

STAFF SUMMARY FOR DETERMINATION OF NEED
BY THE COMMISSIONER OF PUBLIC HEALTH
(DELEGATED REVIEW PROCESS)

APPLICANT: Fairview Extended Care Services, Inc.

LOCATION: 305 Maple Street
East Longmeadow, MA 01028

PROJECT NUMBER: 1-1607

DATE OF APPLICATION: January 28, 2017

PROJECT DESCRIPTION: The project involves the construction of a 131 bed long term care facility to replace the existing 119-bed facility on the same site. The Applicant's licensed bed complement will increase 12 beds by using their one-time 12 DoN exempt beds.

ESTIMATED MAXIMUM CAPITAL EXPENDITURE:

Requested:	\$26,373,882 (January 2017 dollars)
Recommended:	\$26,373,882 (January 2017 dollars)

ESTIMATED FIRST YEAR OPERATING COSTS:

Requested:	\$1,940,281 (January 2017 dollars)
Recommended:	\$1,940,281 (January 2017 dollars)

LEGAL STATUS: A regular application for substantial capital expenditure pursuant to M.G.L. c.111, §25C and the regulations adopted thereunder.

ENVIRONMENTAL STATUS: No environmental notification form or environmental impact report is required to be submitted for this project since it is exempt under 301 Code of Massachusetts Regulations 11.00, promulgated by the Executive Office of Environmental Affairs pursuant to Massachusetts General Laws, Chapter 30, Section 61-62H. This exemption has the effect of a determination that the project will cause no significant damage to the environment.

COMPARABLE APPLICANTS: None

COMMENTS BY EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES: Comments were submitted to alert the Applicant to the regulations (114.2 CMR 6.05) governing the rate determination process for Nursing Homes.

COMMENTS BY EXECUTIVE OFFICE OF ELDER AFFAIRS: None submitted

COMMENTS BY DIVISION OF MEDICAL ASSISTANCE: None submitted

COMMENTS BY THE HEALTH POLICY COMMISSION: None Submitted

TEN TAXPAYER GROUP(S): None formed

RECOMMENDATION: Approval with conditions

I. BACKGROUND AND PROJECT DESCRIPTION

Fairview Extended Care Services, Inc., d/b/a East Longmeadow Skilled Nursing Center (“Fairview” or “Applicant”) provides long term care services at 305 Maple Street, East Longmeadow, MA. The facility operates 73 level II and 46 Level III beds, for a total of 119 licensed beds.

Fairview is a member of Berkshire Healthcare Systems (“Berkshire”), a senior living company that owns and operates 14 rehabilitation and skilled nursing facilities in Massachusetts; a life care continuing care retirement community; an assisted living facility; and a hospice organization in the Berkshires. Both Berkshire and Fairview, are nonprofit 501 (c) (3) corporations.

Fairview is a Medicare-certified and Joint Commission-accredited skilled nursing and rehabilitation facility which provides rehabilitation, long term skilled nursing care and operates a certified Alzheimer’s and dementia care unit. The existing facility is not up to today’s building standards in a number of ways including that it is not handicapped accessible and has rooms with shared out of date bathrooms. In addition, the exterior envelope, roof, drives, and walkways are all in need of repair.

Filed on January 25, 2017 this project proposes a replacement facility on the existing lot. Applicant has determined neither ad hoc repairs to the existing facility nor a gut renovation would be cost effective. The maximum capital expenditure (“MCE”) is \$26,373,882 (January 2017 dollars) and includes 84,274 gross square feet (“GSF”) of new construction. The Applicant will add 12 DoN exempt beds to its bed complement.

II. STAFF ANALYSIS AND FINDINGS

This Application was filed and is being analyzed under the pre-2017 (old) regulations. As such, the proposed project is analyzed for its conformance with that regulation and the May, 1993 DPH/DoN Guidelines for Nursing Facility Replacement and Renovation (“Guidelines”). The Guidelines help to inform the process of compliance under each relevant factor of the Regulation.

Factor 1- Health Planning Process

The Guidelines encourage the applicant to consult with relevant state agencies including the DoN program, the Bureau of Health Care Safety and Quality, the Executive Office of Elder Affairs (“EOEA”), and Center for Health Information and Analysis (“CHIA”) prior to filing as well as with other area providers.

The Applicant described a multi-year planning process to determine the best approach to serving its patients given its aging facility. Fairview consulted with the EOEA’s local ombudsman, CHIA, BHCSQ and DoN Staff prior to submission of this application and consulted with town officials and elected officials to obtain zoning approval and letters of support. The Applicant provided letters of support from Congressman Richard E. Neal, State Representative Brian M. Ashe, and State Senator Eric P. Lesser.

The Applicant’s consultation with area providers included discussions on enhancing existing collaboration with Baystate Health to provide additional needed health services to the community¹.

¹ These discussions resulted in a plan by Baystate to develop a medical office building on the Fairview campus. That planned construction is not part of this project.

Finding- Factor 1

Staff finds the health planning process for the project to be satisfactory relative to the requirements of the Regulations and Guidelines.

Factor 2- Health Care Requirements

The Guidelines include specific criteria for Bed Replacement. Those include: i) that the existing building or part thereof is at least 20 years old if a wood frame, and 25 years if a masonry structure, or was built prior to the implementation of the Department's 1972 regulations for General Standards of Construction for Long Term Care Facilities; ii) that there is documentation of operating inefficiencies in the existing facility and how the proposed project will address them, including cost savings; or iii) documentation that some of the licensed beds are housed in a unit or building in which deficiencies exist that impact residents/staff health or safety and /or impose serious restrictions on the quality of life or care within the unit or building. The Application offers clear and convincing documentation that the proposed project meets the above criteria (i), (ii) and (iii).

The Applicant reports that the original and addition are 52 and 42 years old and therefore older than the minimum criteria (i) of the guidelines and the facility was built prior to the General Standards of Construction for Long Term Care Facilities.

The Applicant described operating inefficiencies relevant to criteria ii) of the Guidelines, including: the building's generator is old and not up to current standards; the windows are original and not energy efficient; and the shared bathrooms among two rooms are not handicapped accessible and pose placement problems for new patients. The new building will comply with the green guidelines and will have decreased maintenance costs.

Additionally, the Applicant described the building deficiencies that impact residents/staff health or safety and/or impose serious restrictions on the quality of life or care within the unit or building including: egress corridors are undersized; patient rooms do not meet clearance dimensions; bedrooms have shared bathrooms which are not handicapped accessible and have the original plumbing; there is no designated isolation room with bath; the facility lacks handicapped accessibility throughout; and the roof has been patched several times and requires replacement.

Finding- Factor 2

Staff finds that consistent with the provisions of the Regulations and Guidelines, Applicant has met the provisions of Factor 2.

Factor 3 - Operational Objectives

The Guidelines require that the Applicant address the following elements and comply with their associated criteria: That there be an affiliation agreement with local acute care hospitals and home care corporations to further the coordination of long-term care and respite services; and that Medicare/Medicaid access will be assured.

The Applicant provided the required affiliation agreements with Baystate Medical Center for the provision of services and the Visiting Nurse Association & Hospice of Western New England, Inc. a hospice provider.

Currently the Applicant has a Medicaid population of 65% and a Medicare population of 13%, which includes dually eligible patients. With the addition of 12 Level II beds, which receive Medicare and dually eligible Medicaid payments, it anticipates a small decrease in the Medicaid payer mix once the new construction is complete.

In addition, the Guidelines state that each unit should not exceed 41 beds for level II and 60 for level III nursing units. Planned unit sizes meet these criteria and are subject to plan review following DoN project approval. The proposed bed configuration is below.

	<u>Beds</u>	<u>Total</u>
<u>First Floor</u>		
Life Enrichment Unit (Alzheimer's)	20	
Rehabilitation	<u>29</u>	
Total	49	
<u>Second Floor</u>		
Long Term Care	41	
Short Term Care	<u>41</u>	
	82	
Facility Total		131

Staff recommends that, as a condition of approval, the Applicant continue to maintain formal affiliation agreements with at least one local acute care hospital and one local respite care corporation that addresses provision of respite services. Staff also recommends that, as a condition of approval, the Applicant maintain Medicare and Medicaid certification for its licensed eligible beds.

Finding- Factor 3

Staff finds that, with adherence to the above two conditions, the project meets the operational objectives requirements of the Regulations and Guidelines.

Factor 4- Standards Compliance

The Guidelines require that the Applicant is suitable for licensure, that the Gross Square Footage ("GSF") meets minimum licensure standards, and that the project will comply with Americans with Disabilities Act ("ADA"). All facilities are required to gain plan approval from the Bureau of Health Care Safety and Quality prior to commencing major renovation and new construction which will ensure compliance with the current building standards and Guidelines.

Finding- Factor 4

Staff finds that the project meets the standards compliance requirements of the Regulations and Guidelines.

Factor 5- Financial Analysis- Reasonableness of Capital Expenditures and Incremental Operating Costs

Because of the way reimbursement is administered by Medicare and the methodology for determining comparable construction costs, the Guidelines look at Capital Expenditures separately, addressing both construction costs and major moveable equipment (MME).

The proposed and recommended MCE for this project is \$26,373,882 (January 2017 dollars), itemized as follows:

	New Construction
Land Costs:	
Land Acquisition Cost	\$620,000
Site Survey & Soil Investigation	60,000
Other Non-Depreciable Land Development	<u>300,000</u>
Total Land	980,000
Construction Costs:	
Depreciable Land Development	850,000
Building Acquisition Cost	-
Construction Contract	21,084,000
Fixed Equipment NOT in Contract	-
Architectural Cost	821,000
Pre-filing Planning & Development	95,000
Post-filing Planning & Development	50,000
Equipment-Therapy, Kitchen, Office	300,383
Other: Furnishings	141,750
Net Interest Expense during Construction	518,117
Major Movable Equipment	<u>890,367</u>
Total Construction Costs	\$ 24,750,617
Financing Costs:	
Cost of Securing Financing	\$ 643,265
Bond	-
Total Financing Costs	<u>\$ 643,265</u>
Total	\$ 26,373,882

Construction Cost

The Applicant's proposed construction costs are calculated and compared to the Marshall & Swift costs (Convalescent Hospitals, Class B, Average Quality) methodology calculated as follows:

Proposed GSF	84,274
Construction Contract	\$21,084,000
Site Survey & Soil Investigation	60,000
Architectural & Engineering Costs	821,000
Fixed Equipment not in Contract	<u>-</u>
Comparable Construction Costs	\$21,965,000
Cost per FT SQ	\$260.64
Marshall & Swift Comparison Costs	\$273.18

The proposed new construction cost of \$260.64 per GSF is below the Marshall & Swift cost estimate by 4.6%.

CHIA maintains a standard reimbursement system for nursing facilities. Revised in October 2016, the payment rate for new capital costs should be within a range of \$30-\$37.60 per resident day depending on the

ratio of renovation to new construction costs a facility incurs. Based upon the Applicant's FY 2018 projection of 45,427 total resident days, and the projected annual incremental capital cost of this project of \$946,889 the incremental capital increase per resident day is \$20.84 which is favorable, and below the cap.

Equipment Cost

The Guidelines cap the expenditure for ("MME") at \$6,632 per bed when inflated to 2017 dollars. Fairview's MME cost of \$890,367 results in a proposed expenditure of \$6,796 per bed (2017 dollars), which is within the inflation adjusted cap thereby supporting a finding that the proposed MME cost is reasonable relative to the DoN standard.

Finding - Summary of Capital Expenditure

Based upon the foregoing analysis, Staff finds the maximum capital expenditure of \$26,373,882 (January 2017 dollars) as proposed, to be reasonable and to meet the standards in the regulations and Guidelines.

Incremental Operating Costs

Staff review of the incremental operating costs compares the first full year of operations assuming project approval, with project denial. The proposed incremental operating costs for the project's first full year of operations are \$1,940,281 as shown below:

Factor 6 Schedule A	Incremental Operating Costs
Salaries, Wages & Fringe	\$416,021
Purchased Services	310,997
Supplies & Other Expenses	266,374
Depreciation	718,700
Interest	228,189
Pension	-
Total	\$1,940,281

The projected staffing additions include primarily clinical staff and aides which total 8.39 FTE's as shown below. This is a total of .7FTE per additional bed. Staff notes that the incremental cost of Salaries is \$49.6K per FTE.

Staffing Projections	FTE Changes
Clerical	0.14
Dietary	0.34
Env. Svc. Laundry, Maint.	0.33
Social Service	0.18
RN	1.12
LPN	1.51
Nurses' Aides	4.77
All Personnel	8.39

Staffing patterns are subject to review by Division of Health Care Safety and Quality ("DHCSQ") prior to licensure. All operating and capital costs are subject to review by and the Center for Health Information and Analysis ("CHIA") and by third party payers according to their policies and procedures.

Finding- Factor 5

Based upon this analysis, Staff finds both maximum capital expenditure and the incremental operating costs to be within the standards of the Regulations and Guidelines.

Factor 6- Financial Feasibility and Capability

The Applicant's parent organization, Berkshire, will provide a \$2,000,000 equity contribution realized from the sale of a parcel of land adjacent to the current facility. The remainder of the MCE, \$24,373,882 will be funded with tax exempt 30 year bonds at an anticipated rate of 2.74%. The Guidelines require that the Applicant maintain a minimum debt service coverage ratio of 1.4. The Applicant's debt service ratio is 1.55 which is favorable when compared to the standards of the guidelines. The guidelines require the current ratio be a minimum of 1.5. The Applicant's is 3.6 which is again favorable and well above the requirements of the guidelines.

Finding- Factor 6

Based upon the above analysis Staff finds the project to be financially feasible and within the financial capability of the Applicant. The proposed project meets the standards in the Regulations and Guidelines.

Factor 7- Relative Merit

The Guidelines require the applicant to discuss the alternatives considered.

Presently, Applicant states that it addresses the needs of the aging systems through repairs when needed, while trying to minimize operational disruptions. Applicant determined that a renovation of the physical plant was unreasonable given the extent of the facility's decaying infrastructure and outdated systems, all of which contributed, as well as operational inefficiencies that impact the quality of care for residents. Further, postponing the investment of resources in a new facility would have resulted in expenditures on repairs that do not ultimately improve the long-term quality of care. Another option was wholesale replacement of the leaking windows, roof, walkways, siding, bathrooms, kitchen and other aging infrastructure which would entail large disruptions in the lives of patients. Instead, Applicant determined to embark upon this total replacement and construction of a new building on the existing lot which will result in improved patient care without concomitant disruption that significant renovation would cause.

Finding- Factor 7

On this basis, Staff finds that the project meets the relative merit requirements of the regulations and Guidelines.

Factor 8- Environmental Impact

DoN Review of this factor requires that the applicant provide assurances that all feasible measures will be taken in the execution of the project to avoid or minimize damage to the environment.

Effective July 1, 2009, DoN applications submitted by long term care facilities for new construction or gut renovation became subject to the Determination of Need Guidelines for Environmental and Human Health Impact ("Green Guidelines"). Applicants must meet all of the prerequisite measures and demonstrate plans for achievement of at least 50% of the possible points for the Leadership in Energy and Environmental Design – Health Care ("LEED-HC"), Green Guidelines for Health Care ("GGHC"), or with the Department's approval,

the equivalent current nationally accepted best practice standard. This is the percentage needed to achieve a certifiable “silver level” green building.

DoN Review of this factor requires that the applicant provide assurances that all feasible measures will be taken in the execution of the project to avoid or minimize damage to the environment. Fairview indicated that the proposed project will achieve 50 of a possible 97 points which will afford the applicant silver level green building certification.

Finding- Factor 8

On this basis, Staff finds that the project is in compliance with the DoN Green Guidelines.

Factor 9- Community Health Initiatives

Under the pre-2017 regulations, long term care facility applications are exempt from this DoN review factor.

III. STAFF RECOMMENDATION

Based upon the above analysis, Staff finds that the Applicant has made a clear and convincing demonstration with respect to each of the standards applied under 105 CMR 100.533, subject to the mandatory terms and conditions set forth in 105 CMR 100.551 as well as the conditions discretionary with the Department, pursuant to 105 CMR 100.552. Staff recommends approval with conditions of the DoN application for substantial capital expenditure filed by Fairview Extended Care Services, Inc. Failure of the Applicant to comply with these conditions may result in Departmental sanctions including revocation of the DoN. The conditions discretionary with the Department, pursuant to 105 CMR 100.552 are:

1. Fairview Extended Care Services, Inc. shall accept the maximum capital expenditure of \$26,373,882 (January 2017 dollars) as the final cost figure except for those increases allowed pursuant to 105 CMR 100.751 and 100.752.
2. The total approved GSF of new construction for this project is 84,274 GSF.
3. Fairview Extended Care Services, Inc. shall accept the incremental operating costs of \$1,940,281 (January 2017 dollars) as the final cost figure except for those increases allowed pursuant to 105 CMR 100.751 and 100.752.
4. Fairview Extended Care Services, Inc. shall maintain formal affiliation agreements with at least one local acute care hospital and one local home care corporation that addresses provision for respite services.
5. Fairview Extended Care Services, Inc. shall maintain Medicare and Medicaid certification for its eligible beds.
6. Fairview Extended Care Services, Inc. shall initiate all actions appropriate to protecting the privacy, health, and safety of the residents of the facility during the construction and move process.
7. Fairview Extended Care Services shall comply with the Green guidelines and obtain a LEED silver level green building certification.

8. Upon implementation of the project, any assets such as land, building improvements, or equipment that are either destroyed or no longer used for patient care, shall not be claimed for reimbursement for publicly aided patients.
9. The approved MCE does not include any capital expenditures associated with this project made prior to the date of DoN approval with the exception of expenditures incurred in the planning and development of this DoN application. Should the Applicant find that any of the expenses submitted are not in fact eligible for consideration because they preceded the date of the DoN approval or are not capital expenses, the Applicant shall submit an amendment that will adjust the MCE accordingly. All submissions made to the Center for Health Information and Analysis pursuant to this DoN shall be in accordance with this condition.