



**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
<http://www.ncdhhs.gov/dhsr/>

Drexdal Pratt, Director

Beverly Eaves Perdue, Governor
Albert A. Delia, Acting Secretary

Craig R. Smith, Section Chief
Phone: (919) 855-3873
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RESPONSE REQUIRED

September 27, 2012

Mr. Mike Raney
2106 South 17th Street
Wilmington, NC 28401

Conditional Approval

Project I.D. #: J-8819-12
Facility: Maxim Healthcare Services Inc.
Project Description: Develop a Medicaid-certified home health agency in Wake County
County: Wake
FID #: 120226

Dear Mr. Raney:

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 Law, 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. Maxim Healthcare Services, Inc. shall materially comply with all representations made in its certificate of need application.
2. Maxim Healthcare Services, Inc. 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 \$50,000. 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 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).]

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 MSC
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 October 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:

Acquisition of Equipment _____ November 15, 2012
Certification of facility _____ April 1, 2013

If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the

Mike Raney
September 27, 2012

Page 3

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,

Gregory F. Yakaboski, Project Analyst

Martha J. Frisone, Assistant Chief
Certificate of Need Section

GFY:MJF:mw

Attachment

cc: Medical Facilities Planning Section, DHSR
Acute & Home Care 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 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:

Mr. Mike Raney
2106 South 17th Street
Wilmington, NC 28401
Project I.D. # J-8819-12
FID # 120226

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:

Mr. Thomas A. Smith
1417 West Pettigrew Street
Durham, NC 27705
Project I.D. # J-8813-12
FID # 120220

Mr. Tim Brooks
509 West Third Street
Pembroke, NC 28372
Project I.D. # J-8814-12
FID # 120221

Mr. Russell Herring
1003 Old Waterford Way, Suite 2C
Leland, NC 28451
Project I.D. # J-8817-12
FID # 120223

Mr. Mike Kahm
2601 Weston Parkway, Suite 203
Cary, NC 27513
Project I.D. # J-8821-12
FID # 120227

This the 27th day of September, 2012.

Gregory F. Yakaboski
Project Analyst