



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

Pat McCrory  
Governor

Richard O. Brajer  
Secretary DHHS

Mark Payne, Director  
Health Service Regulation

**RESPONSE REQUIRED**

November 18, 2016

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

**Conditional Approval**

Project ID #: O-11187-16  
Facility: Liberty Commons of Brunswick County  
Project Description: Construct a combination nursing facility by relocating 32 ACH beds from The Commons at Brightmore located in New Hanover County and 64 nursing facility beds from Doshier Nursing Center located in Brunswick County  
County: Brunswick  
FID #: 160283

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, G.S. 131E-175 et. seq. and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Attached to this letter are the required findings made with respect to your application. 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 have been met pursuant to G.S. 131E-187(a). The conditions are as follows:

1. Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. shall materially comply with all representations made in the certificate of need application.
2. Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. shall relocate no more than

**Healthcare Planning and Certificate of Need Section**

[www.ncdhhs.gov](http://www.ncdhhs.gov)

Telephone 919-855-3873 • Fax 919-715-4413

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

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

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32 ACH beds from The Commons at Brightmore in New Hanover County for a facility total of no more than 32 ACH and 64 NF beds upon completion of the project.

3. Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. shall relocate no more than 64 NF beds from Doshier Nursing Center in Brunswick County for a facility total of no more than 32 ACH and 64 NF beds upon completion of the project.
4. Southport Nursing Center, LLC, shall provide care to ACH recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.
5. Southport Nursing Center, LLC, shall receive the Medicaid per diem reimbursement rates allowed by the Division of Medical Assistance, under the NC State Plan Section .0102.
6. For the first two years of operation following completion of the project, Liberty Commons of Brunswick County, shall not increase actual private pay charges more than 5% of the projected private pay charges provided in Section X 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.
7. Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. 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' representations in the written statement as described in paragraph one of Policy GEN-4
8. Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the 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 Agency 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 \$17,718,509. 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, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 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:

Lisa G. Corbett  
Department of Health and Human Services,  
Office of Legal Affairs,  
Adams Building – Room 154  
2001 Mail Service Center  
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 December 19, 2016. 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:

|  |                   |
|--|-------------------|
| Final Drawings submitted to the Construction Section, DHSR _____ | May 1, 2017       |
| Final Drawings Approved by the Construction Section, DHSR _____  | June 1, 2017      |
| Appropriate Zoning Obtained _____                                | April 1, 2017     |
| Construction Contract Awarded _____                              | September 1, 2017 |
| Building Permit Obtained _____                                   | November 1, 2017  |
| Site Preparation _____   | January 1, 2018   |
| 25% Completion of Construction _____                             | August 1, 2018    |
| 50% Completion of Construction _____                             | December 1, 2018  |
| 75% Completion of Construction _____                             | April 1, 2019     |
| Completion of Construction _____                                 | August 1, 2019    |
| Licensure of Facility _____                                      | September 1, 2019 |
| Medicare/Medicaid Certification _____                            | October 1, 2019   |

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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 this office if any clarification of this decision is required.

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

Sincerely,

Gregory F. Yakaboski  
Project Analyst

Lisa Pittman  
Team Leader, Certificate of Need

Attachment

cc: Adult Care Licensure Section, DHSR  
Construction Section, DHSR  
Nursing Home Licensure and Certification Section, DHSR  
Paige Bennett, Assistant Chief, Healthcare Planning, 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 ID #: O-11187-16  
FID #: 160283

This the 18<sup>th</sup> day of November, 2016.

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Gregory F. Yakaboski  
Project Analyst, Certificate of Need