



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

October 10, 2023

John Paul Jones II
jpjones@dhw.cpa

Exempt from Review

Record #: 4270
Date of Request: September 12, 2023
Facility Name: Fair Haven of Forest City
FID #: 923147
Business Name: Fair Haven of Forest City, LLC
Business #: 3293
Project Description: Develop a 100-bed nursing home replacement facility adjacent to the existing nursing home facility
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. In addition, your proposal will likely result in licensing changes, therefore you should contact both the Nursing Home Licensure and Certification Section and the Adult Care Licensure Section, DHSR.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Ena Lightbourne
Project Analyst

Micheala Mitchell
Chief

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

September 11, 2023

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 and Fair Haven Properties, LLC

Address: 830 Bethany Church Road, Forest City, NC 28043

Dear Ms. Lightbourne:

On behalf of our clients, Fair Haven of Forest City, LLC and Fair Haven Properties, LLC (the “Facility”), 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. Fair Haven Properties, LLC owns the land and building that Fair Haven of Forest City, LLC holds the operating license for. 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:

PH 828.322.2070
FAX 828.322.9489

PH 828.437.8060
FAX 828.437.8996

209 13th Ave. Place NW, Suite 200
Hickory, North Carolina 28601

212 N. Sterling Street
Morganton, North Carolina 28655
PO Box 1489, Morganton, NC 28680

info@dhw.cpa
www.dhw.cpa



- 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.
- 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 residents 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 a new 100 bed stand-alone skilled nursing facility on land adjacent to the existing facility. The new facility will operate independent of the existing facility and include living and dining spaces, activity and lifestyle areas, kitchen, laundry, therapy services, outdoor areas, and nursing and staff areas, per DHSR requirements. The quality of life for all residents will be greatly improved by moving these skilled nursing facility beds into a new facility. The existing facility will continue to operate and serve the 28 adult care home beds that are currently licensed at that facility.

The Facility anticipates the proposed capital expenditure to be approximately thirty million dollars (\$30,000,000), 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 100 skilled nursing beds in the existing facility and move those 100 skilled nursing facility beds to the new skilled nursing facility upon completion. This will result in the current license of 100 skilled nursing facility beds and 28 adult care home beds remaining unchanged; however, upon completion of the new proposed facility, the service components will operate independent of one another in separate facilities, on land adjacent to each other.

Ms. Ena Lightbourne
September 11, 2023
Page three

Attached to this letter, Exhibit A, shows the existing facility and land on parcel number 1613907, which after completion of this proposed capital expenditure will operate and serve the 28 adult care home beds currently licensed there. The proposed new skilled nursing facility which after completion of this project will operate 100 skilled nursing facility beds, will be constructed on land adjacent to that parcel, on parcel numbers 1652127 and 1613971. These parcels are owned by the same entity, Fair Have Properties, LLC, that owns the parcel and building that the current facility operates and are located within 250 yards of the existing facility. Under N.C. Gen. § 131E-176(14n)(b), these parcels are considered part of the Main Campus of the existing facility, which means that the proposed capital expenditure would be located on the same site, even though it will be given a different address than that of the current facility; thereby, fulfilling the requirement as stated in N.C. Gen. § 131E-184(e)(1)(a).

We would appreciate your earliest possible attention to this matter and confirmation that the proposed capital expenditure as described herein 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.

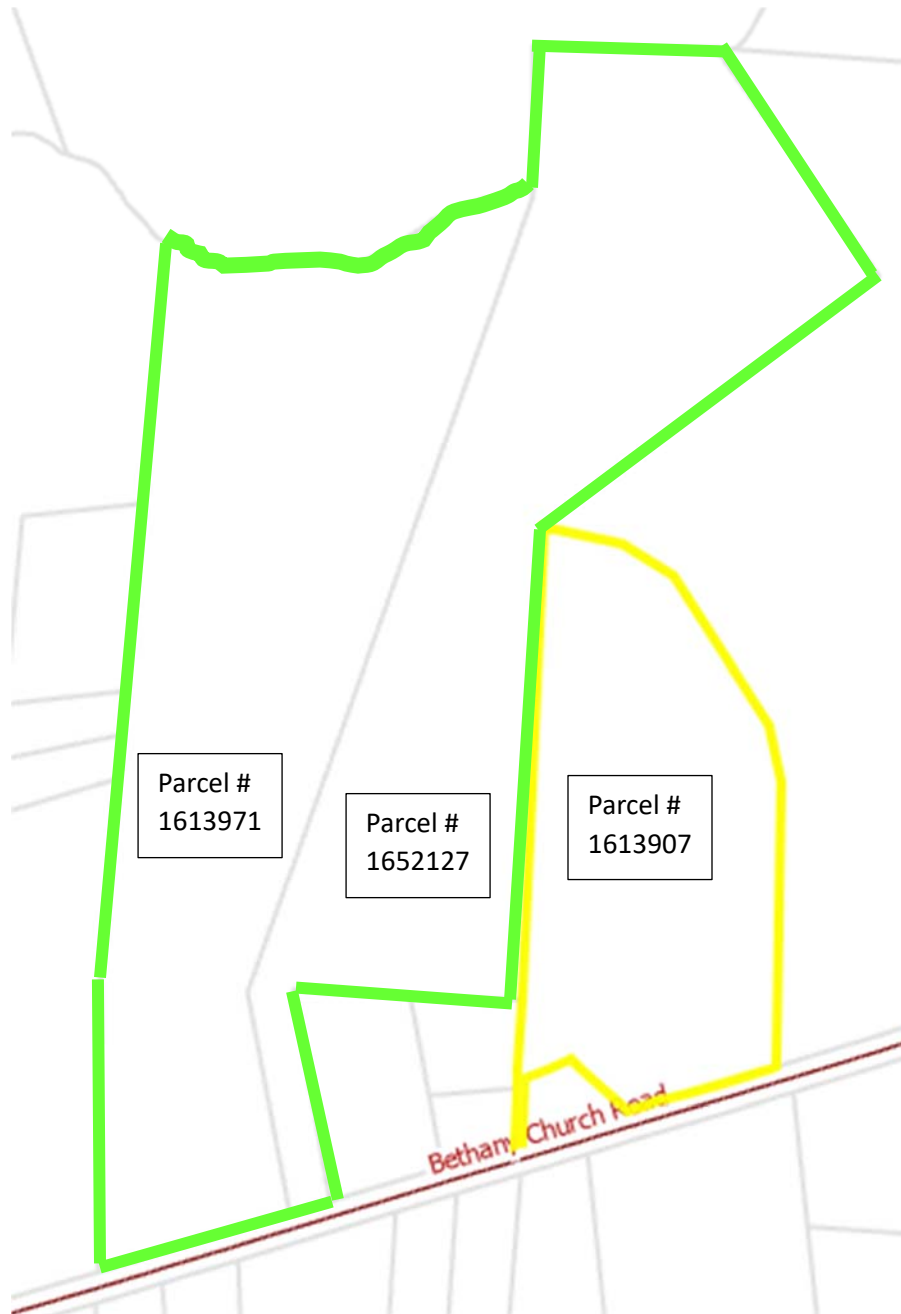
Sincerely,

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



Herb W. Whitesell, Managing Partner

Exhibit A



Key

■ = Parcel on which the existing facility is currently located, and where 28 adult care homes will remain after the proposed project is completed

■ = Parcels on which the proposed new 100 bed skilled nursing facility will be located

*Note: Image was cut and pasted from Rutherford County GIS map at <https://gis.rutherfordcountync.gov/maps/>

From: [Lightbourne, Ena](#)
To: [JP Jones](#)
Subject: RE: [External] RE: Fair Haven of Forest City Exemption Request-Clarification
Date: Monday, September 18, 2023 11:04:00 AM
Attachments: [image001.gif](#)
[image002.jpg](#)

Great. Thank you.

Ena Lightbourne

Certificate of Need, Project Analyst

[Division of Health Service Regulation](#), Healthcare Planning and Certificate of Need Section (*Currently, I am in the office on Thursdays and Fridays. For the rest of the week, I can be reached by email.*)

[NC Department of Health and Human Services](#)

Office: 919-855-4610

Ena.lightbourne@dhhs.nc.gov

809 Ruggles Drive, Edgerton Building

2704 Mail Service Center

Raleigh, North Carolina 27699-2704

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From: JP Jones <jpjones@dhw.cpa>
Sent: Monday, September 18, 2023 11:00 AM
To: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Subject: [External] RE: Fair Haven of Forest City Exemption Request-Clarification

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Hey Ena,

From my understanding, even though the old CON exemption letter was initially approved, they were later informed that they could not do the project because it was too far from the other campus.

With that being said, and to answer your question, this would replace that initial project thereby making that old CON exemption void.

Thanks,

JP

John Paul Jones II, CPA

Manager

Davidson, Holland, Whitesell & Co., PLLC
Certified Public Accountants and Consultants
(828)322-2070



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From: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>

Sent: Monday, September 18, 2023 10:56 AM

To: JP Jones <jpjones@dhw.cpa>

Subject: Fair Haven of Forest City Exemption Request-Clarification

Hi JP,

This is regarding the request listed above. I just needed some clarification. In 2021, Fair Haven was approved to construct four new stand-alone skilled nursing houses on a land adjacent to the facility. Is this current request part of that project or is this replacing that initial project? I may be reading it wrong but I just needed some clarification. Please let me know if you have any questions.

Thanks,

Ena,

Ena Lightbourne

Certificate of Need, Project Analyst

[Division of Health Service Regulation](#), Healthcare Planning and Certificate of Need Section (*Currently, I am in the office on Thursdays and Fridays. For the rest of the week, I can be reached by email.*)

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From: [Lightbourne, Ena](#)
To: [Stancil, Tiffany C](#)
Subject: FW: [External] Fair Haven of Forest City, LLC CON Exemption Letter
Date: Tuesday, September 12, 2023 1:07:12 PM
Attachments: [Fair Haven of Forest City CON Exemption Letter.pdf](#)

Tiffany, can you log? Thanks.

Ena Lightbourne

Certificate of Need, Project Analyst

[Division of Health Service Regulation](#), Healthcare Planning and Certificate of Need Section *(Currently, I am in the office on Thursdays and Fridays. For the rest of the week, I can be reached by email.)*

[NC Department of Health and Human Services](#)

Office: 919-855-4610

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From: JP Jones <jpjones@dhw.cpa>
Sent: Monday, September 11, 2023 2:59 PM
To: Lightbourne, Ena <ena.lightbourne@dhhs.nc.gov>
Cc: Herb Whitesell <herb@dhw.cpa>
Subject: [External] Fair Haven of Forest City, LLC CON Exemption Letter

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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 for your time and attention to this matter. Please let me know if there is anything else you need from us.

Please confirm that you have received this email with the attachment.

Thanks,

JP

John Paul Jones II, CPA

Manager

Davidson, Holland, Whitesell & Co., PLLC
Certified Public Accountants and Consultants
(828)322-2070



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