



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

KODY H. KINSLEY • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

June 30, 2023

Kenneth L. Burgess

kburgess@bakerdonelson.com

No Review

Record #: 4231
Date of Request: June 13, 2023
Facility Name: The Beaufort Community
FID #: 210830
Business Names: The Beaufort Community, LLC & Beaufort AL Properties, LLC
Business #s: 3477 & 3478
Project Description: Change in indirect ownership
County: Beaufort

Dear Mr. Burgess:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your correspondence regarding the project described above. The Agency's No Review letter issued on May 23, 2023, Record # 4195, regarding the above-named entities, has been rescinded.

Regarding your current request, based on the CON law **in effect on the date of this response to your request**, the project as described is not governed by, and therefore, does not currently require a certificate of need. If the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

This determination is binding only for the facts represented in your correspondence. If changes are made in the project or in the facts provided in the correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by this office.

Please do not hesitate to contact this office if you have any questions.

Sincerely,

Gregory F. Yakaboski, Project Analyst

Micheala Mitchell, Chief

cc: Adult Care Licensure Section, DHSR

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

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

KENNETH L. BURGESS
Direct Dial: 984-844-7912
E-Mail Address: kburgess@bakerdonelson.com

June 13, 2023

VIA EMAIL
micheala.mitchell@dhhs.nc.gov

Micheala Mitchell, Chief
Healthcare Planning & Certificate of Need Section
N.C. Department of Health and Human Services
Division of Health Service Regulation
809 Ruggles Drive
Raleigh, North Carolina 27603

Re: *Rescission of May 5, 2023 No Review Determination Request -- Beaufort AL Properties, LLC and Beaufort Community. LLC*

Dear Micheala:

On May 5, 2023, I wrote to you on behalf of our clients The Beaufort Community, LLC and Beaufort AL Properties, LLC (the “Beaufort Companies”) to describe an internal, inter-company transaction that, as originally planned, would result in a downstream change of indirect owner of the parent entity of the Beaufort Companies, and requested that the N.C. Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the “Agency”) confirm that the transaction described therein was not subject to Agency review and did not require that the Beaufort Companies first obtain a certificate of need (“CON”). The Agency responded on May 23, 2023, acknowledging that the transaction described in our May 5, 2023 No Review Determination Request was not subject to review or approval by the Agency.

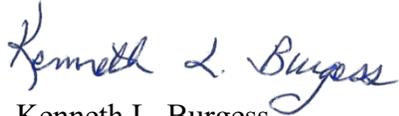
Since that time, our clients have elected not to pursue the transaction as described in our May 5, 2023 No Review Determination Request. Rather, the transaction will be modified and will involve different related entities than those described in that request. As such, please accept this correspondence as a notice of rescission of our May 5, 2023 No Review Determination Request. I will be filing a Revised No Review Determination Request simultaneously with this rescission notice for the Agency’s convenience and to ensure that the Agency’s records are correct.

June 13, 2023

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I apologize for this change of plans and, as always, appreciate the Agency's rapid processing of these sorts of No Review Determination Requests.

Best regards,

A handwritten signature in blue ink that reads "Kenneth L. Burgess". The signature is written in a cursive style with a large initial 'K'.

Kenneth L. Burgess
Shareholder

klb

Enclosures

KENNETH L. BURGESS
Direct Dial: 984-844-7912
E-Mail Address: kburgess@bakerdonelson.com

June 13, 2023

VIA EMAIL
micheala.mitchell@dhhs.nc.gov

Micheala Mitchell, Chief
Healthcare Planning & Certificate of Need Section
N.C. Department of Health and Human Services
Division of Health Service Regulation
809 Ruggles Drive
Raleigh, North Carolina 27603

Re: *REVISED No Review Determination Request -- Beaufort AL Properties, LLC and Beaufort Community, LLC*

Dear Micheala:

I am writing on behalf of our clients The Beaufort Community, LLC and Beaufort AL Properties, LLC (the “Beaufort Companies”) to describe an internal, inter-company transaction that will result in a upstream change of ownership of the Beaufort Companies, and to request that the N.C. Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the “Agency”) confirm that the transaction described herein is not subject to Agency review and does not require that the Beaufort Companies first obtain a certificate of need (“CON”).

Background

On September 14, 2021, the Beaufort Companies filed a CON application to develop a new adult care home in Beaufort County. That application initially was denied by the Agency. Following an appeal and settlement negotiations between the Beaufort Companies and the Agency, the Agency approved the previously-denied CON application and a CON was issued to the Beaufort Companies, Project I.D. No. Q-12140-21 and Facility I.D. No. 210830. *See Attachment 1 (Settlement Agreement and the Beaufort Companies’ resulting CON).*

In the Beaufort Companies’ CON application, the two applicants were identified as The Beaufort Community, LLC and Beaufort AL Properties, LLC. *See Attachment 2 (excerpt from the CON*

June 13, 2023

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application identifying the two applicants). The sole owner of the two applicants was identified as HealthView Capital Partners, – Fund I, LLC. As described in the CON application, the sole owner of HealthView Capital Partners, LLC – Fund I is SRJR, LLC. The sole owner of SRJR, LLC is C. Sanders Roberson (“Mr. Roberson”).

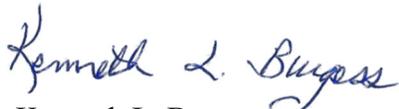
The Proposed Transaction

Mr. Roberson now wishes to transfer ownership of the underlying interests in The Beaufort Community, LLC and Beaufort AL Properties, LLC from HealthView Capital Partners – Fund I, LLC to a related entity entitled Nags Head Fund, LLC. This is entirely an internal, inter-company transaction. The ownership of the CON and related project will not change as a result of the transaction. The CON will still be held by and developed by the Beaufort Companies. Mr. Roberson is the sole owner of of Nags Head Fund, LLC.

The Agency has not historically viewed such inter-company, downstream ownership changes as a change of ownership, nor has it viewed such transactions as subject to the CON Statute. Because neither the ownership of the CON itself or the project to be developed pursuant to it is changing, we do not believe the proposed transaction is subject to the CON Statute. As such, the proposed transaction does not implicate the Agency’s authority to withdraw the Beaufort Companies’ CON pursuant to N.C. Gen. Stat. §131E-189(c).

We would appreciate the Agency acknowledging in writing, at your earliest convenience, that the proposed transaction is not subject to the CON Statute and does not trigger the need for a CON. Please let me know if you have questions or need additional information regarding this Revised No Review Determination Request.

Best regards,



Kenneth L. Burgess
Shareholder

klb

Enclosures

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
22 DHR 01226

THE BEAUFORT COMMUNITY, LLC
and BEAUFORT AL PROPERTIES, LLC

Petitioners,

vs.

N.C. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, DIVISION OF
HEALTH SERVICE REGULATION,
HEALTHCARE PLANNING AND
CERTIFICATE OF NEED SECTION,

Respondent.

AGENCY SETTLEMENT AGREEMENT

This Agency Settlement Agreement ("Agency Settlement Agreement") is entered into by and among The Beaufort Community, LLC, and Beaufort AL Properties, LLC (collectively, "Beaufort"), and the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the "Agency") (collectively referred to hereinafter as "Parties" and individually referred to hereinafter as a "Party").

WITNESSETH

WHEREAS, Beaufort submitted a noncompetitive certificate of need ("CON") application to the Agency, identified by the Agency as Project I.D. No. Q-12140-21 (the "Application"), to develop a new adult care home ("ACH") in Beaufort County, called The Beaufort Community, by relocating fifty (50) ACH beds it acquired from A.G. Dunston Manor, Inc. via a Good Cause Transfer (Project ID No. Q-7117-04 and Project I.D. No. Q-8386-09) and by relocating thirty-four

(34) ACH beds Beaufort acquired from Willow Manor, located in Beaufort County, for a total of eighty-four (84) ACH beds, including sixteen (16) special care unit ("SCU") beds;

WHEREAS, Beaufort filed the Application on September 14, 2021, and the Agency began its review of the Application on October 1, 2021;

WHEREAS, pursuant to N.C. Gen. Stat. § 131E-185(a1)(1), the comment period for the Application ended on November 19, 2021;

WHEREAS, no comments were submitted on the Application by the comment deadline, November 19, 2021;

WHEREAS, the Agency did not conduct a public hearing on the Application as a public hearing was not required pursuant to N.C. Gen. Stat. § 131E-185(a1)(2);

WHEREAS, on March 30, 2022, the Agency issued its Decision and Required State Agency Findings on the Application (the "Agency Decision");

WHEREAS, the Agency Decision denied the Application;

WHEREAS, the Agency determined that the Application was nonconforming with the CON statutory Review Criteria numbers (3), (4), (5), (12), (13c), (13d), (14) and (18a) (the "Review Criteria");

WHEREAS, the Agency found that Beaufort did not provide enough information in the Application as submitted to determine the Application was conforming with the Review Criteria and there was not enough publicly available information to determine the Application was conforming with the Review Criteria;

WHEREAS, on March 31, 2022, and pursuant to N.C. Gen. Stat. § 131E-188, Beaufort appealed the Agency Decision to disapprove the Application by filing a petition for contested case

hearing in the North Carolina Office of Administrative Hearings ("NCOAH"), identified as Contested Case No. 22 DHR 01226;

WHEREAS, no other person or entity sought to intervene in Contested Case No. 22 DHR 01226;

WHEREAS, the Parties have discussed settlement of Contested Case No. 22 DHR 01226;

WHEREAS, pursuant to N.C. Gen. Stat. § 150B-22, it is the policy of the State to settle disputes between State agencies and other persons whenever possible;

WHEREAS, during settlement discussions, Beaufort provided additional information ("Additional Information") to the Agency that enabled the Agency to determine that the Application is conforming with Review Criteria (3), (4), (5), (12), (13c), (13d), (14) and (18a);

WHEREAS, the execution of this Agency Settlement Agreement does not constitute an admission of error by any Party; and

NOW, THEREFORE, pursuant to N.C. Gen. Stat. §§ 150B-22 and -31(b), and subject to the approval of Mark Payne, Director of the Division of Health Service Regulation, the Parties have decided to resolve this contested case in the manner set forth below.

TERMS OF AGREEMENT

1. Voluntary Dismissal with Prejudice. Beaufort shall dismiss with prejudice (the "Dismissal") Contested Case No. 22 DHR 01226 within three (3) business days of the effective date of the execution of the Agency Settlement Agreement.
2. Issuance of CON to Beaufort. Within five (5) business days after it receives a file-stamped copy of the Dismissal, the Agency shall issue a CON to Beaufort for Project I.D. No. Q-12140-21 to develop a new adult care home in Beaufort County, including sixteen (16) special care unit beds, by relocating fifty (50) ACH beds it acquired from A.G. Dunston Manor, Inc. via

a Good Cause Transfer (Project ID No. Q-7117-04 and Project I.D. No. Q-8386-09) and by relocating thirty-four (34) ACH beds Beaufort acquired from Willow Manor, located in Beaufort County. The conditions and timetable for Project I.D. No. Q-12140-21 are attached hereto as Exhibits A and B. Beaufort's signature on this Agency Settlement Agreement constitutes its acceptance of the conditions and timetable.

3. Effect of Approval. By executing this Agency Settlement Agreement, the Parties acknowledge that, if approved by the Director, this Agency Settlement Agreement shall resolve all issues involved in Contested Case No. 22 DHR 01226.

4. Effect of Disapproval. In the event that this Agency Settlement Agreement is not approved by the Director, the Parties acknowledge that this Agency Settlement Agreement shall be null and void and the Parties shall be entitled to proceed with Contested Case No. 22 DHR 01226. In addition, if this Agency Settlement Agreement is not approved by the Director, the Parties agree that it shall be inadmissible for any purpose in Contested Case No. 22 DHR 01226.

5. Release. Each Party does hereby release, remise and forever discharge every other Party to this Agency Settlement Agreement, and their parents, subsidiaries, predecessors, successors, affiliates, assigns, shareholders, officers, officials, directors, trustees, managers, members, employees, agents, and representatives of and from any and all claims, demands, causes of action, liabilities and obligations, both contingent and fixed, known and unknown, of every kind and nature whatsoever, in law or equity, or otherwise, which they ever had, now have, or hereafter can, shall or may have, based upon or by reason of the disputes described in this Agency Settlement Agreement. The release set forth in this paragraph shall not apply to the obligations contained in this Agency Settlement Agreement.

6. No Claim for Attorneys' Fees and Costs. The Parties agree that each Party shall bear its own expenses, including attorneys' fees and costs incurred in Contested Case No. 22 DHR 01226. No Party shall make any claim against any other Party for attorneys' fees and costs incurred in Contested Case No. 22 DHR 01226.

7. Waiver of Right to Appeal Agreement. The Parties irrevocably waive any right to initiate an appeal from this Agency Settlement Agreement, assuming that any such right exists; provided that nothing in this Agency Settlement Agreement shall be construed to waive any claim for enforcement or breach of this Agency Settlement Agreement.

8. Merger. The Parties further agree and acknowledge that this Agency Settlement Agreement sets forth all of the terms and conditions among them concerning the subject matter of this Agency Settlement Agreement, superseding all prior oral and written drafts, statements and representations, and that there are no terms or conditions among the Parties except as specifically set forth in this Agency Settlement Agreement.

9. Modification or Waiver. No modification or waiver of any provision of this Agency Settlement Agreement shall be effective unless it is in writing. Any modification or waiver must be signed by authorized representatives of the Parties and must be adopted and approved by the Director of the Division of Health Service Regulation.

10. No Strict Interpretation Against Drafter. Each Party has participated in the drafting of this Agency Settlement Agreement and has had the opportunity to consult with counsel concerning its terms. This Agency Settlement Agreement shall not be interpreted strictly against any one Party on the grounds that it drafted the Agency Settlement Agreement.

11. Recitals and Headings. All parts and provisions of this Agency Settlement Agreement, including the recitals and paragraph headings, are intended to be material parts of the Agency Settlement Agreement.

12. Authority to Settle. The undersigned represent and warrant that they are authorized to enter into this Agency Settlement Agreement on behalf of the Parties to this Agency Settlement Agreement.

14. Effective Date. This Agency Settlement Agreement shall be effective as of the day and year on which it is adopted and approved by the Director.

15. Binding Effect. This Agency Settlement Agreement is binding on the Parties and the Parties' parents, subsidiaries, predecessors, successors, affiliates, assigns, shareholders, officers, officials, directors, trustees, managers, members, employees, agents, and representatives.

16. Governing Law. This Agency Settlement Agreement shall be construed and governed according to the laws of the State of North Carolina. If any provisions of this Agency Settlement Agreement are held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.

17. Counterparts. This Agency Settlement Agreement may be executed in multiple counterparts, all of which shall be considered one and the same agreement, it being understood that all Parties need not sign the same counterpart.

18. Signature Pages. In order to expedite the signing of this Agency Settlement Agreement, the Parties stipulate and agree that the delivery of an executed signature page by each Party to the other via electronic (email) transmission shall bind the transmitting Party to the same extent as service of the original signature page by hand-delivery. The Parties stipulate and agree

that a Party that sends a signature page via email transmission shall mail the original to each other Party's undersigned counsel within five (5) business days after the email transmission.

IN WITNESS WHEREOF, the Parties have executed one original copy of this Settlement Agreement, with the original copy being retained by Petitioner.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

THE BEAUFORT COMMUNITY, LLC and BEAUFORT AL PROPERTIES, LLC

By: [Signature]

Its: Managing Partner

Date: 6/30/22

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ, PC

By: Kenneth L. Burgess (as to form only)

Date: July 1, 2022

Kenneth L. Burgess
2530 Meridian Parkway, Suite 300
Durham, North Carolina 27713

Counsel for The Beaufort Community, LLC and Beaufort AL Properties, LLC

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION, HEALTHCARE PLANNING AND
CERTIFICATE-OF-NEED SECTION

By: [Signature]
Micheala Mitchell, Chief

Date: 7/6/22

By: [Signature] (as to form only)
Kimberly Randolph
Assistant Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602-0629

Date: 7/1/2022

Counsel for the Division of Health Service Regulation

Signed by the Director this the _____ day of _____, 2022.

Mark Payne
Mark Payne - 2022-07-06, 20:05:49 UTC
S. Mark Payne, Director
Division of Health Service Regulation
N.C. Department of Health and Human Services

Exhibit A

CONDITIONS

Project I.D.# Q-12140-21 The Beaufort Community

1. The Beaufort Community, LLC and Beaufort AL Properties, LLC (hereinafter "certificate holder") shall materially comply with all representations made in the certificate of need application and any supplemental responses. If representations conflict, the certificate holder shall materially comply with the last made representation.
2. The certificate holder shall develop a new ACH by relocating 50 ACH beds acquired via a Transfer for Good Cause of Project I.D.# Q-7117-04 (develop a 50 bed ACH) and Project I.D.# Q-8386-09 (Cost Over Run ("COR") for Project I.D.# Q-7117-04), and by relocating 34 ACH beds from Willow Manor, for a total of no more than 84 ACH beds, including 16 SCU beds, upon project completion.
3. Upon completion of the project, The Beaufort Community shall be licensed for no more than 84 ACH beds (including 16 SCU beds).
4. The Beaufort Community shall certify at least 34 percent of the total number of licensed adult care home beds in the facility for recipients of State/County Special Assistance with Medicaid and provide care to those recipients commensurate with representations made in the application.
5. For the first two years of operation following completion of the project, The Beaufort Community shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q of the application and settlement documents 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. Prior to the issuance of the certificate of need, the certificate holder shall obtain documentation from Eakes Investment Company, Limited Partnership (seller) showing that the purchase transaction between the buyer and seller for the 34 ACH beds from Willow Manor has been completed and shall provide a copy of the documentation to the Healthcare Planning and Certificate of Need Section.
7. Prior to the issuance of the certificate of need, the certificate holder shall obtain documentation from A.G. Dunston Manor, Inc. (seller) showing that the purchase transaction between the buyer and seller for the 50 ACH beds from A.G. Dunston Manor Project I.D.# Q-7117-04 and Project I.D.# Q-8386-09 (COR for Project I.D.# Q-7117-04), has been completed and shall provide a copy of the documentation to the Healthcare Planning and Certificate of Need Section.
8. The certificate holder shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.

9. Upon completion of this project, the certificate holder shall take the necessary steps to delicense 34 adult care home beds from Willow Manor (Beaufort County).

10. Progress Reports:

- a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the settlement documents on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.
- b. The certificate holder shall complete all sections of the Progress Report form.
- c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.
- d. The first progress report shall be due on October 1, 2022.

11. The certificate holder 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.

12. 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, the certificate holder 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.

Exhibit B

Project I.D.# Q-12140-21
The Beaufort Community

SECTION P – PROPOSED TIMETABLE

Fiscal Year for the Facility Identified in Section A, Question 4		01/01 to 12/30
Milestone		Date mm/dd/yyyy
1	Financing Obtained	09/01/2022
2	Drawings Completed	09/01/2022
3	Land Acquired	09/01/2022
4	Construction / Renovation Contract(s) Executed	10/01/2022
5	25% of Construction / Renovation Completed (25% of the cost is in place)	01/01/2023
6	50% of Construction / Renovation Completed	04/01/2023
7	75% of Construction / Renovation Completed	07/01/2023
8	Construction / Renovation Completed	10/01/2023
9	Equipment Ordered	07/01/2023
10	Equipment Installed	10/01/2023
11	Equipment Operational	11/01/2023
12	Building / Space Occupied	12/01/2023
13	Licensure Obtained	12/15/2023
14	Services Offered *	01/01/2024
15	Medicare and / or Medicaid Certification Obtained	01/01/2024
16	Facility or Service Accredited	n/a
17	First Annual Report Due * A	03/31/2025

* Required

A Assuming the proposal is approved, the following condition will be imposed:

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, the applicant shall submit, on the form provided by the CON Section, an annual report containing the:

- Payor mix for the services authorized in this certificate of need;
- Utilization of the services authorized in this certificate of need;

The Beaufort Community – Revised Timetable

- Revenues and operating costs for the services authorized in this certificate of need;
- Average gross revenue per unit of service;
- Average net revenue per unit of service; and
- Average operating cost per unit of service.



Certificate Summary

ENVELOPE SUBJECT: Approval required
DOCUMENT: Settlement Agreement.pdf
DOCUMENT ORIGINATOR: Geary Knapp (geary.knapp@dhhs.nc.gov)

ENVELOPE ID: e9f6f1ce-90c4-4211-9a7b-7d8da03a29f4
DOCUMENT ID: 27f7b9e0-db22-4ecd-934f-192324ee0740
ORIGINATOR IP ADDRESS: 199.90.157.16

CERTIFICATE STATUS: Completed
DELIVERED: Jul 06, 2022 8:02 PM UTC
DOCUMENT PAGES: 12 CERTIFICATE PAGES: 1 TOTAL ENVELOPE PAGES: 13

COMPLETED SIGNATORIES: 1 / 1
COMPLETED IN PLACE SIGNATURES: 1 / 1
COMPLETED IN PLACE INITIALS: 0 / 0
CARBON COPY RECIPIENTS: 1

Signatures

E-SIGNED BY: Mark Payne (mark.payne@dhhs.nc.gov)
SECURITY LEVEL: Secure Email (Authenticated)
E-SIGNATURE ID: b4ab0c3f-81c5-47e7-9524-8dbfd446a175

Timeline

SENT: Jul 06, 2022 8:02 PM UTC
VIEWED: Jul 06, 2022 8:05 PM UTC
SIGNED: Jul 06, 2022 8:05 PM UTC
USING IP ADDRESS: 199.90.157.16

Mark Payne

I AGREE TO THE CONTENTS OF ALL PAGES ABOVE WITH AN ELECTRONIC SIGNATURE

PRINT NAME: Mark Payne EMAIL: mark.payne@dhhs.nc.gov

Carbon Copy

NAME: Diana Barbry EMAIL: diana.barbry@dhhs.nc.gov

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

Certificate of Need

for

Project ID #: Q-12140-21

FID #: 210830

ISSUED TO: The Beaufort Community, LLC
Beaufort AL Properties, LLC

Pursuant to G.S. 131E-177(6), the North Carolina Department of Health and Human Services hereby authorizes the person or persons named above (the certificate holder) to develop the project described below. The certificate holder shall develop the project in a manner consistent with the representations in the application and with the conditions contained herein and shall make good faith efforts to meet the timetable contained herein, as documented by the periodic progress reports required by G.S. 131E-189(a). The certificate holder shall not exceed the maximum capital expenditure amount specified herein during the development of this project, except as provided by G.S. 131E-176(16)e. The certificate holder shall not transfer or assign this certificate to any other person except as provided in G.S. 131E-189(c). This certificate is valid only for the scope, physical location, and person(s) described herein. The Department may withdraw this certificate pursuant to G.S. 131E-189 for any of the reasons provided in that section.

SCOPE: Develop a new ACH by relocating 50 ACH beds acquired via a Transfer for Good Cause of Project ID# Q-7117-04 (develop a 50 bed ACH) and Project ID# Q-8386-09 (COR for Project ID# Q-7117-04), and by relocating 34 ACH beds from Willow Manor, for a total of no more than 84 ACH beds, including 16 SCU beds, upon completion/ Beaufort County

CONDITIONS: See Reverse Side

PHYSICAL LOCATION: The Beaufort Community
933 West 3rd Street
Washington, NC 27889

CAPITAL EXPENDITURE: \$12,278,940

TIMETABLE: See Reverse Side

FIRST PROGRESS REPORT DUE: October 1, 2022

This certificate is effective as of July 6, 2022

Micheala Mitchell

Micheala Mitchell, Chief

CONDITIONS:

1. The Beaufort Community, LLC and Beaufort AL Properties, LLC (hereinafter "certificate holder" shall materially comply with all representations made in the certificate of need application and any supplemental responses. If representations conflict, the certificate holder shall materially comply with the last made representation.
2. The certificate holder shall develop a new ACH by relocating 50 ACH beds acquired via a Transfer for Good Cause of Project I.D.# Q-7117-04 (develop a 50 bed ACH) and Project I.D.# Q-8386-09 (Cost Over Run ("COR") for Project I.D.# Q-7117-04), and by relocating 34 ACH beds from Willow Manor, for a total of no more than 84 ACH beds, including 16 SCU beds, upon project completion.
3. Upon completion of the project, The Beaufort Community shall be licensed for no more than 84 ACH beds (including 16 SCU beds).
4. The Beaufort Community shall certify at least 34 percent of the total number of licensed adult care home beds in the facility for recipients of State/County Special Assistance with Medicaid and provide care to those recipients commensurate with representations made in the application.
5. For the first two years of operation following completion of the project, The Beaufort Community shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q of the application and settlement documents 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. Prior to the issuance of the certificate of need, the certificate holder shall obtain documentation from Eakes Investment Company, Limited Partnership (seller) showing that the purchase transaction between the buyer and seller for the 34 ACH beds from Willow Manor has been completed and shall provide a copy of the documentation to the Healthcare Planning and Certificate of Need Section.
7. Prior to the issuance of the certificate of need, the certificate holder shall obtain documentation from A.G. Dunston Manor, Inc. (seller) showing that the purchase transaction between the buyer and seller for the 50 ACH beds from A.G. Dunston Manor Project I.D.# Q-7117-04 and Project I.D.# Q-8386-09 (COR for Project I.D.# Q-7117-04), has been completed and shall provide a copy of the documentation to the Healthcare Planning and Certificate of Need Section.
8. The certificate holder shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.
9. Upon completion of this project, the certificate holder shall take the necessary steps to delicense 34 adult care home beds from Willow Manor (Beaufort County).
10. Progress Reports:
 - a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the settlement documents on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.
 - b. The certificate holder shall complete all sections of the Progress Report form.

- c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.
- d. The first progress report shall be due on October 1, 2022.
11. The certificate holder 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.
12. 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, the certificate holder shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:
- Payor mix for the services authorized in this certificate of need.
 - Utilization of the services authorized in this certificate of need.
 - Revenues and operating costs for the services authorized in this certificate of need.
 - Average gross revenue per unit of service.
 - Average net revenue per unit of service.
 - Average operating cost per unit of service.

Timetable

	Milestone	Date <i>mm/dd/yyyy</i>
1	Financing Obtained	09/01/2022
2	Drawings Completed	09/01/2022
3	Land Acquired	09/02/2022
4	Construction / Renovation Contract(s) Executed	10/01/2022
5	25% of Construction / Renovation Completed (25% of the cost is in place)	01/01/2023
6	50% of Construction / Renovation Completed	04/01/2023
7	75% of Construction / Renovation Completed	07/01/2023
8	Construction / Renovation Completed	10/01/2023
9	Equipment Ordered	07/01/2023
10	Equipment Installed	10/01/2023
11	Equipment Operational	11/01/2023
12	Building / Space Occupied	12/01/2023
13	Licensure Obtained	12/15/2023
14	Services Offered	01/01/2024
15	Medicare and / or Medicaid Certification Obtained	01/01/2024
17	First Annual Report Due*	03/31/2025

SECTION A – IDENTIFICATION

1. **Applicant(s):** There are tables for up to three applicants. See the definitions for who should be identified as an applicant. If there are more than three applicants, copy the first table, insert it below the third table, and change the 1 to a 4. Repeat this process if there are more than four applicants.

Applicant 1	
Business ID # (Internal Use Only)	
Legal Name (do NOT include a d/b/a)	The Beaufort Community, LLC
Street or Post Office Box	130 S Franklin St.
City	Rocky Mount
State	North Carolina
ZIP Code	27804
Name of parent or holding company	HealthView Capital Partners, LLC - Fund I
Is this an existing legal entity?	Yes
Applicant 2	
Business ID # (Internal Use Only)	
Legal Name (do NOT include a d/b/a)	Beaufort AL Properties, LLC
Street or Post Office Box	130 S. Franklin Street
City	Rocky Mount
State	NC
ZIP Code	27804
Name of parent or holding company	HealthView Capital Partners, LLC – Fund I
Is this an existing legal entity?	yes
Applicant 3	
Business ID # (Internal Use Only)	N/A
Legal Name (do NOT include a d/b/a)	
Street or Post Office Box	
City	
State	
ZIP Code	
Name of parent or holding company	

Attachment
2

2. **Contact Individual:** The **one** individual to whom all correspondence regarding this application should be directed by the CON Section. The individual should be able to provide clarifying or supplemental information regarding this application if requested by the CON Section during the review. If a certificate of need is issued for the project, the certificate holder(s) may designate a different individual to be the contact individual to whom all correspondence related to progress reports will be directed by the CON Section. The Agency Decision and Required State Agency Findings for your application will be mailed and emailed to the Contact Individual.

Contact Individual		
Individual ID # (Internal Use Only)		
Name (First, Middle, Last) *	Carrol S. Roberson III, (Trey)	Sonya A. Rozier
Title	Project Manager	Managing Director
	130 S Franklin St.	130 S. Franklin Street
City *	Rocky Mount	Rocky Mount
State *	North Carolina	North Carolina
ZIP Code *	27804	27804
Direct Telephone Number *	(252) 544-7592	910-474-4381
Email Address *	trey.roberson@healthviewcp.com	sonya.rozier@healthviewcp.com

- * Required
- ^ Provide the address where mail is received.

3. **Total Projected Capital Cost ***

\$ 12,278,940

- * The total projected capital cost must equal the total capital cost reported in Form F.1a Capital Cost or Form F.1b Capital Cost for Cost Overrun or Change of Scope, both of which are found in Section Q.

4. **Health Service Facility: Respond for the facility or campus where the proposal will be developed or offered.**

a. **Name and Site Address**

Name *	The Beaufort Community, LLC
Street Address ^	933 West 3 rd Street
City ^	Washington, NC
State	North Carolina
ZIP Code ^	27889

Do not change headers, footers, margins, font, font size, page orientation, or formatting of tables

From: [Mitchell, Micheala L](#)
To: [Stancil, Tiffany C](#)
Subject: Fw: [External] The Beaufort Community: Rescission of Prior No Review Determination Request and Revised No Review Determination Request
Date: Tuesday, June 13, 2023 3:14:53 PM

Tiffany-

Would you mind logging this and assigning it to Greg?

Thanks!

Micheala Mitchell, JD
[NC Department of Health and Human Services](#)
[Division of Health Service Regulation](#)
Section Chief, Healthcare Planning and CON Section
809 Ruggles Drive, Edgerton Building
2704 Mail Service Center
Raleigh, NC 27699-2704
Office: [919 855 3879](tel:9198553879)
Micheala.Mitchell@dhhs.nc.gov

Don't wait to vaccinate. Find a COVID-19 vaccine location near you at [MySpot.nc.gov](https://www.myspot.nc.gov).
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From: Mitchell, Micheala L
Sent: Tuesday, June 13, 2023 3:06 PM
To: 'Burgess, Ken' <kburgess@bakerdonelson.com>
Subject: RE: [External] The Beaufort Community: Rescission of Prior No Review Determination Request and Revised No Review Determination Request

Received. We'll get this out shortly.

Thanks Ken.

Micheala Mitchell, JD
[NC Department of Health and Human Services](#)
[Division of Health Service Regulation](#)
Section Chief, Healthcare Planning and CON Section
809 Ruggles Drive, Edgerton Building
2704 Mail Service Center
Raleigh, NC 27699-2704
Office: [919 855 3879](tel:9198553879)
Micheala.Mitchell@dhhs.nc.gov

Don't wait to vaccinate. Find a COVID-19 vaccine location near you at [MySpot.nc.gov](https://myspot.nc.gov).

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From: Burgess, Ken <kburgess@bakerdonelson.com>

Sent: Tuesday, June 13, 2023 3:04 PM

To: Mitchell, Micheala L <Micheala.Mitchell@dhhs.nc.gov>

Subject: [External] The Beaufort Community: Rescission of Prior No Review Determination Request and Revised No Review Determination Request

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi Micheala, on May 5, 2023, I sent you a No Review Determination Request for our clients The Beaufort Community, LLC and Beaufort AL Properties, LLC, to which the Agency responded promptly, confirming that the transaction described in the Request did not require a CON. Subsequent to that confirmation, our client informed me that they wished to make a modification to the transaction described in my May 5 No Review correspondence. As such, attached please find two documents:

1. A rescission of the May 5, 2023 No Review Determination Request; and
2. A REVISED No Review Determination Request describing the modified transaction. We believe that the modified transaction is also exempt from CON, as set forth in the attached Revised correspondence.

I apologize for this change of plans and appreciate the Agency's willingness to review the revised documentation. Please reach out with any questions. Thanks so much, Ken Burgess

PLEASE NOTE NEW ADDRESS

Kenneth (Ken) L. Burgess
Shareholder
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
2235 Gateway Access Point
Suite 220
Raleigh, N.C. 27607
Phone: 919-294-0802
Cell: 919-449-4754
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Baker, Donelson, Bearman, Caldwell & Berkowitz, PC represents clients across the U.S. and abroad from offices in Alabama, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South

Carolina, Tennessee, Texas, Virginia and Washington, D.C.

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