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January 11, 2017

VIA EMAIL (donna.jerry@vermont.gov)
AND FIRST CLASS MAIL

Donna Jerry
Senior Health Policy Analyst
Green Mountain Care Board
Third Floor, City Center
89 Main Street
Montpelier, VT 05620

Re: Certificate of Need
The Pines at Rutland Center for Nursing and Rehabilitation

Dear Ms. Jerry:

Enclosed please find the Applicants' Responses to Second Set of Information Requests dated December 22, 2016 and a Verification Under Oath signed by Marvin Ostreicher.

Along with this electronic version, we are sending the original and two copies (one being three-hole punched) via U.S. Mail.

Thank you for your ongoing assistance with this matter.

Sincerely yours,



Shireen T. Hart

Cc: Eric Avildsen (via e-mail)
David Koeninger (via e-mail)

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

IN RE:

**PROPOSED RENOVATION PROJECT FOR
THE PINES AT RUTLAND CENTER FOR
NURSING AND REHABILITATION, RUTLAND, VT**

GMCB-013-16CON

**RESPONSES TO SECOND SET OF INFORMATION REQUESTS
DATED DECEMBER 22, 2016**

The Applicants respond to the Green Mountain Care Board's second set of information requests as follows.

Request No. 1

Identify the corresponding average case mix, average RUG category and average RUG score associated with the net Medicare revenue in the proforma for 2016, 2017, 2018 and 2019.

Response:

For 2016, the revenue assumptions are indicated in the projections (**Attachment 9**, Pages 6-7, Note 4). The projections do not anticipate any changes in case mix or RUG score from 2015.

The average All Payer case mix for 2015 was 1.3766 (1.3551....1.3869....1.3796... and 1.3848), and the average Medicaid-only case mix for 2015 was 1.3959 (1.3859...1.4220...1.3696... and 1.4059).

The projections do not estimate any changes in case mix throughout the projections for any of the years. The average Medicare RUG rate was \$543.51 per day (net of the sequestration reduction) and is anticipated to increase at an inflationary rate of 2% per year as indicated in the projections (**Attachment 9**, Pages 6-7, Note 4).

There are no projected changes in Medicare RUG scores.

For 2017, 2018 and 2019, no changes in case mix are projected. Likewise, no changes in average RUG scores/rates are projected (except the 2% inflationary increase).

Please see the Revenue Summary Schedule, **Attachment 11** (submitted herewith) showing how Room & Board Revenues were calculated.

Request No. 2

Attachment 9, Page 6, Note 4 of the Combined Financial Statements indicate an increase of 1,095 private pay days and 1,825 Medicare inpatient days over the three year proforma period 2017 through 2019. Explain the source of the increase in the payer mix for private pay and Medicare inpatient days.

Response:

Please see the Revenue Summary Schedule, **Attachment 11** (submitted herewith) showing how Room & Board Revenues were calculated.

The Applicants anticipate that the Medicare and Private censuses will increase as a result of the renovations in keeping with the following schedule.

	2017	2018	2019
	<u>Proforma</u>	<u>Proforma</u>	<u>Proforma</u>
Medicare	21	25	26
Medicaid	80	78	76
Commercial	4	4	4
Private	8	10	11
Other	<u>2</u>	<u>2</u>	<u>2</u>
Total Census	115	119	119

2016 is anticipated to be the same census as 2015.

With only a 2% inflationary rate increase, 2017 will be the construction year, but, as indicated in the projection Notes (Pages 6-7, Note 4), will have an overall similar census to 2015 and 2016 (with a slightly different patient mix) as they perform construction on empty rooms and relocate residents for minimal impact.

It is anticipated that, in 2018 and 2019, the completed renovations will attract more private pay and short-term rehab Medicare residents to the facility, as indicated in the projection Notes (Pages 6-7, Note 4).

Request No. 3

Attachment 9, Page 2 of the Combined Financial Statements: Detail what is included by discipline and expense in the Other Services line item for each year 2015 through 2019.

Response:

The Other Services (**Attachment 9**, Page 2 of the Combined Financial Statements) are detailed, including discipline and expense, in the projections on Page 10 (**Attachment 9**), as are all the categories of expenses on Page 2 of the Combined Financial Statements (see Pages 9 and 10, **Attachment 9**). Other Services includes Activities Salaries & expense, Social Services Salaries

& expense, Rehabilitative Services, Pharmacy & Other Diagnostic services and Medical Records.

Request No. 4

Post-project net revenue (not including Bad Debt) is assumed to increase by over \$2,500,000 from 2015 to 2019. Explain the rationale for this assumption and identify the sources of revenue that account for the increases.

Response:

Please see the Revenue Summary Schedule, **Attachment 11** (submitted herewith) showing how Room & Board Revenues were calculated. This ties back to the Revenues on Page 2 of the Combined Financial Statements (**Attachment 9**), except for "Private and Part B Ancillaries" which are based on 2015 actual numbers and anticipated to increase by the 2% inflationary increase (as are expenses). There are many factors creating the increase, including 5 years of the 2% inflationary factor, an increase in the property component of the Medicaid Rate, increase in overall census and increase in Private and Medicare Utilization (as indicated in the Response to Request No. 2 above). These are all discussed in the Notes.

Request No. 5

Attachment 1, Table 2, Line item 17, detail what is included in the line item titled "Other" for \$210,368.

Response:

"Other" costs in the amount of \$210,368, include consultant fees, builder risk insurance premium, CON application fee, air testing, fire alarm system allowance, fridge/freezer, temporary storage, tel/data, printing and a 10% contingency.

Request No. 6

The Medicare inpatient revenue per diem is assumed to be over \$600 per day in 2018 and 2019. Explain the rationale for this assumption and identify the type of resident need associated with the diems of over \$600.

Response:

The average Medicare rate is not over \$600 per day in 2018 and 2019. See the attached Revenue Summary Schedule, **Attachment 11**. The Medicare rate starts in 2015 using the "actual" average rate of \$543.51 and is increased at 2% per year until it is calculated at \$588.31 in 2019. It is possible that the reference to "over \$600" in the language of the Board's Information Request No. 6 includes Medicare Part B ancillary services (using the Required CON Financial Tables (**Attachment 1**) perhaps, instead of the Projections (Combined Financial Statements), **Attachment 9**).

The Medicare revenues, in **Attachment 1**, Tables 6A-6C, that are included in the Gross Other Revenue section are the Medicare Part B ancillary revenues for Private Pay and Medicaid

residents (who have Part B coverage) and should not be included in the Medicare total to determine the Medicare Room and Board revenue per Medicare resident day.

Request No. 7

Identify all project-related party transactions such as General Contractor, Contractor, Vendors, etc. If applicable, identify transaction, costs and charges for each.

Response:

There are no project-related party transactions. The Applicants do not have any signed agreements with any contractors and/or vendors for The Pines. If and when the proposed project is approved by the Green Mountain Care Board, the Applicants will proceed with contract negotiations.

ADDENDUM TO RESPONSES TO SECOND SET OF INFORMATION REQUESTS
DATED DECEMBER 16, 2016

Request No. 3

Provide a copy of the letter from the Department of Disabilities, Aging and Independent Living once it is available.

Response:

Please see the letter dated January 4, 2017 from Commissioner Monica Caserta Hutt, Department of Disabilities, Aging and Independent Living, **Attachment 12** (submitted herewith), affirming its belief that the Pines at Rutland can support the proposed construction and renovation project. We are conditionally supportive of the Pines proposal, dependent on the full application and information obtained by the Green Mountain Care Board during the CON process.

Dated this 10 day of January, 2017.



Marvin Ostreicher
Managing member of Rutland Crossings LLC

ATTACHMENT 11

Nursing Home	2015 Days	2017			2018			2019		
		Days	Rate	Calc	Days	Rate	Calc	Days	Rate	Calc
Private/Other Pay (2015 average 362 up 10 each year)	2,911	2,920	382.00	1,115,440	3,650	392.00	1,430,800	4,015	402.00	1,614,030
Commercial & Other (average 400 - up 2% each year)	1,644	2,190	416.16	911,390	2,190	424.48	929,618	2,190	432.97	948,211
Medicaid - add cap rate adj. (240.29 at 7/1/16 plus cap adj eff 1/1/18)	27,603	27,832	250.00	6,957,936	27,102	267.15	7,240,413	26,372	272.50	7,186,298
Medicaid Ventilator kicker (2015 average 442.60/day)	1,368	1,368	460.48	629,938	1,368	469.89	642,537	1,368	479.08	655,388
Medicare (ave rate for 2015 543.51/day per PSR)	8,369	7,665	565.47	4,334,311	9,125	576.78	5,263,092	9,490	588.31	5,583,068
	-	-	-	-	-	-	-	-	-	-
	41,895	41,975		13,949,016	43,435		15,506,459	43,435		15,987,014
NH Occupancy Percentage	91.82	92.00			95.20			95.20		
Level III Occupancy Percentage	-	-			-			-		
NH increase %		0.0019			0.0348			-		
medicare increase %		(0.0841)			0.1905			0.0400		

Projected Census - Nursing Home	2017	2018	2019
Private	2,920	3,650	4,015
Medicaid	29,200	28,470	27,740
Medicare	7,665	9,125	9,490
Commercial & Other	2,190	2,190	2,190
Total NH	41,975	43,435	43,435
Occupancy Percent	92.00	95.20	95.20

ATTACHMENT 12

Commissioner's Office
HC 2 South
280 State Drive
Waterbury, VT 05671-2020
(802) 241-2401- phone

January 4, 2017

Mr. Marvin Ostreicher, Managing Member
Rutland Crossings LLC
d/b/a The Pines at Rutland Center for Nursing and Rehabilitation
99 Allen Street
Rutland, Vermont 05701

c/o Shireen T. Hart, Esq.
PRIMMER PIPER EGGLESTON & CRAMER PC
150 So. Champlain Street
PO Box 1489
Burlington, VT 05401

Dear Mr. Ostreicher,

This letter is submitted in accordance with the State's Health Resource Allocation Plan Certification of Need (CON) Standards 5.2 and 5.3 which requires the Department of Disabilities, Aging and Independent Living (DAIL) to review and provide a recommendation in relation to the CON applications from nursing homes and similar entities.

The Department has received the Certificate of Need application from The Pines at Rutland related to the renovation of the third and fourth nursing floors of the existing facility to align with recent renovations of the second floor, all aimed at improving the quality of care for residents.

In completing our review, the Department consulted with the Agency of Human Services' Division of Rate Setting and internally with relevant divisions and staff. We considered both the Department's mission and our desire to advance excellence in quality of care and quality of life for Vermonters. We also considered our desire to promote and support cultural change in our nursing, independent care and assisted living facilities in addition to our work to rebalance options and choices for care across a spectrum of support.

1. Project Summary:

The Pines at Rutland seeks a CON for a planned interior renovation to two of their skilled nursing floors located in the facility in Rutland, Vermont. The proposed project involves interior renovations only and includes new finishes, painting, new ceilings, lighting and millwork and the bifurcating of four existing four person rooms into two person bedrooms, offering residents additional privacy. Other areas of construction will include: the creation of Med Rooms behind Nurse Stations, relocation of Clean Work Rooms, relocation of Nourishment areas into existing dining rooms and the creation of a new, vented Oxygen Closet.

The project will not change the current census or capacity at the Pines. The renovations are necessary to modernize the facility to improve the resident experience and the overall quality of care. As the second floor was renovated four years ago, these renovations would render the remaining floors consistent in terms of quality, access and environment.

In considering the potential disruption to current residents, the Pines has developed a renovation plan which anticipates ten phases of renovation, staggered across fifty weeks. Any residents required to temporarily relocate during the transition will be relocated within the facility and disruption minimized. Residents will be given advance notice of the temporary relocation. Although probably already planned, DAIL would strongly suggest that family members of residents also be made aware of the upcoming renovation and potential for temporary relocation.

As an effort to offer additional privacy, modernize the environment and ensure a higher, available quality of care, DAIL concurs with the approach and the intent of the project.

2. Evaluation of HRAP CON Standard 5.2: Nursing Homes or similar entities seeking to replace or increase beds shall show the beds are needed. Such showing of need shall be confirmed by the Department of Disabilities, Aging and Independent Living:

As the proposed project is a renovation of an existing facility, there are no additional beds being proposed. In reviewing the most recent census information issued in November of 2016, the Pines is licensed for 125 beds and they have operated in the low 90% in terms of occupancy over the last six months. In November of 2016, Medicaid represented 69% of their total revenue and they had approximately 10% rate of bed vacancy. The regular and consistent census count indicates an ongoing need for the beds in the Rutland area.

3. Evaluation of HRAP CON Standard 5.3: Nursing homes or similar entities seeking a certificate of need shall provide a written recommendation from the Department of Disabilities, Aging and Independent Living supporting the new health care project proposal:

a. Quality of Care:

The Pines at Rutland Center for Nursing and Rehabilitation is currently in substantial compliance with regulatory requirements. They have a 4-star overall rating from CMS, with 3 stars for health inspection, 3 stars for staffing and 5 stars for quality measures. Their past 2 full recertification surveys have resulted in lower level deficiencies.

There was a significant issue identified in November 2015, but the facility had already completed systemic corrective actions by the time DAIL surveyors went onsite to investigate so the citations were considered "past non-compliance". This proactive approach is a good indicator of their quality assurance process and overall quality of care.

b. Financial Review

In a brief review of the financial picture presented by the Pines, their net income appears solid with steady growth projected. Total expenditures also appear to be steady while their cash on hand shows a slow and steady increase. Their current ratios indicate good financial health for the organization overall and their operating expense level has remained consistent over the past few years. The financing strategy proposed to support the renovation appears to be sound.

Overall, the Pines at Rutland's financial picture appears to be consistently solid and DAIL believes that they can support the proposed project.

In conclusion, DAIL affirms its belief that the Pines at Rutland can support the proposed construction and renovation project. We are conditionally supportive of the Pines proposal, dependent on the full application and information obtained by the Green Mountain Care Board during the CON process.

Sincerely,



Monica Caserta Hutt
Commissioner

C: Donna Jerry, Senior Health Policy Analyst, GMCB
Camille George, Deputy Commissioner, DAIL
Clayton Clark, Director of Licensing and Protection, DAIL
Kathleen Denette, Director, Division of Rate Setting, AHS

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

IN RE:)	
)	
PROPOSED RENOVATION PROJECT FOR)	GMCB-013-16CON
THE PINES AT RUTLAND CENTER FOR)	
NURSING AND REHABILITATION, RUTLAND, VT)	

VERIFICATION UNDER OATH

Marvin Ostreicher, being duly sworn, states on oath as follows:

1. My name is Marvin Ostreicher. I am the managing member of Rutland Crossings LLC (the "Applicant"). I have reviewed the *Responses Second Set of Information Requests Dated December 22, 2016* (the "Submission").
2. Based on my personal knowledge and after diligent inquiry, I attest that the information contained in the Submission is true, accurate and complete, does not contain any untrue statement of a material fact, and does not omit to state a material fact.
3. My personal knowledge of the truth, accuracy and completeness of the information contained in the Submission is based upon either my actual knowledge of the subject information or upon information reasonably believed by me to be true and reliable and provided to me by the individuals identified below in paragraph 4. Each of these individuals has also certified that the information they have provided is true, accurate and complete, does not contain any untrue statement of a material fact and does not omit to state a material fact.
4. The following individuals have provided information or documents to me in connection with the Submission and each individual has certified, based either upon his or her actual knowledge of the subject information or, where specifically identified in such certification, based on information reasonably believed by the individual to be reliable, that the information or documents provided are true, accurate and complete, do not contain any untrue statement of a material fact, and do not omit to state a material fact:

David Ostreicher, CFO, National HealthCare Associates
John Russell, Construction Manager, National Health Care Associates
Andrew Bachand CPA

5. In the event that the information contained in the Submission becomes untrue, inaccurate or incomplete in any material respect, I acknowledge my obligation to notify the Green Mountain Care Board and to supplement the Submission as soon as I know, or reasonably should know, that the information or document has become untrue, inaccurate or incomplete in any material respect.

Dated this 10 day of January, 2017.



Marvin Ostreicher

On January____, 2017, Marvin Ostreicher appeared before me and swore to the truth, accuracy and completeness of the foregoing.



Notary public

My commission expires:_____

BARBARA J. BALIONI
NOTARY PUBLIC, State of New York
No. 01BA5076583
Qualified in Nassau County
Commission Expires April 21, 2019