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Kathryn J. Olson, Chair
Illinois Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

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HEALTH FACILITIES &
SERVICES REVIEW BOARD

Dear Chair Olson:

BH4 Grand LLC has identified four fundamental problems with the proposed relocation of the Waukegan Renal Center, Project 13-031 from its current location:

1. The result will be another healthcare provider abandoning an economically depressed and already underserved community for a more lucrative location; and
2. It will result in the unnecessary expenditure of hundreds of thousands of dollars; and
3. The purported need for this move is premised on incorrect and incomplete information;
4. All of the changes the applicant claims are necessary can be achieved at their current location for a lower cost.

These comments **are in opposition** to the proposed relocation of the Waukegan Renal Center, Project 13-031. To be clear, this is not an opposition to DaVita or a challenge to its commitment to quality care. This is not a challenge to the need for these services in this community. To the contrary, these services are needed right where they are. This opposition is based upon the unnecessary cost of the project, as proposed, especially when compared to an alternative option that has been entirely ignored. If approved, this project will cause more harm than it would good.

Allowing this project to proceed by approving Project 13-031 would require:

- DaVita breaching its current lease; and
- The Board ignoring the fundamental principles behind the Certificate of Need process.

It would also result in:

- Abandoning an already struggling portion of the community; and
- Wasting a substantial amount of limited health care dollars.

Some of the Claims are Misleading or Inaccurate

Simply put, this is a matter of preference, not need. *Everything DaVita hopes to achieve can be accomplished at its present location for less cost.*

DaVita discusses this facility's "failure to comply with DaVita's physical plant requirements." However, the requirements of DaVita's proposed relocation facility do not reflect the standards of the Illinois Department of Public Health or of the Health Facilities and Services Review Board. There is not a single claim that the safety of a single patient has been compromised or affected in any way because of the current facility. There is no mention of any citations or deficiencies or problems that have actually arisen because of the condition of the building or the space DaVita occupies. To the contrary, DaVita points out that there has not been a single Adverse Action against the facility or any regulatory action because of the building's condition. This project addresses the question of what DaVita wants.

The good news for both this Board, for DaVita, and for the patients of the Waukegan Renal Center is that BH4 Grand, who owns the medical office building where this facility is located, wants to produce the same advancements as DaVita proposes and is ready, willing, and able to make it happen.

Shortly after acquiring the facility, representatives of DaVita approached the ownership of 1616 Grand about the possibility of expanding on their existing leased space of 6,759 sq. ft. (see Diagram 1). We must note here that DaVita's claim of only having access to 5,725 square feet is inaccurate. ***Ownership was, and remains, prepared to accommodate all of DaVita's concerns.***

Ownership offered several alternatives to Davita which would have expanded and modernized the facility to dimensions from anywhere between 9,000 to 17,000 sq. ft. of contiguous space, based on their perceived needs (see drawings 2 and 3 below). Discussions went on for approximately 12 months and every proposal presented by the owners of the building was rejected by DaVita.

There is no mention of these discussion and the offers that were made to DaVita in the Certificate of Need application package where "alternatives" are supposed to be discussed. DaVita simply summarized its consideration of renovation by offering the conclusion "Applicants considered renovating the Existing Facility. However, many of the issues cannot be addressed through renovation." ***This is simply untrue.***

We would encourage this Board to ask DaVita about the expansion proposals that the ownership offered. If the Board would like to have a representative of BH4 Grand present to discuss these options, we are more than willing to accommodate. Upon looking into this, it will become clear that the options already presented (and still available) would allow Davita to address every item they take issue with regarding their existing facility, and more.

To be clear – BH4 Grand has reviewed the terms of the Letter of Intent and the lease abstract that accompany DaVita's application and we could accommodate every aspect of their LOI in our building.

Davita was offered:

- Three private and direct entrances for patients and staff along with one dedicated ADA entrance for patients and staff, and exclusive use of the entire North section of the property (see Diagram 2).

This would provide DaVita patients and their employees direct access to the facility without having to enter any of the common spaces in the building;

- A fully sprinkled facility, completely compliant with current Life & Safety Codes. The common areas of the building, and some areas of DaVita's existing suite are already sprinkled and all remaining areas have sprinkler mains awaiting DaVita's identification of its preferred final configuration.

Completing this work onsite would take an existing medical office building already being utilized for the benefit of patients and would add safety measures that would benefit DaVita's patients, staff, and the remaining tenants in the building;

- Relocation of their water treatment facility to the first floor.

This would permanently resolve any of DaVita's concerns regarding reliance upon an ejector pump system (despite the fact that this system has been utilized at the facility since 1997);

- More than adequate square footage to be in full compliance with the current board standards and requirements, while still preserving DaVita's ability to expand in the future, should the need arise (and this Board approve expansion);
- All the space would be contiguous and private.

This means that there would be no common areas or hallways in the proposed space expansion, allowing Davita to create any patient treatment configuration necessary to suit their needs, and addressing any infection control concerns they might present.

Ownership was also willing to grant DaVita use of the entire basement area beneath their expanded space for their sole and exclusive use. This would not only reduce any risk of flooding damage to other tenants, it would also provide DaVita with approximately 5,000 additional sq. ft. of storage space at no cost. None of these details were provided to the Board to consider.

DaVita discusses the concern of being "landlocked" within the existing facility. First off, we have exhibited that this is untrue. The building is capable and willing to provide unfettered access to whatever contiguous space DaVita needs. Moreover, they seem to hope the Board will not notice that the new facility they are moving to would produce the exact same result.

DaVita suggests that one element of the problems they face is that they do not own the location where their facility currently is. Nor will DaVita own the proposed future location. Moreover, the proposed new location is an unknown where the current location has successfully serviced this community for over 15 years and is run by ownership who has openly and publicly expressed their willingness to work with DaVita to: (1) save them money; (2) meet their needs; and (3) meet the needs of their patients.

DaVita also references the benefit of being closer to the highway, as if this will increase access to the facility. However, for those with access to private cars, the drive from the highway is a minimal inconvenience. For those reliant upon public transportation, the move presents a substantial challenge.

As things currently stand, PACE, Waukegan Township, and several other local medical transport services drop patients off directly at the existing ADA ramp on the West side of the property. This places patients less than ten feet from the door to the facility. This provides a great convenience for all the patients utilizing our building and helps make our property easily accessible, especially for those patients with limited mobility or without access to a private vehicle.

To show our commitment to both DaVita and the patients they serve, ownership has engaged in preliminary discussions with both PACE and Waukegan Township and received assurances that once ownership constructs the new ADA ramp for DaVita's sole and exclusive use, all busses will stop at both ramps and will continue to provide door to door service for all of the building's patients as they have for decades at this location. IT is worth asking, will PACE or Waukegan Township buses even be able, let alone willing, to drop patients off directly at the doorway of the new facility?

DaVita presents a complaint regarding the current parking at the building. The property currently has over 100 off street parking spaces and has never had an issue raised regarding insufficient parking for our patients or staff. Nevertheless, ownership offered to restripe the parking lot and re-orient the existing parking stalls to bring them directly against the North, East, and West side of the building where allowed. Additionally, ownership offered to dedicate 45 parking spaces for DaVita's sole use, marking them conspicuously with paint and signage as needed. For anyone utilizing a private vehicle, this would reduce the already short patient walk into the property from 50'-60' down to 20-30'.

Impact on the Community

In essence, the proposal is to shut down an existing dialysis center and replace it with an expensive new site located in a strip mall in a more appealing part of town. The description of a move of 1.6 miles is presented to be seemingly insignificant. However, the immediate area being abandoned has seen multiple instances of healthcare facilities and healthcare providers 'relocating' themselves to areas they consider more appealing.

Lake County is one of the most economically and ethnically diverse communities one could imagine. You have within limited miles of each other communities of notable affluence with minimal diversity bordering communities that are experiencing the full force of the economic downturn. As the applicant notes, the community where the facility is currently located "is approximately 20% African American and 53% Hispanic." This is not the community that should be allowed to have another healthcare provider abandon it for greener pastures. This is especially true when you consider that ***there is an immediately available and viable option that would cost less money.***

Waukegan specifically is a very diverse community, with a wide range of median income and economic conditions. The Waukegan Renal Center has been at its existing location, 1616 Grand, as a dialysis facility since 1997. The building has served the local community by providing access to medical services for over 40 years. When you consider the immediate area, the per capita income within one mile of this site is only \$16,647. Many of the patients in the area only have access to public transportation. With the coming implementation of the

Affordable Care Act, the number of patients that will need DaVita's services immediately within this community will continue to rise dramatically. Moving further west, to a more affluent area, will act as a detriment to local residents and act as an unnecessary barrier to the care they have come to know, expect, and rely on for decades.

Additionally we are concerned that in a very diverse community like Waukegan, there has been a noticeable flight of medical care from areas like this to the more affluent areas. The result of this is to deny easy care access to the local residents. This trend will be continued if this Board approves DaVita's move west.

Financial Waste Resulting From Project As Proposed

The proposed project will result in the expenditure of over \$4 million dollars. To what end? Every benefit (other than being in a more lucrative area) can be accomplished at the existing facility. Moreover, ***it can be accomplished for far less than \$4,000,000.*** On page 62 of their application Davita states that they expect the cost of construction, contracts. And equipment to total \$2,361,430. An analysis of the various proposals that were offered by ownership to DaVita will reveal that DaVita would be able to achieve all of their operational and square footage goals in their existing facility at a cost that would be significantly lower than \$2,361,430.

We understand that recent court decisions require this Board to explain any decision that is inconsistent with its rules and its principles. Accordingly, we present the following question: **Why would this Board approve a project that would result in the unnecessary spending of over \$1.5 million to achieve the very same results?**

Furthermore, ***there is a substantial cost that DaVita does not mention in its CON application.*** Davita currently has approximately six and one-half years (78 months) left of their existing lease term. ***If this Board approves the project and DaVita relocates its facility, they would be breaching their existing lease.*** If DaVita vacates their existing facility per the schedule they have outlined in their Certificate of Need application, they would be responsible for payment of approximately \$1 million dollars in rental payments over the remainder of their existing lease term ***on top of*** the new rent of \$1,648,705 for their new facility. That extra \$1,000,000 expense is not mentioned anywhere in the CON application.

As a final example, on page 29 of their application DaVita reveals that their new proposed rent would include a base rent of \$18.00 per square foot at their new facility. This cost is higher than their current base rent of \$17.22. Consider how many of the expenses would not even need to be incurred, not to mention that the existing facility – while renovations may be desirable – has more than adequately served its purpose of providing for dialysis care for over 15 years. All of these decisions will result in higher costs for DaVita and, ultimately, for their patients.

Overall Impact on Certificate of Need Principles

There are certain principles upon which the Certificate of Need process is founded. Everyone, regardless of their wealth, deserves access to quality care. Especially in this community, a substantial number of the people receiving care at this facility are dependent upon government reimbursement for healthcare and are dependent upon public transportation. Access to care is important. Efforts should be taken to avoid the maldistribution of services to more affluent areas

and the unnecessary spending of limited healthcare dollars. This can best be achieved by the better utilization of existing facilities and by modernizing existing facilities rather than unnecessarily establishing new facilities.

Taking an existing facility, modifying it to be better utilized, and bringing it up to modern standards would take the situation as it currently exists and improve upon it. That is what BH4 Grand hopes this Board will encourage. Let us speak clearly, if this Board denies DaVita's request to relocate its facility we will remain committed to working with DaVita to address all of their concerns at their existing facility. Consider, however, the impact of the proposal that DaVita has put forth. By establishing a new facility at a new location they will be taking on a greater expense and will be leaving behind an existing facility that is underutilized and will be left and ill equipped for the future. This is not responsible utilization of an existing healthcare facility, it is not in the best interest of this community, and it is not in the best interests of the patients served by Waukegan Renal Center.

Conclusion

BH4 Grand LLC opposes DaVita's relocation on the grounds that it will reduce the community's access to health care, increase the distance patients need to travel for care, and unnecessarily spend money to relocate their facility when they have the option of improving and maintaining their existing facility at a lower cost. Spending this money will inevitably increase the costs for Davita, which will inevitably be passed along to the consumers of healthcare. It is the responsibility of this Board to maintain access to quality care without approving unnecessary and wasteful expenditures. Creating a new facility would violate both the spirit and the letter of this Board's rules. Davita should renovate their existing facility to address any patient safety concerns they have, should expand at the location of their existing facility to address any space issues they claim, and should maintain their strong presence in an underserved marketplace.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John L. Larnear". The signature is fluid and cursive, with a horizontal line drawn underneath the name.

BH4 Grand LLC

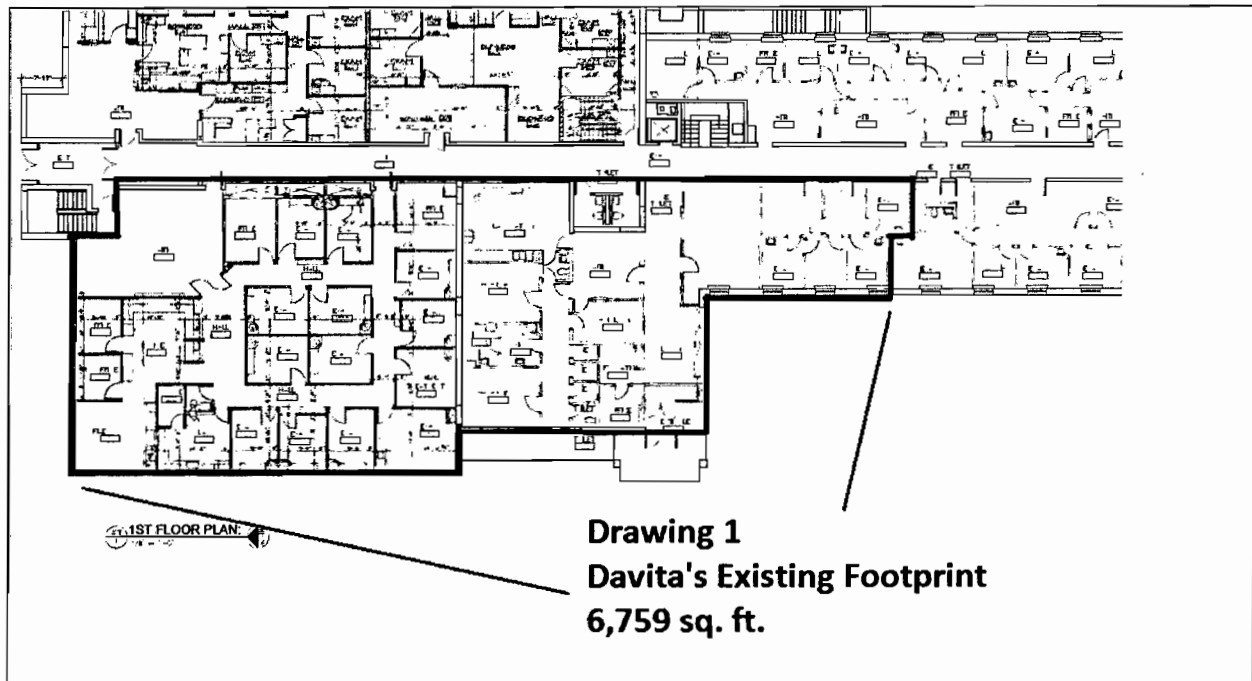


DIAGRAM 1

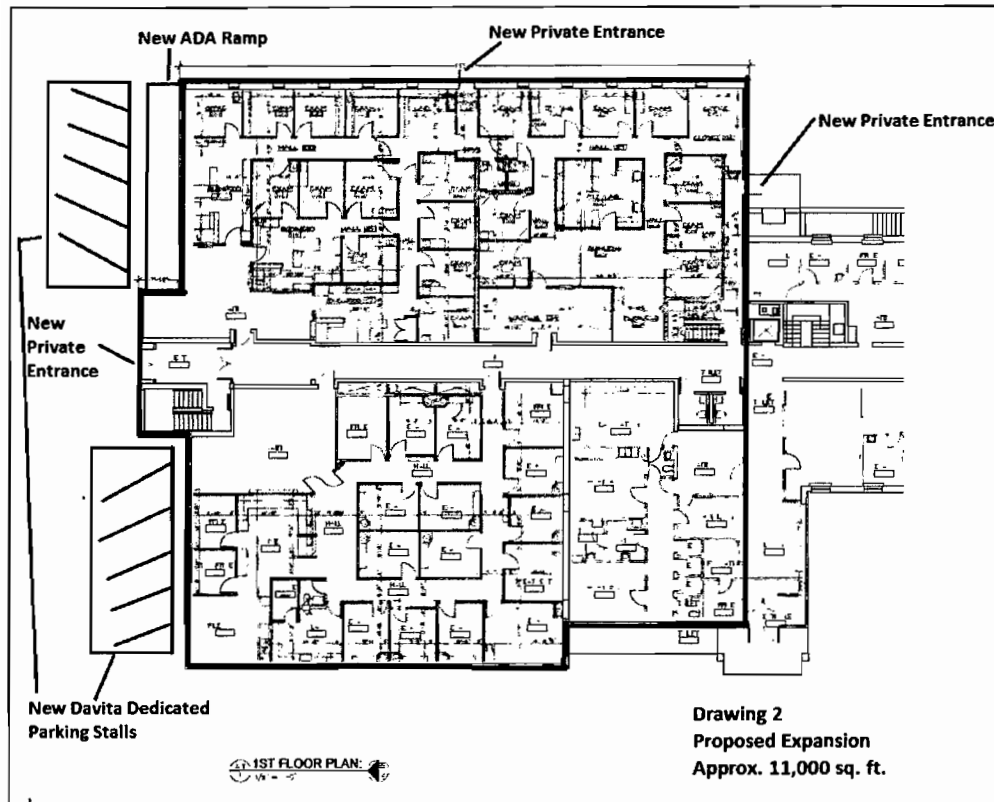


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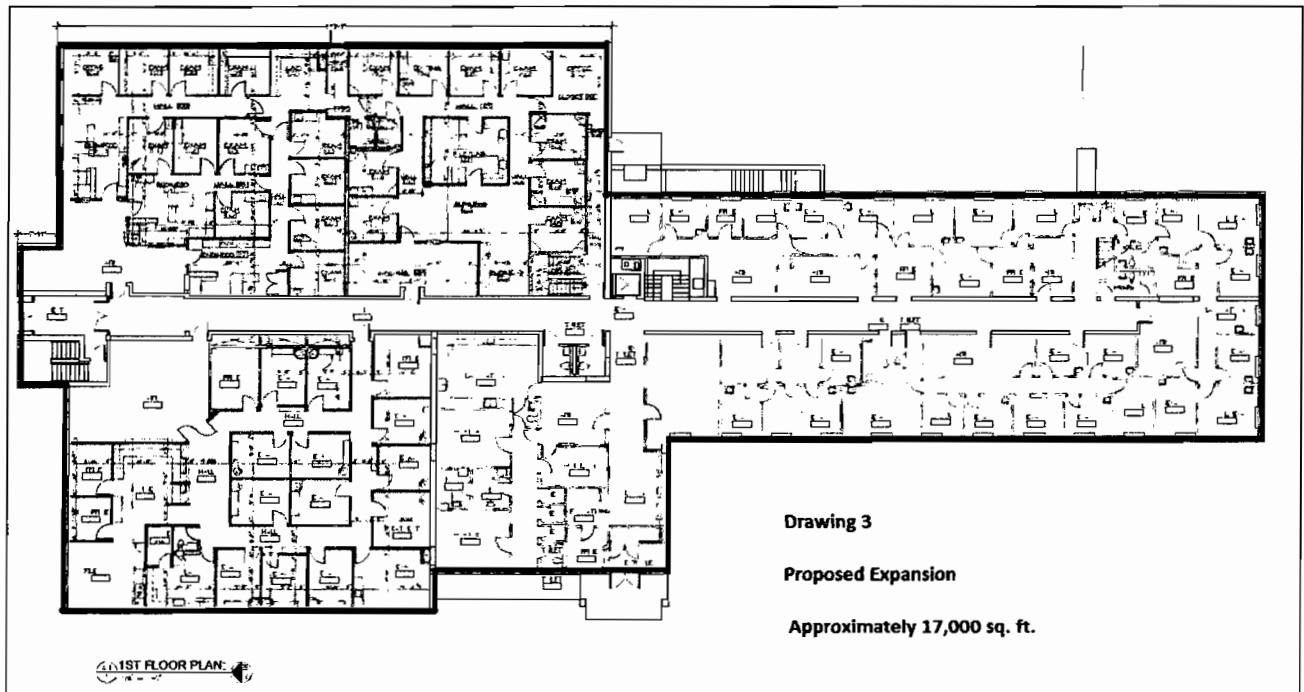


DIAGRAM 3