



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 22, 2022

Denise M. Gunter, Nelson Mullins
Denise.gunter@nelsonmullins.com

Exempt from Review

Record #: 3932
Date of Request: June 17, 2022
Facility Name: The Oaks at Whitaker Glen-Mayview
FID #: 923332
Project Description: Replace the existing nursing facility on the same site
County: Wake

Dear Ms. Gunter:

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). 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,

Michael J. McKillip
Team Leader

Micheala Mitchell
Chief

cc: Construction Section, DHSR
Nursing Home Licensure and Certification 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

June 17, 2022

VIA EMAIL ONLY

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

RE: The Oaks at Whitaker Glen – Mayview
513 East Whitaker Mill Road, Raleigh, NC, 27608
FID# 170322
Wake County
Health Service Area IV

Dear Ms. Mitchell:

On behalf of The Oaks at Whitaker Glen – Mayview (“Mayview”), a skilled nursing facility (“SNF”) licensed for 139 SNF beds, I am writing to inform the Agency of Mayview’s intention to close the facility for replacement of the facility on the same site, and to seek an exemption from CON review pursuant to N.C. Gen. Stat. § 131E-184(e).

Background

Mayview originally opened on September 1, 1957. While the facility has been well maintained, ongoing maintenance issues have caused a need for it to be replaced entirely. Between now and the proposed closure, Mayview’s current residents will be discharged to home or transferred to another facility of their choosing. The facility will then be demolished and rebuilt on the same site. We anticipate the process to begin during the summer of 2022, with the demolition and replacement taking two to three years. Mayview intends to maintain its licensed bed capacity during this time. The proposed capital costs will exceed \$2 million.

Analysis

N.C. Gen. Stat. § 131E-184(e) contains an exemption specifically for the replacement of long-term care facilities:

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 G.S. 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 the following facilities:
 1. Nursing home facility;
 2. Adult care home facility;
 3. Intermediate care facility for individuals with intellectual disabilities.
 - b. Not result in a change in bed capacity, as defined in G.S. 131E-176(5), or the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.
- (2) The entity proposing to incur the capital expenditure provides prior written notice to the Department, which notice includes documentation 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 residents and their families or visitors.
 - c. Renovating, replacing, or expanding the residential living or common areas to improve the quality of life of residents.

N.C. Gen. Stat. § 131E-184(e).

The proposed project satisfies all of the conditions set forth in the statute. The sole purpose of the project is to replace a SNF on the same site. There will be no change

Micheala Mitchell
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in bed capacity as that term is defined in N.C. Gen. Stat. § 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. Stat. § 131E-176(16)(b). This project will result in the conversion of semiprivate rooms to private rooms and will improve the quality of life of residents through spacious, private rooms, comfortable and welcoming common areas, and enhanced dining facilities.

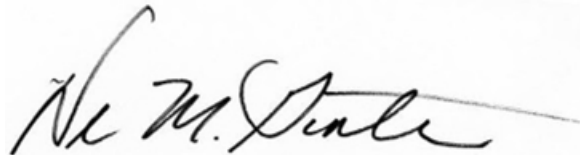
There is also a CON to develop a 75-bed ACH facility at 615 East Whitaker Mill Road in Raleigh, Project I.D. No. J-11953-20. The applicants still intend to develop that project as proposed. When the ACH project and the Mayview replacement are completed, the East Whitaker Mill campus will have SNF and ACH beds, as well as independent living cottages that are already on the campus.

Conclusion

Based on the foregoing, we respectfully request that the Agency issue its written determination that the foregoing project is exempt from CON review. If you need further information, please let me know.

Thank you for your time and prompt consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise M. Gunter", written over a light gray rectangular background.

Denise M. Gunter