



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

Pat McCrory
Governor

Aldona Z. Vos, M.D.
Ambassador (Ret.)
Secretary DHHS

Drexdal Pratt
Division Director

RESPONSE REQUIRED

January 28, 2014

Hunter Diefes
2334 S. 41st Street
Wilmington, NC 28403

Conditional Approval

Project I.D. #: J-10168-13
Facility: Chatham County Rehabilitation Center
Project Description: Develop a new 90-bed nursing facility in Chatham County
County: Chatham
FID #: 130367

Dear Mr. Diefes:

The Certificate of Need (CON) Section, Division of Health Service Regulation, Department of Health and Human Services 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. Written notice of all findings and conclusions upon which the decision was based will be provided to the applicants within five business days after the date of the decision in accordance with G.S. 131E-186. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Department shall not issue the certificate of need until all applicable conditions of approval that can be satisfied before issuance of the certificate of need have been met pursuant to G.S. 131E-187(a). The conditions are as follows:

1. Liberty Healthcare Properties of Chatham County, LLC (lessor) and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC d/b/a Chatham County Rehabilitation Center (lessee) shall materially comply with all representations made in the certificate of need application.



Certificate of Need Section

www.ncdhhs.gov

Telephone 919-855-3873 • Fax 919-733-8139

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

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2. Liberty Healthcare Properties of Chatham County, LLC (lessor) and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC d/b/a Chatham County Rehabilitation Center (lessee) shall develop a new nursing home facility with no more than 90 licensed nursing care beds upon completion of the project.
3. Liberty Healthcare Properties of Chatham County, LLC (lessor) and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC d/b/a Chatham County Rehabilitation Center (lessee) shall receive the Medicaid per diem reimbursement rates allowed by the Division of Medical Assistance, under the NC State Plan Section .0102.
4. Liberty Healthcare Properties of Chatham County, LLC (lessor) and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC d/b/a Chatham County Rehabilitation Center (lessee) shall file the proposed budget for the facility with the Division of Medical Assistance no later than thirty days prior to the prospective certification date of the new beds.
5. The additional nursing care beds shall not be certified for participation in the Medicaid program prior to October 1, 2016 unless the Division of Medical Assistance determines that state funds are available in the current Medicaid budget to pay for the care and authorizes an earlier certification date.
6. For the first two full federal fiscal years of operation following completion of the project, Chatham County Rehabilitation Center's actual private pay charges shall not be increased more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.
7. Liberty Healthcare Properties of Chatham County, LLC (lessor) and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC d/b/a Chatham County Rehabilitation Center (lessee) shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicants' representation in the written statement as described in paragraph one of Policy GEN-4.
8. Liberty Healthcare Properties of Chatham County, LLC (lessor) and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC d/b/a Chatham County Rehabilitation Center (lessee) shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.

Response to the above conditions should be submitted to the CON Section no later than 35 days from the date of the decision. Failure to respond within this time period may result in the CON Section 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 \$15,707,139. 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, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447 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:

Emery Milliken
Department of Health and Human Services,
Office of Legal Affairs,
Adams Building – Room 154
2001 MSC
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Certificate of Need Section.

The certificate of need will not be issued before the completion of this 30 day period ending February 27, 2014. 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 CON Section because the review period was extended. The timetable for this project is as follows:

Completion of Final Drawings _____	November 1, 2014
Contract Award _____	November 1, 2014
25% Completion of Construction _____	August 1, 2015
50% Completion of Construction _____	December 1, 2015
75% Completion of Construction _____	April 1, 2016
Completion of Construction _____	August 1, 2016
Licensure of Facility _____	September 15, 2016
Occupancy/Offering Service _____	October 1, 2016

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 us if any clarification of this decision is required.

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

Hunter Diefes
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Sincerely,

Kim Randolph, Project Analyst

Martha J. Frisone, Interim Chief
Certificate of Need Section

KR:MJF:mw

Attachment

cc: Medical Facilities Planning Section, DHSR
Nursing Home Licensure & Certification Section, 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:

Hunter Diefes
2334 S. 41st Street
Wilmington, NC 28403

Project I.D. # J-10168-13
FID # 130367

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

Robert Evans
968 Wait Avenue
Wake Forest, NC 27588

Project I.D. # J-10167-13
FID # 130366

Frank Peck
PO Box 21133
Roanoke, VA 24018

Project I.D. # J-10169-13
FID # 130373

Dee Jay Zerman
Hedrick Office Building, Suite G015
211 Friday Center Drive
Chapel Hill, NC 27517

Project I.D. # J-10170-13
FID # 130374

Aneel Gill
1626 Jeurgens Court
Norcross, GA 30093

Project I.D. # J-10171-13
FID # 130377

This the 28th day of January, 2014.

Kim Randolph, Project Analyst