



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/dhshr

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

RESPONSE REQUIRED

January 27, 2012

Gerald J. Boyle, Consultant
1217 Pond Street
Cary, NC 27511

RE: Conditional Approval/ Project I.D. #J-8721-11/ Universal Properties/Fuquay Varina, LLC (lessor) and Universal Health Care/Fuquay Varina, Inc. (lessee)/ Develop 20 additional nursing beds at an existing Fuquay Varina facility for a total of 69 nursing facility beds and 31 adult care home beds upon completion of this project and Project I.D. #J-8449-09/ Wake County
FID #090946

Dear Mr. Boyle:

The Certificate of Need (CON) Section, Division of Health Service Regulation, Department of Health and Human Services 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 Statute, G.S. 131E-175 et. seq., and regulations promulgated thereunder, 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 G.S. 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 Department 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 G.S. 131E-187(a). The conditions are as follows:

1. Universal Properties/Fuquay Varina, LLC (lessor) and Universal Health Care/Fuquay Varina, Inc. (lessee) shall materially comply with all representations made in the certificate of need application, except as amended by the conditions of approval.
2. Universal Properties/Fuquay Varina, LLC (lessor) and Universal Health Care/Fuquay Varina, Inc. (lessee) shall add no more than 20 licensed nursing care beds to the previously approved nursing facility (Project I.D. # J-8449-09), for a total of 69 licensed nursing care beds and 31 licensed adult care home beds upon completion of Project I.D. # J-8449-09 and this project.
3. Universal Properties/Fuquay Varina, LLC (lessor) and Universal Health Care/Fuquay Varina, Inc. (lessee) shall submit all patient charges and actual per diem reimbursement rates for each



source of patient payment to the CON Section at year end for each of the first two operating years following licensure of the beds in the facility.

4. Universal Properties/Fuquay Varina, LLC (lessor) and Universal Health Care/Fuquay Varina, Inc. (lessee) shall receive the Medicaid per diem reimbursement rates allowed by the Division of Medical Assistance, under the NC State Plan Section .0102.
5. Universal Properties/Fuquay Varina, LLC (lessor) and Universal Health Care/Fuquay Varina, Inc. (lessee) shall file the proposed budget for the facility with the Division of Medical Assistance no later than thirty days prior to the prospective certification date of the new beds.
6. The additional nursing care beds shall not be certified for participation in the Medicaid program prior to October 1, 2014 unless the Division of Medical Assistance determines that state funds are available in the current Medicaid budget to pay for the care and authorizes an earlier certification date.
7. For the first two full federal fiscal years of operation following completion of the project, Universal Properties/Fuquay Varina, LLC (lessor) and Universal Health Care/Fuquay Varina, Inc. (lessee)'s actual private pay charges shall not be increased more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.
8. Prior to issuance of the certificate of need, Universal Properties/Fuquay Varina, LLC (lessor) and Universal Health Care/Fuquay Varina, Inc. (lessee) shall provide to the Certificate of Need Section a written statement describing the project's plan to assure improved water conservation.
9. Universal Properties/Fuquay Varina, LLC (lessor) and Universal Health Care/Fuquay Varina, Inc. (lessee) shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.

Response to the above conditions should be submitted to the CON Section 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 \$3,541,100. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new Certificate of Need may be required as determined by G.S. 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 G.S. 150B, Article 3, as amended. This petition must be

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filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 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).]

G.S. 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:

Emery Milliken
Department of Health and Human Services,
Office of Legal Affairs,
Adams Building – Room 154
2001 Mail Service Center
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Certificate of Need Section.

The certificate of need will not be issued before the completion of this 30 day period ending February 27, 2012. 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 CON Section because the review period was extended. The timetable for this project is as follows:

Final Drawings Submitted to Construction, DHSR	November 15, 2012
Site Preparation	January 1, 2013
25% Completion of Construction	April 1, 2013
50% Completion of Construction	July 1, 2013
75% completion of construction	August 15, 2013
Completion of Construction	September 15, 2013
Licensure of Facility	October 1, 2013

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 I.D.# and Facility I.D.# (FID) in all correspondence.

Sincerely,



Michael J. McKillip, Project Analyst
Certificate of Need Section

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Martha J. Frisone, Assistant Chief
Certificate of Need Section



Craig R. Smith, Chief
Certificate of Need Section

MJM:MJF:CRS:vlw

Attachment

cc: Medical Facilities Planning Section, DHSR
Nursing Home Licensure & Certification Section, DHSR
Construction Section, DHSR

CERTIFICATE OF SERVICE

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

Randy Uzzell, President, Britthaven, Inc.
Manager, Spruce LTC Group, LLC
1435 Hwy. 258 North
P.O. Drawer 6159
Kinston, NC 28501
Project I.D. #J-8713-11
FID #110707

Gerald J. Boyle, Consultant
1217 Pond Street
Cary, NC 27511
Project I.D. #J-8721-11
FID #090946

Robert Evans, Manager
E.N.W., LLC
968 Wait Avenue
Wake Forest, NC 27588
Project I.D. #J-8729-11
FID #110719

CERTIFICATE OF SERVICE

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

Thomas "Ted" Smith, Administrator & Secretary-Treasurer
Hillcrest Convalescent Center, Inc.
1417 West Pettigrew Street
Durham, NC 27795
Project I.D. #J-8711-11
FID #110705

Bruce Hedrick, VP of Development
Medical Facilities of America, Inc.
2917 Penn Forest Blvd., Suite 200
Roanoke, VA 24018
Project I.D. #J-8712-11
FID #110706

Gerald J. Boyle, Consultant
1217 Pond Street
Cary, NC 27511
Project I.D. #J-8714-11
FID #971329

Randy Uzzell, President, Britthaven, Inc.
Manager, Spruce LTC Group, LLC
1435 Hwy. 258 North
P.O. Drawer 6159
Kinston, NC 28501
Project I.D. #J-8715-11
FID #110708

Edward Hillard, Director of Acquisitions
111 Westwood Place, Suite 400
Brentwood, TN 37027
Project I.D. #J-8717-11
FID #110710

Aneel Gill, Health Planner
UHS- Pruitt Corporation
1626 Jeurgens Court
Norcross, GA 30093
Project I.D. #J-8719-11
FID #990762

Aneel Gill, Health Planner
UHS- Pruitt Corporation
1626 Jeurgens Court
Norcross, GA 30093
Project I.D. #J-8720-11
FID #110712

Aneel Gill, Health Planner
UHS- Pruitt Corporation
1626 Jeurgens Court
Norcross, GA 30093
Project I.D. #J-8722-11
FID #110713

Doug Whitman, Development Director
Liberty Healthcare Properties
2334 South 41st Street
Wilmington, NC 28403
Project I.D. #J-8723-11
FID #110714

Doug Whitman, Development Director
Liberty Healthcare Properties
2334 South 41st Street
Wilmington, NC 28403
Project I.D. #J-8726-11
FID #110716

Doug Whitman, Development Director
Liberty Healthcare Properties
2334 South 41st Street
Wilmington, NC 28403
Project I.D. #J-8727-11
FID #110717

Jim Swann, Consultant
Consensus Consulting, LLC
3725 National Drive, Suite 117
Raleigh, NC 27612
Project I.D. #J-8730-11
FID #110720

Jim Swann, Consultant
Consensus Consulting, LLC
3725 National Drive, Suite 117
Raleigh, NC 27612
Project I.D. #J-8731-11
FID #110721

This the 27th day of January, 2012



Michael J. McKillip, Project Analyst

