



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK PAYNE • Director, Division of Health Service Regulation

RESPONSE REQUIRED

September 28, 2018

Sheree Watson
P. O. Box 2588
Hickory, NC 28603

Conditional Approval

Project ID #: E-11531-18
Facility: Graystone Eye Surgery Center
Project Description: Add one OR and one procedure room for a total of three ORs and one procedure room upon project completion
County: Catawba
FID #: 923248

Dear Ms. Watson:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has conditionally approved the above referenced certificate of need application. This decision was made after a review of the applications submitted for this cycle and after consideration of the Certificate of Need Law, N.C. Gen. Stat. §131E-175 et. seq. and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Written notice of all findings and conclusions upon which the decision was based will be provided to the applicants within five business days after the date of the decision in accordance with N.C. Gen. Stat. §131E-186. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Agency shall not issue the certificate of need until all applicable conditions of approval that can be satisfied before issuance of the certificate of need have been met pursuant to N.C. Gen. Stat. §131E-187(a). The conditions are as follows:

- 1. Graystone Eye Surgery Center, LLC and Graystone Enterprises, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. Graystone Eye Surgery Center, LLC and Graystone Enterprises, LLC shall develop one additional operating room for a total of no more than 3 surgical operating rooms.**
- 3. Graystone Eye Surgery Center, LLC and Graystone Enterprises, LLC shall develop no more than one procedure room.**

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603
MAILING ADDRESS: 2701 Mail Service Center, Raleigh, NC 27699-2701
www.ncdhhs.gov/dhsr • TEL: 919-855-3750 • FAX: 919-733-2757

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

4. **Graystone Eye Surgery Center, LLC and Graystone Enterprises, LLC shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Sections F and Q of the application and that would otherwise require a certificate of need.**
5. **For the first three years of operation following completion of the project, Graystone Eye Surgery Center, LLC and Graystone Enterprises, LLC shall not increase charges more than 5% of the charges projected in Section F of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
6. **The procedure room shall not be used for procedures that should be performed only in an operating room based on current standard of practice.**
7. **Procedures performed in the procedure room shall not be reported for billing purposes as having been performed in an operation room and shall not be reported on the facility's license renewal application as procedures performed in an operation room.**
8. **No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Graystone Eye Surgery Center, LLC and Graystone Enterprises, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
 - a. **Payor mix for the services authorized in this certificate of need.**
 - b. **Utilization of the services authorized in this certificate of need.**
 - c. **Revenues and operating costs for the services authorized in this certificate of need.**
 - d. **Average gross revenue per unit of service.**
 - e. **Average net revenue per unit of service.**
 - f. **Average operating cost per unit of service.**
9. **Graystone Eye Surgery Center, LLC and Graystone Enterprises, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**

Response to the above conditions should be submitted to the Agency no later than 35 days from the date of the decision. Failure to respond within this time period may result in the CON Section making a determination not to issue a certificate of need for the project referenced above.

The conditional approval is valid only for a capital expenditure of **\$2,788,414**. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by N.C. Gen. Stat. §131E-176(16)(e).

The applicant should be aware that according to the Certificate of Need Law any affected person shall have thirty (30) days after the date of decision to file a petition for a contested case on this approval. Further, if you are aggrieved by the conditions of the decision you may file a petition for a contested case hearing in accordance with N.C. Gen. Stat. §150B, Article 3, as amended. This petition must be filed with the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447 within thirty (30) days of the date of this decision. [Note: Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to OAH Clerk's Office (919) 431-3000.

N.C. Gen. Stat. §150B-23 provides that a party filing a petition must also serve a copy of the petition on all parties to the petition. Therefore, if you file a petition for a contested case hearing, you must serve a copy of the petition on the Department of Health and Human Services by mailing a copy of your petition to:

Lisa G. Corbett
Department of Health and Human Services,
Office of Legal Affairs,
Adams Building – Room 154
2001 MSC
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Agency.

The certificate of need will not be issued before the completion of this 30 day period ending **October 29, 2018**. If a contested case request is received within the thirty (30) day period, the certificate will not be issued until the appeal is resolved (10A NCAC 14C .0208).

The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the Agency because the review period was extended. The timetable for this project is as follows:

1. Financing Obtained _____ May 15, 2018
2. Drawings Completed _____ January 1, 2019
3. Land Acquired _____ January 1, 2019
4. Construction/Renovation Contract(s) Executed _____ February 1, 2019
5. 25% of Construction/Renovation Completed _____ March 15, 2019
(25% of the cost is in place)
6. 50% of Construction/Renovation Completed _____ May 1, 2019
7. 75% of Construction/Renovation Completed _____ June 15, 2019
8. Construction/Renovation Completed _____ September 1, 2019
9. Equipment Ordered _____ February 1, 2019
10. Equipment Installed _____ September 15, 2019
11. Equipment Operational _____ September 22, 2019
12. Building/Space Occupied _____ September 1, 2019
13. Services Offered _____ October 1, 2019

14. Final Annual Report Due _____ January 1, 2023

If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the certificate of need is issued. Please contact us if any clarification of this decision is required.

Please refer to the Project ID # and Facility ID # (FID) in all correspondence.

Sincerely,



Ena Lightbourne
Project Analyst



Lisa Pittman, Assistant Chief
Certificate of Need Section

Attachment

cc: Acute & Home Care Licensure & Certification Section, DHR
Melinda Boyette, Administrative Assistant, Healthcare Planning, DHR

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing notice of **conditional approval** on the following person by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelope addressed as follows:

Sheree Watson
P. O. Box 2588
Hickory, NC 28603

This the 28th day of September, 2018.

A handwritten signature in black ink, appearing to read 'Ena Lightbourne', written over a horizontal line.

Ena Lightbourne
Project Analyst, Certificate of Need