



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

April 9, 2019

Catharine Cumber
3100 Tower Blvd. Suite 1300
Durham, NC 27707

Conditional Approval

Project ID #: J-11631-18
Facility: Duke North Pavilion
Project Description: Develop 4 additional ORs pursuant to the need determination in the 2018 SMFP for a total of 69 ORs upon project completion
County: Durham
FID #: 956937

Approved Capital Expenditure: \$17,200,000
Conditions of Approval: See Attachment A
Approved Timetable: See Attachment B
Last Date to Appeal: May 9, 2019
Required State Agency Findings: Enclosed

Dear Ms. Cumber:

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 a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required based on N.C. Gen. Stat. §131E-176(16)(e).

The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Furthermore, 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). **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.

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

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

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



Gloria Hale
Team Leader



Lisa Pittman
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. Duke University Health System, Inc. shall materially comply with all representations made in the certificate of need application.
2. Duke University Health System, Inc. shall develop no more than four additional ambulatory operating rooms at Duke North Pavilion for a total of no more than 69 operating rooms, including one trauma/burn operating room at Duke University Hospital, License # H0015.
3. Upon completion of the project, Duke University Hospital shall be licensed for no more than 69 ORs: seven inpatient ORs (including one trauma/burn OR), 49 shared ORs, and 13 dedicated outpatient ORs.
4. Duke University Health System shall be licensed for no more than 92 ORs: 69 at Duke University Hospital (including one trauma/burn OR), 15 at Duke Regional Hospital (including two C-Section ORs), four at James E. Davis Ambulatory Surgical Center, and four at Arrington Ambulatory Surgical Center, upon completion of Project ID #J-11508-18 (develop a new ASF by relocating four ORs from James E. Davis Ambulatory Surgical Center).
5. Duke University Health System, Inc. shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section VIII of the application and that would otherwise require a certificate of need.
6. For the first three years of operation following completion of the project, Duke University Health System, Inc. 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.
7. Duke University Health System, Inc. 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.
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, Duke University Health System, Inc. 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. Duke University Health System, Inc. 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** _____ **June 15, 2019**
2. **Construction/Renovation Contract(s) Executed** _____ **November 1, 2019**
3. **25% of Construction/Renovation Completed**
(25% of the cost is in place) _____ **April 1, 2020**
4. **50% of Construction/Renovation Completed** _____ **September 1, 2020**
5. **75% of Construction/Renovation Completed** _____ **February 1, 2021**
6. **Construction/Renovation Completed** _____ **June 1, 2021**
7. **Equipment Ordered** _____ **January 15, 2020**
8. **Equipment Installed** _____ **January 15, 2021**
9. **Equipment Operational** _____ **May 1, 2021**
10. **Building/Space Occupied** _____ **June 1, 2021**
11. **Services Offered** _____ **July 1, 2021**
12. **Final Annual Report Due** _____ **October 1, 2024**

