

STATEMENT OF THE FACTS

In March 2007, Community Alternatives received a certificate of need for Project I.D. No. F-7714-06 to relocate an existing a six-bed Intermediate Care Facility for the Mentally Retarded group home in Mecklenburg County. The CON Application for the Project identified a site located at 1812 McClean Road, Charlotte, North Carolina (Mecklenburg County). That site proved unsuitable, and on August 17, 2007, Community Alternatives received a declaratory ruling allowing a change in site to 1003 Breezeway Drive, Charlotte, North Carolina. That site also proved unsuitable, and on June 16, 2008, Community Alternatives received a second Declaratory Ruling to change the site to 6745 and 6749 View Way Drive in Charlotte. Further investigation of the plans indicated that it was necessary to re-orient the building plans on the same property, but with an address at 8007 Kings Road. A third Declaratory Ruling approving that change was granted on March 11, 2009. Community Alternatives later determined that the Kings Road location was unsuitable.

Community Alternatives has experienced numerous delays with the Project due to title problems, site locations, grading difficulties, undersized lots, financing and other issues. Community Alternatives met with the Certificate of Need Section in December 2010 and January 2011 to keep the agency updated concerning the Project.

On February 23, 2010, Community Alternatives received another Certificate of Need to develop a six-bed Intermediate Care Facility for the Mentally Retarded group home (Project I.D. No. F-8242-08). Community Alternatives' real estate company secured a lot at 8205 Browne Road for Project I.D. No. F-8242-08 in January 2011. Because of the length of time it has taken to obtain a site for the replacement facility in Project I.D. No. F-7714-06, Community

Alternatives seeks to use the site at Browne Road for Project I.D. No. F-7714-06 and find an alternative site for F-8242-08.

ANALYSIS

The CON law would require a full review of Community Alternatives' proposed change of site if that change were to represent a material change in the physical location or scope of the project. N.C.G.S. § 131E-181(a). The proposed change of the site for the Project does not constitute a material change in the physical location or the scope of the Project. Community Alternatives does not propose any changes to the services that will be provided to clients, the site is no more than 8.5 miles from the original site, the site is properly zoned, and there will be no additional capital expenditures as a result of the change.

N.C.G.S. § 131E-189(b) allows the Agency to withdraw Community Alternatives' certificate of need if Community Alternatives fails to develop the Project in a manner consistent with the representations made in the application or with any conditions that were placed on the certificate of need. Community Alternatives will not be developing its project in a manner that is materially different from the representations made in its application, nor will it be developing its project in a manner that is inconsistent with any of the conditions that were placed on its certificate of need.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that the locating the facility approved for Project I.D. No. F-7714-06 at 8205 Browne Road, Charlotte, North Carolina, will not constitute a material change in the physical location or scope of the project, will not violate N.C.G.S. § 131E-181, and will not constitute a failure to satisfy a condition of the certificate of need in violation of N.C.G.S. § 131E-189(b).

This the _____ day of March 2011.

Drexdal Pratt, Director
Division of Health Service Regulation
N.C. Department of Health and Human Services

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Declaratory Ruling has been served upon the nonagency party by certified mail, return receipt requested, by depositing the copy in an official depository of the United States Postal Service in first-class, postage pre-paid envelope addressed as follows:

CERTIFIED MAIL

Robert V. Bode
Bode, Call & Stroupe, LLP
3105 Glenwood Avenue, Suite 300
Raleigh, North Carolina 27612

This the _____ day of March 2011.

Jeff Horton
Chief Operating Officer