

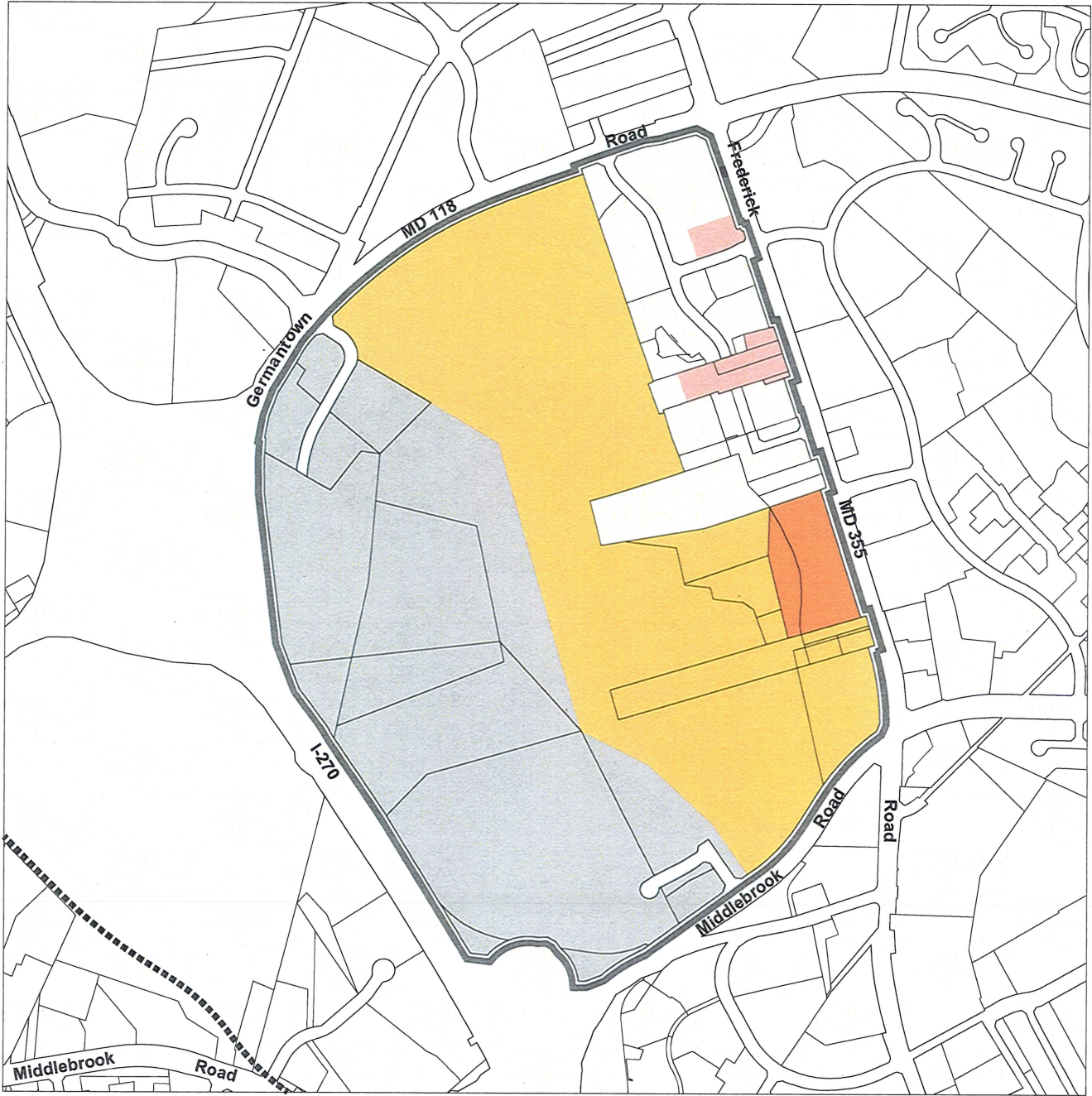
Germantown Worksession #4

MCPB October 20, 2008 — Item #3

- Attachment N Existing Zoning
- Attachment O Correspondence

ATTACHMENT N

Montgomery College District Existing Zoning



X:\A3\GTON\public_hearing_draft\montgomerycollegemontgomerycollege-Exzoning (portrait).dwg (GT-zoning.ctb)

— Montgomery College District Boundary

- - - - - Proposed Corridor Cities Transitway

 R-60

 R-60/TDR

 R-20

 I-3

 C-4



ATTACHMENT O

Holland+Knight

Tel 301 654 7800
Fax 301 656 3978

Holland & Knight LLP
3 Bethesda Metro Center, Suite 800
Bethesda, MD 20814-6337
www.hklaw.com

RECEIVED
08-1132
OCT 15 2008

OFFICE OF THE CHAIRMAN
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

October 15, 2008

Robert R. Harris
301 215 6607
robert.harris@hklaw.com

VIA FAX AND FIRST CLASS MAIL

Dr. Royce Hanson
Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

OCTOBER 20, 2008 AGENDA

Re: Germantown Master Plan – Montgomery College/Holy Cross Hospital

Dear Chairman Hanson:

As you are aware, we represent Cabin Branch Management, LLC, the developer of the Cabin Branch project on the west side of I-270 in Clarksburg. The Cabin Branch project includes Adventist HealthCare, Inc., Winchester Homes, Inc., The Concordia Group, the Gosnell Family, Toll Brothers, Inc., and RMJ Development. We are writing to you today to express the collective concern of Cabin Branch Management with the recent proposal by Holy Cross Hospital to build a new upcounty hospital on the Montgomery College campus in Germantown. We believe any such proposal would completely thwart Adventist HealthCare's plans for a hospital and healthcare campus at Cabin Branch. Beyond that, given the crucial importance of the proposed hospital and related medical uses to the entire Cabin Branch project, a loss of this expected use would be a major setback for the overall project and for the rapidly growing Clarksburg community.

For years, Adventist HealthCare has been working towards construction of a complete healthcare campus to serve both the upcounty area of Montgomery County and the growing Urbana and south Frederick County area. They have done so in close collaboration with the other Cabin Branch property owners to ensure a cohesive, mixed-use community and have received support and approvals from both the County Council and Planning Board. The plans include not only the new upcounty hospital, (with room to grow in the future) but also related medical office buildings, outpatient care facilities, nursing care, senior housing, a daycare center and space for an increasing number of ancillary uses commonly associated with hospitals. Equally important, the planned medical campus has been designed as the nucleus for an entire mixed-use community that includes retail, restaurants and hotel services in close proximity to the proposed hospital as well as a diverse mix of housing to accommodate employees of all income needs. It also includes a major senior housing component expected to benefit from the hospitals proximity. Each of the development components of Cabin Branch is a major element in the overall synergy of this mixed-use

Atlanta • Bethesda • Boston • Chicago • Fort Lauderdale • Jacksonville • Los Angeles
Miami • New York • Northern Virginia • Orlando • Portland • San Francisco
Tallahassee • Tampa • Washington, D.C. • West Palm Beach

community. In addition, the healthcare campus provides a critical employment feature for the broader Clarksburg community. Losing such a key employment element would be a blow to the master plan goal of a complete "town" in Clarksburg and to Cabin Branch itself.

Cabin Branch Management has been working diligently to obtain all of the development approvals necessary to proceed with such a project. In collaboration with the community, your Staff, the Montgomery County Department of Transportation and Department of Permitting Services, the County Council and other county/state/federal agencies, Cabin Branch Management and the public sector have addressed every zoning, transportation, environmental, water and sewer, and community issue. Nearly all of the approvals are now in place. In doing so, Cabin Branch Management, the community and the various governmental agencies, have collectively invested thousands of hours and untold sums of money to ensure that the project meets both current and long term goals and policies. We therefore were extremely surprised at what can only be described as an "eleventh hour" effort by Holy Cross Hospital, at the virtual completion of the Planning Board's preparation of the Germantown Master Plan, to suggest that a new upcounty hospital should, instead, be built on the Montgomery College campus in Germantown. (Based on the projected population in the greater Germantown/Clarksburg area we do not believe the Maryland regulators would approve two new hospitals in the same area, so this proposal is not in addition to the Cabin Branch hospital but in lieu of it). While we recognize the free enterprise nature of development, we also have never seen an instance where both the public and private sectors have invested so much time and money to approve one plan, only to have an alternative plan proposed when the first is approaching the final approval step.

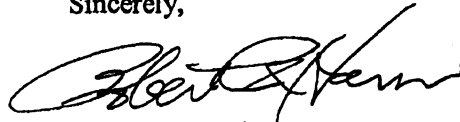
We also have seen no evidence that the alternative Germantown proposal can meet the many development issues that Cabin Branch already has satisfied, not the least of which is the traffic constraint. While the Cabin Branch project has met all applicable transportation obligations and has the necessary APFO approvals for the hospital, there is an effective moratorium on new development in the Germantown East area because of severe traffic constraints there. Even more significant, the issues in Germantown East can only be solved with major highway and transit improvements like M-83, the CCT, and at least two new interchanges on MD 355 which are, at best, many years off. To make matters worse, in light of these obstacles, we have heard that Holy Cross may be intending to seek substantive changes to the Zoning Ordinance to allow them to proceed without the normal land use approvals. Similarly, while Adventist HealthCare has been required to meet all applicable traffic requirements, Holy Cross also would require an exemption from the transportation and traffic requirements that every other hospital has been required to address. How can free enterprise be advanced when Adventist HealthCare and all other hospitals have to follow established development approval procedures and meet applicable transportation requirements while another would seek to avoid these requirements? All of this, for a site that does not even have enough room for the various ancillary facilities related to a hospital, has no proximity to the retail and restaurant services that make for a walkable, mixed-use environment and would adversely affect existing healthcare services provided by Adventist HealthCare at Shady Grove Adventist Hospital and the new Germantown Emergency Center not to mention its plans at Cabin Branch. It also would run afoul of plans to preserve much of the subject site as a key Germantown forest conservation area. Finally, the Holy Cross Hospital proposal appears to conflict with a variety of

Dr. Royce Hanson
October 15, 2008
Page 3

components of Montgomery College's ten-year campus master plan presented to the Maryland Higher Education Commission.

We ask that you reaffirm your various approvals and support for a new hospital and healthcare campus at Cabin Branch and not abandon that effort by, instead, advocating for or even acknowledging the possibility of locating the hospital at an alternative site in Germantown. The Cabin Branch site and project, already approved by both the County Council and Planning Board, continues to provide the best response to upcounty healthcare needs while conforming with all applicable land use planning and development obligations.

Sincerely,



Robert R. Harris

cc: Mr. John Robinson
Mr. Joe Alfandre
Ms. Jean Cryor
Ms. Amy Presley
Cabin Branch Management, LLC
Mr. Rollin Stanley
Mr. Glenn Kreger
Ms. Sue Edwards

5693251_v1



1801 Research Boulevard, Suite 400 • Rockville, MD 20850
(301) 315-3538 • (301) 315-3011 Fax
www.AdventistHealthCare.com

William G. "Bill" Robertson
President and CEO

October 9, 2008

Mr. Royce Hanson, Chair
Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

RECEIVED
110
OCT 09 2008

OFFICE OF THE CHAIRMAN
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Re: Adventist HealthCare - Clarksburg/Cabin Branch Hospital

Dear Royce:

Thank you for meeting with Robert Jepson, Robert Harris and me a week or so ago about Adventist HealthCare's plans to develop a health care campus, including a hospital, in Clarksburg. We are pleased to have successfully worked for more than five years with our community and the MNCPPC staff and Board to complete the various stages of the land use process and look forward to soon filing a site plan for the campus.

I am writing to you to ask for your continued support for the planned hospital and medical campus at Cabin Branch in Clarksburg. As discussed below, we recognize that this necessarily precludes support for Holy Cross Hospital's recent alternative proposal for a hospital on the Germantown campus of Montgomery College but believe the circumstances clearly underscore Clarksburg as the best location.

Need for Expanded Hospital Services in the Upcounty

There is little doubt of the future need for a hospital to serve the upper Montgomery County and lower Frederick County area. This area currently is served from the south by Shady Grove Adventist Hospital and from the north by Frederick

We demonstrate God's care by improving the health of people and communities through a ministry of physical, mental and spiritual healing.

Washington Adventist Hospital • Hackettstown Regional Medical Center • Adventist Home Care Services • Shady Grove Adventist Hospital
Adventist Senior Living Services • Potomac Ridge Behavioral Health • Adventist Rehabilitation Hospital of Maryland
The Reginald S. Lourie Center for Infants and Young Children • Adventist Physician Services • Lifework Strategies

Memorial Hospital. To some extent, Germantown, and to a greater extent, Clarksburg, Damascus, Urbana and other communities from Germantown north, will experience strong growth in coming years. For this very reason, Adventist HealthCare began planning a new upcounty hospital in Clarksburg nearly seven years ago.

At the same that we began the journey to develop a health care campus in Clarksburg, we also undertook, at considerable expense to Adventist HealthCare, the challenging and expensive task of gaining State approval to develop our Germantown Emergency Center, which opened in 2006, to meet the more immediate needs in the upcounty area. And, we have worked to expand Shady Grove Hospital, to the extent that the State will allow us, in order to ensure sufficient facilities along the entire I-270 corridor, and have completed the initial phases of a \$99 million expansion and renovation at Shady Grove. Adventist HealthCare's commitment to and leadership in meeting the health care needs of the upcounty region is both clear and longstanding.

Although another hospital will be required in the upcounty, it is clear that the demand in that area will not support two new hospitals. Health care in the State of Maryland is highly regulated and the Maryland Health Care Commission only issues Certificates of Need for new hospitals on a very careful basis. Before granting a Certificate of Need, the State of Maryland considers the State Health Plan and requires proof that a proposed hospital is required and viable and that it will not adversely impact other health care providers. They look at these issues so cautiously that it took special legislation to enable construction of Adventist HealthCare's emergency facility in Germantown in 2006.

Similarly, when Adventist HealthCare wanted to expand the Shady Grove Hospital two years ago, the State allowed a limited expansion but restricted the number of new beds, in part because of objections from Holy Cross Hospital that there was

insufficient need for a larger expansion. The State has not made any determination of a need for a hospital in Germantown or anywhere else in the upcounty. Once they do examine the need, however, there is no doubt that they will not approve both a new hospital in Germantown and Adventist HealthCare's previously proposed hospital in Clarksburg.

Planning and Approvals for Clarksburg Hospital

The ongoing efforts by Adventist HealthCare to build a new upcounty hospital are well established. We began nearly seven years ago when Adventist HealthCare identified the need for future health care services in the upcounty. Recognizing that gaining approval for a new hospital in an area where other development already exists can be challenging, we instead located a large tract of land in Clarksburg, at an existing I-270 interchange, where a hospital and all of its related facilities could be planned in advance with no adverse impact on surrounding residents or businesses. We invested millions of dollars in land in the Cabin Branch area of Clarksburg and worked with the other owners in that area to plan an integrated, mixed-use community that will include a large, health care campus as the major employment focus of a 540 acre planned community.

With public support and the Planning Board's endorsement, Adventist HealthCare and its partners first obtained approval for a Pre Preliminary Plan in 2002, followed by a rezoning of the land to accommodate the hospital and other uses, along with a detailed Development Plan showing a hospital, various related medical buildings and facilities, senior housing, retail and office space, restaurants, a hotel and nearly 2,000 dwelling units. Subsequently, in 2004, the Planning Board approved the Preliminary Plan of Subdivision for Cabin Branch, including the hospital and related uses, adding detail with respect to each of the uses. Although delayed because of other issues unrelated to our project involving the planning process and Clarksburg in

particular, the Infrastructure Site Plan for Cabin Branch was then approved in 2007 followed by initial installation by Adventist HealthCare and its partners of the first infrastructure for the project. Earlier this year, a detailed Site Plan for the first phase of development at Cabin Branch was approved and others are pending. Site development should begin next year.

In short, Adventist HealthCare has invested millions of dollars and years of effort in purchasing suitable land, undertaking planning and engineering for the project, navigating the lengthy development approval process and beginning construction of infrastructure to support the Cabin Branch hospital and all of the related uses.

Until last month, Holy Cross Hospital had never indicated any desire to build a hospital in the same service area nor had they questioned our plans. They surprised everyone by announcing just last month that they would like the County and State to consider a new hospital instead on the Germantown campus of Montgomery College. As you know, the new Germantown Master Plan has been under development for two years and public hearings on the plan have already occurred. Never during this process was there a suggestion for a new hospital on the Montgomery College campus and none is recommended in the Draft Master Plan. A hospital was not even identified among the issues or community desires for Germantown, because plans had progressed so far along for the Cabin Branch site. Moreover, no hospital was considered in the evaluations by Park and Planning Staff of traffic, forest conservation, community impact or other issues during their two years of study.

Even the Montgomery College Board of Trustees did not know of Holy Cross's intentions until the recent press release. Unlike other hospital proposals, Holy Cross Hospital owns no land and does not even have a purchase contract or lease for the land.

In fact, our understanding is that they would be leasing the land from Foulger-Pratt who in turn would lease the land from Montgomery College, but even Foulger-Pratt does not have a signed master lease. Neither we nor planners at Park and Planning, nor to our knowledge, anyone else in the community, has seen a single plan showing where the hospital would be built, how it would fit within long term plans for the College or how it would comply with Master Plan recommendations in Germantown. Their entire approach to planning a new hospital stands in stark contrast to the careful, thorough efforts of Adventist HealthCare.

Clarksburg is the Best Location for a New Hospital

Some things are obvious irrespective of what future plans for Holy Cross at Montgomery College might eventually show.

First, Montgomery College has an extremely limited amount of land for non-college functions. The County bought 20 acres known as the Kay Tract several years ago that was intended for bio-tech uses, including an incubator not a hospital, and even that land has constraints because of access, its relationship to the College, existing forest and other issues. Even if part of the College campus itself is combined with the remaining part of Kay Tract, it is clear that the Germantown campus does not have space for a hospital, the various medical office buildings and outpatient facilities that necessarily function with a hospital without impacting the College and without affecting the broader biotechnology goals for the Kay Tract.

Second, there is no room on the College campus for retail or restaurant space necessary to support employees of the hospital, requiring such employees and visitors to use their cars to travel to other parts of Germantown for these functions, unlike Cabin Branch, where they would simply walk across the street.

Third, not only has Cabin Branch reserved more than 75 acres for the hospital, nursing, medical office buildings and outpatient facilities, and another 30 acres for the related senior living, but there also is ample room for future growth without impacting other areas. This provides an unparalleled opportunity to properly plan a hospital and related facilities from the ground up. By contrast, use of part of Montgomery College's land for the hospital will stand in the way of existing and future educational facilities and true bio-tech employment that have been the focus of all prior campus plans.

Fourth, the Cabin Branch location itself is also superior. It is approximately halfway between the existing Shady Grove Adventist Hospital and Frederick Memorial Hospital in Frederick. This location minimizes impact of the new hospital on the region's existing health care resources. Thus, it is additive to our region's healthcare infrastructure, rather than substitutive for already-existing services.

Fifth, had Holy Cross proposed a hospital at Montgomery College at the outset of the Germantown Master Plan those studies would have identified a variety of other issues that conflict with the proposal. Perhaps first and foremost, under the Annual Growth Policy, the entire east side of Germantown is effectively closed to new development with no likely change in sight. As reflected in recent studies by Park and Planning, local congestion in the area of Montgomery College is already way above the permitted standard with V/C ratios well over 1.0 and projected to go even higher. County standards in that area thus require mitigation of 100% of any new trips which would mean that 100% of the hospital employees, patients and service providers would have to come to work by some means other than their own automobile. That simply will not happen. Moreover, although the draft Master Plan identifies measures that could eventually address the congestion problems in that area, they include widening of I-270, construction of the Corridor Cities Transitway, construction of M-83,

installation of grade separated interchanges on MD Route 355 at Route 118 and elsewhere, a major widening of Route 355 and other such improvements.

While no one can say whether or when those facilities will be constructed, opposition to some of them and the total absence of State and County construction funds for such huge projects anytime in the future means that they are many years off at best. M-83 may never be built because of opposition.

Sixth, to make matters worse, direct site access and circulation on the College property itself are no better. Currently, Montgomery College has only one access point. At the same time, because of interests in preserving pedestrian safety for students and trying to improve the walkability of the campus, the College has steadfastly opposed construction of Observation Drive as a full service road through the center of the property. Therefore, current access is inadequate for the proposed uses and there is no desire to remedy that situation. To the extent it would be remedied, it would be in conflict with the College's mission of creating a walkable College campus. The busy nature of a hospital with emergency vehicles coming and going at unpredictable times, a large employee base and patients/visitors unfamiliar with the property arriving and departing at all different hours throughout the day would diminish the environment of an appropriate College campus.

Development Approval Process

The planning and development approval process for Cabin Branch, has already addressed all of these issues. Traffic capacity has been allocated, road improvements have been planned and will be under construction in the near future and the project has been planned in a way that creates a desirable environment for all of the uses, including the hospital. Adventist HealthCare has carefully followed the detailed planning and approval process expected for such major facilities in Montgomery County.

Holy Cross Hospital, on the other hand, has proposed their use only after the Master Plan has already been drafted and after the public hearing. They have no Special Exception, no Subdivision approval and the proposal has never been through any development approval review. Instead, we understand they now plan to ask the County to change the Zoning Ordinance through a Zoning Text Amendment that would somehow permit their use without the normal development approval process. Adventist HealthCare should not be penalized for following the rules and Holy Cross should not be rewarded for the opposite.

Other Reasons to Support Clarksburg

Finally, there are a variety of other reasons that Montgomery County should not change its mind now with respect to the location of a new hospital in the upcounty area at Cabin Branch. There is no expectation that the Maryland Health Care Commission will approve a Certificate of Need for Holy Cross. They do not control any land, have not invested any money in their plans, have none of the necessary land use approvals in place and their proposal would substantially harm Adventist HealthCare, both with respect to our existing emergency facility in the Germantown Town Center, and our plans for a new hospital at Cabin Branch, effectively wiping out the millions of dollars of investment Adventist HealthCare has already made. It also would be inconsistent with the approved campus plan for the College. In this respect, not only does the Germantown Master Plan not envision a hospital there, but the Montgomery College Facilities Master Plan required by State law makes no mention of a hospital and the Maryland Higher Education Commission has never reviewed the issue.

The proposal also is inconsistent with the Mandatory Referral Review several years ago for the Kay Tract itself which identified the property instead for biotechnology employment uses like pharmaceutical companies or bio-tech R&D uses

Mr. Royce Hanson
October 9, 2008
Page 9 of 10

ted to the I-270 bio-tech corridor. The RFP for the site also identified it as a technology park for economic development objectives, not a hospital site.

Finally, there also are questions about the legal authority to use land acquired, in part, with State money based on educational programs, for a private hospital venture. (The RFP for the Kay Tract indicates the lease of the land would require approval from the State of Maryland because the land is part of the College campus.) To the extent the land even could be used for that purpose, it simply is not fair to effectively subsidize Holy Cross Hospital to the detriment of Adventist HealthCare.

CONCLUSION

Adventist HealthCare has been working on plans for a new upcounty hospital in a careful and deliberative manner for seven years. We have had many meetings with the community, have gone through lengthy development review procedures and finally have in hand virtually all of the land use approvals to build the new hospital. We are planning to seek the appropriate Certificate of Need from the State as the next step and to then proceed with construction of the long-planned hospital. Holy Cross has done none of this. We ask that you continue to support the Clarksburg hospital and not now prevent it from happening by instead promoting a hospital at Montgomery College.

Sincerely,



William G. Robertson

President & CEO