



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 18, 2019

Andy Page
2501 Blue Ridge
Suite 500
Raleigh, NC 27607

Conditional Approval

Project ID #: R-11726-19
Facility: Elizabeth City Health and Rehabilitation
Project Description: Cost overrun for Project I.D. #R-8766-11 (add 24 nursing facility beds pursuant to the 2011 SMFP need determination for a total of 170 nursing facility beds)
County: Pasquotank
FID #: 030353

Approved Capital Expenditure: \$1,000,000
Conditions of Approval: See Attachment A
Approved Timetable: See Attachment B
Last Date to Appeal: October 18, 2019
Required State Agency Findings: Enclosed

Dear Mr. Page:

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

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: 2704 Mail Service Center, Raleigh, NC 27699-2704
<https://info.ncdhhs.gov/dhsr/> • TEL: 919-855-3873

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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,



Julie M. Faenza
Project Analyst



Fatimah Wilson
Team Leader

Enclosures:

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

cc: Construction Section, DHSR
Nursing Home Licensure and Certification Section, DHSR

Attachment A
Conditions of Approval

1. Elizabeth City Healthcare Properties, LLC shall materially comply with the representations in this application and representations in Project I.D. #R-8766-11. Where representations conflict, Elizabeth City Healthcare Properties, LLC shall materially comply with the last made representation.
2. Pursuant to the need determination in the 2011 SMFP, Elizabeth City Healthcare Properties, LLC shall develop no more than 24 additional nursing facility beds at Elizabeth City Health and Rehabilitation.
3. The total combined capital expenditure for both projects is \$2,000,000, an increase of \$1,000,000 over the capital expenditure of \$1,000,000 previously approved in Project I.D. #R-8766-11.
4. Upon completion of the proposed project, Elizabeth City Health and Rehabilitation shall be licensed for no more than 170 nursing facility beds.
5. The Medicaid per diem rates for the new nursing facility beds shall be equal to the rates for the facility's existing beds as of the date on which the additional beds are certified.
6. Elizabeth City Healthcare Properties, LLC 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.
7. The 24 additional nursing facility beds shall not be certified for participation in the Medicaid program prior to July 1, 2020 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.
8. For the first two years of operation following completion of the project, Elizabeth City Healthcare Properties, LLC shall not increase private pay charges by more than five percent 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.
9. 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, Elizabeth City Healthcare Properties, 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.
10. Elizabeth City Healthcare Properties, 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. 25% of Construction / Renovation Completed
(25% of the cost is in place) _____ October 15, 2019
2. 50% of Construction / Renovation Completed _____ November 15, 2019
3. 75% of Construction / Renovation Completed _____ December 15, 2019
4. Construction / Renovation Completed _____ January 1, 2020
5. Equipment Ordered _____ October 15, 2019
6. Equipment Installed _____ November 15, 2019
7. Equipment Operational _____ December 15, 2019
8. Building / Space Occupied _____ January 15, 2020
9. Licensure Obtained _____ January 1, 2020
10. Services Offered (required) _____ January 1, 2020
11. Medicare and / or Medicaid Certification Obtained _____ January 1, 2020
12. First Annual Report Due _____ March 31, 2021