



NC DEPARTMENT OF  
**HEALTH AND  
HUMAN SERVICES**  
Division of Health Service Regulation

**ROY COOPER** • Governor  
**MANDY COHEN, MD, MPH** • Secretary  
**MARK PAYNE** • Director

## **RESPONSE REQUIRED**

May 25, 2018

Timothy Walsh  
2334 South 41<sup>st</sup> Street  
Wilmington, NC 28403

### **Conditional Approval**

Project ID #: F-11462-18  
Facility: Liberty Commons of Mecklenburg Health & Rehabilitation Center  
Project Description: Develop a new 100-bed nursing facility (NF) in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County)  
County: Mecklenburg  
FID #: 180099

Dear Mr. Walsh:

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. 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 N.C. Gen. Stat. §131E-187(a). The conditions are as follows:

- 1. Liberty Commons of Mecklenburg, LLC, and Mecklenburg County Healthcare Properties, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. Liberty Commons of Mecklenburg, LLC, and Mecklenburg County Healthcare Properties, LLC shall develop a new 100-bed NF, Liberty Commons of Mecklenburg,**

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: 2704 Mail Service Center, Raleigh, NC 27699-2704  
www.ncdhhs.gov/dhsr/ • TEL: 919-855-3873

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**in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County).**

- 3. Upon completion of the project, Liberty Commons of Mecklenburg Health and Rehabilitation Center, shall be licensed for no more than 100 nursing facility beds.**
- 4. Upon completion of the project The Oaks (Forsyth County) shall be licensed for no more than 118 nursing facility beds, Warren Hills (Warren County) shall be licensed for no more than 120 nursing facility beds, Cross Creek (Hyde County) shall be licensed for no more than 60 nursing facility beds, Bermuda Commons (Davie County) shall be licensed for no 115 nursing facility beds, and Mary Gran (Sampson County) shall be licensed for no more than 167 nursing facility beds.**
- 5. Liberty Commons of Mecklenburg, LLC. 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.**
- 6. For the first two years of operation following completion of the project, Liberty Commons of Mecklenburg, LLC shall not increase 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. No later than three months after the last day of each of the first three full year of operation following initiation of the services authorized by this certificate of need, Liberty Commons of Mecklenburg, LLC 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.**
- 8. Liberty Commons of Mecklenburg, LLC, and Mecklenburg County Healthcare 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 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 **\$18,604,791**. 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, 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).]

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 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 **June 25, 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. Drawings Completed \_\_\_\_\_ October 01, 2020
2. Land Acquired \_\_\_\_\_ January 01, 2020
3. Construction/Renovation Contract(s) Executed \_\_\_\_\_ June 01, 2021
4. 25% of Construction/Renovation Completed  
(25% of the cost is in place) \_\_\_\_\_ March 01, 2022
5. 50% of Construction/Renovation Completed \_\_\_\_\_ August 01, 2022

6. 75% of Construction/Renovation Completed \_\_\_\_\_ January 01, 2023
7. Construction/Renovation Completed \_\_\_\_\_ July 01, 2023
8. Equipment Ordered \_\_\_\_\_ July 01, 2023
9. Equipment Installed \_\_\_\_\_ September 01, 2023
10. Equipment Operational \_\_\_\_\_ September 01, 2023
11. Building/Space Occupied \_\_\_\_\_ October 01, 2023
12. Licensure Obtained \_\_\_\_\_ October 01, 2023
13. Services Offered \_\_\_\_\_ October 01, 2023
14. Medicare and/or Medicaid Certification Obtained \_\_\_\_\_ October 01, 2023
15. Final Annual Report Due \_\_\_\_\_ December 30, 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 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  
Assistant Chief, Certificate of Need

Attachment

cc: Construction Section, DHSR  
Nursing Home Licensure and Certification Section, DHSR  
Amy Craddock, 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:

Timothy Walsh  
2334 South 41<sup>st</sup> Street  
Wilmington, NC 28403

This the 25<sup>th</sup> day of May, 2018.

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Gregory F. Yakaboski  
Project Analyst, Certificate of Need