



North Carolina Department of Health and Human Services
Division of Health Service Regulation

Pat McCrory
Governor

Richard O. Brajer
Secretary DHHS

Mark Payne, Director
Health Service Regulation

RESPONSE REQUIRED

September 27, 2016

Karl Stein
3001 Edwards Mill Road, Suite 100
Raleigh, NC 27612

Conditional Approval

Project ID #: J-11161-16
Facility: Raleigh Orthopaedic Surgery Center – West Cary
Project Description: Develop a single-specialty ambulatory surgical facility by relocating one OR from Raleigh Orthopaedic Surgery Center and developing two new procedure rooms
County: Wake
FID #: 160151

Dear Mr. Stein:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has conditionally approved the above referenced certificate of need application. This decision was made after a review of the applications submitted for this cycle and after consideration of the Certificate of Need Law, G.S. 131E-175 et. seq. and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Attached to this letter are the required findings made with respect to your application. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Agency shall not issue the certificate of need until all applicable conditions of approval have been met pursuant to G.S. 131E-187(a). The conditions are as follows:

1. Rex Orthopaedic Ventures, LLC, Rex Hospital Inc., ASC JV LLC, Group I Ventures Panther Creek LLC and Orthopaedic Surgery Center of Raleigh LLC shall materially comply with all representations made in the certificate of need application.
2. Rex Orthopaedic Ventures, LLC, Rex Hospital Inc., ASC JV LLC, Group I Ventures Panther Creek LLC and Orthopaedic Surgery Center of Raleigh LLC shall not acquire, as part of this project, any equipment that is not included in the project’s proposed capital

Healthcare Planning and Certificate of Need Section



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expenditure in Section VIII of the application or that would otherwise require a certificate of need

3. Rex Orthopaedic Ventures, LLC, Rex Hospital Inc., ASC JV LLC, Group I Ventures Panther Creek LLC and Orthopaedic Surgery Center of Raleigh LLC shall construct a single specialty ambulatory surgical facility licensed for no more than one operating room.
4. Rex Orthopaedic Ventures, LLC, Rex Hospital Inc., ASC JV LLC, Group I Ventures Panther Creek LLC and Orthopaedic Surgery Center of Raleigh LLC shall meet all criteria to receive accreditation of the ambulatory surgical facility from JCAHO, AAAHC or a comparable accreditation authority within two years following completion of the facility.
5. Upon licensure of ROSC-West Cary Rex Orthopaedic Ventures, LLC, Rex Hospital Inc., ASC JV LLC, Group I Ventures Panther Creek LLC and Orthopaedic Surgery Center of Raleigh LLC shall take the steps necessary to delicense one operating room at ROSC such that ROSC shall be licensed for no more than three operating rooms.
6. Procedures performed in the minor procedure rooms shall not be reported for billing purposes as having been performed in an operating room and shall not be reported on the hospital's license renewal application as procedures performed in an operating room.
7. Rex Orthopaedic Ventures, LLC, Rex Hospital Inc., ASC JV LLC, Group I Ventures Panther Creek LLC and Orthopaedic Surgery Center of Raleigh LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the certificate of need.

Response to the above conditions should be submitted to the Agency no later than 35 days from the date of the decision. Failure to respond within this time period may result in the Agency making a determination not to issue a certificate of need for the project referenced above.

The conditional approval is valid only for a capital expenditure of \$9,521,498. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by G.S. 131E-176(16)(e).

The applicant should be aware that according to the Certificate of Need law any affected person shall have thirty (30) days after the date of decision to file a petition for a contested case on this approval. Further, if you are aggrieved by the conditions of the decision you may file a petition for a contested case hearing in accordance with G.S. 150B, Article 3, as amended. This petition must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 within thirty (30) days of the date of this decision. [Note: Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to OAH Clerk's Office (919-431-3000).]

G.S. 150B-23 provides that a party filing a petition must also serve a copy of the petition on all parties to the petition. Therefore, if you file a petition for a contested case hearing, you must

serve a copy of the petition on the Department of Health and Human Services by mailing a copy of your petition to:

Lisa G. Corbett
Department of Health and Human Services,
Office of Legal Affairs,
Adams Building – Room 154
2001 Mail Service Center
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Agency.

The certificate of need will not be issued before the completion of this 30 day period ending October 27, 2016. If a contested case request is received within the thirty (30) day period, the certificate will not be issued until the appeal is resolved (10A NCAC 14C .0208).

The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the Agency because the review period was extended. The timetable for this project is as follows:

Approval of Final Drawings and Specifications by the Construction Section, DHSR _____	November 30, 2016
Contract Award _____	December 15, 2016
25% Completion of Construction _____	March 15, 2017
50% Completion of Construction _____	July 1, 2017
75% Completion of Construction _____	September 15, 2017
Completion of Construction _____	November 30, 2017
Operation of Equipment _____	November 30, 2017
Licensure of Facility _____	December 15, 2017
Occupancy/Offering of Service _____	January 1, 2018

If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the Certificate of Need is issued. Please contact this office if any clarification of this decision is required.

Please refer to the Project ID # and Facility ID # (FID) in all correspondence.

Sincerely,

Gregory F. Yakaboski
Project Analyst

Martha J. Frisone
Assistant Chief, Certificate of Need

Attachment

cc: Acute & Home Care Licensure & Certification Section, DHSR
Construction Section, DHSR
Paige Bennett, Assistant Chief, Healthcare Planning, DHSR

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing notice of **conditional approval** on the following person by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelope addressed as follows:

Karl Stein
3001 Edwards Mill Road, Suite 100
Raleigh, NC 27612

Project ID #: J-11161-16
FID #: 160151

This the 27th day of September, 2016.

Gregory F. Yakaboski
Project Analyst, Certificate of Need