



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

RESPONSE REQUIRED

December 28, 2018

Hunter Diefes
2334 South 41st Street
Wilmington, NC 28403

Conditional Approval

Project ID #: O-11542-18
Facility: Tidewater at Carolina Bay
Project Description: Relocate 16 ACH beds from Fannie Norwood Memorial Home to be combined with the 72 ACH beds previously approved to be relocated in Project ID #O-10366-14 and develop the 88 ACH beds adjacent to the Carolina Bay of Wilmington at Autumn Hall campus
County: New Hanover
FID #: 180367

Dear Mr. Diefes:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) 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, N.C. Gen. Stat. §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 N.C. Gen. Stat. §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 Agency 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 N.C. Gen. Stat. §131E-187(a). The conditions are as follows:

- 1. Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall materially comply with the representations in this application and the representations in Project I.D. #O-10366-14 and supplemental information provided to the Agency during the review of this application. Where representations conflict, Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall materially comply with the last made representation.**
- 2. Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall relocate 16 ACH beds from Fannie Norwood Memorial Home to**

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603
MAILING ADDRESS: 2701 Mail Service Center, Raleigh, NC 27699-2701
www.ncdhhs.gov/dhsr/ • TEL: 919-855-3750 • FAX: 919-733-2757

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be combined with the 72 ACH beds previously approved in Project ID #O-10366-14 and develop a new 88 beds adult care home facility adjacent to the Carolina Bay of Wilmington at Autumn Hall campus

- 3. Upon project completion, Tidewater at Carolina Bay shall be licensed for no more than 88 adult care home beds.**
- 4. The total approved capital expenditure for Project I.D. #O-11542-18 is \$4,924,349. The previously approved capital expenditure was \$11,680,651, which results in the total capital cost for development of the project at \$16,605,000.**
- 5. Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section VI of the application and that would otherwise require a certificate of need.**
- 6. Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall provide care to the recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.**
- 7. For the first two years of operation following completion of the project, Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
- 8. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Tidewater at Carolina Bay shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
 - a. Payor mix for the services authorized in this certificate of need.**
 - b. Utilization of the services authorized in this certificate of need.**
 - c. Revenues and operating costs for the services authorized in this certificate of need.**
 - d. Average gross revenue per unit of service.**
 - e. Average net revenue per unit of service.**
 - f. Average operating cost per unit of service.**
- 9. Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**

Response to the above conditions should be submitted to the Agency 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 **\$4,294,349**. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by N.C. Gen. Stat. §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 N.C. Gen. Stat. §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).]

N.C. Gen. Stat. §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:

Lisa G. Corbett
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 Agency.

The certificate of need will not be issued before the completion of this 30 day period ending January 28, 2019. 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).

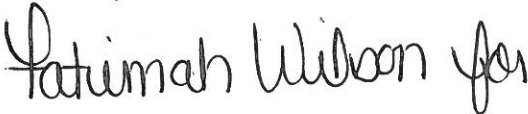
The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the Agency because the review period was extended. The timetable for this project is as follows:

1. Drawings Completed _____ October 1, 2020
2. Land Acquired _____ October 1, 2020
3. Construction/Renovation Contract(s) Executed _____ January 1, 2021
4. 25% of Construction/Renovation Completed
(25% of the cost is in place) _____ May 1, 2021
5. 50% of Construction/Renovation Completed _____ September 1, 2021
6. 75% of Construction/Renovation Completed _____ March 1, 2022
7. Construction/Renovation Completed _____ July 1, 2022
8. Building/Space Occupied _____ September 1, 2022
9. Licensure Obtained _____ October 1, 2022
10. Services Offered _____ October 1, 2022
11. Final Annual Report Due _____ January 1, 2026

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 ID # and Facility ID # (FID) in all correspondence.

Sincerely,



Tanya Saporito
Project Analyst



Gloria C. Hale
Team Leader, Certificate of Need

Attachment

cc: Adult Care Licensure Section, DHSR
Construction Section, DHSR
Melinda Boyette, Administrative Assistant, Healthcare Planning, DHSR

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing **Conditional Approval** upon the following by depositing a copy hereof, postage prepaid, in the United States mail, addressed as follows:

Hunter Diefes
2334 South 41st Street
Wilmington, NC 28403
Project ID #: O-11542-18

This the 28th day of December, 2018.



Tanya Saporito, Project Analyst