litigation filed by a third party (whether or not he or she is a member of one of the Neighborhood Associations) to support the City

and the Hospital by filing written declarations or taking such further actions as the Hospital may reasonably request, provided that such further actions are at no cost to the Associations.

E. In complying with Paragraphs 1A-1D, the Neighborhood Associations may jointly file a written statement or declaration, signed by an authorized representative of each Association, and may present oral testimony to the Board of Adjustments or City Council through a single authorized representative.

F. To provide the Hospital, on or before March 3, 1983, a written statement of support for the subsequent additions of a third floor to the East Building, (a below-grade addition on the north portion of the main campus,) and three partial floors to the East Building and for the subsequent replacement of buildings on the main campus. Such support shall be conditional upon the Hospital's subsequent applications and the additions or replacements not deviating from the terms of the Declaration. The statement of support shall be directed to the City's Board of Adjustments and City Council, and may be presented by the Hospital, on behalf of the Neighborhood Associations, at the time of the subsequent applications. Such statement shall bind the Neighborhood Associations.

G. Not to oppose, nor encourage others to do
so, the Hospital's later applications for approval from the City of a third floor to the East Building, a below-grade

addition on the north portion of the main campus, and three partial floors to the East Building, or the replacement of existing buildings, provided that such applications and additions or replacements do not deviate from the terms of the Declaration.

H. If requested by the Hospital, to support (a) a City Council resolution placing the City on record in support of future applications for a third floor on the East Building, a below-grade addition on the north portion of the main campus, and three partial floors on the East Building and the replacement of existing buildings; and (b) a City hospital or medical Master Plan which provides for such additions and replacements to the Hospital, all provided that neither the provisions of the City Council resolution nor the Master Plan deviate from the terms of the Declaration. In addition, the Neighborhood Associations shall not oppose an ordinance approving an agreement of the type described in Government Code Sections 65864 et seq which obligates the City not to change the zoning requirements applicable to the Colby-Ashby site so as to preclude the Hospital from constructing the additions and replacements described above, provided that neither the ordinance nor the agreement deviate from the terms of the Declaration.

I. Not to recommend to the City that it take any action which would preclude the Hospital from adding to the East Building a third floor and three partial floors or a below-grade addition on the north portion of the main campus or

replacing buildings on the main campus, provided that such additions or replacements and the applications for such additions or replacements do not deviate from the terms of the Declaration.

J. Not to recommend to the City that it take any action which would preclude the Hospital from utilizing property within Area B, as set forth in Exhibit 4 attached hereto, nor to oppose actions by the Hospital in that area which are permitted by the Declaration (prior to 2014), provided that such use does not deviate from the terms of the Declaration.

K. Not to encourage any of its members to take actions individually which are in conflict with the foregoing promises of the Associations.

2. The Hospital agrees:

A. To represent to the Board of Adjustments, and in the event of an appeal or lawsuit, to the City Council and the court, respectively, that it has no objection to the inclusion of any of the conditions listed in Exhibit 2 or in paragraph 3 of this Agreement, to its use permit and variance and to recommend to the Board, and the City Council and court, that such conditions be included.

B. Subject to any necessary approval from the City, to comply with each of the mitigation measures set forth in Exhibit 2 and to do so within the applicable time limits.

C. To execute and file for recordation the original of the Declaration attached as Exhibit 3 with the office of the Recorder, Alameda County, California, (hereinafter "Recorder") within thirty-five (35) days after the City has filed a proper "Notice of Determination" pursuant to Section 21152 of the Public Resources Code, giving notice of its decision to grant the Hospital's application for an amendment to its use permit and variance necessary to permit the construction of the Southwest and East Buildings, subject to the following provisions of this paragraph.

If the Board of Adjustments imposes any conditions in addition to those included in paragraph 3 or listed as mitigation measures on Exhibit 2, or materially changes any of those so listed, and the changes or additions are not acceptable to the Hospital or to the Neighborhood Associations, the Hospital and the Neighborhood Associations each agree jointly to appeal the decision of the Board of Adjustments, insofar as it imposes fewer, more or different conditions than those agreed upon among the parties hereto which are not acceptable to one or the other party. The parties, in this appeal, will request the City Council to either (1) delete, add or amend the conditions and mitigation measures so that they correspond to those listed herein or (2) remand the entire matter, including the grant of approval of the use permit amendment and variance, to the Board of Adjustments for reconsideration.

In the event that the City Council does not delete, add or amend the conditions and mitigation measures so that they correspond to those listed herein or remand the entire matter to the Board of Adjustments for reconsideration, then the Hospital shall either (1) accept the decision and file for recordation the Declaration with the Recorder within the time set forth above (as measured from the filing of a Notice of Determination reflecting the City Council's decision) or (2) contest in court the legality of the decision adding or materially changing the conditions and mitigation measures. If the Hospital elects to contest the legality of the conditions and mitigation measures it need not file for recordation the Declaration but shall not commence construction of the Southwest or East Building until the Declaration has first been recorded. The Neighborhood Associations agree to support the Hospital in any such legal proceeding contesting the added or changed conditions or mitigation measures, as set forth in Paragraph 1D of this Agreement.

If litigation brought by any party other than the hospital, challenging the legality of the City's decision to grant the Hospital's application, is pending at the time that this Agreement otherwise would require the Hospital to file for recordation the Declaration, and a court has enjoined the Hospital from proceeding with construction of the Southwest or East Building, then the Hospital shall not be required to file for recordation the Declaration while such injunction is

in force. The Hospital shall file for recordation the Declaration within five days after such injunction is terminated.

As used in this paragraph, "application for an amendment to its use permit and variance necessary to permit the construction of the Southwest and East Building" does not include that portion of the application seeking City approval to add neonatal beds and perinatal beds.

D. To comply with each and every term of the Declaration unless released therefrom pursuant to Section 9 thereof. Each of the covenants and restrictions contained in the Declaration shall also be deemed a part of this Agreement as if set forth in full.

E. To promptly advise each Neighborhood Association, and the City, of the filing of the Declaration and, upon receipt, to promptly provide each Association and the City with a copy of the recorded Declaration.

F. Within 30 days after the execution of this Agreement, to apply to the City requesting that the City effect, or approve, (1) the closure of South Hospital Drive between Colby Street and the proposed delivery entrance to the Hospital, except to emergency vehicles, the removal of the pavement in the closed portion and its replacement with landscaping materials which will support emergency vehicles access, as generally depicted on Exhibit 5 attached hereto, and (2) the closure of Webster Street (between the present Health Testing Center and the Huntmont Building) and Regent Street (immediately

south of its intersection with South Hospital Drive), all as generally depicted in Exhibit 5 attached hereto. The Hospital may make its application and support for such street closures contingent upon receipt of a use permit amendment and variance authorizing construction of the Southwest and East Buildings, on the conditions set forth in Paragraph 3 and Exhibit 2 and no others not acceptable to or accepted by the Hospital and the absence of any judicial prohibition against construction of those two buildings. The Hospital shall cooperate with the City and the Neighborhood Associations and make all good faith efforts to obtain these street closures, including agreeing with the City that the Hospital will bear the cost of construction of the street closures and maintain, at its cost, the portions of streets closed by the City in response to the Hospital's application which are not maintained by the City. In the event that litigation is filed challenging City approval of any of these street closures, the Hospital shall seek to intervene in such litigation to support the agreed-to street closures, and cooperate with the City in its defense of said street closures.

G. If requested by the Neighborhood Associations, to support a City Council resolution placing the City on record as approving of said street closures and directing City staff, agencies, boards, and commissions to take all actions necessary to implement and complete the street closures in a timely fashion.

H. To execute and file for recordation an amendment to the Declaration to include a specific description of any real property or interests in real property acquired by the Hospital in the Benefitted Estate after the execution of the Declaration. Such amendment shall be filed for recordation in the office of the Recorder, within 30 days after acquisition of such real property or interest in real property and shall subject such real property or interest in real property to the Declaration. Any real property or interest in real property owned by the Hospital as of the date of execution of the Declaration in the Benefitted Estate shall be subject to the terms of the Declaration, regardless of whether such real property or interest in real property is described in the Declaration. Upon request of a person owning real property within the Benefitted Estate, the Hospital shall execute and file for recordation an amendment to the Declaration to include a specific description of such real property or interest in real property, with the office of the Recorder within thirty days after receipt of such request.

I. To establish a Landscaping and Mitigation Committee (hereinafter "Committee") as an advisory committee to the Hospital. The Committee will consist of six (6) members, three (3) representing the Hospital who will be appointed by the Hospital and three (3) representing the Neighborhoods who will be appointed by the Neighborhood Associations. The Committee will be expected to monitor landscaping decisions on

areas to be landscaped by the Hospital pursuant to the mitigation measures attached, or by the City in the case of street closures, as well as to review the implementation of other mitigation measures designed to minimize construction-related impacts. The Hospital will comply with recommendations from the Committee unless the Hospital, in good faith, determines such recommendations to be unreasonable.

J. In the event the Hospital purchases the property immediately south of South Hospital Drive which is now improved with a boarding house (3028 Regent Street) and if it seeks and obtains approval from the City to relocate the existing building or otherwise provide replacement housing so that the building can be removed (or if it is otherwise removed), the resulting space will be developed by the Hospital as landscaped open space for reasonable use by residents of the surrounding area. No buildings or structures will thereafter be constructed on this site.

K. To make all reasonable and good faith efforts to obtain any City permit or approval as may be necessary to carry out the terms of this Agreement and the Declaration.

L. To include a clause in each of its construction contracts relating to the construction of the Southwest Building or the East Building requiring all contractors to fully observe any and all applicable mitigation measures, and

to designate a member of its staff who will have the responsibility to ensure that the Hospital's contractors comply with applicable mitigation measures and to respond to neighborhood communications regarding compliance with mitigation measures.

M. To provide such information, documentation, and inspection as may reasonably be requested by an architect designated by the Neighborhood Associations as to enable him or her to advise the Neighborhood Associations or the City whether or not the Southwest Building is being constructed with a foundation incapable of supporting more than two above-grade floors.

N. Not to support a City Master Plan or City Council resolution which deviates from the terms of this Agreement and the Declaration.

O. To maintain (including lighting, watering, cleaning, planting and mowing) the property owned by the Hospital which is to be converted to open space pursuant to the attached Declaration.

3. The Hospital and Neighborhood Associations shall jointly request that the Board of Adjustments and/or City Council condition its approval of the Hospital's application only upon the Hospital's filing for recordation of its Declaration and subsequent amendments to its Declaration, as set forth in Paragraphs 2C and 2H of this Agreement and compliance with the mitigation measures listed on Exhibit 2 and

the terms of the Declaration, unless released therefrom pursuant to Section 9 thereof. In no event shall the Hospital begin construction of the Southwest Building or East Building until such Declaration is filed with the office of the Recorder.

4. (A) Paragraph 2B of this Agreement may be enforced by the Neighborhood Associations and by one or more property owners provided, however, that the Association or property owner has given written notice to the Hospital and to the City specifying the particular measure which the Hospital has not complied with and requesting that the City take action to enforce compliance and thereafter thirty days have elapsed during which time the Hospital has failed to comply and the City has failed to initiate enforcement actions seeking compliance.

(B) All other terms of this Agreement may be enforced as set forth in Paragraph 10 of the Declaration.

5. Nothing in this Agreement or in the attached Declaration shall be construed to prevent any Neighborhood Association from opposing (a) a Hospital project to be located outside the boundaries of the Benefitted Estate as described in Exhibit 1; or (b) subsequent to January 1, 2014, the Hospital's construction of any building or structure or the conversion or use of any building or structure in Area B as set forth in Exhibit 4; or (c) subsequent to January 1, 2082, the Hospital's construction of any building or structure or the conversion or

use of any building or structure in Area A as set forth in Exhibit 4.

6. All notices under this Agreement shall be given in writing, first class postage prepaid. Notice shall be considered given when mailed. Notices shall be addressed as appears below for the respective party, provided that if any party gives notice of a change of name or address, notices shall thereafter be given as set forth in that notice.

If to Hospital:	Alta Bates Hospital 3001 Colby Street at Ashby Berkeley, CA 94705 Attention: Executive Vice President
If to Bateman Neighborhood Association	Bateman Neighborhood Association 2602 Webster Street Berkeley, CA
If to Fairview Park Neighborhood Association	Fairview Park Neighborhood Association 6432 Hillegass Avenue Oakland, CA 94618
If to Claremont- Elmwood Neighborhood Association	Claremont-Elmwood Neighborhood Association 220 Tunnel Road Berkeley, CA
If to Willard Park Neighborhood Association	Willard Park Neighborhood Association 2832 College Avenue Berkeley, CA

7. This Agreement may be amended only in writing, signed by the Hospital and each of the Neighborhood Associations or by their successors.

8. This Agreement shall benefit, and be binding on, the parties hereto and their successors.

9. Both parties agree to cooperate in good faith to achieve the purposes of this Agreement.

10. This Agreement may be executed in one or more counterpart originals and each such counterpart shall constitute one and the same document.

11. To the extent that this Agreement and the Declaration (1) restrict the Hospital's use of real property and interests in real property on the Colby-Ashby, Regent Street, South Hospital Drive and Hospital Parking Sites and in Areas A and B (all as defined in the Declaration) and (2) obligate the Hospital to file the Declaration restricting the use of such property or property interests (whether presently owned or hereafter acquired), the Hospital's parent corporation, Alta Bates Corporation, and its affiliated corporations named below, agree to, and are bound by, the obligations, restrictions and covenants imposed on the Hospital by the Agreement and the Declaration.

In addition, Alta Bates Corporation agrees not to cause or allow any other corporation which it controls to take any action which Alta Bates Corporation or Alta Bates Hospital is prohibited from taking by this Agreement or the Declaration and to take those steps within its power in connection with any partnership, joint venture or similar entity in which it is a

participant to prevent such entities from taking any action which Alta Bates Corporation or Alta Bates Hospital is prohibited from taking by this Agreement or the Declaration.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement by their respective duly authorized representatives as of the day and year first above written.

ALTA BATES HOSPITAL

By *John G. Egan*
President, Board of Trustees

BATEMAN NEIGHBORHOOD ASSOCIATION

By *Ellen Dwyer* PRESIDENT
President

ALTA BATES CORPORATION

By *Robert M. ...*

FAIRVIEW PARK NEIGHBORHOOD ASSOCIATION

By *Ellen Dwyer*
President

ALTA BATES FOUNDATION

By *Frances M. ...*

CLAREMONT-ELMWOOD NEIGHBORHOOD ASSOCIATION

By *Robert M. ...*
President

GUARDIAN FOUNDATION, INC.

By *E. J. ...*

WILLARD PARK NEIGHBORHOOD ASSOCIATION

By *Jane ...*
President

The following individuals, while not parties to this Agreement, are members of the Neighborhood Associations that are signatories, and wish to associate themselves with the letter and spirit of this resolution of long-standing disputes between Alta Bates Hospital and its neighbors.

Erin P. Galt

David M. Kellerman

Pat L. Gorman

Howard R. Rosenberg

Ben D. Pappert

DESCRIPTION OF BENEFITTED ESTATE

All that certain real property located in the City of Berkeley and the City of Oakland, County of Alameda, State of California, having a street address on, or lying within the following boundaries.

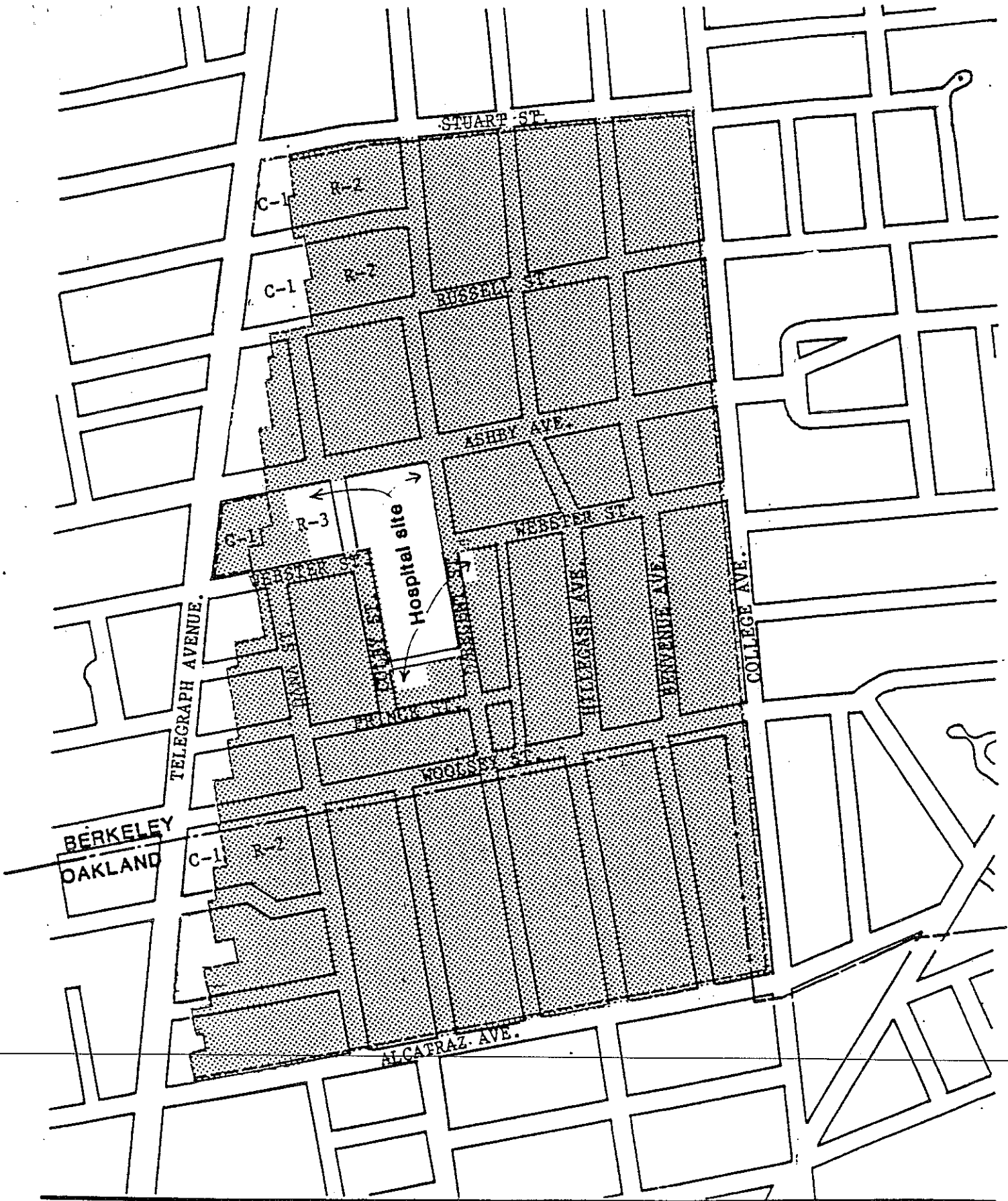
Beginning at the intersection of Stuart Street and College Avenue, in the City of Berkeley, then southerly along the west boundary of College Avenue to Alcatraz Avenue in the City of Oakland, then westerly along the north boundary of Alcatraz Avenue to the east property boundary of the parcel located at the northeast intersection of Alcatraz and Telegraph Avenues, which parcel is now zoned "C-30" by the City of Oakland, then northerly along the east (rear) boundaries of all parcels fronting on the east boundary of Telegraph Avenue to the north boundary of Webster Street in the City of Berkeley, then westerly approximately 155 feet to the southeast intersection of Webster and Telegraph, then northerly to the southeast intersection of Telegraph and Ashby Avenue, then easterly approximately 171 feet to the east (rear) boundary of 2414 Ashby Avenue, then northerly along the east (rear) boundaries of all parcels fronting on the east boundary of Telegraph Avenue, which parcels are now zoned "C-1" by the City of Berkeley, to the south boundary of Stuart Street in the City of Berkeley (approximately 114 feet easterly of the intersection of Stuart Street and Telegraph Avenue), then easterly along the south boundary of Stuart Street to the point of beginning; excepting therefrom however:

(1) any land owned by the City of Berkeley as a public street; and

(2) the property now owned by Alta Bates Hospital designated as the Colby-Ashby Site, the South Hospital Drive Site, the Regent Street Site and the Hospital Parking Site on Exhibit 1 to the Declaration.

The boundaries of the Benefitted Area are shown on a map which is part of this Exhibit, Page 2.

MARCH 1983



ALTA BATES HOSPITAL
DECLARATION EXHIBIT

BENEFITTED
ESTATE

LEGEND

-  AREA
-  BENEFITTED
-  ESTATE



CONDITIONS TO BE IMPOSED BY THE CITY OF BERKELEY
ON ALTA BATES HOSPITAL VARIANCE/USE PERMIT AMENDMENT

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1. That upon occupancy of the East Building the Hospital relocate the Ashby house to a residential lot in Berkeley and sell or lease it for residential occupancy.
2. That the Hospital remove the Health Testing Center building and develop and maintain the site as landscaped open space, at the earliest date permitted by the construction of the Southwest Building, but no later than upon commencement of construction of the East Building or occupancy of SW Building, whichever occurs first. Upon appropriate City approval, the Hospital will develop and maintain as landscaped open space, that portion of Webster Street at Regent (adjacent to the Huntmont Office facility and the Health Testing Center site) which is closed by the City.
3. That the Hospital convert and maintain the west one-half of the parking lot south of South Hospital Drive (doctors' parking lot) to landscaped open space before the beginning of construction of the SW Building. The design should be compatible with the adjacent Bateman Mall as approved by the City Council. That before occupancy of the SW Building the remainder of the parking lot be landscaped and maintained to be compatible with surrounding landscaped areas.
4. That the Hospital shall construct and maintain an extensively landscaped earthen berm or mound along the west facade of the Southwest Building.
5. That the proposed roof gardens on the SW Building contain vegetation visible from the ground providing a screen sufficient to prevent users from looking down on nearby residential property or park area.
 - 5.A. Any entrance on the SW corner of the SW Building would be normally locked from the outside and not used for general egress or ingress.
 - 5.B. That the Hospital limit pick-up from and delivery to the loading dock in the Southwest Building to Hospital-related service vehicles and required trash pick-ups. The Hospital will maintain this area near the loading dock in a sanitary and trash-free state. This loading dock is not to be used as the primary delivery and/or receiving point for the Hospital.
6. That the Hospital will hire a qualified arborist to determine if it is feasible to transplant the four mature trees, screening the existing oxygen tank, to presently landscaped areas near the 1975 Building, the parking garage, or the planned Bateman Mall. If relocation is infeasible, or if the estimated cost exceeds \$10,000, in the opinion of the arborist, they should be replaced with healthy nursery stock in ten gallon or larger containers.
8. That the glass installed in the new buildings shall not be reflective or tinted so as to appear opaque from the outside. It may be tinted, for energy conservation benefits, in a manner similar to the glass of the 1975 Building.
9. That the Hospital construct, plant, and maintain a planter along the roof-line of the boiler building closest to South Hospital Drive. The plants contained therein should hang so as to partially cover the wall below.
10. That the Hospital meet with John Muir School and the City Traffic Engineer to prepare a parking plan for Hall of Health visitors acceptable to the Traffic Engineer.

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11. That the Hospital provide parking for physicians in the lower level of the existing garage during construction when no parking is available at the existing emergency physicians parking lot.
12. That in the construction contracts the Hospital require the contractor's employees to park at the Claremont facility and that the Hospital provide regular shuttle service linking that facility with the construction site.
13. That the Hospital provide free employee parking at the Claremont facility and free shuttle service to and from the Hospital during construction of the parking garage, continuing so long as the Claremont property is leased or owned by the Hospital.
15. That the Hospital instruct their contractors to limit deliveries by truck to the site during the 7:30-8:30 a.m. and 4:30-5:30 p.m. peak traffic periods.
16. That the Hospital instruct their contractors to adopt a truck routing plan (in coordination with the City of Berkeley) to focus truck traffic on the least congested major streets and prohibit truck traffic on heavily congested streets and neighborhood streets.
17. That the Hospital maintain two-way traffic on Colby and Regent Streets in front of the construction areas during project construction.
18. That the Hospital maintain pedestrian flow in front of the construction areas along Colby, South Hospital Drive, and Regent Streets during the construction process.
20. That the Hospital designate free parking spaces in the garage for car pools and van pools and that the number of spaces shall be equal to the average number of day shift car pools or van pools registered with the Hospital's Transportation Coordinator in the preceding three months.
21. That the Hospital apply to the City requesting: (1) The closure of South Hospital Drive between Colby Street and the proposed delivery entrance to the Hospital, except to emergency vehicles; (2) The closure of Regent Street (immediately South of its intersection with South Hospital Drive); and, (3) The closure of Webster Street at Regent, but only in conjunction with a traffic plan to avoid further traffic on Bateman Street. The Hospital will landscape, maintain and provide public access for these three areas, if these are not done by the City.
- ~~24. That the Hospital's Transportation Coordinator meet with the owners and/or managers of medical office buildings adjacent to the Hospital for the purpose of coordinating carpool formation and parking availability.~~
27. That the Hospital specify that all mechanical or electrical equipment in or on the proposed new buildings and existing buildings be designed such that continuous sound levels do not exceed 30 DB inside the nearest residence with the windows open. An annual monitoring report must be filed with the mitigation/landscaping committee to ensure that the project meets this decibel level.
28. That an acoustical engineer be retained by the architects to review plans and specifications for implementation of condition 27.

CONDITIONS TO BE IMPOSED BY THE CITY OF BERKELEY
ON ALTA BATES HOSPITAL VARIANCE/USE PERMIT AMENDMENT

2/22/83

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30. That the demolition contracts specify that the interiors of buildings be demolished before the exterior walls.
31. That a ten-foot high perimeter fence be erected prior to foundation excavation in areas where the construction sites face residential development. The fence shall be constructed of plywood and shall be air-tight except for entrances and exits for construction vehicles.
32. That the construction contracts shall specify that noisy construction activity not occur before 8:00 a.m. or after 5:00 p.m. and that all construction equipment be adequately muffled and maintained as appropriate.
33. That the foundation designs be reviewed and approved by a registered geotechnical engineer.
34. That the construction contracts shall specify that the contractors shall sweep streets adjacent to the site daily to reduce siltation and blockage of storm drains. That construction equipment shall be fueled at locations where petroleum spillage can be contained and that catchment basins to trap silt and debris shall be constructed. As necessary the silt and debris shall be transported to land fills. Any contaminants shall be flushed to catchment basins.
35. That the Hospital shall adequately shore existing buildings adjacent to the construction areas based on recommendations by the foundation engineers.
36. That the shoring procedures be designed to minimize erosion potential.
37. That during the watering operations sediment-laden water shall be channeled to an on-site pit filled with drain rock for settlement before water is pumped into the City's storm drain system. Storm water from construction areas shall, to the extent possible, be channeled to the same settling pits. All the dewatering procedures shall be reviewed and monitored by the Berkeley Public Works Department.
38. That the Hospital, or its contractors, monitor the surrounding Hospital buildings for any movement during the dewatering.
39. That the laundry building and boiler building be underpinned to prevent foundation damage during the dewatering or construction, if so recommended by the Hospital's engineers.

41. ~~That the new buildings contain insulation to R-19 values in the roof, R-11 values in walls and that ducts and pipes be insulated in accordance with Title 24 of the California Administrative Code.~~
42. That the project's proposed new buildings include solar shading on the south and west faces.
43. That the project include an energy management computer to reset heating, hot water temperature, air temperature and to cycle systems on and off based upon occupancy schedules.

- P 44. That the proposed buildings contain high intensity discharge lighting.
45. That energy efficient motors and motor controls be incorporated in the projects HVAC systems.
46. That the project have no operable windows except where required by state code.
- ~~47.~~ That economizer cycles on all air handlers be specified and installed.
- ~~48.~~ That the project include consolidation of two existing 480 volt lines into one 12 KV primary service line in connection with construction of on-site transformers.
49. That the project design include multi-level controlled lighting in areas 100 square feet or larger.
50. That the Hospital evaluate the feasibility and cost effectiveness of complying with prescriptive standard for envelope design specified in non-residential Title 24 regulations.
51. That the Hospital consider time switches on closet and storeroom lights.
- P 52. That the Hospital specify elevator controls that shut down under light elevator load conditions.
53. That the Hospital evaluate the potential for variable air volume space conditioning where allowed by codes.
- A 54. That the Hospital consider installing high intensity discharge lighting outdoors and in stairwells.
55. That energy efficient glazing be installed on the proposed new buildings.
56. That during construction the Hospital water exposed earth surfaces as appropriate to minimize resuspension of dust.
57. That the Hospital plant ground cover on exposed surfaces as soon as site grading is completed and before the rainy season begins.
58. That the Hospital water spray or cover haul trucks leaving the site in order to reduce dust emission.
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59. That the construction contracts prohibit the contractor from operating equipment on residential streets beyond the site.
60. That the construction contracts require that construction equipment be shut off when not in use.
61. That the demolition contracts require adherence to regulations promulgated by the BAAQMD.

Recording Requested By:

When Recorded Return To:

DECLARATION
OF
COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (hereinafter "Declaration") by Alta Bates Hospital, a non-profit corporation established under the laws of the State of California (hereinafter "Hospital") is made with regard to certain improved real property in the City of Berkeley bounded by Ashby Avenue, Regent Street, South Hospital Drive and Colby Street (hereinafter the "Colby-Ashby Site") and to certain adjacent properties owned by the Hospital (which are hereinafter referred to as the "Regent Street Site", the "South Hospital Drive Site" and the "Hospital Parking Site"), all of which are more particularly described on Exhibit A attached hereto.

This Declaration is also made in respect to the leasehold interest held by Guardian Foundation, Inc. at the Southeast corner of the intersection of Ashby Avenue and Regent

EXHIBIT 3

(This Exhibit consists of 18 numbered pages and 12 pages of exhibits)

Street in the City of Berkeley, now occupied by the Claremont Convalescent Hospital, more particularly described on Exhibit A attached hereto.

This Declaration is also made in respect to any real property or interest in real property now owned or hereafter acquired by the Hospital within an area surrounding the Hospital which area is described on Exhibit B attached hereto and is hereinafter referred to as Area A and Area B.

RECITALS:

WHEREAS, the Hospital applied to the City of Berkeley for an amendment to its use permit and a variance necessary to authorize the Hospital's plan for the removal of buildings from the Colby-Ashby Site and their replacement with new buildings, the expansion of certain patient-related hospital services, and the modification of a previously established open-space requirement; and

WHEREAS, residents of the neighborhoods surrounding the Colby-Ashby Site, the Regent Street Site, and the South Hospital Drive Site (hereinafter "Neighborhood Residents") opposed the Hospital's applications on the grounds that they would be adversely affected by the granting of the Hospital's applications, including the adverse impacts on their health, quality of life, and the value of their property; and

WHEREAS, Neighborhood Residents wish to avoid further adverse impacts resulting from future Hospital construction and/or expansion; and

WHEREAS, the Neighborhood Residents withdrew their opposition to the Hospital's application for a variance authorizing the replacement of existing buildings on the Colby-Ashby Site with new buildings, agreed to remain neutral, before the City of Berkeley, regarding the Hospital's application for an amendment to its use permit to expand certain patient-related services, and agreed that, prior to the year 2014, certain future Hospital construction and/or expansion, as described in this Declaration and the Agreement dated as of March 3, 1983 between the Hospital and certain Neighborhood Associations, could occur notwithstanding any such adverse impacts on certain conditions, among them being the Hospital's agreement restricting the future development and use of the Colby-Ashby Site, the development and use of the Regent Street and South Hospital Drive Sites as open space, and the development and use by the Hospital of real property within AREAS A & B, all as contained in this Declaration; and

WHEREAS, the City of Berkeley, on March __, 1983, granted the Hospital's applications for use permit and variance, thereby authorizing the Hospital's plan of replacement and development, subject to specified conditions; and

WHEREAS, the Hospital desires to proceed with its plan of replacement and development and accordingly desires that its agreements with respect to its use and development of the Colby-Ashby Site, the Regent Street Site, the South Hospital Drive Site and real property and interests in real property

within AREAS A & B, including the Hospital Parking Site, be made a covenant and restriction running with the land, and binding on all successors in interest as provided herein.

NOW, THEREFORE, the Hospital hereby declares and covenants as follows:

1. General

This Declaration is expressly made for the benefit of all that real property consisting of parcels situated in the area of the City of Berkeley and the City of Oakland, described more particularly in Exhibit C attached hereto (hereinafter the "Benefitted Estate") and may be enforced by the owners of such parcels and their successors and assigns (the "Beneficiaries") as provided in Paragraph 10 herein. All dates in this Declaration which relate to specific buildings are intended to be dates of the start of construction, unless otherwise specified.

2. Definitions

As used in this Declaration:

(a) "Patient-care space" means space used for medical, inpatient, or out-patient related uses, but does not include space used for purposes such as education, storage, conference, dining, and administration.

(b) "Emergency vehicle" means ambulance,
police, or fire vehicles.

3. The Colby-Ashby Site

(a) The use permit amendment and variance issued by the City of Berkeley authorize the construction of

two new buildings on this site, as replacements for buildings existing at the date of the Hospital's application to the City. The new buildings so authorized are (1) the Southwest Building containing 22,341 assignable square feet, consisting of a basement and two above-grade floors (and a penthouse housing exclusively mechanical equipment for the building) with a foundation incapable of supporting any additional floors or portions of floors, and located at the corner of Colby Street and South Hospital Drive; and (2) the East Building, containing 30,353 assignable square feet, consisting of a basement and two above-grade floors to be located in the east central portion of the site facing Regent Street, in an area now occupied by the 1928 and 1954 Buildings, both of which are to be demolished.

(b) The ultimate development of the East Building shall be no more than a basement plus three complete and three partial above-grade floors. The ultimate development of the Southwest building shall be no more than a basement plus two complete above-grade floors and the above-described penthouse.

(c) The Hospital shall not construct any new building, expand the size of any existing buildings (by the addition of floors or otherwise) or replace any building on the Colby-Ashby site except as authorized by this Declaration.

(d) The Hospital may expand the East Building in June, 1993, and no earlier, by the addition of one complete floor which may be used, in whole or in part, for patient care. As used herein, the date June, 1993 refers to the earliest date

at which the Hospital may first occupy such third floor. The Hospital may commence construction of such third floor no earlier than April 1, 1992 so as to permit it to first occupy the third floor in June 1993.

(e) The Hospital may further expand the East Building in 2003, and no earlier, by the addition of up to three partial floors which may be used, in whole or in part, for patient care. As used herein, the date 2003 refers to the earliest date at which the Hospital may first occupy such partial floors. The Hospital may not commence construction of such partial floors prior to 2002, regardless of whether such construction commencement date will permit occupancy in the year 2003.

(f) As used in this paragraph in reference to the East Building, "complete floor" means a floor containing no more than 18,800 gross square feet; "partial floor" means a floor containing no more than 13,000 gross square feet.

* (g) Commencing construction no earlier than the year 2008, the Hospital may replace any building on the Colby-Ashby site with a new building provided that the new building contains no more gross square feet than, no more above-grade floors than, and is located substantially on the site of, the building to be replaced.

(h) The Hospital shall not alter the use of or convert its buildings or structures now utilized as its laundry,

shop, power plant, incinerator if the change results in increased patient care space within the Hospital on the Colby-Ashby Site.

* (i) At any time the Hospital may replace buildings or structures destroyed by fire, earthquake or other catastrophe or damaged so severely that rehabilitation is infeasible, or which it is required to remove or vacate by law, or which are rendered unusable by then-applicable laws, regulations or codes, provided that the replacement building contains no more gross square footage than, no more above-grade floors than, and is located substantially on the site of, the building replaced.

(j) At the same time that this Declaration permits construction and occupancy of the third floor of the East Building, the Hospital may construct a below-grade addition underneath the landscaped area which borders the north edge of the 1975 building, provided that, prior to the year 2008, such addition does not result in increased patient-care space within the Hospital on the Colby-Ashby Site. The addition shall not provide any additional entrances, exits, or external structures, except such emergency exits as may be required by governmental agencies with jurisdiction over construction for fire safety and related purposes.* [Upon completion, the external appearance of the area will be unaltered from its appearance prior to construction, except for such emergency exits as are required by such governmental agencies.]

4. The South Hospital Drive Site

(a) The South Hospital Drive Site consists of a parcel of approximately 9,646 square feet located at the southeast corner of Colby Street and South Hospital Drive now used as a physicians' parking lot. Prior to commencement of construction of the Southwest Building, the Hospital will fence approximately one-half of the parking lot area and landscape that portion adjacent to the neighborhood as park space.

(b) At the earliest date permitted by the construction of the Southwest Building, but in any case prior to the occupancy of the Southwest Building by any Hospital equipment, personnel or programs, the Hospital will remove the fence and remaining parking lot and develop and maintain the South Hospital Drive Site as landscaped open space for reasonable use by residents of the surrounding area. No buildings or structures will thereafter be constructed on this site.

(c) If the City of Berkeley closes South Hospital Drive (which separates the Colby-Ashby site from the South Hospital Drive site) between Colby Street and the Hospital's proposed delivery entrance to all traffic other than emergency vehicles, the Hospital will, at its expense, and upon occupancy of the Southwest Building by any Hospital equipment, personnel or programs, perform the construction work necessary to effect such closure, the removal of the pavement in the closed portion and its replacement with landscape materials which will support passage by emergency vehicles, as generally

depicted on Exhibit D. The Hospital will also thereafter maintain any landscaped areas of South Hospital Drive not maintained by the City of Berkeley. The Hospital's obligations under this Paragraph 4(c) are subject to its having the legal authority to perform the construction and maintenance work described.

5. The Regent Street Site

The Regent Street Site consists of a parcel of approximately 7,167 square feet located at the Southwest corner of Webster and Regent Streets now improved with the Health Testing Center.

At the earliest date permitted by the construction of the Southwest Building, but no later than upon commencement of construction of the East Building, the Hospital will remove all buildings and structures from the Regent Street Site and develop and maintain the site as landscaped open space for reasonable use by residents of the surrounding area. No buildings or structures will thereafter be constructed on this site.

6. Area A and Area B.

(a) For purposes of this Declaration, the Surrounding Area, described in Exhibit B hereto, is divided into two zones: Area A and Area B. Included in Area B is the Hospital-owned property at the Southwest corner of Ashby Avenue and Colby Street, improved with a parking facility and referred to herein as the Hospital Parking Site.

(b) The Hospital shall not, prior to the year 2082, lease additional space for medical, patient, or hospital related uses, construct any building or structure, or convert any building or structure to, medical, patient or hospital-related uses within Area A, or encourage or assist others to do so. In addition, the Hospital shall not contract for a third-party to provide medical, patient or hospital-related services directly to it in a building in Area A which the Hospital would be prohibited by this Declaration from using to perform such services. Residential uses do not constitute medical, patient, or hospital-related uses. Nothing in this Paragraph 6(b) shall be construed to prohibit the Hospital from making minor additions to residential structures permitted by the applicable zoning ordinance or from replacing structures destroyed by fire, earthquake or other catastrophe or damaged so severely that rehabilitation is infeasible, with a similar structure.

(c) The Hospital shall not, prior to the year 2014, lease additional space for medical, patient, or hospital-related uses, construct any building or structure, or convert any building or structure to medical, patient or hospital-related uses within Area B. In addition, the Hospital shall not contract for a third-party to provide medical, patient, or hospital-related services directly to it in a building in Area B which the Hospital would be prohibited by this Declaration from using to perform such services. Notwithstanding the

foregoing: (1) the Hospital may use (including purchasing, leasing or contracting for services to be performed therein) any existing building or structure within Area B which was utilized for medical, patient, or hospital-related uses as of January 1, 1983, as well as the commercially zoned property at the Southeast corner of Telegraph and Ashby Avenues (now used as a gas station) for any purposes now permitted by the present R-3 zoning of the City of Berkeley (Ordinance 3018-N.S., as of August 12, 1982); and (2) this paragraph 6(c) shall not apply to limit the construction or expansion of parking facilities in Area B concurrently with, or subsequent to, an expansion of the Hospital permitted by paragraph 3(d) or 3(e) of this Declaration, provided that such parking structure is constructed on a parcel contiguous to that on which the presently existing parking structure at Ashby Avenue and Colby Street is located. The size and scope of any such parking construction must, however, relate directly to needs for parking generated by permitted concurrent or prior construction under Paragraph 3(d) or (e) or, if additional parking is required by the city of Berkeley, under paragraph 3(j) of this Declaration.

7. Acquisition of Property in the Surrounding Area.

Real property or interests in real property acquired by the Hospital in Area A or Area B after the date of this Declaration shall be subject to this Declaration. The Hospital shall file for recordation an amendment to this

Declaration, to include a specific description of such acquired real property or interest in real property, with the office of the Recorder, Alameda County, California, within 30 days after acquiring title to such real property or interest in real property. Notwithstanding the foregoing, any real property or interest in real property owned by the Hospital as of the date of this Declaration in Area A or Area B, or thereafter acquired, shall be subject to this Declaration regardless of whether such real property or interest in real property is described in this Declaration or an amendment thereto. Upon request of a person owning real property within the benefited estate, the Hospital shall file for recordation an amendment to this Declaration to include a specific description of such real property or interest in real property, with the Office of the Recorder, Alameda County, California, within 30 days after receipt of such request.

8. Constructive Notice

Every person or entity who now or hereafter owns, occupies or acquires any right, title or interest in or to any portion of the Colby-Ashby Site, the South Hospital Drive Site, the Hospital Parking Site, or the Regent Street Site or who ~~hereafter acquires from the Hospital any real property or~~ interest in real property acquired by the Hospital in Area A or Area B shall be conclusively deemed to have knowledge of, and to have agreed to, every covenant and restriction contained

herein, whether or not any reference to this Declaration is contained in the instrument by which such person or entity acquired such interest, but only insofar as such covenant or restriction applies to the particular property or interest in property so acquired.

9. Changed Circumstances; Release

(a) In accordance with principles applicable in law or equity, the Hospital may depart from the covenants and restrictions in paragraph 3(d) regarding the date at which the Hospital may construct and occupy a third floor on the East Building to the extent warranted by a change of circumstances as determined by a court of competent jurisdiction.

(b) All other restrictions on real property development and use contained within this Declaration shall be strictly complied with. The Hospital recognizes that the need and demand for its services as well as its need and desire for buildings and structures resulting from, among other things, changes/ expansions in offered services, medical equipment and technology, changes in surrounding land use, changes in (or demise of) other medical facilities or changes in government regulation will change during the term of this Declaration and will not justify a departure from the terms of the Declaration, except as may be permitted by subparagraph (a) of this paragraph in respect to the covenants and restrictions contained in paragraph 3(d).

The Hospital or a successor in interest may obtain release from any provision of this Declaration by written consent of Beneficiaries owning of record at least fifty-one percent (51%) in number of the parcels constituting the Benefitted Estate.

10. Enforcement

The provisions of this Declaration may be enforced by a suit in law or equity brought in a court of competent jurisdiction. Such a suit may be brought only by Beneficiaries owning of record at least twenty (20) separate parcels within the Benefitted Estate. Notwithstanding any provision to the contrary, any Beneficiary may oppose:

(a) Any Hospital application, made to any governmental entity, which departs from the covenants and restrictions in this Declaration, and

(b) Any lawsuit seeking to invalidate, interpret, modify, allow departure from the terms of, or otherwise affect this Declaration.

11. Term and Binding Effect

Except for Paragraph 6(c), which terminates on January 1, 2014, all of the covenants and restrictions in this Declaration shall remain in effect, and shall not be revoked, for a period of ninety-nine (99) years, commencing with the date this Declaration is recorded in the office of the Recorder of Alameda County, California.

This Declaration shall run with the Colby-Ashby Site, the South Hospital Drive Site, the Regent Street Site, the Hospital Parking site, any other real property or interest in real property now owned or hereafter acquired by the Hospital in Area A and Area B. It shall be binding on the Hospital and all successive owners of all or any portion of those sites, real properties or interests in real property, (insofar as a covenant or restriction applies to the particular property or interest in property so acquired) except that persons who acquire any such property other than the South Hospital Drive Site or the Regent Street Site and convert it from medical, patient or hospital-related uses to another use permitted by the then-applicable zoning ordinance shall not be bound by this Declaration unless they thereafter reconvert such property to medical, patient, or hospital-related uses, in which case this Declaration shall be binding upon them.

The covenants and restrictions in this Declaration shall be binding, in addition, on the Hospital's parent, subsidiary and affiliated corporations, such as Alta Bates Corporation, Alta Bates Foundation, and Guardian Foundation, Inc.

12. City Approvals

The Hospital will make all reasonable and good faith efforts to obtain any City permits or approvals necessary to carry out the terms of this Declaration.

13. Construction

This Declaration shall be construed according to its fair intent and meaning and neither for nor against the Hospital or the Beneficiaries.

14. Subordination to Encumbrances

Notwithstanding anything in this Declaration to the contrary, the covenants and restrictions contained in this Declaration shall be subordinate to any encumbrance upon all or any portion of the Colby-Ashby Site, the Regent Street Site the South Hospital Drive Site, the Parking Garage Site, or property now owned or hereafter acquired by the Hospital in Area A and Area B given by the Hospital to secure indebtedness incurred for the purpose of acquiring the property, constructing existing improvements or improvements permitted by this Declaration, or refinancing such indebtedness.

Nothing in this paragraph shall be construed to allow the Hospital to take any action prohibited by this Declaration.

15. Paragraph Captions

Paragraph captions used herein are inserted for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope and intent of the particular paragraph to which they refer.

16. Relationship to City Permits

This Declaration is made by the Hospital in express reliance upon the validity of the use permit amendment

and variance issued by the City of Berkeley in 1983 authorizing the construction of the Southwest Building and East Building described in paragraph 3(a).

If, as a result of any legal proceeding (whether filed before or after this Declaration is recorded) challenging the validity of the use permit amendment or variance or attempting in any other way to prevent or delay construction of these two buildings, the Hospital is enjoined or otherwise prohibited from proceeding with construction, the effectiveness of this Declaration shall be suspended during the time such injunction is in force. If a final judgment is entered declaring that said use permit amendment or variance or both, authorizing the construction of the Southwest and East buildings, were improperly issued by the City of Berkeley and prohibiting the Hospital from constructing or occupying them, then this Declaration shall become null and void.

17. Validity of Declaration

In the event this Declaration, or any part thereof, is not a valid Declaration of Covenants and Restrictions, it shall be construed to be an agreement between the Hospital and all owners of real property in Areas A and B. It shall be enforceable, mutatis mutandis, by persons owning of record at least twenty separate parcels within the Benefitted Estate.

18. Authority for Declaration

The Board of Trustees, on behalf of Alta Bates Hospital, authorizes this Declaration. A copy of such resolution is attached hereto as Exhibit E.

IN WITNESS WHEREOF, this Declaration has been executed this _____ day of _____, 1983, by Alta Bates Hospital, acting by and through its Board of Trustees.

ALTA BATES HOSPITAL

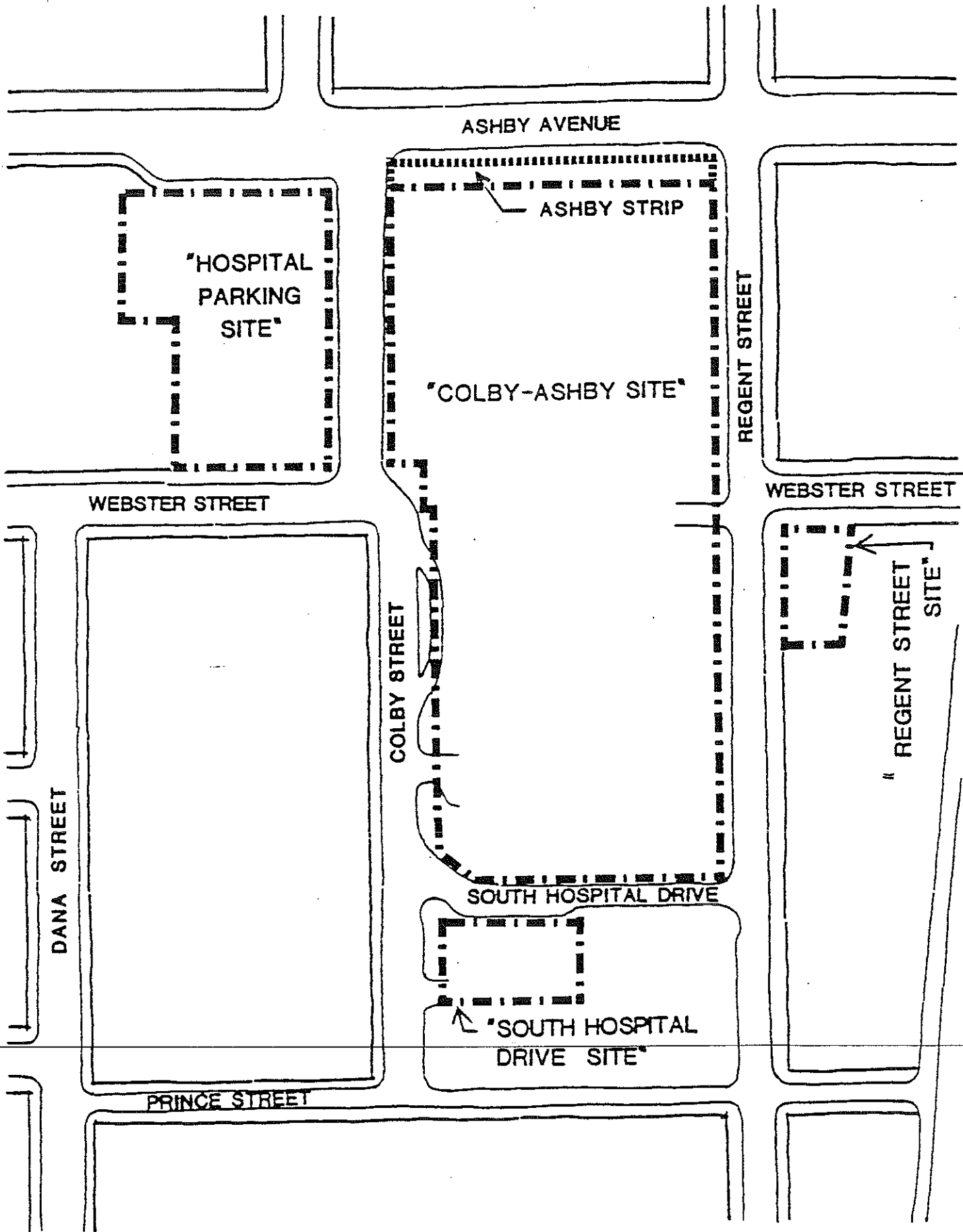
By _____
President, Board of Trustees

STATE OF CALIFORNIA)
) ss.
COUNTY OF ALAMEDA)

On this _____ day of _____, in the year 1983, before me, a Notary Public in and for said State, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as president or on behalf of the corporation therein named and acknowledged to me that the corporation executed it.

Notary Public

Seal



LTA BATES HOSPITAL
 ECLARATION EXHIBIT
 EXHIBIT A

PROPERTY
BOUNDARIES
 ABH

LEGEND
 - - - -
 BOUNDARY
 PROPERTY



1. THE COLBY-ASHBY SITE

- A. Lots 22, 23, 24, 25, 26, 27, 40, 41, 42, 43, 44 and 45 and a portion of Lots 28 and 39 in Block E, as said lots and Block are shown on that certain Map entitled "Map of Claremont Tract in Oakland Township, Alameda County, Cal." which map was riled in the Office of the Recorder of the County of Alameda, State of California on May 10, 1886 in Book 11 of Maps at Page 44; Lots 24, 25, 26, 27, 28 and 29 and a portion of Lots 30 and 31, as said lots are shown on that certain map entitled "Map of the Smilie Tract, Berkeley, Cal." which map was filed in the Office of the Recorder of the County of Alameda, State of California on November 16, 1906 in Book 21 of Maps at Page 90; Lots 14, 15, 16, 17, 18, 19 and 20 and a portion of Lot 13 as said Lots are shown on that certain map entitled "Map of Webster Tract, Berkeley, Alameda County, Cal.", which map was filed in the Office of the Recorder of the County of Alameda, State of California on June 12, 1908 in Book 24 of Maps, at Page 5; and a portion of Webster Street between Regent and Colby Streets as said portion was abandoned by the Council of the City of Berkeley Ordinance No. 4527 Finally Adopted on March 30, 1971; and as all aforesaid Tracts, Lots, Block E and streets are shown on that certain map entitled "Record of Survey, Lots 22 thru 28 and Lots 39 thru 45 Block E "Claremont Tract", Lots 13 thru 20 "Map of Webster Tract", Lots 24 thru 33 "Map of Smilie Tract" City of Berkeley, Alameda County, California", which map was filed in the Office of the Recorder of the County of Alameda, State of California on April 7, 1971 in Book 8 of Record of Survey, at Page 41, as a whole described as follows:

BEGINNING AT A POINT in the easterly line of Lot 13 of aforesaid Map of Webster Tract as shown on said map of Record of Survey, distant thereon North 10° 19' West 27.50 feet from the southeast corner thereof; said POINT OF BEGINNING being also the northeast corner of the lands described in Deed from Alta Bates Hospital, a California non-profit corporation to the City of Berkeley, a Municipal Corporation, recorded in the Office of the Recorder of the County of Alameda, State of California on August 18, 1972 on Reel 3210, Image 162 of Official Records; thence from said POINT OF BEGINNING along the northerly line of said lands the following 4 courses: South 79° 41' West 116.50 feet; North 10° 19' West 2.00 feet; South 79° 41' West 92.40 feet; tangent to the last said course, on the arc of a curve to the right with a radius of 50.00 feet, subtending a central angle of 90° 00', an arc distance of 78.54 feet to a point in the westerly line of Lot 30 of aforesaid Smilie Tract distant thereon South 10° 19' East 5.75 feet from the northwesterly corner thereof; thence along the westerly line of Lots 30, 29, 28, 27, 26, 25 and 24 North 10° 19' West 269.75 feet to the northwest corner of said Lot 24; thence continuing

along the westerly line of aforesaid abandoned portion of Webster Street the following 3 courses: North 10° 19' West 18.00 feet; South 79° 41' West 11.10 feet; North 10° 19' West 42.00 feet to a point in the southerly line of Lot 40 in Block E of aforesaid Map of Claremont Tract as shown on aforesaid Record of Survey, distant thereon South 79° 41' West 20.00 feet from the southeast corner thereof; thence along said southerly line South 79° 41' West 33.00 feet to a point in the southerly line of Lot 9 distant thereon South 79° 41' West 3.00 feet from the southeast corner thereof; said point being also the southeast corner of the lands described in Deed from Alta Bates Hospital, a California non-profit corporation to the City of Berkeley, a Municipal Corporation recorded in the Office of the Recorder of the County of Alameda, State of California on August 18, 1972 on Reel 3210, Image 156 of Official Records; thence along the easterly line of said lands North 10° 19' West 255.00 feet (Northerly 256.55 feet, Deed) and North 1° 00' East 5.10 feet to a point in the southerly line of a strip of land 20.00 feet in width as described in that certain Corporation Grant Deed from Alta Bates Hospital, a California non-profit corporation to the City of Berkeley, a Municipal Corporation, recorded in the Office of the Recorder of the County of Alameda, State of California on August 18, 1972, on Reel 3210, Image 160 of Official Records; thence along said southerly line of a strip of land varying from 20.00 feet to 25.00 feet in width the following 5 courses: North 79° 41' East 2.00 feet; South 10° 19' East 5.00 feet; North 79° 41' East 100.00 feet; North 10° 19' West 5.00 feet; North 79° 41' East 200.00 feet to a point in the easterly line of Lot 22 in Block E of aforesaid Map of Claremont Tract distant thereon South 10° 19' East 20.00 feet from the northeast corner thereof; thence along said easterly line of Lot 22 and of Lot 45 in said Block E and along the easterly line of aforesaid abandoned portion of Webster Street and along the easterly line of Lots 18, 17, 16, 15, 14 and 13 of aforesaid Map of Webster Tract South 10° 19' East 641.75 feet to the POINT OF BEGINNING.

Containing 176,758 square feet more or less (4.068 Ac. ±)

- B. If and when the Hospital purchases the "ASHBY STRIP" from the City of Berkeley it will become part of the COLBY-ASHBY SITE. The Ashby Strip consists of:

The Northerly 20.00 feet of Lots 22, 23, 24, 25 and 28 in Block E and the Northerly 25.00 feet of Lots 26 and 27 in Block E as said Lots and Block are shown on the map entitled "Map of Claremont Tract in Oakland Township, Alameda County, Cal." which map was filed in the Office of the Recorder of Alameda County, State of California on May 10, 1886 in Book 11 of Maps, at Page 24.

Containing 6,560 square feet, more or less.

2. THE REGENT STREET SITE

Commencing at the point of intersection of the Southern line of Webster Street with the Eastern line of Regent Street as said streets now exist; thence along said Southern line of Webster Street, as said street now exists, East 64.77 feet (the bearing of said Southern line of Webster Street, being taken as East for the purpose of this description and all other bearings herein mentioned are referred thereto; thence leaving said Southern line of Webster Street; South 4° 02' 15" West 118.55 feet; thence West 56.43 feet to a point on the Eastern line of said Regent Street, as said street now exists; thence along said eastern line of said Regent Street, as said street now exists. North 118.25 feet to the point of commencement.

Being a portion of that certain piece or parcel of land firstly described in that certain Decree of Distribution in the Matter of the Estate of Noah N. Webster deceased, to Ida M. Webster, dated February 15, 1932 and recorded February 16, 1932 in Liber 2752 of Official Records of Alameda County, California, at Page 266, and also being known as a portion of Lots 2 and 3 as said lots are shown on the Map of Webster Tract, Berkeley, Alameda Co., Cal., filed June 12, 1908 in Book 24 of Maps, Page 5, in the office of the County Recorder of Alameda County.

Containing 7,167 square feet more or less.

3. THE SOUTH HOSPITAL DRIVE SITE

Lot 33 and a portion of Lot 32 as said lots are shown on that certain map entitled "Map of Smilie Tract, Berkeley, Cal." which map was filed in the Office of the Recorder of the County of Alameda, State of California on November 16, 1906 in Book 21 of Maps, at Page 90 and as shown also on that certain map entitled "Record of Survey, Lots 22 thru 28 and Lots 39 thru 45 Block E "Claremont Tract", Lots 13 thru 20 "Map of Webster Tract," Lots 24 thru 33, "Map of Smilie Tract", City of Berkeley, Alameda County, California, which map was filed in the Office of the Recorder of the County of Alameda, State of California on April 7, 1971 in Book 8 of Record of Survey at Page 41, described as follows:

BEGINNING at the southwest corner of said Lot 33; thence from said POINT OF BEGINNING along the Westerly line of Lots 33 and 32 North 10° 19' West 76.25 feet to the southwest corner of the lands described in the Corporation Grant Deed from Alta Bates

Hospital, a California non-profit corporation to the City of Berkeley, a Municipal Corporation, recorded in the Office of the Recorder of the County of Alameda, State of California on August 18, 1972 on Reel 3210, Image 162 of Official Records; thence along the southerly line of said lands North 79° 41' East 126.40 feet to a point in the easterly line of said Lot 32; thence along said easterly line of said Lot 32 and of Lot 33 South 10° 19' East 76.38 feet to the southeast corner of said Lot 33; thence along the southerly line of said Lot 33 South 79° 44' 43" West 126.40 feet to the POINT OF BEGINNING.

Containing 9,646 square feet more or less (0.221 Ac.±)

4. THE HOSPITAL PARKING SITE

Lots 36 and 37 and portions of Lots 29, 30, 31, 32 and 38 in Block E, as said Lots and Block are shown on that certain Map entitled "Map of Claremont Tract in Oakland Township, Alameda County, Cal.", which map was filed in the Office of the Recorder of the County of Alameda, State of California on May 10, 1886 in Book 11 of Maps at Page 24, as a whole described as follows:

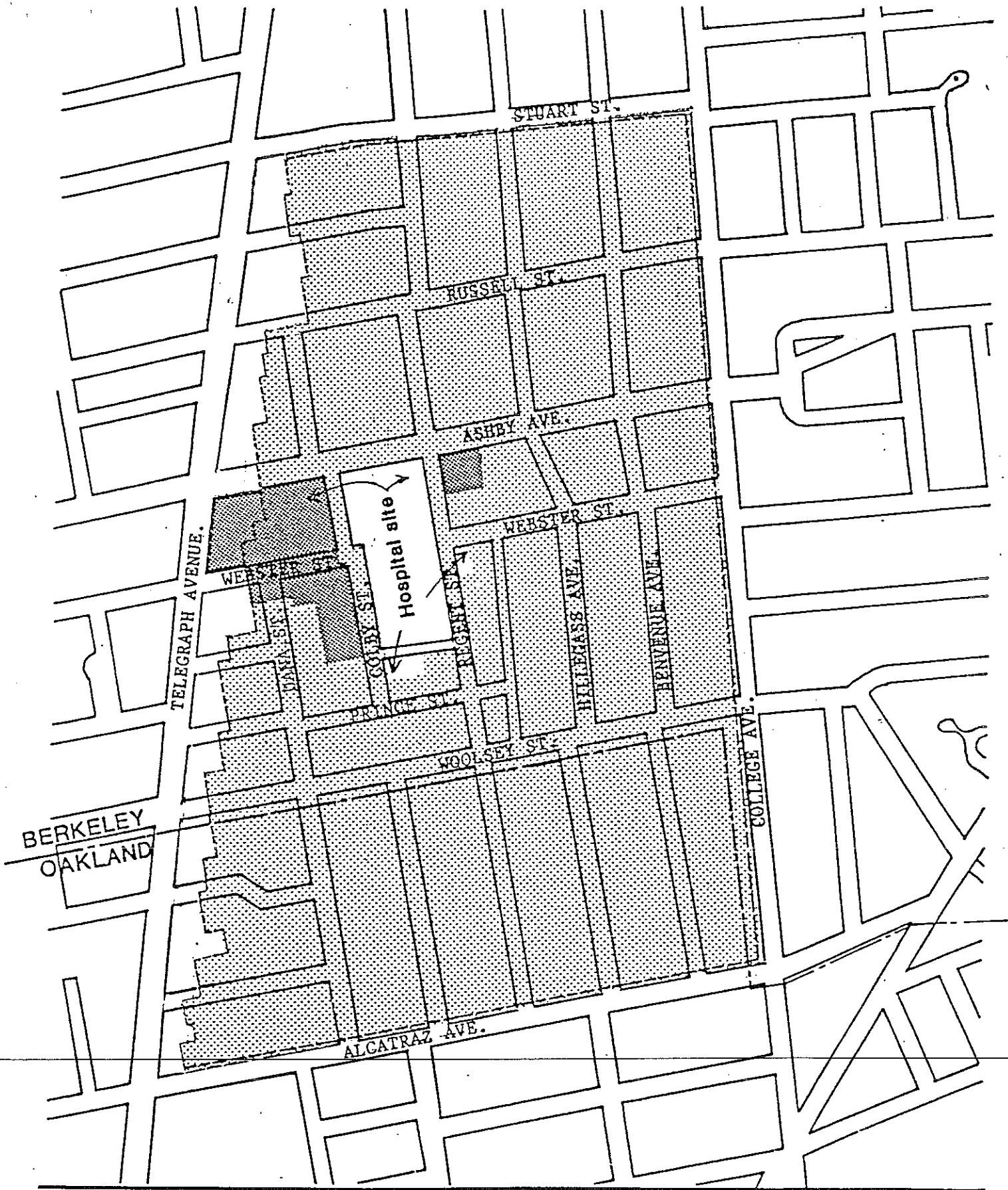
BEGINNING at a point in the southerly line of aforesaid Lot 38, distant thereon South 79° 41' West 5.00 feet from the southeast corner thereof; thence from said POINT OF BEGINNING along the southerly line of Lots 38, 37 and 36 in said Block E South 79° 41' West 145.00 feet to the southwest corner of said Lot 36; thence along the westerly line of said Lot 36 North 10° 19' West 140.00 feet to the southeast corner of Lot 32; thence along the southerly line of said Lot 32 South 79° 41' West 50.00 feet to the southwest corner thereof; thence along the westerly line of said Lot 32 North 10° 19' West 120.00 feet to a point in the southerly line of a strip of land 20.00 feet in width as described in that certain Corporation Grant Deed from Alta Bates Hospital, a California non-profit corporation to the City of Berkeley, a Municipal Corporation, recorded in the Office of the Recorder of the County of Alameda, State of California on August 18, 1972 on Reel 3210, Image 160 of Official Records; thence along said southerly line North 79° 41' East 194.00 feet to a point in the westerly line of the lands described in Deed from Alta Bates

Hospital, a California non-profit corporation to the City of Berkeley, a Municipal Corporation recorded in the Office of the Recorder of the County of Alameda, State of California on August 18, 1972 on Reel 3210, Image 156 of Official Records; thence along said westerly line South 21° 38' East 5.10 feet and South 10° 19' East 255.00 feet (Southerly 256.45 feet Deed) to the POINT OF BEGINNING.

Containing 43,698 square feet more or less (1.003 Ac.±)

5. Guardian Foundation Leasehold

Guardian Foundation, Inc. is the lessee (by assignment of a lease originally entered into on February 21, 1962 and subsequently amended and extended) of improved property at 2500 Ashby Avenue, Berkeley, California commonly known as the Claremont Convalescent Hospital. The Declaration affects only Guardian Foundation, Inc.'s leasehold interest in this property.




LTA BATES HOSPITAL
DECLARATION EXHIBIT

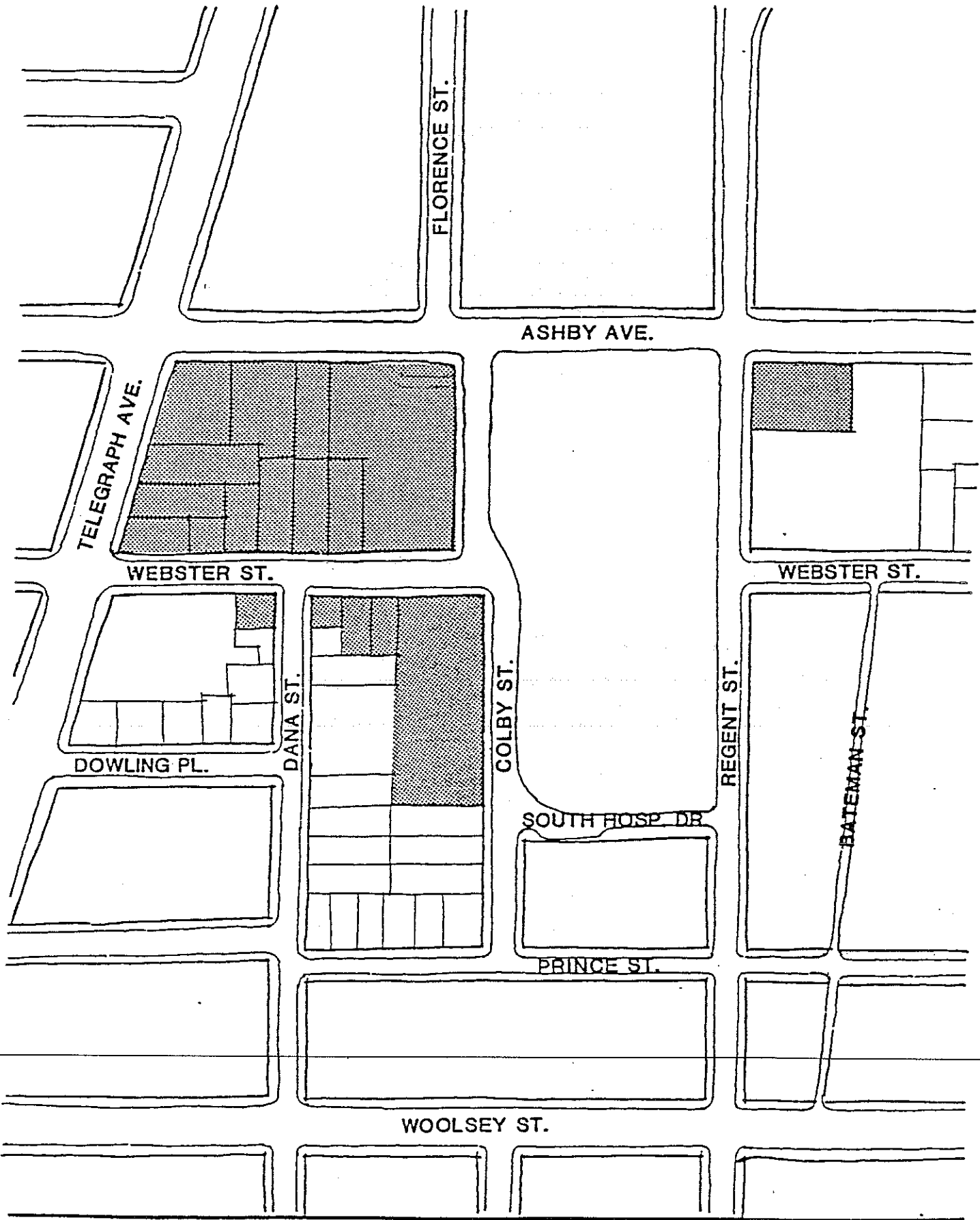
EXHIBIT B
Page 1 of 2

DIVISION OF
BENEFITED
ESTATE
AREAS A AND B

LEGEND

-  AREA A
-  AREA B.





ALTA BATES HOSPITAL
DECLARATION EXHIBIT

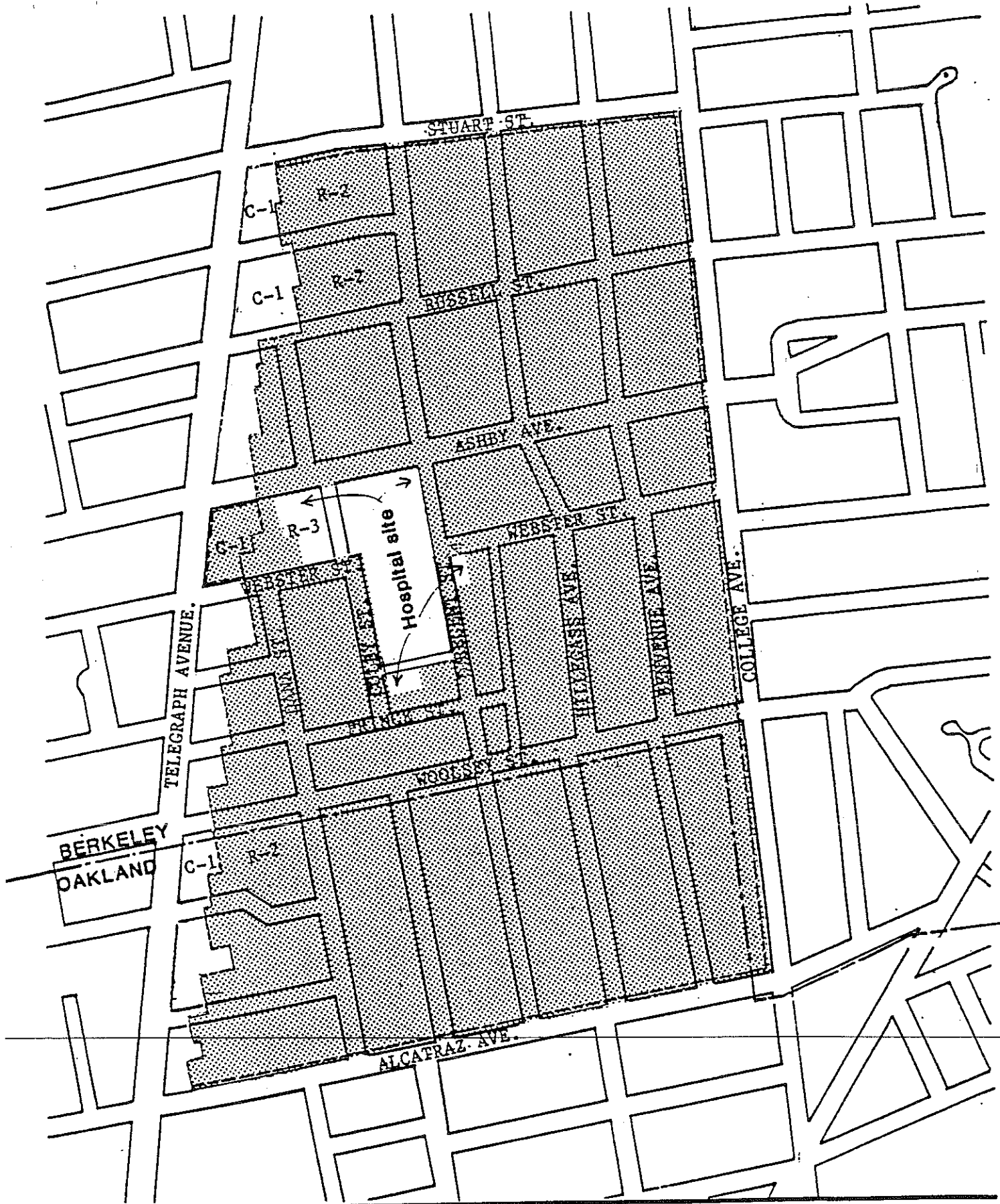
BENEFITED
ESTATE
AREA B.

LEGEND
AREA B.



EXHIBIT B
Page 2 of 2





**TA BATES HOSPITAL
DECLARATION EXHIBIT**

**BENEFITTED
ESTATE**

LEGEND

-  AREA
-  BENEFITTED ESTATE



DESCRIPTION OF BENEFITTED ESTATE

All that certain real property located in the City of Berkeley and the City of Oakland, County of Alameda, State of California, having a street address on, or lying within the following boundaries.

Beginning at the intersection of Stuart Street and College Avenue, in the City of Berkeley, then southerly along the west boundary of College Avenue to Alcatraz Avenue in the City of Oakland, then westerly along the north boundary of Alcatraz Avenue to the east property boundary of the parcel located at the northeast intersection of Alcatraz and Telegraph Avenues, which parcel is now zoned "C-30" by the City of Oakland, then northerly along the east (rear) boundaries of all parcels fronting on the east boundary of Telegraph Avenue to the north boundary of Webster Street in the City of Berkeley, then westerly approximately 155 feet to the southeast intersection of Webster and Telegraph, then northerly to the southeast intersection of Telegraph and Ashby Avenue, then easterly approximately 171 feet to the east (rear) boundary of 2414 Ashby Avenue, then northerly along the east (rear) boundaries of all parcels fronting on the east boundary of Telegraph Avenue, which parcels are now zoned "C-1" by the City of Berkeley, to the south boundary of Stuart Street in the City of Berkeley (approximately 114 feet easterly of the intersection of Stuart Street and Telegraph Avenue), then easterly along the south boundary of Stuart Street to the point of beginning; excepting therefrom however:

(1) any land owned by the City of Berkeley as a public street; and

(2) the property now owned by Alta Bates Hospital designated as the Colby-Ashby Site, the South Hospital Drive Site, the Regent Street Site and the Hospital Parking Site on Exhibit 1 to the Declaration.

The boundaries of the Benefitted Area are shown on a map which is part of this Exhibit 2.

page 2
W&H

MARCH 1983

EXISTING
MEDICAL BLDG.

COLBY STREET

PROPOSED SOUTHWEST BLDG.

Emergency
Access

SOUTH HOSPITAL
DRIVE

PRINCE STREET

ALTA BATES HOSPITAL
EVLDT

PROPOSED CLOSURE
OF SOUTH HOSPITAL

LEGEND

 LANDSCAPE



FORM OF RESOLUTION OF BOARD OF TRUSTEES
OF ALTA BATES HOSPITAL

WHEREAS, on March _____, 1983, Alta Bates Hospital entered into an Agreement with certain neighborhood associations ("Agreement") which required the Hospital to execute and record a Declaration of Covenants and Restrictions ("Declaration"), in a form agreed upon, if and when the neighborhood associations performed certain specified agreements, the City of Berkeley took certain specified actions on applications by the Hospital then pending before it, and a specified period of time had elapsed after those actions had been taken by the City of Berkeley, provided that no litigation was pending at the expiration of that time period concerning the City's actions; and

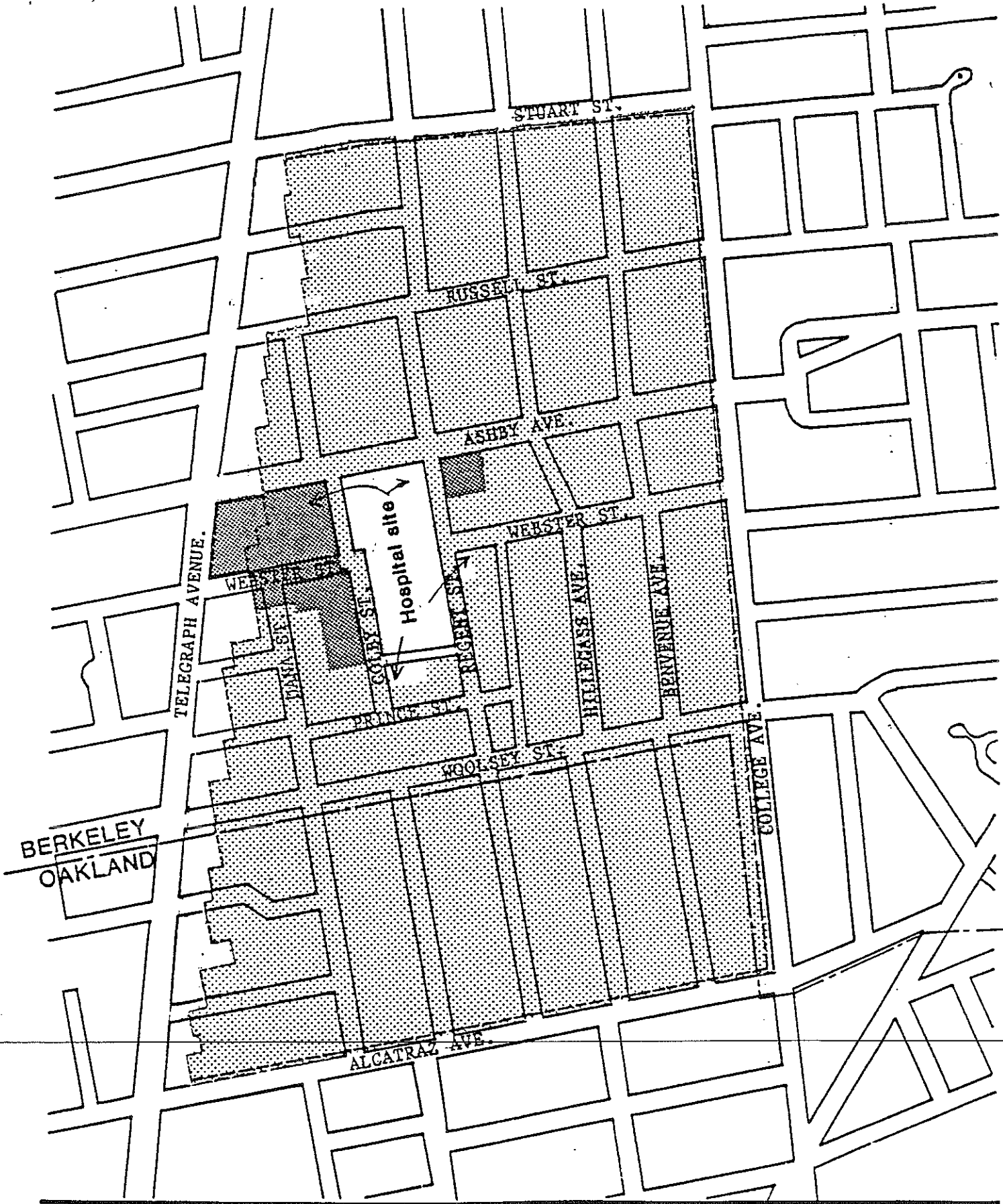
WHEREAS, the neighborhood associations have performed their agreements in the time and manner agreed to, the City of Berkeley has taken the specified actions on the Hospital's applications, the specified period of time has elapsed thereafter and Hospital is aware of no litigation presently pending concerning the City's actions.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF ALTA BATES HOSPITAL that the Declaration of Covenants and Restrictions, in the form attached to the Agreement, is hereby approved; and

BE IT FURTHER RESOLVED that the President of the Board of Trustees is authorized and directed to sign the original of the Declaration and to file it for recordation with the Alameda County Recorder, in accordance with the Agreement.

PASSED AND ADOPTED this _____ day of _____, 1983, by the Board of Trustees of Alta Bates Hospital.

NOTE: This is a form of resolution which has been prepared prior to the date on which the Board of Trustees is required, by the Agreement, to adopt it. A copy of the resolution as adopted will be substituted if and when the resolution is adopted and the Declaration to which this is an Exhibit is signed.



**LTA BATES HOSPITAL
DECLARATION EXHIBIT**

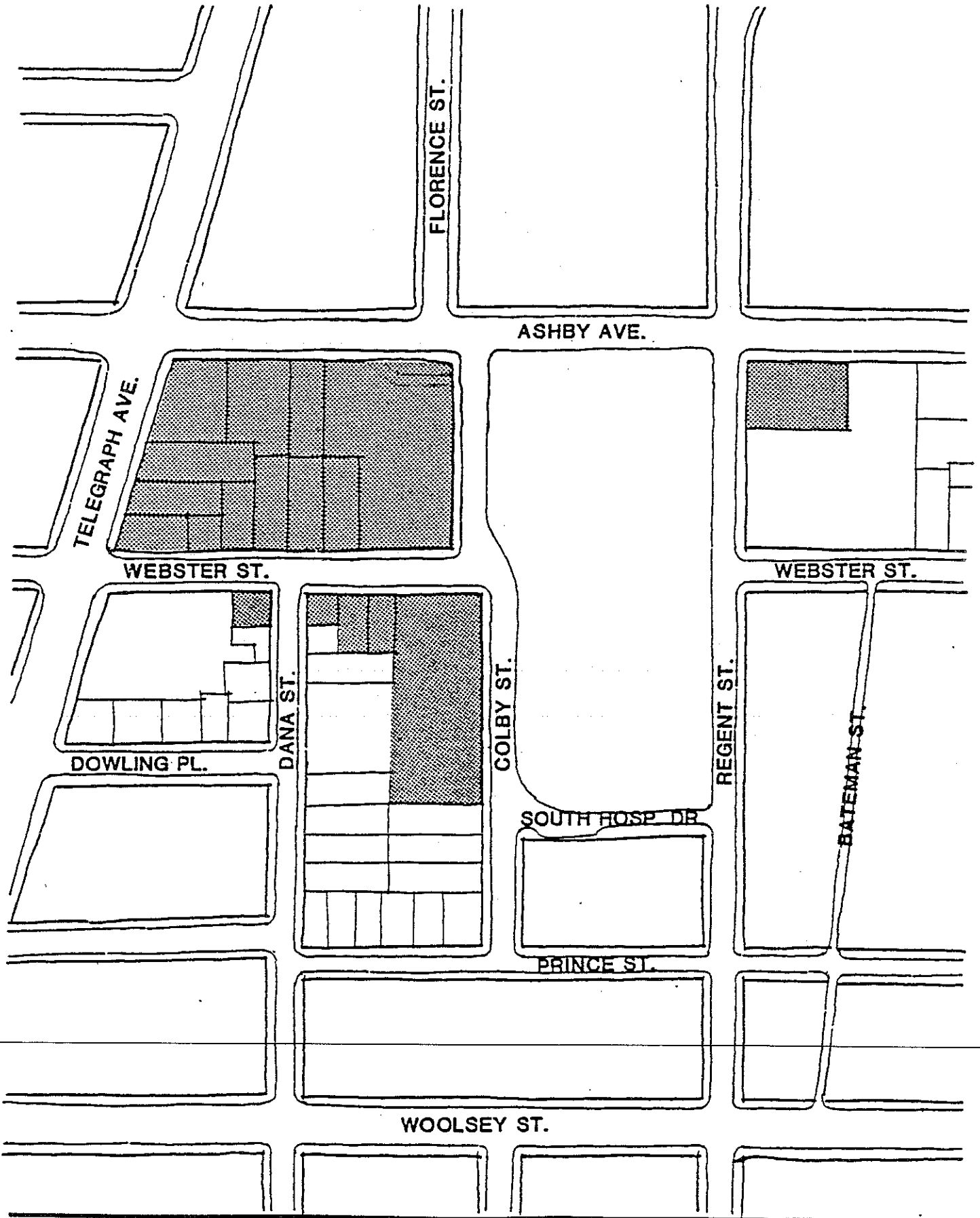
**DIVISION OF
BENEFITED
ESTATE**

LEGEND

-  AREA A
-  AREA B

AREAS A AND B



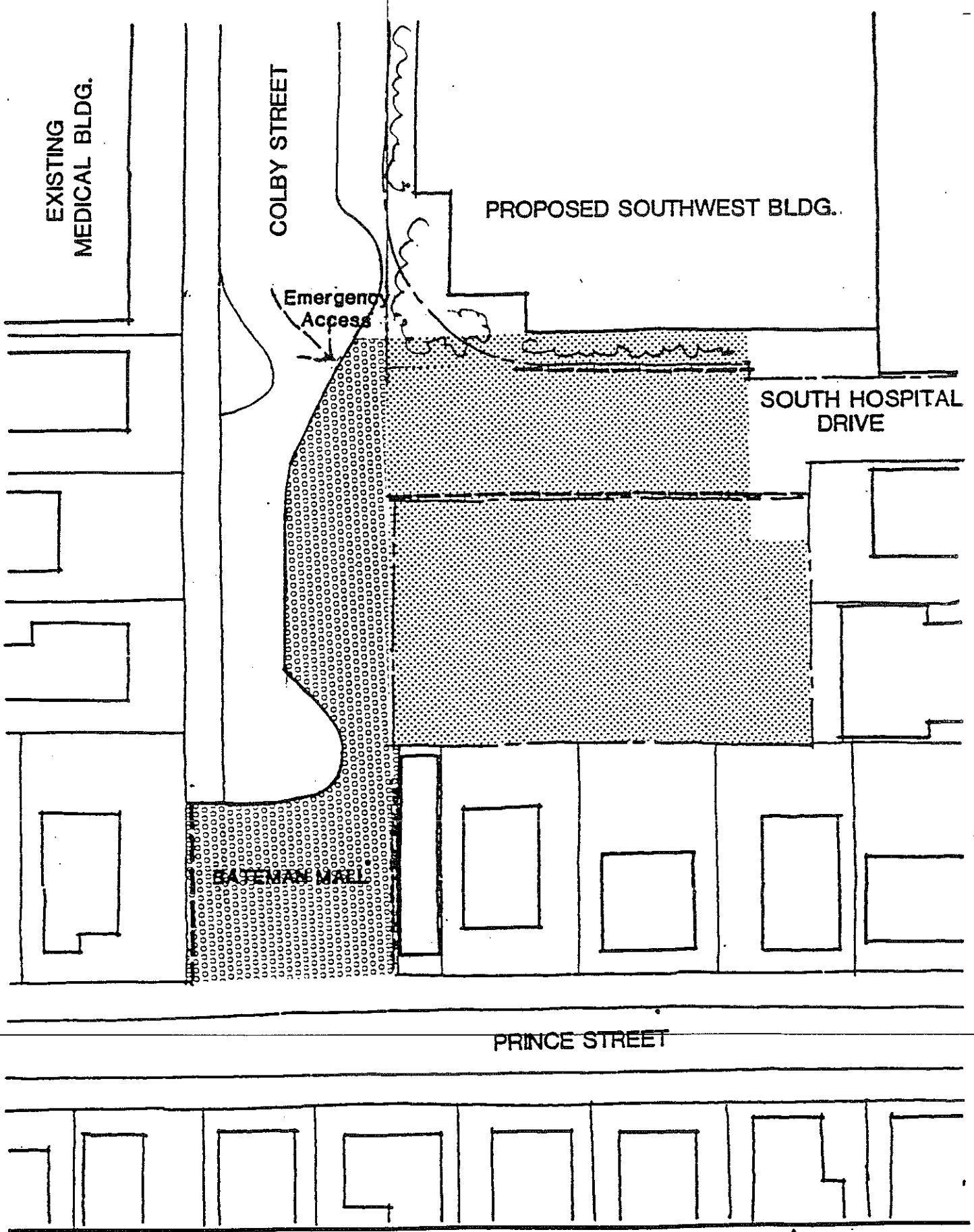


ALTA BATES HOSPITAL
DECLARATION EXHIBIT

~~BENEFITED~~
ESTATE
AREA B.

LEGEND
AREA B.



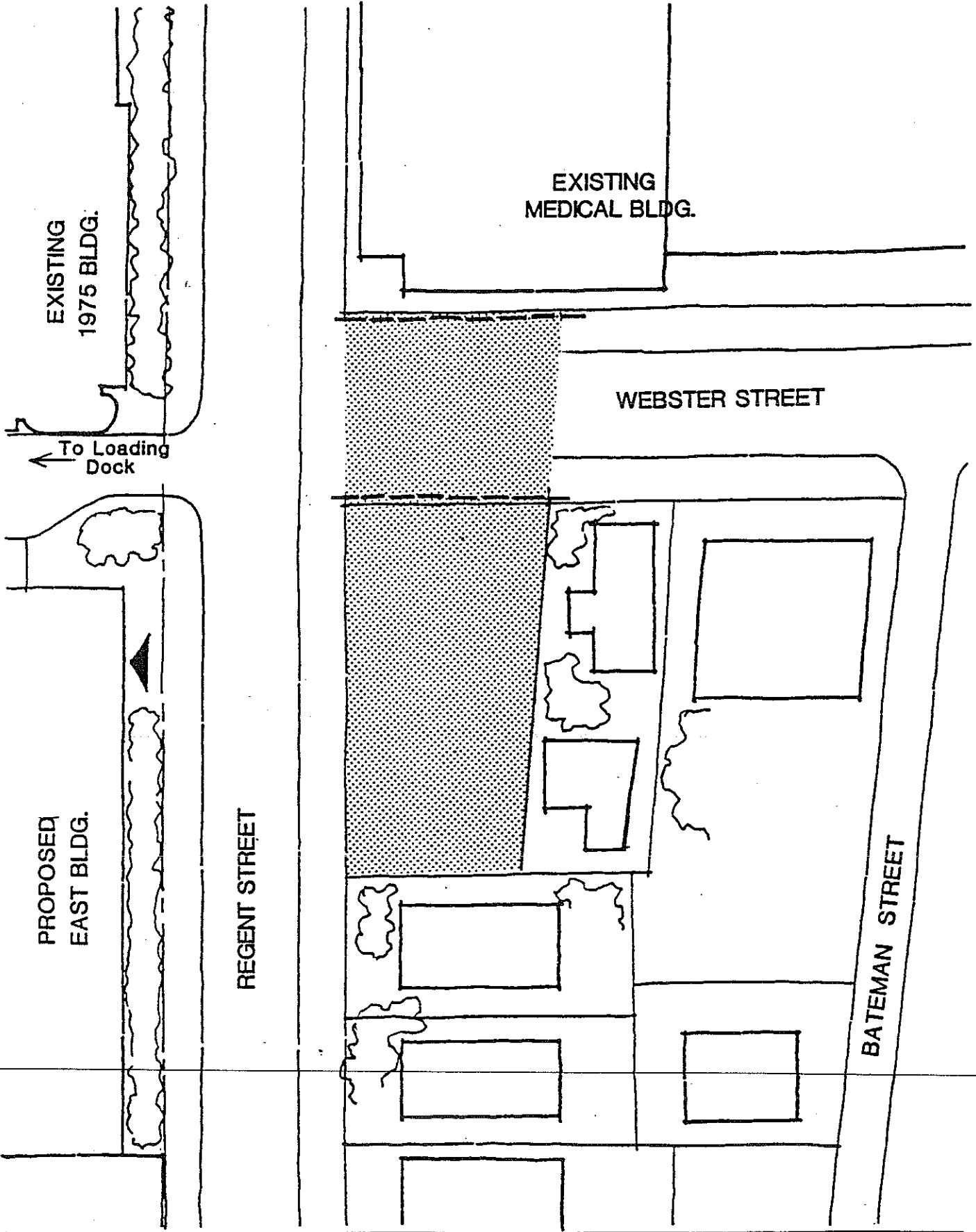


**PROPOSED CLOSURE
 OF SOUTH HOSPITAL**

LEGEND

 LANDSCAPE AREA





ALTABATES HOSPITAL

EXHIBIT 5
Page 2 of 3

PROPOSED CLOSURE
OF WEBSTER STREET

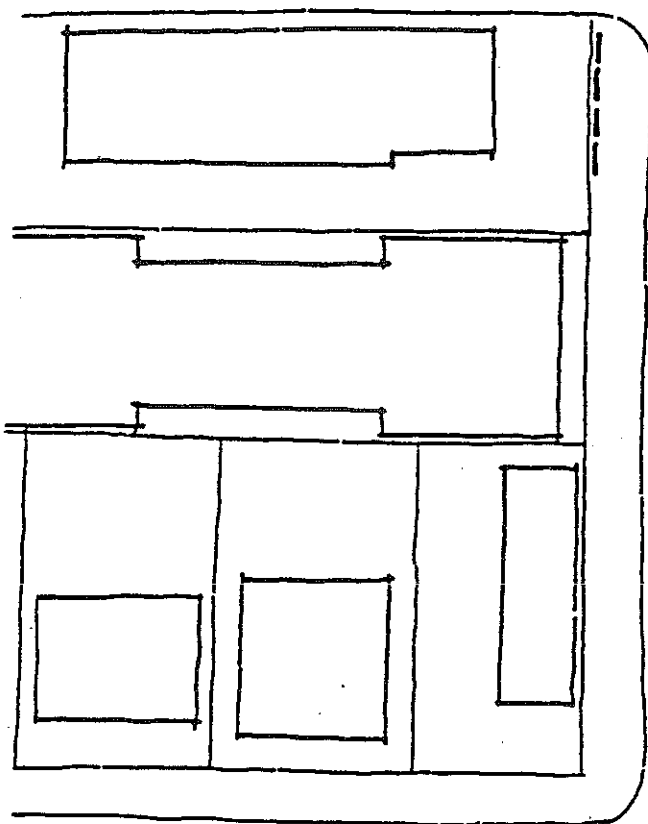
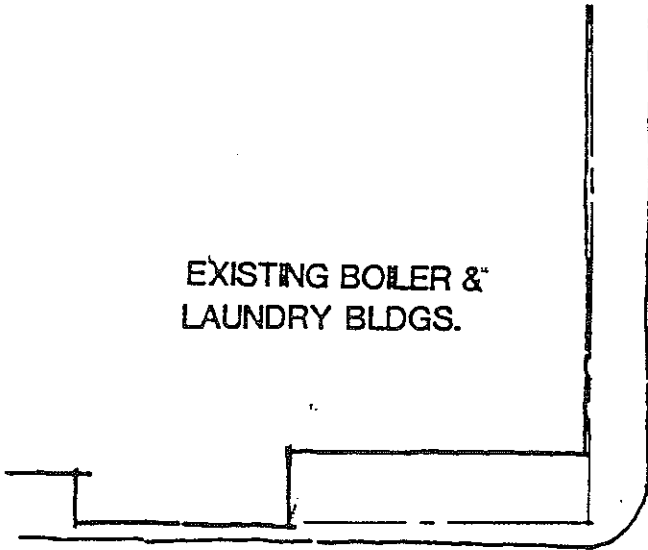
LEGEND

-  LANDSCAPE AREA
-  CITY PROPERTY

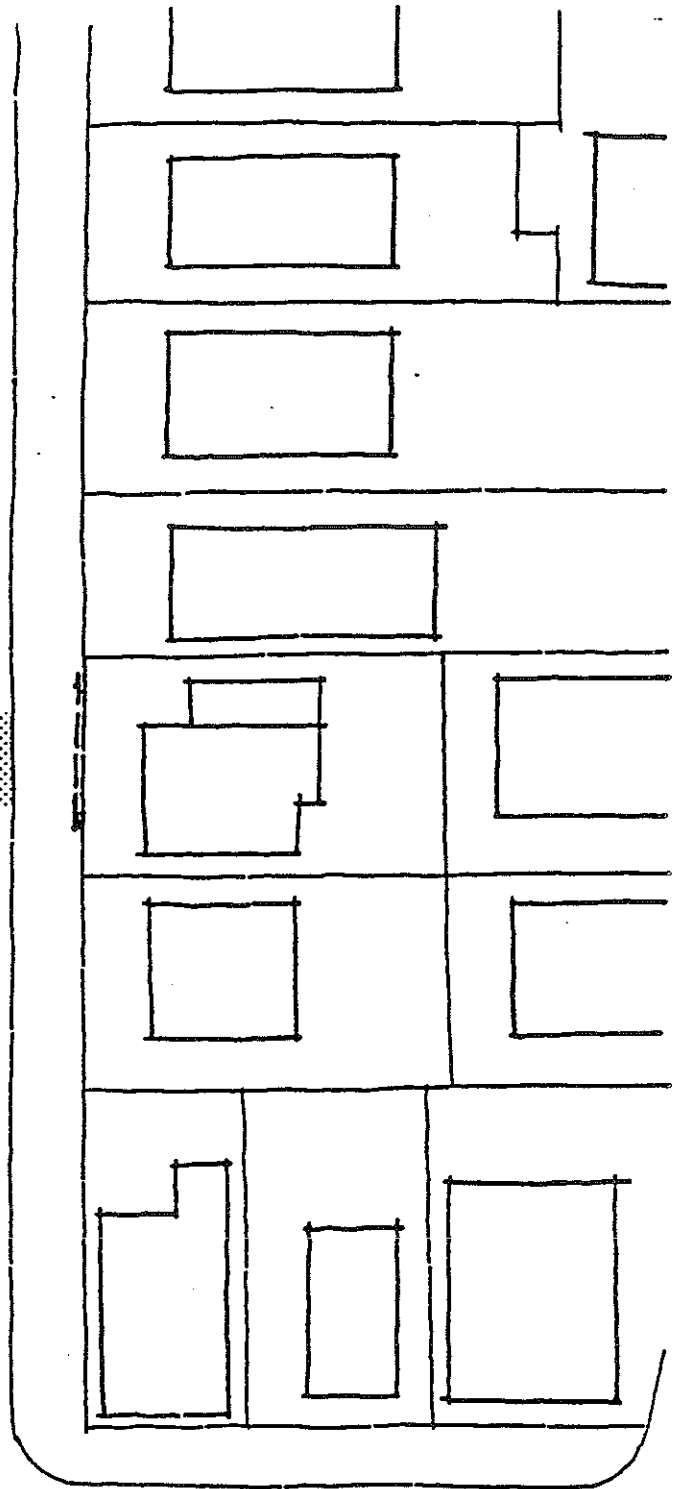


EXISTING BOILER &
LAUNDRY BLDGS.

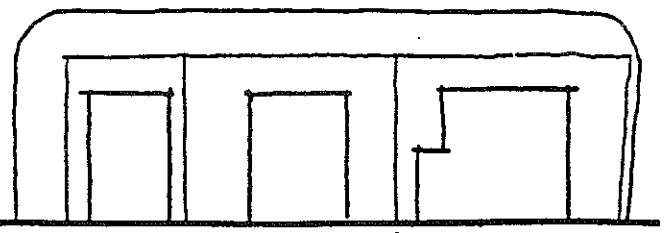
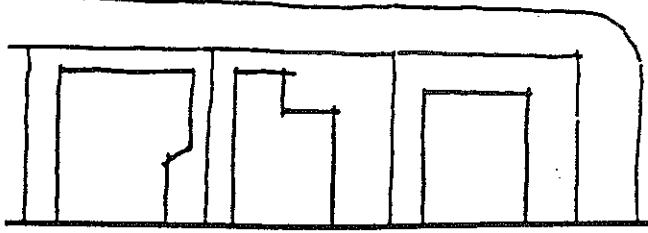
SOUTH HOSPITAL DRIVE



REGENT STREET



PRINCE STREET



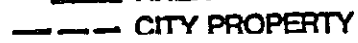
ALTA BATES HOSPITAL

PROPOSED CLOSURE
OF REGENT STREET

LEGEND



LANDSCAPE
AREA



CITY PROPERTY

