

MEMORANDUM

TO: C. Robert Dalrymple
John J. Delaney
Scott C. Wallace

FROM: Mark M. Viani *MMV*

DATE: May 20, 2003

RE: Hospital Zoning

You have asked me to research how other jurisdictions of similar size or complexity to Montgomery County use their zoning powers to regulate hospitals. I have reviewed the zoning ordinance provisions related to hospitals for the following jurisdictions: 1) in Maryland: Allegany County, Anne Arundel County, the City of Baltimore, Baltimore County, Frederick County, Howard County and Prince George's County; 2) in Virginia: the City of Alexandria, Arlington County, Fairfax County and the City of Richmond; 3) in Pennsylvania: the City of York and the City of Philadelphia; 4) in Oregon: the City of Portland; 5) in Connecticut: the Town of Stamford; 6) in New Jersey: Bergen County and municipalities; and 7) in New York: the City of New York. From this research, I have found that, with the exception of jurisdictions listed below, it is common practice to subject hospitals to special exception review in residential zones (where permitted by special exceptions) and in limited circumstances to permit hospitals by right in certain mixed-use and non-residential Euclidean and floating zones.

A. Allegany County, Maryland

Under the Allegany County Zoning Ordinance, hospitals are considered an institutional use. See Appendix 1.B, Allegany County Zoning Ordinance, attached as Exhibit "A". Institutional uses are permitted in all districts in the County. See Article 6.A., Id.

B. The City of Baltimore, Maryland

Hospitals are permitted uses in 3 of the City's residential districts (the R-8, R-9 and R-10 zones) and as conditional (special exception) uses, subject to the Mayor and City Council's approval by ordinance, in the City's remaining 9 residential districts (the R-1, R-1A, R-1B, R-2, R-3, R-4, R-5, R-6 and R-7 zones). See Sections 4-203, -304, -404, -504, -604, -704, -804, -904, -1004, -1101, -1201, -1301, Baltimore City Code Excerpt, attached as Exhibit "B".

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C. Baltimore County, Maryland

Hospitals are permitted by right in all D.R. (Density Residential) and office zones (the R-O-A, R-O, OR-1, OR-2, OR-3 and O-T zones). See Sections 1B01.1 and 203-09, Baltimore County Zoning Ordinance Excerpt, attached as Exhibit "C".

D. Frederick County

Hospitals are permitted uses, subject to site development plan approval, in the R-16 (High Density Residential), VC (Village Center), and GC (General Commercial) zones. See Section 1-19-289, Frederick County Zoning Ordinance, attached as Exhibit "D".

E. The City of Richmond, Virginia

With the exception of the R-73 (multi-family residential) zone, hospitals are not a permitted principal use in any of Richmond's residential districts. See Section 32-420.1, Richmond City Code Excerpt, attached as Exhibit "E".

In 1979, the City created the Institutional zone, in which hospitals are a permitted principal use. Approval of a plan of development is required. In addition, property cannot be included in the Institutional zone until the City's Planning Commission has approved a master plan for development of the property. See Sections 32-432.1, .2 and .4, Id.

According to the City's Zoning Administrator, William Davidson ((804) 646-6353), there are 2 or 3 areas in the City that are zoned Institutional and only one hospital (now closed) is located in the Institutional zone. The remaining hospitals are located in residential or central business zones. Mr. Davidson stated that hospitals in residential zones prefer to go through the special use permit approval process when they make changes, expansions or add parking areas, rather than rezone to the Institutional District because the number of uses permitted in this zone is very limited and it requires a master plan of development. Similarly, because the central business district zoning is very permissive, hospitals located in that zone have no incentive to rezone.

F. The City of York, Pennsylvania

The City of York only has 1 hospital (York Hospital) and this hospital is about to expand significantly. According to the City's Zoning Administrator, Lilah Haxton ((717) 849-2240), the hospital will be expanding up (rather than out) on its current site due to a lack of available land. In response, the City recently rezoned the hospital site from the Institutional zone to a new Health Care zone because the City did not want such a large building to be permitted in the

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Institutional zone. The Health Care zone is "intended to provide defined areas for the location of the health care institution as well as appropriate accessory and ancillary uses." *See* 2001 Ordinance, York City Code Excerpt, attached as Exhibit "F".

Hospitals remain permitted uses in the Institutional District. *See* Section 1308, Id.

G. The City of Portland, Oregon

Medical centers are conditional uses in all of the City's single-dwelling and multiple-dwelling zones, except the Institutional Residential (IR) zone. Medical centers are limited uses in the IR zone, which is classified a multiple-dwelling zone. (Limited uses appear have a status between permitted uses and conditional uses). *See* Section 33.110.100, Portland City Code Excerpt, attached as Exhibit "G".

The purpose of the IR zone is to promote the establishment of large institutional campuses, as well as higher density residential development, along collector streets, transit streets or streets of higher classification. Medical centers must be located on a site that is at least 5 acres and have an approved impact mitigation plan. *See* Section 33.120.100, Id.

According to City planning staff (Jessica Richman (503) 823-7700), the IR zone was created in 1993 or 1994. It was initially created for one specific community plan. Subsequently, the City rezoned its remaining institutions to the IR zone. However, the City did not rezone vacant land to IR. Ms. Richman said the zone has not been successful. The intent was to create a zone where hospitals could do many things that would not require review, however, the final version of the text does not reflect that intent. Ms. Richman stated that the institutions are not happy with the zone, particularly with the requirement that they prepare an impact mitigation plan. The impact mitigation plan requirements, she says, are badly written. Ms. Richman believes the IR zone should have been designed as an overlay zone, rather than as a base zone. In fact, the most recent hospital project for Oregon Health Sciences was zoned EX-Central Employment, rather than IR.

H. The City of Philadelphia, Pennsylvania

Hospitals are permitted in some of Philadelphia's residential districts if a certificate from the Board of Adjustment is obtained. *See* Section 14-207, Philadelphia City Code Excerpt, Exhibit "H". Hospitals are also permitted in the City's Institutional Development District. The minimum Institutional Development District area is 3 acres. A development plan is required and the City Planning Commission must approve it before a district will be established. *See* Sections 14-1102 and 1103, Id.

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I. The City of New York, New York

Hospitals, and other community facility buildings, are permitted by right in almost all of New York City's residential districts. Hospitals must comply with the applicable bulk regulations for the specific residential district that apply to all community facility buildings. See New York City Zoning Resolution, attached as Exhibit "T".

I hope you find this information useful. Please contact me with any questions.