

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 27, 2019

Timothy Walsh
2334 South 41st Street
Wilmington, NC 28403

Conditional Approval

Project ID #: F-11730-19
Facility: The Barclay at SouthPark
Project Description: Relocate no more than 8 ACH beds from Radborne Manor to The Barclay at Southpark for a total of no more than 22 NF beds and 108 ACH beds, including a 24-bed special care unit, upon completion of this project and Project ID# F-11296-17 (develop a new combination nursing facility with 22 NF and 100 ACH beds). This is also a change of scope for Project ID #F-11607-18 (relocate 12 ACH beds from Radbourne Manor to a facility in Mint Hill)
County: Mecklenburg
FID #: 170065

Approved Capital Expenditure: \$802,641
Conditions of Approval: See Attachment A
Approved Timetable: See Attachment B
Last Date to Appeal: October 28, 2019
Required State Agency Findings: Enclosed

Dear Mr. Walsh:

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 review of the application or applications if the review was competitive, consideration of the Certificate of Need Law and regulations promulgated thereunder, the State Medical Facilities Plan, written comments if any, responses to comments if any, and other publicly applicable information.

The conditional approval is valid only for the approved capital expenditure shown above. If the capital cost will exceed the approved capital expenditure amount by more than 115%, the applicant must first obtain a new certificate of need.

Response to the conditions in Attachment A 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 Agency making a determination not to issue a certificate of need for the project referenced above.

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 approved timetable for this project is found in Attachment B.

Note: The applicant shall not begin developing this project until after the certificate of need has been issued and the certificate of need will not be issued until the applicant has documented that all conditions that must be met prior to issuance of the certificate of need have been met. Furthermore, if the project requires that plans be submitted to the Construction Section, those plans will not be reviewed or approved until after the certificate of need has been issued.

The Certificate of Need law provides that any affected person has thirty (30) days after the date of the decision to file a petition for a contested case on this approval. Further, if you are aggrieved by any of the conditions you may file a petition for a contested case hearing in accordance with N.C. Gen. Stat. §150B, Article 3. This petition must be 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. Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to the 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 Mail Service Center
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 thirty day appeal period which ends on the date shown above. If a contested case petition is filed with OAH within the thirty day appeal period, the certificate will not be issued until the appeal is resolved.

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 this office if any clarification of this decision is required.

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

Sincerely,


Celia C. Inman
Project Analyst


Fatimah Wilson
Team Leader

Enclosures:

Attachment A: Conditions of Approval
Attachment B: Approved Timetable
Required State Agency Findings

cc: Nursing Home Licensure and Certification Section, DHSR

Attachment A
Conditions of Approval

- 1. Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, LLC shall materially comply with all representations made in this application and the representations in Project ID #F-11296-17.**
- 2. Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, LLC shall relocate no more than eight adult care home beds from Radbourne Manor for a total of no more than 22 nursing facility beds and 108 adult care home beds at The Barclay at SouthPark upon completion of this project and Project ID #F-11296-17.**
- 3. Prior to issuance of the CON, Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC shall take appropriate steps to relinquish the CON for Project ID #F-11607-19 (relocate 12 ACH beds from Radbourne Manor to a facility in Mint Hill).**
- 4. The total combined capital expenditure of both projects is \$42,606,498, an increase of \$802,641 over the capital expenditure of \$41,803,857 previously approved in Project ID #F-11296-17.**
- 5. For the first two years of operation following completion of the project, Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q 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. No later than three months after the last day of each of the first three full fiscal years of operation following initiation of the services authorized by this certificate of need, Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, 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.**
- 7. Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, 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.**

Attachment B
Approved Timetable

1. 50% of Construction / Renovation Completed _____ March 1, 2020
2. 75% of Construction / Renovation Completed _____ December 1, 2020
3. Construction / Renovation Completed _____ August 1, 2021
4. Building / Space Occupied _____ September 1, 2021
5. Licensure Obtained _____ September 1, 2021
6. Services Offered (required) _____ October 1, 2021
7. First Annual Report Due* _____ December 31, 2022