



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

September 11, 2020

Joy Heath
jheath@williamsmullen.com

No Review

Record #: 3340
Facility Name: Brunswick Surgery Center
FID #: 160564
Business Name: MMAC Acquisition Corporation
Business #: 3255
Project Description: Acquisition of the land and building in which Brunswick Surgery Center is located by MMAC Acquisition Corporation from OWP3, LLC
County: Brunswick

Dear Ms. Heath:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) received your correspondence regarding the above referenced proposal. Based on the CON law in effect on the date of this response to your request, the proposal described in that correspondence 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.

You may need to contact the Agency's Acute and Home Care Licensure and Certification Section to determine if they have any requirements for development of the proposed project.

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,

[Handwritten signature of Tanya M. Saporito]

Tanya M. Saporito
Project Analyst

[Handwritten signature of Martha J. Frisone]

Martha J. Frisone
Chief

cc: Acute and Home Care 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

WILLIAMS MULLEN

Joy Heath
Direct Dial: 919.981.4001
jheath@williamsmullen.com

Anderson Shackelford
Direct Dial: 919.981.4312
ashackelford@williamsmullen.com

August 31, 2020

VIA E-MAIL: tanya.saporito@dhhs.nc.gov

Ms. Tanya Saporito, Project Analyst
Healthcare Planning & Certificate of Need Section
Raleigh, North Carolina

Re: No Review Request – Acquisition of Land/Building with No Operator Change
Project ID #: O-11282-16
Facility: Brunswick Surgery Center
Project Description: Develop a new ASC with one OR and two procedure rooms
County: Brunswick
FID #: 160564

Dear Ms. Saporito:

As you will recall, OWP3, LLC and Brunswick Surgery Center, LLC received Certificate of Need approval in April 2017 to develop Brunswick Surgery Center with one operating room and two procedure rooms. In 2018, your office determined that a change in site (of approximately 300 yards from the originally approved location) was in material compliance with the applicants' representations.

OWP3, LLC owns the building in which Brunswick Surgery Center is co-located with medical office space. OWP3, LLC seeks to sell the entire building to a Delaware limited liability company partner of Montecito ("MMAC Acquisition Corporation or its assignee," hereafter "the Montecito entity").

The Montecito entity will lease the building back to OWP3, LLC. Brunswick Surgery Center, LLC will continue to pay rent to OWP3, LLC which will remit those rents to the Montecito entity under a Master Lease. The sale of the building to the Montecito entity in the transaction described above is contemplated to close in November of this year. Please note that this transaction will not involve any change in the operator of the ambulatory surgery center. As CON-approved, Brunswick Surgery Center, LLC will operate the facility.

Pursuant to our conversation, this letter is submitted to request confirmation that the proposed acquisition by the Montecito entity of the land and building is not subject to certificate of need review.

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WILLIAMS MULLEN

Ms. Tanya Saporito, Project Analyst

August 31, 2020

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If any further information is necessary, please do not hesitate to be in touch. We look forward to receipt of correspondence confirming that no review is required with respect to the proposal described above.

Thank you for your attention and assistance in this matter.

Sincerely Yours,

Joy Heath

Joy Heath

Anderson Shackelford

cc: Martha J. Frisone, Chief (via email)

Bethany Burgon, Esq. (via email)

From: [Frisone, Martha](#)
To: [Waller, Martha K](#)
Subject: Fwd: [External] No Review
Date: Tuesday, September 1, 2020 7:59:03 AM
Attachments: [0675_001.pdf](#)

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From: Heath, Joy <jheath@williamsmullen.com>
Sent: Tuesday, September 1, 2020 1:20:23 AM
To: Tanya, Saporito <tanya.saporito@dhhs.nc.gov>
Cc: Frisone, Martha <martha.frisone@dhhs.nc.gov>; Burgon, Bethany <BBurgon@ncdoj.gov>; Shackelford, Anderson <ashackelford@williamsmullen.com>
Subject: [External] No Review

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All – Thank you for speaking with me and Anderson by phone. Please find attached the No Review request we discussed. Do let us know if any additional information is needed and, again, we appreciate your attention and assistance with this matter. Joy & Anderson

[COVID-19 Legal Resources](#)

Please note: Our office is on a remote-work plan in an effort to mitigate the spread of COVID-19. We have full access to email and documents. You may reach me on my office # or cell # as noted below. Thank you.

Joy Heath | Health Care Attorney | Williams Mullen

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