



North Carolina Department of Health and Human Services
Division of Health Service Regulation
Certificate of Need Section

2704 Mail Service Center ■ Raleigh, North Carolina 27699-2704

Beverly Eaves Perdue, Governor
Lanier M. Cansler, Secretary

www.ncdhhs.gov/dhsr

Craig R. Smith, Section Chief
Phone: 919-855-3875
Fax: 919-733-8139

February 22, 2012

Maureen Demarest Murray
Smith Moore Leatherwood LLC
300 North Greene Street
Greensboro, NC 27401

RE: Exempt from Review / Ashe Memorial Hospital / Replacement of Existing Nursing Facility / Ashe County
FID #: 942944

Dear Ms. Murray:

In response to your letters of December 19, 2011 and February 15, 2012, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(e). Therefore, you may proceed to offer, develop or establish the above referenced project without a certificate of need. However, you may need to contact the Construction Section of the Division of Health Service Regulation to determine if they have any special requirements for the proposed project.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Certificate of Need Section. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Les Brown
Project Analyst

Craig R. Smith, Chief
Certificate of Need Section

cc: Construction Section, DHSR



WV



SMITH MOORE LEATHERWOOD

December 19, 2011



Via E-Mail and U.S. Mail

Mr. Craig R. Smith,
Chief, Certificate of Need Section
Division of Health Service Regulation
North Carolina Department of Health
and Human Services
2704 Mail Service Center
Raleigh, North Carolina 27696-2704

Re: Relocation of 60 Nursing Home Beds on the Ashe Memorial Hospital Campus

Dear Mr. Smith:

We represent Hendersonville Health Care Facility Limited Partnership (“Hendersonville”) and Margate Health and Rehab, LLC (“Margate”). We are submitting this letter on their behalf and on behalf of Ashe Memorial Hospital (“Ashe”). Ashe is represented by Anthony Brett of Womble Carlyle Sandridge and Rice, PLLC. We are submitting this letter as prior written notice under N.C. Gen. Stat. § 131E-184 that the activities described in this letter are exempt from certificate of need review and do not require a certificate of need.

FACTS

Ashe

Ashe currently owns and operates 60 nursing home beds under its hospital license on the main campus of the Hospital at 200 Hospital Avenue in Jefferson, North Carolina known as the AMH Segraves Care Center. Ashe is interested in relocating the nursing home beds to create space for expansion of Hospital operations. Ashe also believes that replacement of its 60 nursing home beds would better meet the needs of the community because replacement would allow development of more private rooms, more dining space, more communal activity space and an environment that is more residential, all of which would enhance the quality of life for residents. Ashe currently has only 6 private rooms. The space for the 60 nursing home beds on the Ashe campus was built over 20 years ago and opened in 1991. The design is more institutional in nature and does not have the flexibility or features of a more current design.

Ashe is a critical access hospital. Cost allocation requirements under current reimbursement standards contribute to Ashe losing significant revenue on operation of the 60 nursing home beds. Recent losses average over \$800,000 per year. In accordance with certificate of need

requirements and to accomplish the above objectives, Ashe is interested in no longer operating nursing home beds. Please see the enclosed letter from R.D. Williams, the Chief Executive Officer of Ashe, which addresses these facts.

Hendersonville and Margate

Hendersonville owns Margate Health and Rehab, which has 150 nursing home beds. Margate leases the facility from Hendersonville and is the licensed operator, which is also certified to participate in the Medicare and Medicaid programs. The Margate facility is located at 540 Waugh Street in Jefferson, North Carolina. Margate has only 6 private rooms and was originally built in February 1989.

Margate is in need of multiple physical plant improvements including, but not limited to: a sprinkler system throughout the facility, roof replacement, parking lot improvements, interior upgrade and renovation and other improvements necessitated by normal wear and tear over an extended period of time. The Centers for Medicare and Medicaid services ("CMS") has established a deadline of August 13, 2013 for skilled nursing facilities to satisfy mandatory sprinkler installation requirements. CMS has stated that no waivers will be granted from this deadline.

Since it was originally built in 1989, Margate also has a more institutional design that lacks the therapy area, community spaces, private rooms and amenities found in current designs. Margate's historical occupancy has been constrained by the lack of private rooms, old design and need to upgrade the physical plant. Margate serves a high percentage of Medicaid residents. Its current average Medicaid utilization is 77 percent.

Ashe owns property immediately up to the edge of property owned by Hendersonville on which Margate is located. Enclosed is a site plan that shows the existing contiguous locations of Ashe and Margate as well as the placement on the site of the proposed relocation of Ashe's 60 nursing home beds to be attached to the Margate facility. We have also enclosed a letter from the administrator of the Margate facility concerning the service road. The service road is a dedicated street now called Medical Park Drive and a primary purpose of the road is to connect the two facilities. The road accesses the back of Ashe and Margate and has become the primary entrance for the Margate facility.

PROPOSAL

Contingent on obtaining appropriate certificate of need and other regulatory approvals, Ashe, Hendersonville and Margate entered into a letter of intent dated November 17, 2011 that addresses their plans to relocate nursing home beds from Ashe to be adjacent to Margate. A copy of the signed letter of intent, redacted for private terms, is enclosed.

The letter of intent contemplates development of an addition to Margate to house the 60 nursing home beds to be relocated from Ashe. Ashe would lease land from Hendersonville for the addition. The leased land will adjoin the land owned by Ashe and on which the Hospital is located. Hendersonville will develop the addition on behalf of Ashe, who will own the building addition and lease it to Margate to operate under its license and Medicare and Medicaid provider agreements. Ashe will continue to own the 60 nursing home bed addition until the beds are complete, licensed, operated and Medicare and Medicaid certified under Margate's license and Medicare and Medicaid provider agreements. Residents of the 60 nursing home beds and staff working in the skilled nursing unit at Ashe will be relocated to the addition at Margate.

As part of the project, Ashe, Hendersonville and Margate anticipate undertaking the following capital improvements as part of renovation of the existing Margate facility and the additions to the Margate facility:

1. Increase in the total number of private rooms from 12 to 38.
2. Addition of small dining and community living spaces.
3. Sprinkler installation throughout the facility.
4. Renovation of the interior front entrance.
5. Roof replacement.
6. Parking lot repairs and upgrade.
7. Wireless access.
8. Replacement of beds and other furnishings.
9. Kitchen renovation.
10. Physical therapy suite.

The size of the expansion is estimated to be approximately 28,000 square feet and the expected capital expenditure exceeds \$2 million for construction costs alone. A sketch of the current floor plan of the additional space prepared by David Polston, an architect licensed in North Carolina with extensive experience in nursing home design, is also enclosed.

ANALYSIS

Capital Expenditure Over Two Million Dollars

The capital expenditures to be incurred for the project are exempt under N.C. Gen. Stat. § 131E-184 (e). Hendersonville will incur capital expenditures to expand and renovate Margate. Capital expenditures will also be incurred on behalf of Ashe to construct an addition to the Margate facility to house its relocated 60 nursing home beds.

The capital expenditures satisfy the requirements of the exemption in N.C. Gen. Stat. § 131E-184 (e) because:

1. The capital expenditures will be used solely for the purpose of renovating, replacing and expanding existing nursing home facilities on the same site.
2. There will not be any change in bed capacity, the addition of a health service facility or any other new institutional health service other than as defined in N.C. Gen. Stat. § 131E-176 (16)(b).
3. This letter constitutes prior written notice to the Department and includes documentation of the purpose of the capital expenditure.
4. The capital expenditures will be used to create a physical therapy suite, add private resident rooms, create innovative, homelike residential dining spaces to accommodate residents and their families or visitors and to renovate, replace and expand residential living and common areas to improve the quality of life for residents. The number of private resident rooms will more than triple as a result of the project.

Both the AMH Segraves Care Center and Margate are existing skilled nursing units or facilities. Under the CON Act, relocation of the 60 nursing home beds from Ashe to be an addition to Margate will occur on the same "campus," which means the adjacent grounds and buildings, or grounds and buildings not separated by more than a public right-of-way. N.C. Gen. Stat. § 131E-176 (2c). There is no public right-of-way separating the properties, which are adjacent and continue uninterrupted. Ashe will lease land for its replacement addition from Hendersonville, which will physically adjoin and touch the Ashe property. Ashe will have legal control over the property for the relocated 60 skilled beds. The expansion, therefore, will occur on the same site.

No Change in Bed Capacity

Relocation of the 60 nursing home beds from Ashe to be an addition to the Margate facility will not constitute a "change in bed capacity" as defined in the CON Act. N.C. Gen. Stat. § 131E-176 (5) defines "change in bed capacity" as:

- (i) Any relocation of health service facility beds, or dialysis stations from one licensed facility or campus to another, or
- (ii) Any redistribution of health service facility bed capacity among the categories of health service facility bed as defined in G.S. 131E-176 (9c), or
- (iii) Any increase in the number of health service facility beds, or dialysis stations in kidney disease treatment centers, including freestanding dialysis units.

All the beds will remain nursing home beds and there will not be any redistribution of the beds among different categories of health service facility beds. N.C. Gen. Stat. § 131E-176 (9c). There will be no increase in the number of nursing home beds. Furthermore, the Ashe nursing beds will remain on the same campus and under the Ashe license until the CON law permits their acquisition by Hendersonville.

Acquisition of Existing Health Service Facility

The CON Act exempts from review the acquisition of an existing health service facility, including equipment owned by the health service facility at the time of the acquisition. N.C. Gen. Stat. § 131E-184 (a)(8). Hendersonville will not acquire from Ashe the Segraves Care Center until the replacement facility is complete, licensed, operational and Medicare and Medicaid certified. This acquisition is comparable to the acquisition previously approved by the CON Section when Autumn Care of Biscoe acquired 39 nursing beds relocated from FirstHealth Montgomery Memorial Hospital. Enclosed is a copy of the November 9, 2007 letter to Ms. Hoffman at the CON Section concerning the relocation of nursing beds in Montgomery County. In the Montgomery County situation, a CON application was needed to relocate the beds, since the same campus was not involved. However, the acquisition of the beds by Autumn Care of Biscoe from FirstHealth Montgomery Memorial Hospital is comparable because both involve a skilled nursing unit of a hospital that was relocated to a facility that was adjacent to an existing skilled nursing facility. The acquisition by Hendersonville of the 60 nursing bed replacement facility developed on behalf of Ashe constitutes an exempt acquisition just as the FirstHealth Montgomery Memorial nursing home addition was an exempt acquisition.

Mr. Craig R. Smith, Chief

December 19, 2011

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The above described project is in the best interest of the Ashe County community. It will enable development of replacement nursing beds that create more private rooms and expanded and reconfigured homelike residential dining and community spaces that will improve the quality of life for nursing home residents. The County will benefit from a renovated and more current designed facility. With a greater number of beds operated under one license as a single entity, greater economies of scale can be attained, there will be more flexibility for placement of residents in particular rooms and expanded programming can be made available. Furthermore, Ashe will be able to renovate its physical plant to offer improved and expanded hospital services and to allow new services to be considered, such as outpatient mental health services and comprehensive wound care services. This project will allow such hospital services to be offered closer to home for Ashe County residents in a renovated setting. Relocation of the 60 nursing beds will also curb losses at the Hospital, which will provide more flexibility to provide hospital services to the community.

Given the deadline for accomplishing sprinkler installation and the desire to accomplish renovations at the Hospital and Margate as soon as possible for the community, we would appreciate your prompt consideration and response to this request. If you have any questions or need any additional information, please let us know.

With kind regards,

Sincerely yours,

SMITH MOORE LEATHERWOOD LLP



Maureen Demarest Murray

MDM:is

Enclosures

cc: R.D. Williams, Ashe Memorial
Tony Brett, Attorney for Ashe
Doug Suddreth
Bob Walker



Ashe Memorial Hospital

200 Hospital Avenue, Jefferson, North Carolina 28640 (336) 246-7101

December 1, 2011

Craig Smith, Section Chief
NC Division of Health Service Regulation
Certificate of Need Section
2704 Mail Service Center
Raleigh, NC 27699-2704

Dear Mr. Smith;

Please accept this letter in support of the request for exemption submitted by Hendersonville Health Care Facility Limited Partnership for the development of a replacement facility to house the 60 long-term-care beds found at AMH Segraves Care Center in Jefferson, North Carolina. The approval of this request is vital to the continued ability of Ashe Memorial Hospital to fulfill its mission to provide acute care services within the Ashe County community.

Ashe Memorial has operated AMH Segraves Care Center since its opening in 1991. During that time the facility has developed an excellent reputation for the provision of care in a long-term setting. In 2007, due to reduced utilization of acute care inpatient services and declining reimbursement from Medicare and Medicaid, Ashe Memorial Hospital made the decision to convert to Critical Access Hospital status (CAH). This conversion has been very beneficial to the organization and has provided stability in reimbursement for acute care and out-patient services.

Following the conversion to CAH status it was confirmed that the continued operation of AMH Segraves Care Center would result in a significant financial loss to the organization due, in large part, to the overhead expense allocation methods required under cost based reimbursement. This allocation methodology has resulted in over \$800,000 in reduced reimbursement for the organization annually since the 2007 conversion.

Ashe Memorial is faced with additional challenges to expand services currently being offered. To expand services and to relocate other services to promote efficiency of operation the current square footage allocated to AMH Segraves Care Center will be reused for hospital related services such as Information Technology, Laboratory, Respiratory Therapy, Medical Records and Financial Services. The reuse of this space will also allow new services to be considered such as Outpatient Mental Health services and Comprehensive Wound Care Services. At this time, we do not anticipate undertaking any renovation that will require certificate of need review but will contact the CON Section should there be a possible need for CON review.

The efficiencies gained with relocation and the development of new services will further improve Ashe Memorial's financial position and enhance care delivery in the community. Time is a very critical issue in this matter, as long as Segraves Care Center is operated as a long-term-care facility the cost allocation and operating losses will continue. I urge you to grant the request as it has been submitted.

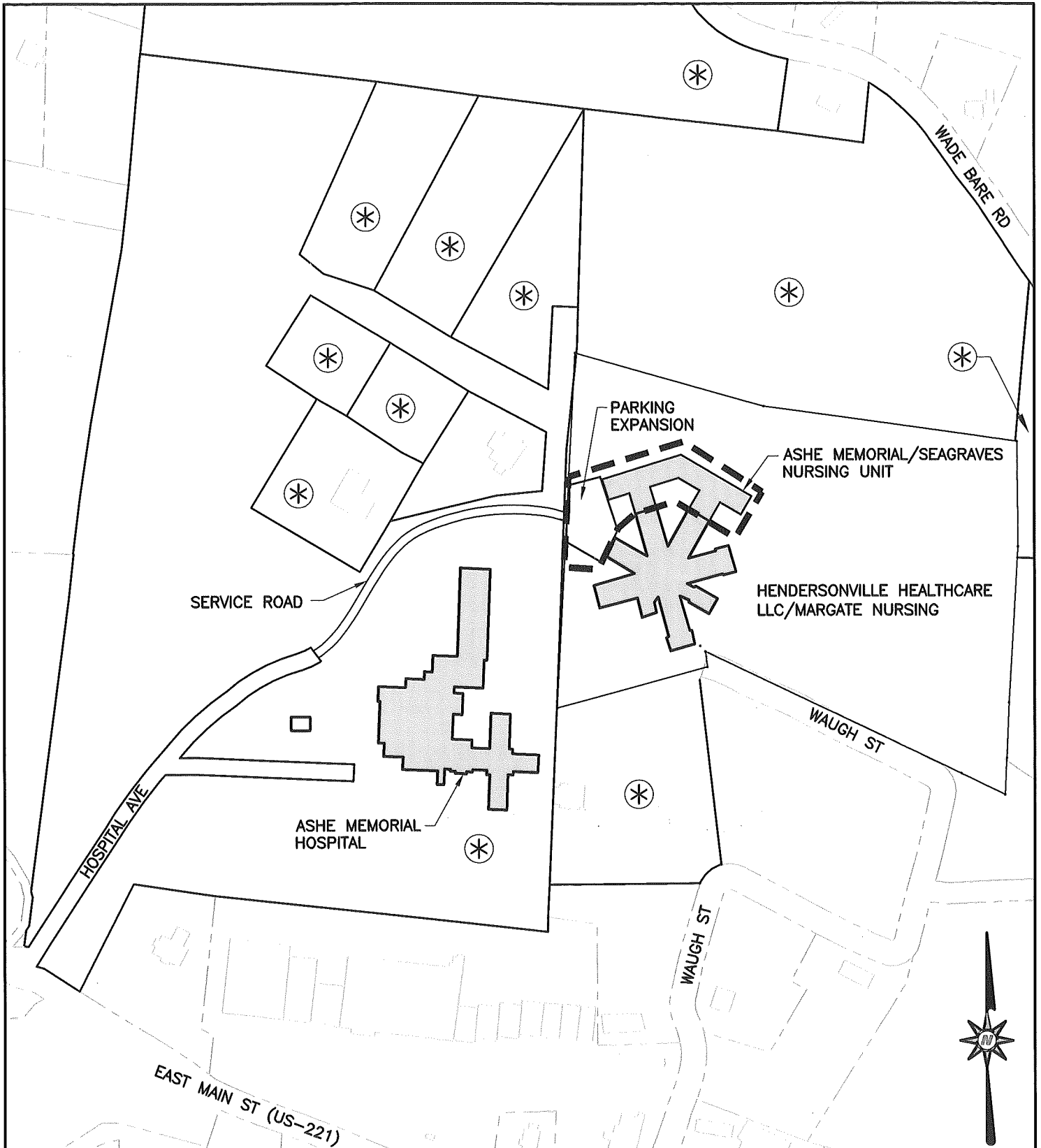
Craig Smith: page 2

Thank you for your consideration of this information and request. Please contact me if I may provide any additional information.

Respectfully,

A handwritten signature in black ink, appearing to read "R.D. Williams", with a long horizontal flourish extending to the right.

R.D. Williams
Chief Executive Officer



(*) DENOTES PROPERTY OWNED OR CONTROLLED BY ASHE MEMORIAL HOSPITAL

SCALE: 1" = 300'



C The Curry Engineering Group, PLLC

www.curryengineeringgroup.com doneurry@curryengineeringgroup.com

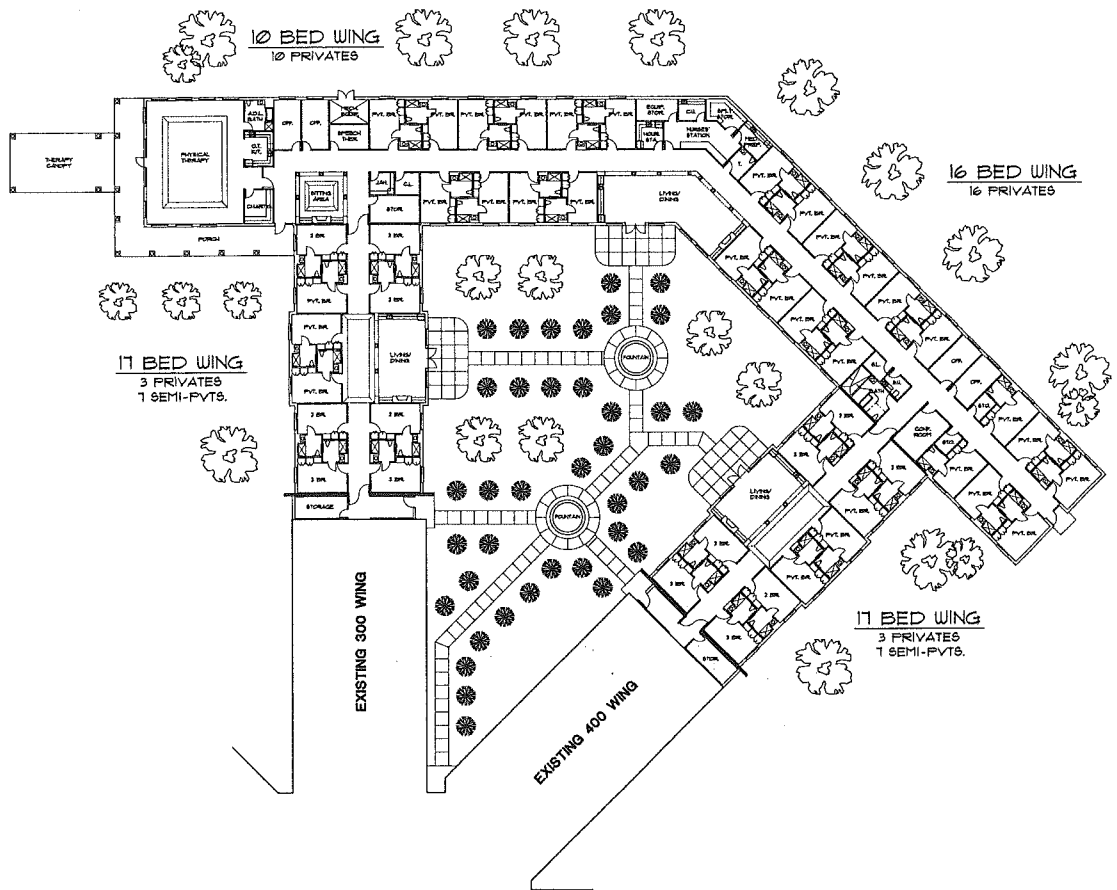
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FUQUAY-VARINA, NC
27526

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FAX: (919) 552-2043
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NC LIC. NO. P-0799

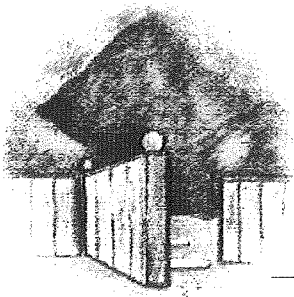
**MARGATE NURSING
JEFFERSON, NC**

LEASE EXHIBIT EX -1



(101) FLOOR PLAN 60 BED BUILDING ADDITION
 SCALE: 1/8" = 1'-0"

<p>MARGATE HEALTH AND REHABILITATION Jefferson, North Carolina</p>	<p>David R. Polston - Architect 3806 Park Ave. Suite 2-L, Wilmington, NC 28403 Architecture - Planning - Design</p>	<p>60 BED BUILDING ADDITION ARCHITECTURAL PLAN A1</p>
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Margate Health and Rehab Center

11-29-11

Mr. Craig Smith
Chief Certificate of Need Section

Dear Mr. Smith,

My name is Heather McLamb. I am the Executive Director at Margate Health and Rehab in Jefferson, North Carolina. The purpose of this letter is to inform you that the service road that connects the Ashe Memorial Hospital property with Margate's property, is the main entrance used for staff and family members. If you have any additional questions, please feel free to contact me at 336-246-5581.

Sincerely,



Heather G. McLamb, Executive Director

Hendersonville Health Care Facility Limited Partnership

November 17, 2011

Ashe Memorial Hospital, Inc.
200 Hospital Avenue
Jefferson, NC 28640
Attention: R. D. Williams

Margate Health & Rehab Center LLC
c/o Mr. Robert H. Walker, Jr.
965 Meadow Lane
Henderson, NC 27536

Re: Agreement Regarding Proposed Relocation of 60 Skilled Nursing Beds from
Ashe Memorial Hospital, Inc. to Hendersonville Health Care Facility Limited
Partnership

Dear Mr. Williams and Mr. Walker:

This Letter will outline the principal terms of an Agreement among Ashe Memorial Hospital, Inc. ("Ashe"); Hendersonville Health Care Facility Limited Partnership ("Hendersonville"); and Margate Health and Rehab LLC ("Margate") concerning the proposed relocation of 60 skilled nursing beds from Ashe to be adjacent to Margate Health and Rehab LLC (the "Project") owned by Hendersonville. Following issuance of an exemption or a Certificate of Need ("CON") for the Project, the parties may document their agreement in a more formal fashion. With respect to the Project, Ashe, Hendersonville and Margate have agreed as follows:

1. They will file a joint notice of exemption or CON application proposing to relocate 60 skilled nursing beds located at Ashe to land owned by Hendersonville adjacent to Margate Health and Rehab LLC, which once built will be leased and operated by Margate.
2. Hendersonville will prepare the exemption notice or CON application and pay any filing fee or other direct expenses associated with the notice or application. Ashe, Hendersonville and Margate will cooperate in developing the exemption notice or application, responding to any

*Hendersonville
land to be
leased by
Ashe, rec'd
cover letter.*

potential written comments, and making presentations at any public hearing that may occur.

3. If the exemption is acknowledged or the application is approved, Hendersonville will enter into a ground lease with Ashe, for the sum of [REDACTED] per year, to provide sufficient land at the current site of Margate Health and Rehab LLC (the "Property") on which to build a facility to house the Project and approved number of beds as an addition to the existing Margate Health and Rehab LLC facility. Once complete, Ashe will lease the Project to Hendersonville for [REDACTED] per year. After the construction of the Project is complete, Ashe will then sub-lease the Project to Margate to operate the approved skilled nursing beds under the same terms and conditions as in the current lease between Hendersonville and Margate and the skilled nursing beds will be added to such lease.

4. Margate will be responsible for accomplishing licensure and Medicare and Medicaid certification for such beds. The approved skilled nursing beds will be added to the license and Medicare and Medicaid provider numbers for Margate Health and Rehab LLC, and the lease and sublease of the Property between Ashe and Hendersonville will be terminated once the skilled nursing beds are included under the license and provider numbers of Margate.

5.

Redacted



Redacted

b.

c. Margate will notify Ashe and Hendersonville in writing when it has received official notice that the relocated skilled nursing beds are licensed and added to Margate's Medicare and Medicaid provider numbers.

d. The remaining balance will be paid by Hendersonville to Ashe within 10 business days of when Hendersonville receives notice from Margate that the relocated skilled nursing beds are licensed and Medicare and Medicaid certified under Margate's license and Medicare and Medicaid provider numbers. In exchange for this payment, Hendersonville has the right to ownership of the relocated skilled beds and Ashe will execute a bill of sale simultaneously with the payment of the remaining balance.

6. Hendersonville will develop and construct the Project as an addition to Margate Health and Rehab LLC on behalf of Ashe. Hendersonville will act as the developer and may contract with others to construct the Project. Hendersonville will assume all of the responsibility for, expense of, and risk associated with, the development of the Project on behalf of Ashe.

7. Hendersonville will secure any needed construction, permanent or other financing to construct the Project. Hendersonville will be the borrower for any financing. Ashe will not assume any expense or risk associated with the financing for the Project. Hendersonville will make any installment or other payments required during the course of construction or development of the Project on behalf of Ashe.

8. On behalf of Ashe, Hendersonville will obtain, at Hendersonville's expense, any permits, zoning exceptions or other governmental approvals needed to construct the Project.

9. On behalf of Ashe, Hendersonville will handle, at Hendersonville's sole expense, all aspects of development of the Project including, but not limited to design of the space, development of construction drawings, architectural and engineering services, construction supervision, regulatory approval, and acquisition of equipment and furnishings.

10. On behalf of Ashe, Hendersonville will also provide, through its arrangement with Margate as lessee and operator of Margate Health and Rehab LLC, all services necessary to open and operate the skilled nursing beds approved to be relocated, including but not limited to accomplishing licensure and Medicare and Medicaid certification.

11. Hendersonville will incur and pay on behalf of Ashe all costs and expenses necessary to develop, construct, license and certify the approved skilled nursing beds under the license and Medicare and Medicaid provider numbers of Margate Health and Rehab LLC.

12. If the acknowledgement of exemption or approval of the CON application is appealed, Hendersonville and Margate jointly will have sole discretion to decide whether to defend such appeal or to withdraw the exemption notice or CON application. Hendersonville will select counsel of Hendersonville's choosing to defend approval of the application on behalf of Ashe, Margate and Hendersonville. Hendersonville will bear the expense of such counsel and Hendersonville's expenses in connection with such appeal. Notwithstanding the provisions of paragraph 13 below, if Ashe chooses to retain separate counsel in connection with such an appeal, it will bear the expense of such separate counsel and its costs related to the appeal.

13.

Redacted



14. If skilled nursing beds are relocated to and operated by Margate, Margate agrees to offer employment to staff of Ashe for positions available at that time or that become available for a period of one year from when Margate begins to operate the skilled nursing beds relocated from Ashe who were working at that time in connection with Ashe's 60 skilled nursing beds and are qualified for such positions. Any offer of employment will be as a new employee of Margate on a 90 day probationary basis and in accordance with Margate's employment policies and procedures in effect at that time, which will include credit for years of service accumulated

during their employment at Ashe up to 10 years for purposes of all benefits offered by Margate.

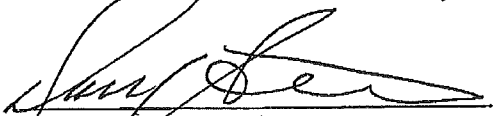
15. This Agreement is binding on all parties contingent on obtaining necessary certificate of need or other government or regulatory approvals.

Hendersonville is very pleased that Ashe, Margate and Hendersonville have been able to work together to maintain the viability and operation of these skilled nursing beds for the community in an appropriate setting. We look forward to obtaining an exemption or certificate of need for the Project and prompt development and operation of these replacement skilled nursing beds for the citizens of Ashe County.

If the above accurately sets forth your intention with respect to the transaction outlined above, please so indicate by signing both copies of this letter in the space provided, return one original to me, and retain the other for your files.

Sincerely yours,


Hendersonville Health Care Facility Limited Partnership




Douglas C. Suddreth

ACCEPTED AND AGREED:

Ashe Memorial Hospital, Inc.

By: 
R. D. Williams
Chief Executive Officer

Margate Health and Rehab LLC

By: 
Robert H. Walker, Jr.
President

SMITH MOORE LLP

ATTORNEYS AT LAW

November 9, 2007

Ms. Lee B. Hoffman, Chief
Certificate of Need Section
Division of Health Service Regulation
North Carolina Department of Health
and Human Services
2704 Mail Service Center
Raleigh, NC 27696-2704

Re: Acquisition of FirstHealth Skilled Nursing Facility in Biscoe by Autumn Corporation

Dear Ms. Hoffman:

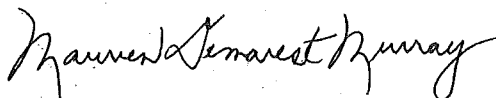
As forecast in the CON application by FirstHealth Montgomery Memorial Hospital and Autumn Corporation, this letter is to provide you with written notice pursuant to N.C. Gen. Stat. § 131E-184(a)(8) of the acquisition by Autumn Corporation of the existing 39 bed skilled nursing facility owned by FirstHealth Montgomery Memorial Hospital that is located at 401 Lambert Road in Biscoe. Construction of this First Health replacement skilled nursing facility is complete and the beds are licensed, operational and certified.

We appreciate your consideration. Should you have any questions, please contact us.

With kindest personal regards, I am

Very truly yours,

SMITH MOORE LLP



Maureen Demarest Murray

MDM:tmp

cc: Mr. Douglas C. Suddreth