



State of New Jersey
DEPARTMENT OF HEALTH
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Commissioner

January 27, 2021

VIA ELECTRONIC & FIRST-CLASS MAIL

Joel D. Nelson
President and CEO
LCS Florham Park LLC
400 Locust Street, Suite 820
Des Moines, Iowa 50309

Re: The Delaney at the Green, Florham Park
CN# ER 2020-12217-14
Total Project Cost: \$18,219,000
Expiration Date: January 27, 2026

Dear Mr. Nelson:

Please be advised that the Department of Health (Department) is approving the Expedited Review Certificate of Need application for LCS Florham Park LLC (LCS), submitted on June 1, 2020, pursuant to N.J.A.C. 8:33-5.1(a)(4), for the establishment of a new 102-bed assisted living residence to be located at 110/120 Park Avenue in Florham Park, Morris County. This application is being approved at the total project cost as noted above.

N.J.S.A. 26:2H-8 provides for the issuance of a Certificate of Need only where the action proposed in the application for such certificate is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, will not have an adverse economic or financial impact on the delivery of healthcare services in the region or statewide and will contribute to the orderly development of adequate and effective health care services. In making such determinations, the Department must take into consideration: a) the availability of facilities or services which may serve as alternatives or substitutes, b) the need for special equipment and services in the area, c) the possible economies and improvement in services to be anticipated from the operation of joint central services, d) the adequacy of financial resources and sources of present and future revenues, e) the availability of sufficient manpower in the several professional disciplines, and f) such other factors as may be established by regulation.

As to the aforementioned specifics of this application, the Department notes that in identifying those services that are subject to expedited review, services have been chosen that would have a minimal impact on the health care system as a whole and, therefore, for which a statistical bed need methodology would not be necessary. The services proposed in this application are subject to expedited review pursuant to N.J.A.C. 8:33-5.1(a)(4) and, therefore, a statistical bed need methodology is not required. The Department believes that the criterion regarding the availability of facilities or services which may serve as alternatives or substitutes is met since [KM1]the services in this application will have a minimal impact on the health care system as a whole. The need for sufficient special equipment and services in the area is met [KM2]as this application is for general assisted living beds which do not require any special equipment or staff. LCS may realize economies of scale from the operation of joint central services since it already operates long-term care facilities in New Jersey and is the process of establishing an additional assisted living residence in Bridgewater, New Jersey. The Department believes that this project can be economically accomplished and maintained as the applicant projects a positive net income at 27 months of operation. It also noted that while additional professional staff will be required to accommodate the implementation of this assisted living residence, the Department is confident that there is sufficient professional staff available in the area to meet those staffing needs.

The Department has taken into consideration the applicable regulations for the services subject to expedited review (i.e., N.J.A.C. 8:33-5.3 and 8:33H-1.16). The Department finds that LCS, the proposed licensed operator, has provided an appropriate project description. The project description includes detailed and acceptable information as to the total project cost, operating costs and revenues, services affected, equipment involved, source of funds, utilization statistics, justification for the proposed project (N.J.A.C. 8:33-5.3(a)(1)), an assurance that all residents of the area, particularly the medically underserved, will have access to services (N.J.A.C. 8:33-5.3(a)(2)), and documentation that it will meet appropriate licensing and construction standards (N.J.A.C. 8:33-5.3(a)(3)(i)). In addition, LCS has demonstrated a track record of substantial compliance with the Department's licensing standards (N.J.A.C. 8:33-5.3(a)(3)(ii)).

Please be advised that this approval is limited to the application as presented and reviewed. The application, related correspondence and any completeness questions and responses are incorporated and made a part of this approval. An additional review by the Department may be necessary if there is any change in scope, as defined at N.J.A.C. 8:33-3.9. However, a change in cost of an approved certificate of need is exempt from certificate of need review subject to the following:

1. The applicant shall file a signed certification as to the final total project cost expended for the project at the time of the application for licensure for the beds/services with the Certificate of Need and Healthcare Facility Licensure Program.

2. Where the actual total project cost exceeds the certificate of need approved total project cost and is greater than \$1,000,000, the applicant shall remit the additional certificate of need application fee due to the Certificate of Need and Healthcare Facility Licensure Program. The required additional fee shall be 0.25 percent of the total project cost in excess of the certificate of need approved total project cost.
3. The Department will not issue a license for beds/services until the additional fee is remitted in full.

Furthermore, pursuant to N.J.S.A. 26:2H-12.16 and N.J.A.C. 8:36.5.1(h), a new facility that is licensed to operate as an assisted living residence or comprehensive personal care home shall have a Medicaid occupancy level of 10 percent within three years of licensure. The 10 percent Medicaid occupancy level shall be met through conversion of residents who enter the facility as private paying persons and subsequently become eligible for Medicaid, or through direct admission of Medicaid-eligible persons. The 10 percent Medicaid occupancy level shall be continuously maintained by a facility once the three-year licensure period has elapsed. The Department will monitor that this condition threshold is met and maintained during the duration of licensure.

The Department, in approving this application, has relied solely on the facts and information presented. The Department offers no opinion as to whether the proposed ownership or business organization is in compliance with the Codey Act, Board of Medical Examiners administrative rules, or federal anti-referral (Stark) and federal anti-kickback laws. The Department has not undertaken an independent investigation of such information. If material facts have not been disclosed or have been misrepresented as part of this application, the Department may take appropriate administrative regulatory action to rescind the approval or refer the matter to the Office of the New Jersey Attorney General.

Any approval granted by this Department relates to Certificate of Need and/or licensing requirements only and does not imply acceptance by a reimbursing entity. This letter is not intended as an approval of any arrangement affecting reimbursement or any remuneration involving claims for health care services.

This approval is not intended to preempt in any way the authority to regulate land use within its borders and shall not be used by the applicant to represent that the Department has made any findings or determination relative to the use of any specific property.

Please be advised that services may not commence until a license has been issued by Certificate of Need and Healthcare Facility Licensure Program to operate this facility. A survey by Department staff will be required prior to commencing services.

The Department looks forward to working with the applicant to provide high quality of care to the assisted living residents. If you have any questions concerning this Certificate of Need approval, please do not hesitate to contact Ms. Jean DeVitto, Executive Director, Division of Certificate of Need and Licensing, at jean.devitto@doh.nj.gov.

Sincerely,



Marcela Ospina Maziarz, MPA
Deputy Commissioner
Health Systems

cc: Jean DeVitto, DOH (Electronic mail)
Felicia Harris, DOH (Electronic mail)
Donna Koller, DOH (Electronic mail)
Jeff Kasko, DOH (Electronic mail)
Edmund Deane, DOH (Electronic mail)