



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK PAYNE • Director, Division of Health Service Regulation

April 26, 2019

Robert A. Leandro
Parker Poe
P.O. Box 389
Raleigh, NC 27602-0389

Exempt from Review – Acquisition of Facility

Record #: 2922
Facility Name: Bermuda Village Retirement Center
Type of Facility: NH
FID #: 932966
Acquisition by: Montage Living
Business #: 3025
County: Davie

Dear Mr. Leandro:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your representations, the above referenced proposal is exempt from certificate of need (CON) review in accordance with N.C. Gen. Stat. §131E-184(a)(8). Therefore, the above referenced business may proceed to acquire the health service facility identified above without first obtaining a CON. The Agency's determination is limited to the question of whether or not the above referenced business would have to obtain a CON if the current owners of the health service facility do in fact sell it to the business listed above. Note that pursuant to N.C. Gen. Stat. §131E-181(b): *"A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need."*

In the event that the business listed above does acquire the facility, you should contact the Agency's Nursing Home Licensure and Certification Section to obtain instructions for changing ownership of the existing facility.

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a

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HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

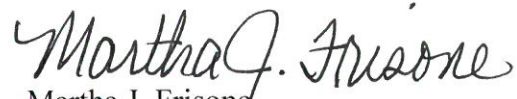
LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603
MAILING ADDRESS: 809 Ruggles Drive, 2704 Mail Service Center, Raleigh, NC 27699-2704
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separate determination regarding whether or not a certificate of need would be required. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,



Celia C. Inman
Project Analyst



Martha J. Frisone
Chief

cc: Nursing Home Licensure and Certification Section, DHSR



Robert A. Leandro
 Partner
 Telephone: 919.835.4636
 Direct Fax: 919.835.4614
 robbleandro@parkerpoe.com

Atlanta, GA
 Charleston, SC
 Charlotte, NC
 Columbia, SC
 Greenville, SC
 Raleigh, NC
 Spartanburg, SC

April 19, 2019

VIA E-MAIL AND U.S. MAIL:

Martha Frisone, Chief
 Healthcare Planning and Certificate of Need Section
 North Carolina Department of Health and Human Services
 2704 Mail Service center
 Raleigh, NC 27699-2704
 Martha.Frisone@dhhs.nc.gov

Re: Request to Transfer Certificate of Need for Good Cause and Exemption Request

Dear Ms. Frisone:

By this letter Batangas Consulting, LLC (“Batangas”) which owns and operates Bermuda Village Retirement Center (“Bermuda Village”) and Montage Living, a South Carolina not for profit corporation (“Montage”) request that that the Certificate of Need Section (the “Agency”) transfer the CON (Project ID G-11465-18) from Batangas to Montage and further confirm that the acquisition of nursing facility beds and adult care homes, which are not subject to the CON in question are exempt from Agency review under N.C. Gen. Stat. § 131E-184(a)(8). This request is based on the facts and representations as follows.

Bermuda Village is a senior living community which provides non-regulated senior housing as well as licensed nursing facility (“NF”) and adult care home (“ACH”) services. On February 6, 2018 the Agency issued an Exemption Letter to Batangas to relocate the 21 ACH beds it operates at Bermuda Villages to a new structure to be constructed on Bermuda Village’s main campus. See Attachment A. In its request, Batangas indicated it would take four years to complete construction of the new structure that would host the 21 ACH beds because the proposed location included structures that were currently occupied and could only be demolished after the current occupants vacated the structure. *Id.* The request also informed the Agency that Batangas intended to file a CON Application, consistent with the 2018 need determination, to add 21 NF beds to the space previously occupied by the ACH beds that were the subject of the relocation exemption request. *Id.* The Agency determined that this transaction was exempt from CON review. *Id.*

Batangas subsequently filed an application to add the 21 NF beds to the space currently occupied by the ACH beds as it represented in its exemption request letter. In the application, Batangas set forth a proposed timeline, stating that it would first move to obtain the license for the 21 NF beds and thereafter it would start construction on the relocated ACH beds. The project completion timeline indicated that the additional 21 NF beds would be operational in the fall of 2018.

On May 11, 2018, the Agency issued a CON to Batangas to add 21 additional NF beds for a total of 36 NF beds and 21 ACH beds pursuant to the need determination for 21 NF beds in the 2018 SMFP. See Attachment B. In its decision the CON Section placed four conditions on the issuance of the CON, including:

- (1) Batangas must materially comply with the representations in its CON Application;
- (2) Batangas shall develop no more than 21 additional NF beds for a total of 36 licensed NF beds and 21 licensed adult care home beds;
- (3) For the first two years of operation following completion of the project Batangas shall not increase private pay charges more than 5% of the projected private pay charges provided in Section IX of the application without first obtaining a determination from the Agency that the increase is in material compliance with the representations in the CON Application; and
- (4) No later than three months after the last day of each of the first three full years of operations following initiation of the services authorized by the CON, Bermuda Village shall submit, on the form provided by the Agency an annual report containing specific information as set forth Condition 4(a)-(f).

Id.

Since the Agency issued its decision, Bermuda Village has complied with all of the conditions set forth in the CON and the additional 21 NF beds are now operational.

Batangas is now planning to sell Bermuda Village, including both the independent living units and the previously mentioned NF and ACH home beds to Montage Living. Under N.C. Gen. Stat. § 131E-184(a)(8) such a transaction would typically be exempt from CON Review provided that the Agency receives prior notice of the transaction. However, in my understanding based on discussions with you, that the Department takes the position that although the 21 NF beds are currently operational, because the reporting condition (Condition 4(a)-(f)) cannot be completed until December 31, 2021, the CON project is not considered "complete" by the Agency. Therefore under N.C. Gen. Stat. § 131E-189(c) the Agency must determine that there is "good cause" to transfer the CON in order for Montage to acquire Bermuda Village.

To the extent that the Agency continues to believe that the project is not complete because of the reporting requirement and the rate approval requirement contained in the Agency's Decision remain effective, Batangas and Montage request a determination that there is good cause to transfer the CON. Good cause exists here because Montage is purchasing more than the 21 SF beds subject to the CON, but is instead purchasing the larger senior living community known as Bermuda Village. Therefore the acquisition is not only of the CON regulated facility. The proposed transaction also specifically includes NF beds and ACH beds which are not subject to the CON at issue. Good cause also exists because Batangas has completed construction of the 21 NF beds that are the subject of the CON and those beds are now fully operational. The only remaining conditions therefore are the rate condition, which is only an issue if rates increase and the reporting condition that cannot be completed until 2021.

For the above reasons, Batangas and Montage request that the Agency determine there is good cause to transfer the CON to Montage to fulfill the remaining reporting requirement. Because the transaction has not been completed, we ask that the Agency confirm that good

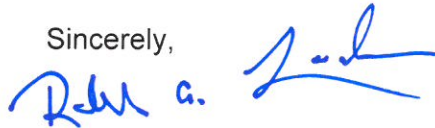
cause exist in writing but that the CON be transferred only after the parties confirm with the Agency that the transaction has been completed.

In the alternative, if it is no longer the Agency's position that the reporting requirement must be completed in order to consider the project complete, Montage requests that the Agency consider this letter as prior written notice to the Agency and confirm that this transaction is exempt from CON Review under N.C. Gen. Stat. § 131E-184(a)(8).

Finally, because this transaction includes the 15 pre-existing NF beds and the currently licensed 21 ACH beds, which are currently in the process of relocation pursuant to the relocation exemption discussed above, Montage requests that the Agency also confirm that the acquisition of these beds is exempt from CON as a result of this Notice. See Attachment A; see also N.C. Gen. Stat. § 131E-184(a)(8).

Thank you for your consideration of this matter.

Sincerely,



Robert A. Leandro

RAL:clr

Enclosures

ATTACHMENT A

DELIVERED VIA EMAIL

February 2, 2018

Celia Inman
Analyst, Certificate of Need Section
NC Division of Health Service Regulation
Certificate of Need Section
2704 Mail Service Center
Raleigh, NC 27699-2704

RE: Response to Request for Additional Information Exemption from CON Review for relocation of 21 adult care beds on Bermuda Village Retirement Center main campus, Bermuda Run, Davie County Facility ID 932966

Dear Ms. Inman,

In response your recent correspondence dated January 26, 2018, I am pleased to provide the following information to document that the project conforms to the requirements of GS 131E-184(g) including the definition of "main campus" in GS 131E-176(14n).

One main building in Bermuda Village Retirement Center provides clinical patient services and offices from which BVRC exercises financial and administrative control over the entire health facility including adjacent building and grounds, Attachment A to this letter shows the location of the main building and its services.

We appreciate your early consideration of this request. Should you have any questions, please do not hesitate to contact me at 336-998-6112.

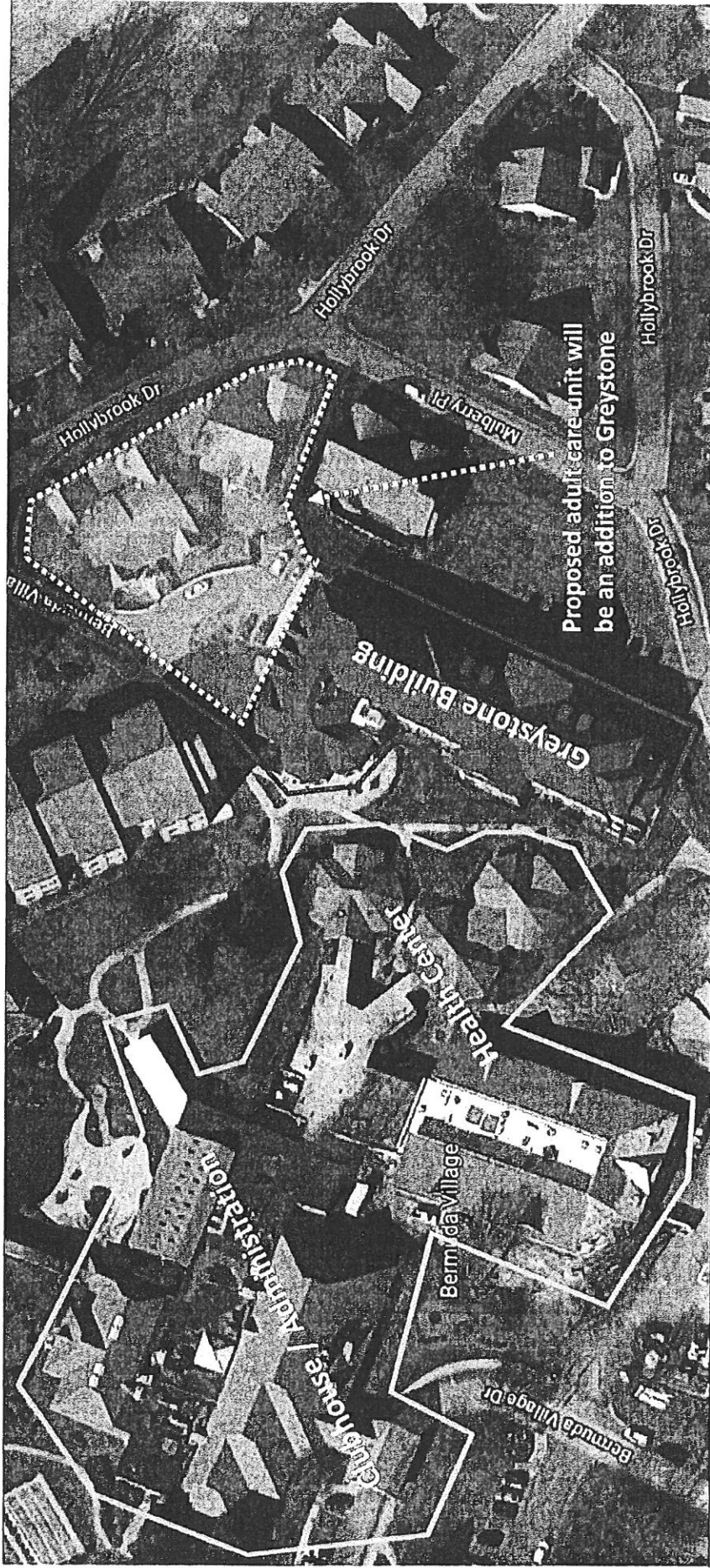
Sincerely,



D. Gray Angell, Jr.
Manager, Batangas Consulting, LLC

Attachments:

A – Bermuda Village Retirement Center campus site plan



Bermuda Village Retirement Center

- o Main Building housing Health Center (clinical services) and Clubhouse / Administration (clinical services, financial and administrative control offices)
- o Greystone Site for Relocated ACH Beds



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

MARK PAYNE
DIRECTOR

VIA EMAIL ONLY

February 6, 2018

Gray Angell, Jr.
Manager, Batangas Consulting, LLC

Exemption from Review

Record #: 2486
Facility Name: Bermuda Village Retirement Center
FID #: 932966
Business Name: Batangas Consulting LLC
Business #: 2116
Project Description: Replace and relocate 21 adult care home beds on Bermuda Village Retirement center main campus per G.S.131E-184(g)
County: Davie

Dear Mr. Angell:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency), determined that based on your letters of January 26, 2018 and February 2, 2018, the above referenced proposal is exempt from certificate of need review in accordance with N.C. Gen. Stat. §131E-184(g). Therefore, you may proceed to offer, develop or establish the above referenced project without a certificate of need.

However, you need to contact the Agency's Construction and Nursing Home Licensure and Certification Sections to determine if they have any requirements for development of the proposed project.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Agency. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate;

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

WWW.NCDHHS.GOV

TELEPHONE 919-855-3873

LOCATION: EDGERTON BUILDING • 809 RUGGLES DRIVE • RALEIGH, NC 27603

MAILING ADDRESS: 2704 MAIL SERVICE CENTER • RALEIGH, NC 27699-2704

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Mr. Angell
February 6, 2018
Page 2


(3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,



Celia C. Inman
Project Analyst



Martha J. Frisone
Chief, Healthcare Planning and
Certificate of Need Section

cc: Construction Section, DHSR
Nursing Home Licensure and Certification Section, DHSR
Sharetta Blackwell, Program Assistant Healthcare Planning, DHSR

Inman, Celia C

From: Inman, Celia C
Sent: Friday, January 26, 2018 4:07 PM
To: 'Kelly Ivey'
Cc: D. Gray Angell, Jr.
Subject: RE: [External] Exemption Request
Attachments: 2486 Request for Information for Exemption 184(g).pdf

Please see the attached request for additional information.

Celia C. Inman

Project Analyst Certificate of Need
Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section
North Carolina Department of Health and Human Services

919-855-3873 office
Celia.inman@dhhs.nc.gov

809 Ruggles Drive
2704 Mail Service Center
Raleigh, NC 27699-2704



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From: Kelly Ivey [mailto:kivey@pda-inc.net]
Sent: Friday, January 12, 2018 2:21 PM
To: Inman, Celia C
Cc: D. Gray Angell, Jr.
Subject: [External] Exemption Request

CAUTION: External email. Do not click links or open attachments unless verified. Send all suspicious email as an attachment to report.spam@nc.gov.

Ms. Inman,

Attached is an exemption request submitted on behalf of our client Batangas Consulting, LLC. Please respond to this email as confirmation of receipt. If you have any questions, or require additional information, please do not hesitate to contact me.

Thank you!
Kelly

Kelly Ivey
PDA, Inc.

919.754.0303

www.pdaconsultants.com

"Take a problem, make it a feature."

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DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

MARK PAYNE
DIRECTOR

VIA EMAIL ONLY

January 26, 2018

D. Gray Angell, Jr

Information Request for Exemption Pursuant to N.C. Gen. Stat. §131E-184(g)

Facility: Bermuda Village Retirement Center
Project Description: Replace and relocate 21 adult care home beds on Bermuda Village Retirement center main campus
County: Davie
FID #: 932966

Dear Mr. Angell:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your letter dated January 26, 2018 regarding the above referenced proposal. Your letter provides:

1. Documentation that the project will NOT result in:
 - a. the offering of health services not currently provided;
 - b. the acquisition of additional units of major medical equipment; or
 - c. an increase in the number of licensed beds.
2. Documentation that the sole purpose of the project is to:
 - a. renovate existing space;
 - b. replace existing services on the same site; or
 - c. expand the physical plant without adding any new services or major medical equipment.
3. A site plan identifying the main building and the site of the proposed addition adjoining the main building.

However, additional information is needed to determine if the project is exempt from review pursuant to N.C. Gen. Stat. §131E-184(g). In order to demonstrate that the project meets the exemption criteria related to main campus, please provide written responses to the following:

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION
WWW.NCDHHS.GOV

TELEPHONE 919-855-3873

LOCATION: EDGERTON BUILDING • 809 RUGGLES DRIVE • RALEIGH, NC 27603

MAILING ADDRESS: 2704 MAIL SERVICE CENTER • RALEIGH, NC 27699-2704

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Mr. Angell
January 26, 2018
Page 2

1. Documentation that clinical patient services are provided at the site of the proposed renovations or construction.
2. Documentation that financial control of the entire licensed health service facility is exercised at the site of the proposed renovations or construction.
3. Documentation that administrative control of the entire licensed health service facility is exercised at the site of the proposed renovations or construction.

If you have any questions concerning this request, please do not hesitate to call this office.

Sincerely,

Celia C. Inman

Celia C. Inman
Project Analyst, Certificate of Need

Inman, Celia C

From: Kelly Ivey <kivey@pda-inc.net>
Sent: Friday, January 26, 2018 2:33 PM
To: Inman, Celia C
Cc: D. Gray Angell, Jr.
Subject: [External] Exemption Request for ACH Beds - Davie County
Attachments: Exemption Request - Bermuda Village - 01.26.18.pdf

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Ms. Inman,

Attached is an exemption request submitted on behalf of our client Batangas Consulting, LLC. Please respond to this email as confirmation of receipt. If you have any questions, or require additional information, please do not hesitate to contact me.

Thank you!
Kelly

Kelly Ivey

PDA, Inc.

919.754.0303

www.pdaconsultants.com

"Take a problem, make it a feature."

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DELIVERED VIA EMAIL

January 26, 2018

Lisa Pittman
Assistant Chief, Certificate of Need Section
Celia Inman
Analyst, Certificate of Need Section
NC Division of Health Service Regulation
Certificate of Need Section
2704 Mail Service Center
Raleigh, NC 27699-2704

RE: Request for Exemption from CON Review for relocation of 21 adult care beds on Bermuda Village Retirement Center main campus, Bermuda Run, Davie County Facility ID 932966

Dear Ms. Pittman and Ms. Inman,

On behalf of Batangas Consulting, LLC, I am requesting an Exemption from Certificate of Need review under G.S. 131E-184(g) to expand Bermuda Village Retirement Center. We plan to develop a new building and relocate 21 adult care beds. The adult care beds are in a Combined Nursing Home building that includes skilled nursing beds. The new building on the main campus will house only adult care beds. The project will involve:

- Expansion on the main campus,
- No change in number of licensed beds,
- No change in ownership of beds,
- No new health care facility,
- No change in the type of license,
- Capital costs exceeding \$2.0 million.

The beds at Bermuda Village Retirement Center will remain licensed as a "combination home" under G.S. 131E-101(1a) and 10A NCAC 13D .2001(8), License No. NH0519. After the relocation, we will exercise the annual option to operate the adult care beds under the adult care regulation, rather than the nursing home regulation (ref: 10A NCAC 13D .2104(3)).

According to G.S. 131E-102(a) in order for Bermuda Village to continue operating the relocated beds under the current license, the beds must be "*in the same building or in two or more buildings adjoining or next to each other on the same site.*" As illustrated in the attached site plans, the new building will be an extension of the existing Greystone building located *next to the current health center on the same site.* The expansion would involve a two-story, all private-room addition. Locations of the current health center and proposed addition to the adjacent Greystone building are indicated on the site plan in Attachment A. Attachment B provides the site as it is today and the overlay to show approximately how it would fit and where it would connect to the existing building.

The proposed replacement project will take approximately four years to complete. As indicated in Attachment B, rental unit villas occupy property associated with the expansion space. Batangas Consulting, LLC owns the units, and, as they become vacant, we can demolish them and clear the land to make room for the planned adult care home bed replacement building. Once the property is cleared, the project will proceed with site evaluation, full soils testing, final drawings, and construction.

The 21 replacement adult care beds will be designed around the specific needs and current best practice design for adult care patients, with accommodations for memory care support.

We intend to submit a Certificate of Need application to use space vacated by this project to expand the number of skilled nursing home beds in the existing nursing home building. Neither the CON project nor the requested exempt adult care project will displace patients. Private pay patients whose health status would qualify them for admission to skilled level nursing home care presently occupy the 21 adult care beds. They are receiving a combination of adult and home care services to meet their needs and permit them to remain in the retirement community. Upon approval of the CON application, we will change the license for the existing adult care bedrooms to skilled nursing care and begin work on the replacement adult care bed project. Although, no displacement of patients will occur under this arrangement, it will result in a construction period during which the adult care beds will be temporarily out of service.

We appreciate your early consideration of this request. Should you have any questions, please do not hesitate to contact me at 336-998-6112.

Sincerely,



D. Gray Angell, Jr.
Manager, Batangas Consulting, LLC

Attachments:

- A – Bermuda Village Retirement Center campus site plan
- B – Greystone location 21 adult care beds, two-story
- C – Estimated timeline

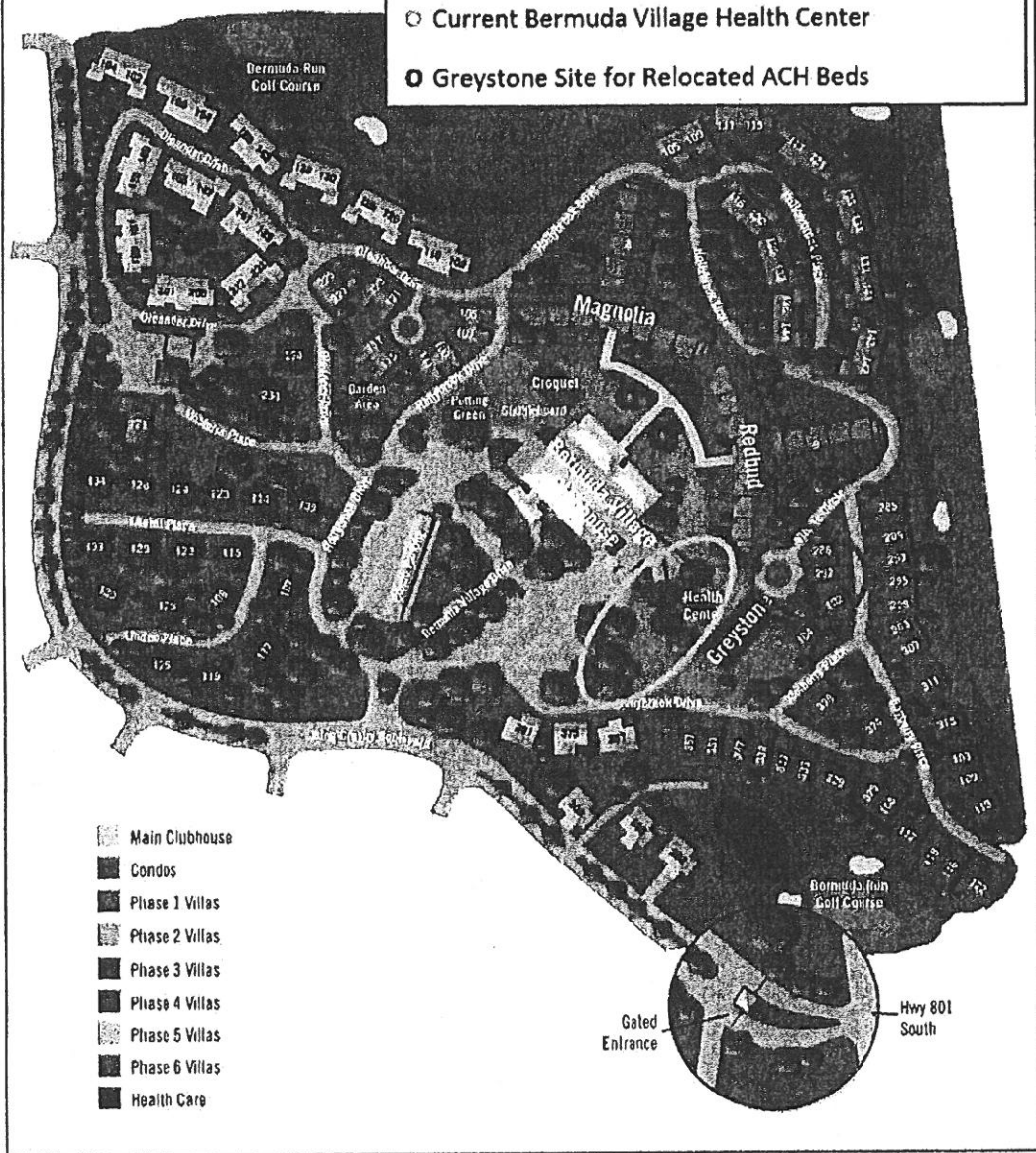
Attachment A

Bermuda Village Retirement Center campus site plan

Bermuda Village Site Map

○ Current Bermuda Village Health Center

○ Greystone Site for Relocated ACH Beds

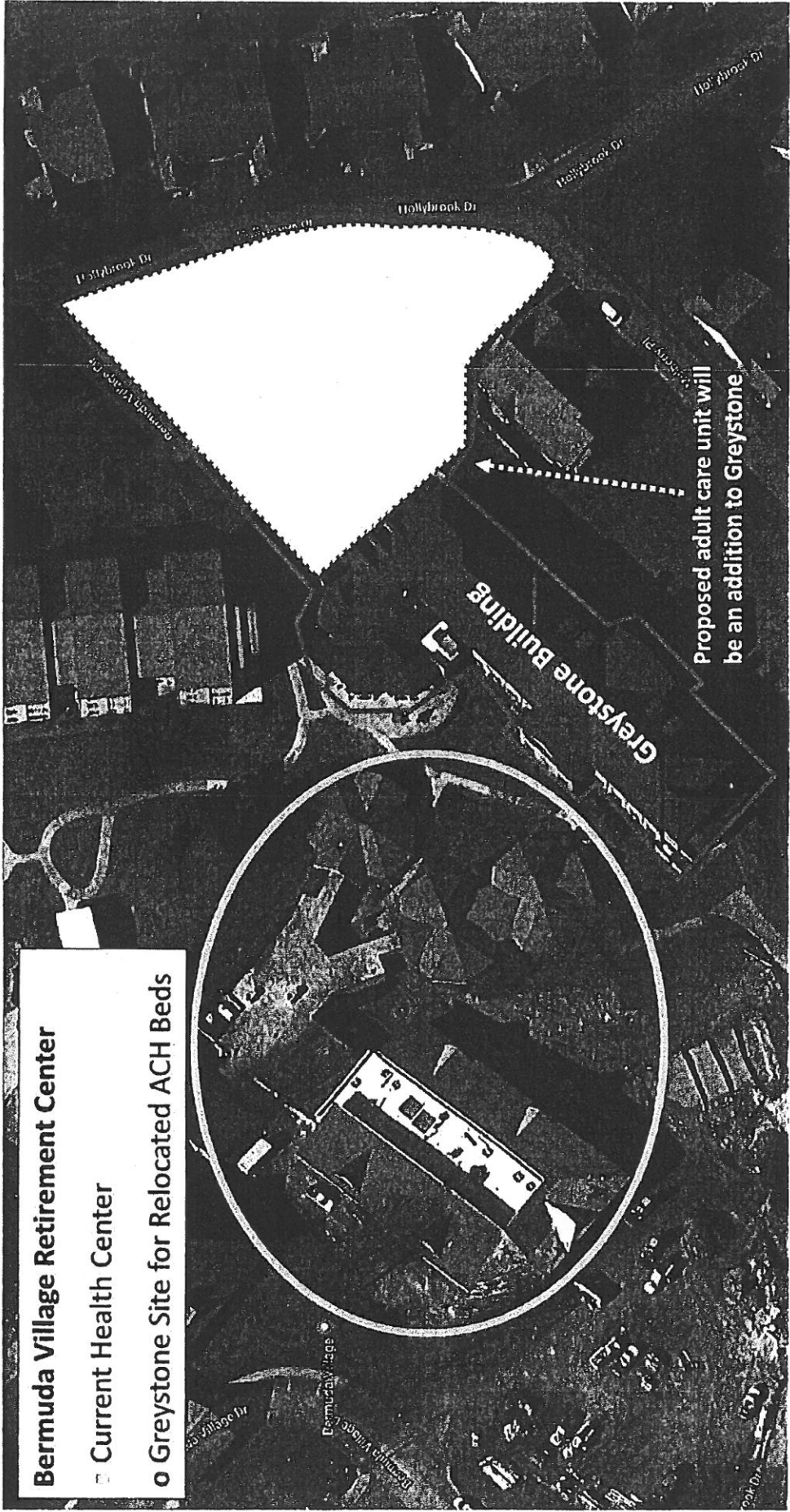


- Main Clubhouse
- Condos
- Phase 1 Villas
- Phase 2 Villas
- Phase 3 Villas
- Phase 4 Villas
- Phase 5 Villas
- Phase 6 Villas
- Health Care

Gated Entrance
Hwy 801 South

Attachment B

Greystone location 21 adult care beds



Bermuda Village Retirement Center

Current Health Center

Greystone Site for Relocated ACH Beds

Proposed adult care unit will be an addition to Greystone

Greystone Building

Attachment C

Estimated timeline

**Estimated Timeline for Relocation of 21 Adult Care Home Beds
on the Bermuda Village Retirement Center Campus**

Milestone	Proposed Completion Date
Receive Certificate of Need for 21 Additional Skilled Nursing Beds	09/01/2018
Vacate Units on property to be used for expansion	09/01/2019
Site evaluation and permits	03/01/2020
Design of new building and DHSR Construction Section review	03/01/2021
Building construction	03/01/2022

Inman, Celia C

From: Kelly Ivey <kivey@pda-inc.net>
Sent: Friday, January 26, 2018 2:31 PM
To: Inman, Celia C
Cc: D. Gray Angell, Jr.
Subject: RE: [External] Exemption Request

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Ms. Inman,

On behalf of our client, Batangas Consulting, LLC, we would like to withdraw the exemption request submitted on January 12, 2018 (referenced in the email below). Please respond to this email as confirmation of the withdrawal.

Thank you!
Kelly Ivey

From: Inman, Celia C [mailto:celia.inman@dhhs.nc.gov]
Sent: Friday, January 12, 2018 2:58 PM
To: Kelly Ivey <kivey@pda-inc.net>
Subject: RE: [External] Exemption Request

Rec'd.

Celia C. Inman
Project Analyst Certificate of Need
Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section
North Carolina Department of Health and Human Services

919-855-3873 office
Celia.inman@dhhs.nc.gov

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Raleigh, NC 27699-2704



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From: Kelly Ivey [mailto:kivey@pda-inc.net]
Sent: Friday, January 12, 2018 2:21 PM
To: Inman, Celia C
Cc: D. Gray Angell, Jr.
Subject: [External] Exemption Request

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Ms. Inman,

Attached is an exemption request submitted on behalf of our client Batangas Consulting, LLC. Please respond to this email as confirmation of receipt. If you have any questions, or require additional information, please do not hesitate to contact me.

Thank you!
Kelly

Kelly Ivey

PDA, Inc.

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ATTACHMENT B



NC DEPARTMENT OF
HEALTH AND
HUMAN SERVICES
Division of Health Service Regulation

ROY COOPER • Governor
MANDY COHEN, MD, MPH Secretary
MARK PAYNE • Director

RESPONSE REQUIRED

May 11, 2018

D. Gray Angell, Jr.
142 Bermuda Village Drive
Advance, NC 27006

Conditional Approval

Project ID #: G-11465-18
Facility: Bermuda Village Retirement Center
Project Description: Add 21 additional NF beds to Bermuda Village Retirement Center for a total of 36 NF beds and 21 ACH beds pursuant to Need Determination in 2018 SMFP
County: Davie
FID #: 932966

Dear Mr. Angell:

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 a review of the applications submitted for this cycle and after consideration of the Certificate of Need Law, N.C. Gen. Stat. §131E-175 et. seq. and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Attached to this letter are the required findings made with respect to your application. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Agency shall not issue the certificate of need until all applicable conditions of approval have been met pursuant to N.C. Gen. Stat. §131E-187(a). The conditions are as follows:

1. Batangas Consulting, LLC shall materially comply with all representations made in the certificate of need application and any supplemental responses. In the event that representations conflict, Batangas Consulting, LLC shall materially comply with the last-made representation.
2. Batangas Consulting, LLC shall develop no more than 21 nursing facility beds for a total of 36 licensed nursing facility beds and 21 licensed adult care home beds upon project completion.

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
www.ncdhhs.gov/dhsr/ • TEL: 919-855-3873

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3. For the first two years of operation following completion of the project, Batangas Consulting, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section IX 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.
4. 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, Batangas Consulting, 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.
5. Batangas Consulting, 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.

Response to the above conditions 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 conditional approval is valid only for a capital expenditure of \$100,000. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by N.C. Gen. Stat. §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 N.C. Gen. Stat. §150B, Article 3, as amended. 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. [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).]

N.C. Gen. Stat. §1SOB-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,

