



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

October 12, 2021

John Paul Jones II
jpjones@dhw.cpa

Exempt from Review

Record #: 3706
Date of Request: October 12, 2021
Facility Name: Fair Haven of Forest City
FID #: 923147
Business Name: Fair Haven of Forest City, LLC
Business #: 3293
Project Description: Develop four nursing facility buildings on the main campus and transfer 48 existing nursing facility beds located on the same campus to the proposed nursing facility buildings
County: Rutherford

Dear Mr. Jones:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency), determined that the above referenced proposal is exempt from certificate of need review in accordance with G.S. 131E-184(e)(1) and (2). Therefore, you may proceed to offer, develop or establish the above referenced project without a certificate of need.

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; (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,

Ena Lightbourne
Project Analyst

Micheala Mitchell
Chief

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

& (POC)

& (Date)

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

October 11, 2021

Via Email - ena.lightbourne@dhhs.nc.gov

Healthcare Planning and Certificate of Need Section
Division of Health Service Regulation
Department of Health and Human Services
2704 Mail Service Center
Raleigh, NC 27699-2704
Attn: Ms. Ena Lightbourne

Re: Exemption Request by Fair Haven of Forest City, LLC
Address: 830 Bethany Church Road, Forest City, NC 28043

Dear Ms. Lightbourne:

On behalf of our client, Fair Haven of Forest City, LLC, we submit this letter as written notice to the Department of a proposed capital expenditure and request for exemption from certificate of need review under N.C. Gen. § 131E-184(e)(1) and (2).

Fair Haven of Forest City, LLC is an existing nursing facility located at 830 Bethany Church Road, Forest City, NC 28043 (the "Facility"). The Facility is currently licensed to operate 100 skilled nursing facility beds and 28 adult care home beds in Rutherford County, North Carolina.

In accordance with N.C. Gen. § 131E-184(e)(1) and (2), it is our understanding that the Department shall exempt from certificate of need review a capital expenditure that exceeds the two million dollar (\$2,000,000) threshold set forth in N.C. Gen. § 131E-176(16)b, if all of the following conditions are met:

- 1) The proposed capital expenditure would meet all of the following requirements:
 - a) Be used solely for the purpose of renovating, replacing on the same site, or expanding any of the following existing facilities:
 - i) Nursing home facility
 - ii) Adult care home facility
 - iii) Intermediate care facility for individuals with intellectual disabilities
 - b) Not result in a change in bed capacity, as defined in N.C. Gen. § 131E-176(5), or the addition of a health service facility or any other new institutional health service other than that allowed in N.C. Gen. § 131E-176(16)b

Ms. Ena Lightbourne
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- 2) The entity proposing to incur the capital expenditure provides prior written notice to the Department, which notice includes documentation that demonstrates that the proposed capital expenditure would be used for one or more of the following purposes:
 - a) Conversion of semiprivate resident rooms to private rooms
 - b) Providing innovative, homelike residential dining spaces, such as cafes, kitchenettes, or private dining areas to accommodate resident and their families or visitors.
 - c) Renovating, replacing, or expanding residential living or common areas to improve the quality of life of residents.

Accordingly, the Facility respectfully provides this letter as prior written notice to the Department, pursuant to N.C. Gen. § 131E-184(e)(1) and (2), of its proposed capital expenditure to construct four (4) new stand-alone skilled nursing houses on land adjacent to the existing Facility. These four new stand-alone skilled nursing houses will be composed of 12 beds each with full bathrooms (all Private), including toilet, sink, and shower. Additionally, these new houses will include living and dining spaces, activity and lifestyle areas, outdoor areas, and nursing and staff areas, per DHSR requirements. These houses will have the commercial kitchen, laundry, and therapy services provided by the existing Facility.

The Facility anticipates the proposed capital expenditure to be approximately twelve million dollars (\$12,000,000), which will exceed the two million dollar (\$2,000,000) threshold set forth in N.C. Gen. § 131E-176(16)b and for exemption from certificate of need review under N.C. Gen. § 131E-184(e)(1). Also in accordance with N.C. Gen. § 131E-184(e)(1), the proposed capital expenditure will not result in a change in bed capacity, as defined in N.C. Gen. § 131E-176(5), as the Facility is planning to shutdown 48 skilled nursing facility beds on a wing in the existing building and move those 48 skilled nursing facility beds to these new skilled nursing houses. This will result in the current license of 100 skilled nursing facility beds and 28 adult care home beds being unchanged. Currently, the Facility's 100 skilled nursing facility beds are comprised of eight (8) private beds and ninety-two (92) semi-private beds. At completion of the proposed capital expenditure, the Facility's 100 skilled nursing facility beds will be comprised of forty-eight (48) private beds and fifty-two (52) semi-private beds. Due to the innovativeness of the proposed capital expenditure as detailed above, and pursuant to N.C. Gen. § 131E-184(e)(2) the proposed capital expenditure will not only convert a number of semi-private rooms to private rooms but, by design, will create a more homelike feel for residents, families, and visitors and improve the quality of life of residents.

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We would appreciate your earliest possible attention to this matter and confirmation that the proposed capital expenditure as described here is exempt from certificate of need review under N.C. Gen. § 131E-184 (e)(1) and (2).

We thank you for your attention to this matter. If you should have any questions or need any additional information, please contact us so that we may respond immediately.

Thank you for your time and consideration.

Sincerely,

DAVIDSON, HOLLAND, WHITESELL & CO., PLLC
CERTIFIED PUBLIC ACCOUNTANTS AND STRATEGIC ADVISORS

A handwritten signature in black ink that reads "Herb Whitesell". The signature is written in a cursive, slightly slanted style.

Herb Whitesell, Managing Partner

From: [Lightbourne, Ena](#)
To: [Waller, Martha K](#)
Subject: FW: [External] Question Regarding CON
Date: Tuesday, October 12, 2021 9:57:11 AM
Attachments: [20211011 Fair Haven of Forest City Exemption Request.pdf](#)

Martha, can you log this? Thanks.

From: JP Jones <jpjones@dhw.cpa>
Sent: Tuesday, October 12, 2021 9:39 AM
To: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Subject: RE: [External] Question Regarding CON

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Ms. Lightbourne,

Please find attached an exemption request for Fair Haven of Forest City, LLC. Any assistance you can provide on expediting the approval process would be greatly appreciated. Thank you so much for all of your help regarding this project.

I hope you have a great day and please let me know if there is anything else you need from me.

Please confirm that you have received this email with the exemption request.

Thanks again,

JP

John Paul Jones II, CPA
Senior Auditor
Davidson, Holland, Whitesell & Co., PLLC
Certified Public Accountants and Strategic Advisors
(828)322-2070



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From: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Sent: Friday, October 8, 2021 5:06 PM
To: JP Jones <jpjones@dhw.cpa>
Subject: Re: [External] Question Regarding CON

No there's no template. You would simply need to submit a letter stating your plan. Basically what you stated in your original email. You can send it to me. You do not need to include plans. Unfortunately, we can't tell you what to do but I can see if I can put a rush through the approval process. They're aware of the situation.

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From: JP Jones <jpjones@dhw.cpa>
Sent: Friday, October 8, 2021 4:53:07 PM
To: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Subject: RE: [External] Question Regarding CON

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Ena,

I am trying to get in touch with my group as we have been diligently working on this and were planning on submitting a CON application by Oct 15th for this project, but this appears that it may be applicable.

With that being said and as I am trying to get a discussion together, this has raised a few questions.

- Is there a template for the exemption request or application?
- Do we have to submit copies of the plans or just type a letter documenting all of the requirements in the statute?
- How far in advance do we need to provide prior written notice to the Department?
- Is it better to submit a CON rather than take a chance of being denied the exemption request?

Thanks and if you want to discuss please feel free to call me on my cell at 828-381-8726. I have been working from home a lot as well due to the pandemic.

Thanks,

JP

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From: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Sent: Friday, October 8, 2021 4:26 PM
To: JP Jones <jpjones@dhw.cpa>
Subject: RE: [External] Question Regarding CON

Hi Mr. Jones.

I apologize for the delayed response but I had to discuss it with my Assistant Chief. Thank you for your patience.

Based on the information you provided this project may be exempt under the statute if the capital expenditure for the proposal will exceed \$2,000,000. Please review **§ 131E-184 (e)(1) and (2)**, attached. You would only be required to notify the Agency prior to beginning the project and the Agency will subsequently issue an exemption approval.

If it doesn't meet this requirement then I would agree to your responses in the application. Please let me know if you have any additional questions. Due to the pandemic, I am primarily working from home, so e-mail works best to reach me at this time.

Thanks.

Ena,

From: JP Jones <jpjones@dhw.cpa>
Sent: Wednesday, October 6, 2021 9:51 AM
To: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Subject: RE: [External] Question Regarding CON

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Hey Ms. Lightbourne,

No, I may not have phrased that correctly. They are wanting to build 4 smaller homes or pods, as we are calling them in our meetings, that will have 12 NF beds each for a total of 48 NF beds being moved out of the existing building. So at completion they will have 48 NF beds in the new pods, with 52 NF beds and 28 ACH beds staying in the existing building.

So the license of 100 NF beds and 28 ACH beds at the facility does not change.

I hope that helps, if you want to discuss feel free to call me at 828-381-8726.

Thanks,

JP

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From: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Sent: Wednesday, October 6, 2021 9:37 AM
To: JP Jones <jpjones@dhw.cpa>
Subject: RE: [External] Question Regarding CON

Hi Mr. Jones,

Thank you for your question. I did have one quick question. Will the 12 NF beds be an addition to the existing 48 beds, for a total of 60 NF beds at the new location?

Thanks.

Ena,

From: JP Jones <jpjones@dhw.cpa>
Sent: Tuesday, October 5, 2021 2:54 PM
To: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Subject: [External] Question Regarding CON

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Ms. Lightbourne,

My name is JP Jones, I called and left you a voicemail but I have a couple of questions regarding a CON for Fair Haven of Forest City that I am working on. To update you, the project as it now stands for this CON will be building four (4) new stand-alone skilled nursing houses composed of 12 beds with full bathrooms (all Private), including toilet, sink, and shower. Additionally, the facility will include living and dining spaces, activity and lifestyle areas, outdoor areas, and nursing and staff areas, per DHSR requirements. These houses will have the commercial kitchen, laundry, and therapy services provided by the existing Forest City Facility. These new skilled nursing houses will be built on land adjacent to the existing building owned by the owner of the existing Forest City building. The applicant is planning to shutdown 48 NF beds on a wing in the existing facility and move those 48 NF beds to these new skilled-nursing houses to be constructed on property adjacent to the existing building. My questions regarding this are as follows:

1. For Section A.5b of the application (page 19) I am trying to determine what sections are applicable to this proposal. I am leaning towards:
 - a. Physically expanding the existing health service facility on the same campus
 - b. and "Renovating the existing health service facility on the existing campus."

My reasoning for this is the wording with developing a new health service facility, specifically where it states that developing a new campus of an existing facility with multiple campuses on the same license not being the development of a new health service facility. Due to that language, even

though they currently do not have multiple campuses on the same license, I was thinking that this would be viewed by CON as physically expanding the existing facility on the same campus. Also, since they are shutting down a wing of the existing facility that would make the “renovating the existing facility” option applicable as well. Do you agree?

2. For Section B.2 of the application (page 24) I am trying to determine which policies are applicable to this proposal as well. I am thinking:

- a. Policy NH-8 – Innovation in Nursing Facility Design
- b. and Policy GEN-4 – Energy Efficiency and Sustainability for Health Service Facilities

I was thinking that “Policy NH-6 – Relocation of Nursing Facility Beds” and “Policy GEN-3 – Basic Principles” are not applicable to this CON. This is because the applicant is not moving the beds to another service area and not applying to develop this as a result of a need determination in the SMFP. Do you agree with this as well?

Thank you for any guidance you can provide. If you should have any questions or concerns please feel free to call me at 828-381-8726 or email me at this email address.

Thanks,

JP

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Senior Auditor

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