

City of Takoma Park, Maryland

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Suzanne R. Ludlow, City Manager

April 10, 2018

Ben Steffen
Executive Director
Maryland Health Care Commission
4160 Patterson Avenue, Baltimore, MD 21215

Re: Request for Project Change After Certification – Adventist HealthCare – Washington
Adventist Hospital – Docket No. 13-15-2349

Dear Mr. Steffen:

As the Maryland Health Care Commission considers the recent Adventist HealthCare (AHC) Request for Project Change After Certification and its closely related request for an exemption from a Certificate of Need, the City of Takoma Park asks for the opportunity to present testimony to the Commission before it makes a determination about AHC's proposed changes. The Request for Project Change and the exemption request filed by AHC would, if approved, completely undermine the commitments made in the approved 2015 Certificate of Need (CON). Rather than continue to provide Takoma Park with access to a spectrum of health care services when Washington Adventist Hospital's main hospital is moved to White Oak, the City could be left with virtually nothing. These filings have left our community with no confidence that AHC plans to provide any desirable health care services in Takoma Park. Our duty to our residents requires us to continue our work to mitigate the lasting health care and economic impacts the hospital's move will have on our community.

Adventist HealthCare is now seeking to eliminate a 24 bed rehabilitation hospital and a 40 bed inpatient psychiatric hospital that it represented to the Commission would remain on the Takoma Park Washington Adventist Hospital (WAH) campus and be upgraded to "anchor" other health care services to be provided there. AHC seeks to move the rehabilitation hospital to White Oak, and to move the critically important psychiatric facility 18 miles away to Rockville.

AHC made extensive promises regarding the provision of health care services on the Takoma Park Campus, which it cited, and the Commission relied upon, in the CON filings. The health services to remain on the Takoma Park campus were to help retain some of the White Oak hospital's market share in Takoma Park and surrounding areas and to mitigate the adverse effects of the relocation to White Oak. Those services were to include inpatient rehabilitation and psychiatric care, primary care, outpatient radiology and laboratory services, 24-hour urgent care, and even the ability to use shuttle services to the White Oak hospital. Now, as AHC seeks to renege on its promises to the Commission, it is also asking the Commission to bend its regulations past the breaking point and allow it to eliminate the

services slated to remain in Takoma Park and significantly revise its plans for White Oak – without regulatory scrutiny.

Allowing AHC to proceed with the changes without proper scrutiny would set a terrible precedent, encouraging future CON applicants to engage in similar bait-and-switch Application/Change Request practices and leaving the Commission powerless to stop them.

Takoma Park agrees with many of the legal and procedural concerns detailed in the March 29, 2018, letter from Gallagher Evelius & Jones LLP on behalf of Holy Cross Hospital of Silver Spring.

AHC officials have advised the City that the loss of the rehabilitation center and behavioral health unit means that the other health services planned for the Takoma Park campus likely will also depart. An urgent care facility will remain, AHC has said, because it is a specific condition of the CON approval, but it will not have the support services or location described in the CON. For example, the radiology and laboratory services, major components of what was promised to be left, will no longer be available for the center. And, the center would not be located in the space currently used by the Emergency Department, as described in the CON, so residents may not even know of its existence. The possibility of a large boarded vacant hospital building on the relatively small site will mean that few would want to even venture onto the campus to look for the urgent care center. This, of course, seems to be the intent so that AHC may again approach the Health Care Commission via an administrative process to request elimination of the Takoma Park urgent care CON condition with the argument that the urgent care is not being heavily used.

The City of Takoma Park asks that the Maryland Health Care Commission require that the 24-hour urgent care clinic be located on an attractive, visible site, and that the clinic have the on-site radiology and laboratory services that excellent urgent care facilities are expected to have.

While the City is concerned about the quality and viability of the urgent care clinic, it is the moving of the behavioral health services from the Takoma Park campus to Rockville that is the greatest health care concern of the City and of many in the surrounding region in Montgomery and Prince George's Counties. How will this move affect the quality of mental health services available to our community? How will emergency petition patients be handled, particularly if they present themselves or are brought by family members to the Takoma Park urgent care clinic? How will the emergency departments of other hospitals accommodate the increase in emergency petition patients coming to their facilities? Without hearing from the impacted jurisdictions and health care facilities, how will the State Health Care Commission know that the changed service level for behavior health care is acceptable?

Moving the inpatient behavioral health unit from Takoma Park to Rockville also constitutes a significant change to the 2015 CON and is not the proper subject of a CON exemption. The Commission deemed the psychiatric beds, which currently are part of WAH, to be a subject of the CON and imposed an express condition that WAH report on the operation of the Takoma Park psychiatric hospital in the fourth year of the operation of the new hospital. WAH is asking the Commission to allow the relocation of the psychiatric beds to Rockville, 18 miles away, as if the 2015 CON and the promises WAH made to obtain that CON do not exist.

Besides the changes proposed for the urgent care clinic and the behavioral health services, moving the rehabilitation beds from Takoma Park to White Oak is also troubling. It clearly is not a permissible project change. Under section 10.24.01.17C(2) of the Commission's regulations, "[c]hanges in the

fundamental nature of a facility *or the services to be provided in the facility* from those that were approved by the Commission” require a new Certificate of Need. AHC is seeking to add two stories to its planned general hospital to house inpatient rehabilitation beds, a service that was not part of the approved plan for White Oak. Accordingly, AHC’s proposal is not the proper subject of a change request and mandates a new CON application. AHC’s attempt to move the rehabilitation beds without a CON is particularly outrageous because maintaining a rehabilitation hospital in Takoma Park was an integral part of AHC’s plan under the 2015 CON that supposedly reduced the cost of the White Oak project and would contribute to the financial viability of the Takoma Park campus.

Significant investments (of over \$18 million) were to be made to the facilities on the Takoma Park campus, and the financial information about those investments was part of the CON filing. The Takoma Park campus buildings are aging, the parking facilities are in poor condition and the property has almost no stormwater infrastructure. Improvements to the interior and exterior of the facilities were planned to help ensure the success of the inpatient specialty hospitals. Now, it is not clear what AHC intends to do with the bulk of those funds. In the exemption request to the Commission, AHC notes it plans on using the \$5.3 million that had been designated for enlarging and renovating the behavioral health unit in Takoma Park to pay for adding the psychiatric beds to the Shady Grove facility. In the Request for a Project Change to the Commission, AHC says it plans to use the same \$5.3 million to help pay for the two additional floors on the White Oak hospital for the rehabilitation hospital. In that Request for a Project Change, AHC notes that the costs for the moving of the rehabilitation hospital and behavioral health unit can be “easily absorbed by AHC given its strong financial position.” (p. 4)

Besides not living up to its commitments in the CON, it is clear that AHC intends to walk away from Takoma Park, leaving the vacant remains of its buildings for others to deal with. This is unacceptable. This is not a situation of a bankrupt hospital closing and unable to clean up its site. AHC is a hospital system that is building a new facility and that had budgeted to reinvest \$18 million in its Takoma Park campus, and now simply wishes to leave as quickly and as cheaply as possible.

We request that the Maryland Health Care Commission hear from the City of Takoma Park on the effects of the WAH abandonment of Takoma Park and the mitigation measures that are needed if the AHC requests are approved.

We have been advised that there is no official requirement for Takoma Park to be included as a stakeholder in deliberations around these types of filings. We also understand that there is no public comment period or other means of participation for Takoma Park, Montgomery County and Prince George’s County residents. Takoma Park invested significant taxpayer dollars on legal and healthcare expert fees and dedicated valuable manpower and City Council Meeting agenda time during the six-year CON process to protect its residents from the loss of vital health care services and to ensure that the 13-acre campus remained vibrant despite the loss of the main hospital. We request that the Commission solicit input from the affected parties and the public before acting on AHC’s requests.

Since the Commission issued the CON in 2015, hospital representatives have met regularly with City officials regarding WAH’s transition to White Oak and led the City to believe they intended to reuse the Takoma Park campus in accordance with the plans approved in the CON. Simultaneously, however, AHC planned for the abandonment of the Takoma Park campus in direct contradiction of the promises it made in the CON process. During the monthly meetings with the City, WAH officials gave no indication that it was planning to relocate the psychiatric and rehabilitation facilities to Rockville and White Oak, planning to eliminate the radiology and laboratory services that were to be available to the public and

used by the urgent care center, and planning to relocate the urgent care center from the current hospital's emergency department to an as-yet unidentified location on or near the Takoma Park campus.

We believe AHC withheld this information from us so that it could pursue a series of administrative efforts to get approvals from the Maryland Health Care Commission without having to file for a new Certificate of Need and without having to consider the impacts of the changes on the entities most affected.

The Maryland Health Care Commission is the regulatory agency responsible for planning for health system needs. The Commission spent six years carefully analyzing AHC's proposal to ensure that it would not have an adverse impact on the health care system in the region. We appreciate that the Commission took seriously the City of Takoma Park's concerns throughout that process. We ask the Commission to continue to uphold its responsibility and carefully analyze the impact of the AHC's proposed changes. If the Commission acts to approve the requests by Adventist HealthCare, we ask you to impose conditions to mitigate the adverse impacts on our community. The City of Takoma Park would like to discuss possible mitigation measures with the Commission, but at a minimum, such conditions should include:

- Ensuring that the 24-hour urgent care center has radiology and laboratory services appropriate for an excellent urgent care facility, and that the facility is located in a visible, attractive and easily accessible location.
- Razing the vacated hospital buildings on the Takoma Park campus, and restoration of the site with sod and appropriate erosion, environmental and public safety measures, within four months of the hospital's move to the White Oak facility.
- Addressing the issues raised by moving the behavioral health unit to Rockville, including identifying community mental health programs near Takoma Park and ensuring that nearby health facilities are able to accept and appropriately care for the number of emergency petition patients that will need services.

Despite the questionable outline of savings presented in AHC's filing, we assure you that the costs and impacts to Takoma Park, Montgomery County and Prince George's County will be significant. Washington Adventist Hospital has been the City's largest employer for many decades. We had expected to see health services and jobs remain at the Takoma Park campus. At this point, WAH's complete and total departure from Takoma Park represents a stunning loss to our community.

We are deeply disappointed in the direction this process has taken and urge you to consider the issues outlined above. We are committed to working with you as the review process for AHC's filing moves forward and would be happy to provide additional information to support our case.

Regards,



Suzanne R. Ludlow
City Manager

CC: Robert R. Neall, *Secretary of Health*
Kevin R. McDonald, *Chief, Certificate of Need Division*

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