

Current Agreement

BOUNDARY IMPACT AGREEMENT

AGREEMENT, made as of April 15, 1974, between ST. MARY'S HOSPITAL OF MILWAUKEE ("Hospital") and CONCERNED NEIGHBORS OF ST. MARY'S HOSPITAL ("Neighbors"), being a group of residents living near the Hospital,

WITNESSETH THAT:

WHEREAS St. Mary's is the oldest hospital in Milwaukee and is now embarking upon the construction of extensive new facilities which will enable it to continue to serve the community's health needs in an excellent manner; and

WHEREAS the neighborhood to the north, east and south of the Hospital has great historic architectural and aesthetic significance and is considered one of the finest neighborhoods in Milwaukee; and

WHEREAS the presence of a large metropolitan hospital in a residential neighborhood can, while affording the convenience of nearby quality medical care (but need not necessarily), adversely affect the attractiveness of the neighborhood particularly if surface parking lots are too close to and too visible from high-quality residences or if nonresidential uses or traffic are introduced into an otherwise exclusively residential neighborhood; and

WHEREAS the Hospital and the undersigned Neighbors each desire that Hospital's structures and grounds be designed and operated so as not only to serve efficiently the Hospital's

needs but also to blend and be harmonious with the fine nearby residential development; and

WHEREAS the Hospital and undersigned Neighbors believe that achieving the foregoing objectives will be assisted by consultation between Hospital and Neighbors and a general agreement containing specific provisions and general standards,

NOW, THEREFORE, the parties agree as follows:

1. The Hospital will not, directly or indirectly through institutions or corporations affiliated with the Hospital by interlocking directorates, ownership or working contracts expand south of North Avenue (including North Avenue extended), east of Terrace Avenue, or north of the present northern boundary of Hospital development east of Lake Drive as shown on the map attached as Exhibit 1 and entitled "Site Map 1972" by Bertrand Goldberg. The northern boundary is also defined as the north border of the two parking lots between Lake Drive and Terrace Avenue, one of which is called the North Point Parking Lot. "Expand" shall mean "to construct, to lease, or occupy structures and facilities, including surface parking facilities, for hospital or related purposes except those permitted by the deed restriction on the four properties described in paragraph 3. below."

2. The Hospital will neither purchase nor lease further property within the Water Tower Landmark Trust, Inc. area, the boundaries of which are shown on Exhibit 2. If property in such area

is contributed to the Hospital, it shall sell or convey such property within a reasonable period and in the interim may lease such contributed property to others for residential uses.

3. The Hospital will subject the property presently owned by it within the Water Tower Landmark Trust, Inc. area (exclusive of the area presently devoted to hospital uses as shown on Exhibit 1) (such property being listed in Exhibit 3A) to a deed restriction in the form shown in Exhibit 3 - provided that those named in paragraph 4 below do likewise.

4. The undersigned Neighbors whose names and addresses appear in Exhibit 4 will, as a condition precedent to this Agreement's becoming fully effective, subject their residential properties to the deed restriction shown in Exhibit 3.

5. The Hospital will release any rights which it may have to the joint driveway easement which had served a former "dwelling house" which was purchased and removed by the Hospital, such easement being described in Exhibit 5.

6. With regard to the parking lot at the northeast corner of the Hospital, bordering the Stone property to the north and Terrace Avenue to the east (the boundaries of which are shown in Exhibit 6), the Hospital will:

- a. By July 1, 1974, take at its expense those of the below-listed steps which are appropriate to
  - (i) lessen substantially the glare and light from the parking lot (including the doctors' parking lot)
  - and (ii) protect the safety of the night-time users of the parking lot: inserting softer lights,

shielding the lights, lowering the height of the lights, turning the lights off at an hour in mid-evening (there are less employees on the second and third shifts and therefore they can park closer to the Hospital building). The Hospital's action shall consider and give reasonable weight to professional advice by qualified experts in lighting and the protection of residential neighborhoods from glare and lighting. Such experts shall include those who may review and comment on the problem on behalf of the City of Milwaukee or neighbors.

b. By ninety days following the opening for operation of substantially all of the acute care building, the ambulatory center, and the parking building shown on the "Site Development - 1976" plan prepared by Bertrand Goldberg & Associates and attached as Exhibit 8, but in no event later than December 1, 1976, elect to protect the neighborhood from the blighting effect of the northeast parking lot (Exhibit 6) by one of these alternative methods and so notify the undersigned Neighbors by such date:

(1) Remove the parking lot and:

(a) restore the area to a grass lawn, except that a two-way vehicular driveway could connect the doctors' parking lot and the Lake Drive parking lot, such driveway to be adjacent to the Administrative Services Building;

(b) plant and maintain a 6 foot high evergreen or nondeciduous border north of the doctors' parking

lot, north of such driveway and east of the Lake Drive parking lot;

(c) set back the fence along Terrace Avenue so that it will be the same distance back from the sidewalk as the Stone residence (25'); and

(d) landscape same consistent with the plan attached as Exhibit 7.

- (2) ~~Build row houses or residential type houses for hospital personnel or other structure not including a parking structure on such parking lot, which would conform to the nearby setbacks and be harmonious in mass, height, and exterior architectural appeal to the nearby residences on Terrace Avenue, the undersigned Neighbors and any architect engaged by them being invited to comment on preliminary site plans and exterior elevations for the proposed building and the Hospital agreeing to give reasonable consideration to the suggestions of such architect.~~
- (3) Sell the land subject to a deed restriction that one or more duplexes or single-family residences be built thereon and be subject to the deed restriction identified in 3. above.
- (4) Accomplish the objectives of 6-b. by such other method as shall be agreeable to a majority of the undersigned Neighbors.

- c. Within six months of making the election of an alternative method under 6-b. above, shall substantially commence construction of such alternative method.
- d. After electing a method under 6-b. above, have the right to choose any other of the alternatives 6-b-(1), (2), (3) or (4) and implement it, there being no intention to deprive the Hospital of the freedom to switch from one method of solution to another, provided, however, that any method of solution complies with the provisions of this Agreement.
- e. There shall be no vehicular or pedestrian traffic access from any part of Terrace Avenue to the Hospital property except for pedestrian access to buildings fronting on Terrace Avenue by maintenance personnel (where reasonably required) and Hospital staff, employees or trainees residing in such buildings or occasional visitors other than patients.

7. The failure of the Hospital to comply with the provisions of paragraph 6, if such failure is not corrected within ninety days of receiving written notice of such failure from a majority of the undersigned, shall give to a majority of the undersigned who shall then continue to own real estate within the Water Tower Landmark Trust, Inc. area (Exhibit 2) or their assignees, the option, for six months following the expiration of such ninety-day notice, to purchase the northeast parking lot (Exhibit 6) for its fair market value for residential purposes (after deduction for the cost of removing the parking lot improvements). The market value of the property shall be conclusively determined by two qualified M.A.I. appraisers, one selected by the Hospital and one by the undersigned

Neighbors, and if they shall be unable to agree, by a third M.A.I. appraiser selected by the two of them. Each party shall pay the cost of its appraiser and share the cost of the third appraiser. A majority or more of the undersigned Neighbors may, as an alternative to the exercise of the above option, bring an action in equity to enforce any of the provisions of paragraph 6 within six months following the expiration of such ninety-day notice, and they, or their assignees, may also enforce the above option in equity.

8. The term of this Agreement shall be twenty-five (25) years from the date of the Agreement (first line, first page).

9. This Agreement may be amended or rescinded in writing by the Hospital and a majority of the undersigned Neighbors (and other neighbors, if any, who shall sign this Agreement) who shall at that time own real property within the Water Tower Landmark Trust, Inc. area. From time to time other neighbors may sign this Agreement with the consent of the Hospital and a majority of such undersigned Neighbors. It is anticipated that such new undersigned Neighbors may be required to subject their real estate to the deed restriction (Exhibit 3) and if they so do, the Hospital's approval of them as an additional undersigned shall not be unreasonably withheld.

10. The Water Tower Landmark Trust, Inc. shall be a signatory of this Agreement and shall have so long as this Agreement shall be in force all the rights and obligations of the Neighbors (except as to the deed restriction referred to in paragraph 3). Its president or other duly-authorized officer shall be authorized to act on its behalf.

11. The undersigned Neighbors agree that they will not oppose the plans of the Hospital to:

- (a) construct a tunnel beneath North Lake Drive between the present Hospital buildings;
- (b) construct those buildings under construction, the parking structure, and those shown on Exhibit 8 hereto, being "Site Development 1976" by Bertrand Goldberg Associates - Architects;
- (c) the concept of the ambulatory health center (doctors' office building) shown on Exhibit 8, being "Site Development - 1976" by Bertrand Goldberg Associates - Architects, provided that there is an adequate solution to traffic, aesthetics, and any other factors which would affect the Water Tower Landmark Trust, Inc. neighborhood adversely; and
- (d) the removal of the present power plant, laundry, and kitchen facilities presently there located and of the vacated area for surface parking as shown on Exhibit 8.

ST. MARY'S HOSPITAL OF MILWAUKEE

BY

*Christa Juliana Kelly*  
WATER TOWER LANDMARK TRUST, INC.

BY

*Robert R. Elsner, Jr.*  
Robert R. Elsner, Jr.

*Barbara M. Elsner*  
Barbara M. Elsner

*Richard M. Stone*  
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Patricia C. Deshotelte

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Andrew J. Jensen

Ernest E. Bieden

Kathleen Ann Bieden

Nick C. Towels

Patricia W. Van Alpa

Thomas S. Van Alpa Sr.

Russell F. Ford Jr.

William J. Ford

William J. Ford

William J. Ford

Thomas L. Schwab

Gabriel H. Schwab

THIS AGREEMENT WAS DRAFTED BY RICHARD W. CUTLER OF QUARLES & BRADY AND RICHARD S. GIBBS OF GIBBS, ROPER & FIFIELD.