



DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF HEALTH SERVICE REGULATION

ROY COOPER  
GOVERNOR

MANDY COHEN, MD, MPH  
SECRETARY

MARK PAYNE  
DIRECTOR

**RESPONSE REQUIRED**

January 29, 2018

Hunter Diefes  
2334 South 41<sup>st</sup> Street  
Wilmington, NC 28403

**Conditional Approval**

Project ID #: O-11421-17  
Facility: Bradley Creek Health Center at Carolina Bay  
Project Description: Develop 8 non-Medicaid certified adult care home beds pursuant to Policy LTC-1 in the NC SMFP  
County: New Hanover  
FID #: 130064

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. Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC, Carolina Bay Healthcare Center of Wilmington, LLC d/b/a Bradley Creek Health Center at Carolina Bay shall materially comply with all representations made in the certificate of need application.
2. Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC, Carolina Bay Healthcare Center of Wilmington, LLC d/b/a Bradley Creek Health Center at Carolina Bay shall develop no more than 8 Policy LTC-1 adult care home beds for a facility total of no more than 30 NF beds and 78 ACH beds upon completion of the project.

**HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION**

WWW.NCDHHS.GOV

TELEPHONE 919-855-3873

LOCATION: EDGERTON BUILDING • 809 RUGGLES DRIVE • RALEIGH, NC 27603

MAILING ADDRESS: 2704 MAIL SERVICE CENTER • RALEIGH, NC 27699-2704

AN EQUAL OPPORTUNITY/ AFFIRMATIVE ACTION EMPLOYER



3. The 8 Policy LTC-1 adult care home beds shall not participate in the Medicaid program or serve State-County Special Assistance recipients.
4. The 8 Policy LTC-1 adult care home beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing or adult care unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.
5. The 8 new Policy LTC-1 adult care home beds shall be developed on the same site with the independent living units.
6. 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, Bradley Creek Health Center 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.
7. Bradley Creek Health Center at Carolina Bay 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 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 **\$77,800**. 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 **February 28, 2018**. 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. Construction/Renovation Contract(s) Executed \_\_\_\_\_ August 1, 2018
2. 25% of Construction/Renovation Completed  
(25% of the cost is in place) \_\_\_\_\_ August 15, 2018
3. 50% of Construction/Renovation Completed \_\_\_\_\_ August 20, 2018
4. 75% of Construction/Renovation Completed \_\_\_\_\_ August 25, 2018
5. Construction/Renovation Completed \_\_\_\_\_ September 1, 2018
6. Equipment Ordered \_\_\_\_\_ July 1, 2018
7. Equipment Installed \_\_\_\_\_ September 1, 2018
8. Equipment Operational \_\_\_\_\_ September 1, 2018
9. Building/Space Occupied \_\_\_\_\_ October 1, 2018
10. Licensure Obtained \_\_\_\_\_ October 1, 2018
11. Services Offered \_\_\_\_\_ October 1, 2018
12. Final Annual Report Due \_\_\_\_\_ January 1, 2022

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 S. Rupp  
Project Analyst

Fatimah Wilson  
Team Leader, Certificate of Need

Attachment

cc: Construction Section, DHSR  
Adult Care Licensure Section, DHSR  
Sharetta Blackwell, Program Assistant 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 South 41<sup>st</sup> Street  
Wilmington, NC 28403

This the 29<sup>th</sup> day of January, 2018.

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Tanya S. Rupp  
Project Analyst, Certificate of Need