

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

October 23, 2019

Kathy Erickson
1729 New Hanover Medical Park Drive
Wilmington, NC 28403

Conditional Approval

Project ID #: O-11720-19
Facility: Wilmington Eye Surgery Center
Project Description: Develop a freestanding ASF with 2 ORs and 4 procedure rooms pursuant to the 2019 SMFP need determination
County: New Hanover
FID #: 190277

Approved Capital Expenditure: \$9,865,840
Conditions of Approval: See Attachment A
Approved Timetable: See Attachment B
Last Date to Appeal: November 21, 2019
Required State Agency Findings: Enclosed

Dear Ms. Erickson:

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.

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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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

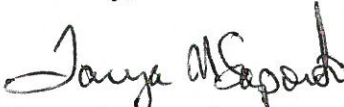
It is requested that a copy of the petition also be served on the Agency.


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,


Tanya M. Saporito
Project Analyst


Gloria C. Hale
Team Leader

Enclosures:

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

cc: Acute & Home Care Licensure & Certification Section, DHSR
Construction Section, DHSR

Attachment A
Conditions of Approval

1. Wilmington Eye Surgery Center, LLC and WESCP, LLC shall materially comply with all representations made in the certificate of need application.
2. Wilmington Eye Surgery Center, LLC and WESCP, LLC shall develop one ambulatory surgical facility with no more than two operating rooms and no more than four procedure rooms.
3. Wilmington Eye Surgery Center, LLC and WESCP, LLC shall receive accreditation from the Joint Commission for the Accreditation of Healthcare Organizations, the Accreditation Association for Ambulatory Health Care or a comparable accreditation authority within two years following licensure of the facility.
4. For the first three years of operation following completion of the project, Wilmington Eye Surgery Center shall not increase charges more than 5% of the charges projected 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.
5. The procedure rooms shall not be used for procedures that should be performed only in operating rooms based on current standards of practice.
6. Procedures performed in procedure rooms shall not be reported for billing purposes as having been performed in operating rooms and shall not be reported on the facility's license renewal application as procedures performed in operating rooms.
7. Wilmington Eye Surgery Center, LLC and WESCP, LLC shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.
8. 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, Wilmington Eye Surgery Center, LLC and WESCP, 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.
9. Wilmington Eye Surgery Center, LLC and WESCP, 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. Financing Obtained _____ January 17, 2020
2. Drawings Completed _____ April 1, 2020
3. Land Acquired _____ January 17, 2020
4. Construction / Renovation Contract(s) Executed _____ January 17, 2020
5. 25% of Construction / Renovation Completed
(25% of the cost is in place) _____ June 30, 2020
6. 50% of Construction / Renovation Completed _____ September 28, 2020
7. 75% of Construction / Renovation Completed _____ December 27, 2020
8. Construction / Renovation Completed _____ March 27, 2021
9. Equipment Ordered _____ March 27, 2021
10. Equipment Installed _____ April 26, 2021
11. Equipment Operational _____ May 3, 2021
12. Building / Space Occupied _____ May 10, 2021
13. Licensure Obtained _____ May 10, 2021
14. Services Offered (required) _____ July 1, 2021
15. Medicare and / or Medicaid Certification Obtained _____ July 1, 2021
16. Facility or Service Accredited _____ July 1, 2023
17. First Annual Report Due _____ September 28, 2024