



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

Pat McCrory  
Governor

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

Drexdal Pratt  
Division Director

February 12, 2014

S. Todd Hemphill  
Matthew A. Fisher  
3105 Glenwood Avenue, Suite 300  
Raleigh, NC 27612

**Exempt from Review**

Facility: Universal Health Care / Lillington  
Project Description: Renovate and replace on same site an existing combination nursing facility  
County: Harnett  
FID #: 943230

Dear Mr. Hemphill and Mr. Fisher:

In response to your letter of January 31, 2014, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(e). Therefore, you may proceed to develop the above-referenced renovation and replacement project without a certificate of need. In addition, pursuant to your letter, please relinquish the existing certificate of need that was issued on December 1, 2013 to construct a replacement nursing home in Lillington (Project ID# M-10070-13).

However, you need to contact the Construction and Nursing Home Licensure and Certification Sections of the Division of Health Service Regulation to determine if they have any requirements for development of the proposed project.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Certificate of Need Section. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.



**Certificate of Need Section**

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

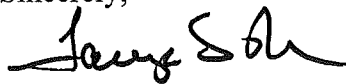
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S. Todd Hemphill  
February 11, 2014

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,



Tanya S. Rupp  
Project Analyst



Martha J. Frisone, Interim Chief  
Certificate of Need Section

cc: Construction Section, DHR  
Nursing Home Licensure and Certification Section, DHR  
Medical Facilities Planning Branch, DHR

**BODE HEMPHILL, L.L.P.**

ATTORNEYS AT LAW

3105 GLENWOOD AVENUE, SUITE 300  
RALEIGH, NORTH CAROLINA 27612

TELEPHONE (919) 881-0338  
FACSIMILE (919) 881-9548

WWW.BCS-LAW.COM



MAILING ADDRESS

POST OFFICE BOX 6338  
RALEIGH, NORTH CAROLINA  
27628-6338

JOHN T. BODE  
S. TODD HEMPHILL  
MATTHEW A. FISHER  
DAVID R. BROYLES

Writer's E-mail: FISHER@BCS-LAW.COM

January 31, 2014



Martha J. Frisone, Interim Chief  
Tanya S. Rupp, Project Analyst  
N.C. DEPARTMENT OF HEALTH AND HUMAN  
SERVICES, DIVISION OF HEALTH SERVICE  
REGULATION, CERTIFICATE OF NEED SECTION  
806 Ruggles Drive  
Raleigh, North Carolina 27603

**VIA HAND DELIVERY**

Re: REQUEST FOR LETTER OF EXEMPTION FOR REPLACEMENT AND RENOVATION OF  
COMBINATION NURSING FACILITY  
129 NF Bed / 106 ACH Bed Nursing Home  
Universal Health Care/Lillington  
FID# ~~502182~~ 943230 mdf 2/11/14  
BH File: 3874.023

Dear Ms. Frisone and Ms. Rupp:

We are writing you on behalf of our client, Universal Properties/Lillington, LLC, a North Carolina limited liability company, and Universal Health Care/Lillington, Inc. a North Carolina corporation (hereinafter collectively "Universal" or "Universal/Lillington"), requesting the CON Section to issue a letter determining that Universal's proposal to incur capital expenditures to replace its existing combination facility on its existing site, was and is exempt from certificate of need review, within the meaning of N.C. Gen. Stat. § 131E-184(e).

**I. BACKGROUND**

The Universal/Lillington facility includes both an ACH wing (containing 106 ACH beds) and a NF wing (containing 129 NF beds). The NF wing was constructed in the 1970s, before the current CON law was enacted. The ACH wing was constructed at some point prior to 1960.

Both wings of the Universal/Lillington facility are in need of modernization. In particular, the ACH wing of the facility is outdated and needs to be replaced in its entirety. Similarly, the NF wing, while still appropriate for use, is not ideal as it is currently configured and the costs of renovating the existing structure to serve as an ongoing NF facility are prohibitive. Thus, Universal seeks to demolish the existing ACH wing and construct a new

state-of-the-art NF wing in its place. Universal also will renovate the existing NF wing and convert it into a more modern ACH wing, for which the existing NF wing is well-suited.

The replacement of the NF facility was the subject of Universal's November 15, 2012 CON Application (Project ID No. M-10070-12) which sought to construct a replacement NF facility on a different site in Lillington, NC (hereinafter the "Universal Application"). A CON was granted for that proposal effective July 4, 2013. A copy of the CON, along with the cover letter transmitting same, is attached hereto as EXHIBIT 1.

Since the approval of the Universal Application and the grant of the CON, it has become apparent that the potential sites identified for the relocated nursing facility are either unworkable or are cost-prohibitive. Thus, Universal has concluded that the most effective and least-costly means of replacing the existing Universal/Lillington NF would be to construct the replacement facility in stages on the same site as the existing facility. This project will be phased such that the current ACH facility will be demolished, and the existing ACH patients will be relocated into the existing NF wing or to other close-by assisted living facilities while the new NF wing is being constructed. Once the NF wing is complete, the existing NF wing will be remodeled and converted to a permanent ACH facility. This is intended to minimize the impact that the project will have on existing patients in the NF and existing residents in the ACH facility.

These plans were discussed in detail with you at our meeting at your office on December 10, 2013, with Gerald Boyle and the undersigned. A copy of the replacement facility plans is included with a letter from David Polston, the facility architect, which is attached as EXHIBIT 2. The cost of construction and renovation is estimated by Mr. Polston to be approximately \$7,455,800.

## **II. EXEMPTION DETERMINATION REGARDING FACILITY REPLACEMENT**

N.C. Gen. Stat. § 131E-184(e) provides as follows:

*(e) The Department shall exempt from certificate of need review a capital expenditure that exceeds the two million dollar (\$2,000,000) threshold set forth in G.S. 131E-176(16)b. if all of the following conditions are met:*

*(1) The proposed capital expenditure would:*

*a. Be used solely for the purpose of renovating, replacing on the same site, or expanding an existing:*

- 1. Nursing home facility,*
- 2. Adult care home facility, or*

3. *Intermediate care facility for the mentally retarded;*  
*and*

b. *Not result in a change in bed capacity, as defined in G.S. 131E-176(5), or the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.*

(2) *The entity proposing to incur the capital expenditure provides prior written notice to the Department, which notice includes documentation that demonstrates that the proposed capital expenditure would be used for one or more of the following purposes:*

a. *Conversion of semiprivate resident rooms to private rooms.*

b. *Providing innovative, homelike residential dining spaces, such as cafes, kitchenettes, or private dining areas to accommodate residents and their families or visitors.*

c. *Renovating, replacing, or expanding residential living or common areas to improve the quality of life of residents.*

Id. (emphasis added).

The proposed replacement of Universal/Lillington's NF building and renovation of the building to house ACH residents is exempt from certificate of need review because it is a renovation and replacement of an existing combination facility on the same site. It will not result in a change in bed capacity or other new institutional health service other than that allowed in N.C. Gen. Stat. § 131E-176(16)b. As set forth in the letter from Mr. Polston attached as EXHIBIT 2, and consistent with the requirements of N.C. Gen. Stat. § 131E-184(e), the proposed capital expenditure will be used for the following purposes:

1. The capital expenditure will be used solely for the purpose of replacing the existing NF beds on the same site, and remodeling the existing NF building to serve as a replacement home for the ACH residents on the same site;
2. The capital expenditure will not result in a change in either NF or ACH bed capacity;
3. The capital expenditure will be used for:
  - a. The construction of a replacement NF wing on the same site;
  - b. The renovation of the existing NF wing to serve as the replacement ACH wing;  
and
  - c. Renovating, replacing, or expanding residential living or common areas to improve the quality of life of residents.

See EXHIBIT 2. Thus, in each instance all of the requirements of the exemption statute have been met.

Upon the CON Section's determination that the above project does not require certificate of need review, it is Universal's intention to return the CON granted by the Agency to Universal/Lillington for the construction of a new replacement facility on a different site. See EXHIBIT 1.

### **III. CONCLUSION**

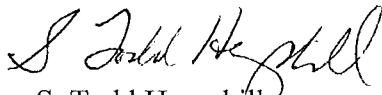
For these reasons set forth above, we believe that the proposed replacement and renovation of the Universal/Lillington combination facility is exempt from CON review pursuant to N.C. Gen. Stat. §§ 131E-184(e). We would appreciate your office reviewing this information and advising us that our analysis is correct and that none of the above is subject to CON review.

Thank you very much for your attention to this matter. Should you have any questions, please do not hesitate to contact us at any time.

With warm regards, we remain

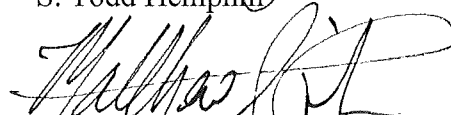
Very truly yours,

BODE HEMPHILL, L.L.P.



S. Todd Hemphill

S. Todd Hemphill

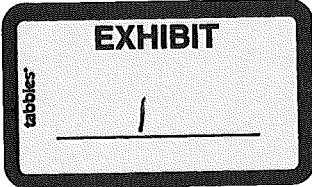


Matthew A. Fisher

Matthew A. Fisher

MAF:mf  
Enclosure  
cc: Mr. Donald Beaver (via e-mail and US Mail)





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

Pat McCrory  
Governor

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

Drexdal Pratt  
Division Director

Donald C. Beaver  
3763 Golf Drive, NE  
Conover, NC 28613

**Transmittal of Certificate of Need**

Project I.D. #: M-10070-12  
Facility: Universal Health Care Lillington  
Project Description: Construct a replacement nursing facility with a total licensed bed complement of no more than 129 beds upon completion of the project  
County: Harnett  
FID #: 102582

Dear Mr. Beaver:

We are happy to transmit your certificate of need for the above referenced project. At this time, you should contact the Nursing Home Licensure and Certification Section and the Construction Section, regarding their procedures and requirements for the development of this project. The Certificate of Need (CON) Section will notify the other Sections that the certificate of need has been issued. However, please note that it is the responsibility of the holder of the certificate of need to contact these Sections concerning the next steps to follow in the development of the approved project.

Please be aware that pursuant to G.S. 131E-181(b), you are required to materially comply with the representations made in your application for a certificate of need, or with any conditions the CON Section placed on the certificate of need. **If you subsequently propose to develop the project on a site different from that named on this certificate, you must first seek and obtain approval from the Director of the Division of Health Service Regulation.** If you operate a service which materially differs from the representations made in your application for a certificate of need, or with any conditions the CON Section placed on the certificate of need, including any increase in per diem reimbursement rates/charges, the CON Section may bring remedial action against the holder of the certificate of need pursuant to G.S. 131E-189 and 131E-190.

**The holder of a certificate of need is obligated to submit progress reports to this Agency as required by 10A NCAC 14C .0209.** The applicant shall notify the CON Section of any variations from the schedule or the projected capital cost of the project. During the development



**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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Donald C. Beaver  
July 19, 2013  
Page 2

of the project, the CON Section may request any additional information pertinent to the project, including additional progress reports, to determine:

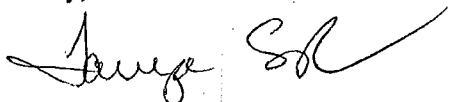
- 1) If the timetable specified on the certificate is being met;
- 2) If the amount of the capital expenditure for the development of the project is expected to exceed the maximum amount under the certificate;
- 3) If the terms and conditions of the approval are being met; and
- 4) If the project is progressing as proposed in the application.

**The first progress report on this project is due December 1, 2013.** Forms for the submittal of these reports are enclosed. Failure to submit any scheduled or requested progress report in a timely manner may result in the CON Section withdrawing the certificate pursuant to G.S. 131E-189. If after reviewing the status of the project, the CON Section determines that the holder of the certificate is not meeting the timetable and is not making a good faith effort to meet it, the CON Section may withdraw the certificate in accordance with G.S. 131E-189.

Moreover, please be advised that this Agency may assess a civil penalty not to exceed \$20,000 against any person who violates the terms of a certificate of need which has been issued each time the service provided is in violation of this provision (G.S. 131E-190(f)). If for some reason, the holder of a certificate of need determines it necessary to request an increase in a per diem charge or reimbursement rate over that which was stated in the application for the certificate of need, then the holder must first contact the CON Section to obtain proper instructions for initiating such a request. The request for the increase will be considered by the CON Section pursuant to G.S. 131E-181(b).

Please keep us informed of the progress in the development of this project. Please refer to the Project I.D.# and Facility I.D.# (FID) in all correspondence.

Sincerely,



Tanya S. Rupp, Project Analyst



Craig R. Smith, Chief  
Certificate of Need Section

TSR:CRS:mw

Enclosures

cc: Construction Section, DHSR  
Nursing Home Licensure and Certification Section, DHSR  
Mr. Gerald Boyle

# STATE OF NORTH CAROLINA

Department of Health and Human Services  
Division of Health Service Regulation

## CERTIFICATE OF NEED

for

Project Identification Number #M-10070-13

FID #102582

**ISSUED TO:** Universal Properties/Lillington, LLC  
and Universal Health Care/Lillington, Inc.  
3914 Ridge NE  
Conover, NC 28613

Pursuant to N.C. Gen. Stat. § 131E-175, et. seq., the North Carolina Department of Health and Human Services hereby authorizes the person or persons named above (the "certificate holder") to develop the certificate of need project identified above. The certificate holder shall develop the project in a manner consistent with the representations in the project application and with the conditions contained herein and shall make good faith efforts to meet the timetable contained herein. The certificate holder shall not exceed the maximum capital expenditure amount specified herein during the development of this project, except as provided by N.C. Gen. Stat. § 131E-176(16)e. The certificate holder shall not transfer or assign this certificate to any other person except as provided in N.C. Gen. Stat. § 131E-189(c). This certificate is valid only for the scope, physical location, and person(s) described herein. The Department may withdraw this certificate pursuant to N.C. Gen. Stat. § 131E-189 for any of the reasons provided in that law.

**SCOPE:** Universal Properties/Lillington, LLC and Universal Health Care/Lillington, Inc. shall construct a replacement nursing facility with a total complement of no more than 129 licensed nursing facility beds upon completion of the project/ Harnett County

**CONDITIONS:** See Reverse Side

**PHYSICAL LOCATION:** Universal Health Care Lillington  
Lot 19 and part of Lot 20  
Brightwater Drive  
Lillington, NC 27546

**MAXIMUM CAPITAL EXPENDITURE:** \$9,625,380

**TIMETABLE:** See Reverse Side

**FIRST PROGRESS REPORT DUE:** December 1, 2013

This certificate is effective as of the 4<sup>th</sup> day of July, 2013



Chief, Certificate of Need Section  
Division of Health Service Regulation

**CONDITIONS:**

1. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall materially comply with all representations made in its certificate of need application, as amended by the conditions of approval.
2. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall construct a replacement nursing facility with a total licensed bed complement of no more than 129 beds upon completion of the project.
3. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall take the necessary steps to delicense the 129 nursing facility beds at the existing Universal Health Care of Lillington following completion of the proposed replacement nursing facility, by licensing the existing facility as a 106-bed adult care home.
4. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall provide access to private rooms for Medicaid patients, including hospice patients, based on medical necessity.
5. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall submit all patient charges and actual per diem reimbursement for each source of patient payment to the Certificate of Need at year end for each of the first two operating years following licensure of the beds in the new facility.
6. For the first two full federal fiscal years of operation following completion of the project, 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 made in the certificate of need application.
7. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall receive Medicaid per diem rates allowed by the Division of Medical Assistance, under the NC State Plan Section .0102.
8. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. shall submit a plan to the Construction Section of the Division of Health Service Regulation for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section, pursuant to Policy GEN-4 of the 2012 SMFP.
9. Universal Properties / Lillington, LLC and Universal Health Care / Lillington, Inc. 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.

**TIMETABLE:**

Permanent Loan Executed _____	November 1, 2013
Final Drawings Submitted to the Construction Section, DHSR _____	November 1, 2013
Construction Contract Awarded _____	December 1, 2013
75% Completion of Construction _____	July 30, 2014
Completion of Construction _____	September 15, 2014
Completion of Construction _____	September 15, 2014

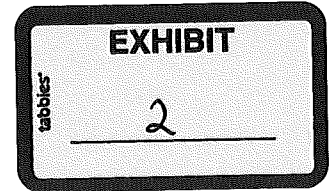


# DAVID R. POLSTON • ARCHITECT

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3806 Park Avenue, Suite 2L  
Wilmington, North Carolina 28403  
(910) 350-8900 Fax: (910) 350-0401  
Email: polstonaia@bellsouth.net



January 27, 2014

Martha J. Frisone, Acting Chief  
Certificate of Need Section  
Division of Health Service Regulation  
809 Ruggles Drive  
Raleigh, North Carolina 27603

RE: Proposed Replacement Facility  
129 NF Bed/106 ACH Bed Nursing Home  
Universal Health Care  
Lillington, North Carolina

Dear Ms. Frisone:

We are the design architects for the proposed 129 NF bed and 106 ACH bed replacement facility for the existing Universal Health Care combination facility in Lillington, N.C. We have reviewed the feasibility of several design alternatives including relocating to a new site, renovating/adding to the existing structure and replacing the facility on the current site. Based on the number of alternative sites which had inappropriate zoning, topography or inadequate water for fire protection, the most feasible option is to replace the existing NF building with a new structure built on the same site. The building housing the ACH residents would be demolished, and the existing NF building will become the new ACH building.

The existing facility is relatively old, has some beds housed in wards (3 and 4) bedrooms and limited activity/dining options for the residents. The building's age does not work for the implementation of new technologies and design concepts which can improve the quality of care and the quality of life for the residents. The age of the structure has also impacted the energy efficiency of the utilities and maintenance costs.

Attached as Exhibit A is a copy of the plan proposed for replacing the existing NF wing on the existing site. The plan calls for building a 129 bed NF wing with 31 private rooms and 49 semi-private rooms. The layout has four (4) neighborhood pods to create a more residential environment. Also, the design increases the activity and therapy areas and opportunities to enhance residents' outdoor activities.

This will be a major quality of life improvement in the new NF resident rooms. Each of the new bedrooms will have a private bath/toilet with an accessible roll-in shower. This also will be a substantial improvement since all of the existing bedrooms share toilets between bedrooms and have no in-room bathing facilities. The new building design will also include more efficient HVAC systems that will improve the residents' comfort. Attention will be given to higher efficiency equipment and increased insulation values.

In addition, because the current NF space is licensed for 129 beds, while the ACH wing is licensed for 106 beds, renovation of the NF wing for the relocated ACH residents will provide an improved experience for those residents. A list of the planned renovations and a line drawing of the facility with the bed reconfiguration of the ACH beds, is attached as Exhibit B.

The new addition is approximately 58,000 square feet. I would estimate the construction cost to be approximately \$105 per square foot for a total NF building budget of \$6,090,000. This square foot cost estimate is based on similar facilities which have been competitively bid in North Carolina during the past two years.

Approximately \$150,000 should be added for demolition of the current ACH building and several other unoccupied and outdated structures on the site. An additional \$615,800 will be needed for the renovations to the current NF space prior to relocation of the ACH beds. I would also project a \$400,000 budget for site improvement costs. The architectural fees would be approximately \$200,000. Thus, the total budget for new construction, demolition, site improvements and architectural fees will be approximately \$7,455,800.

In summary, the existing NF and ACH buildings served the community well over time but now are not meeting the needs of either the residents or staff. The new plan provides improved bedroom options with more privacy and individual dignity. The neighborhood concept provides a more residential environment and helps to develop more social interaction between the residents. The construction methods will improve residents' comfort and improve the energy efficiency of the structure. The selected design has been evaluated from a functional and financial criteria and is the best option for Universal Health Care/Lillington.

I appreciate your assistance and please contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "DAVID POLSTON". The signature is written in a cursive, slightly slanted style.

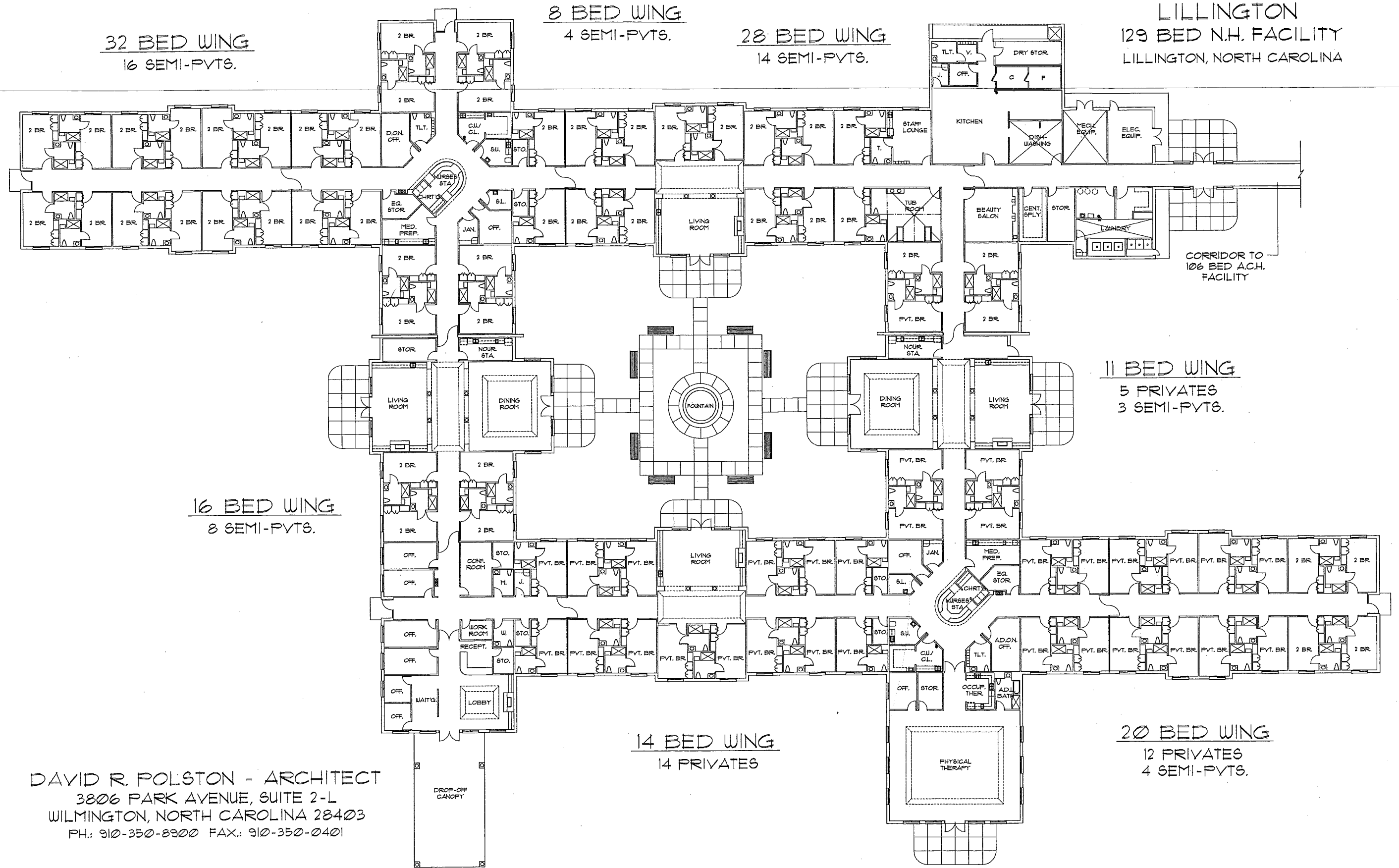
David R. Polston, AIA

DRP/sp



EXHIBIT "A"

UNIVERSAL HEALTH CARE  
LILLINGTON  
129 BED N.H. FACILITY  
LILLINGTON, NORTH CAROLINA

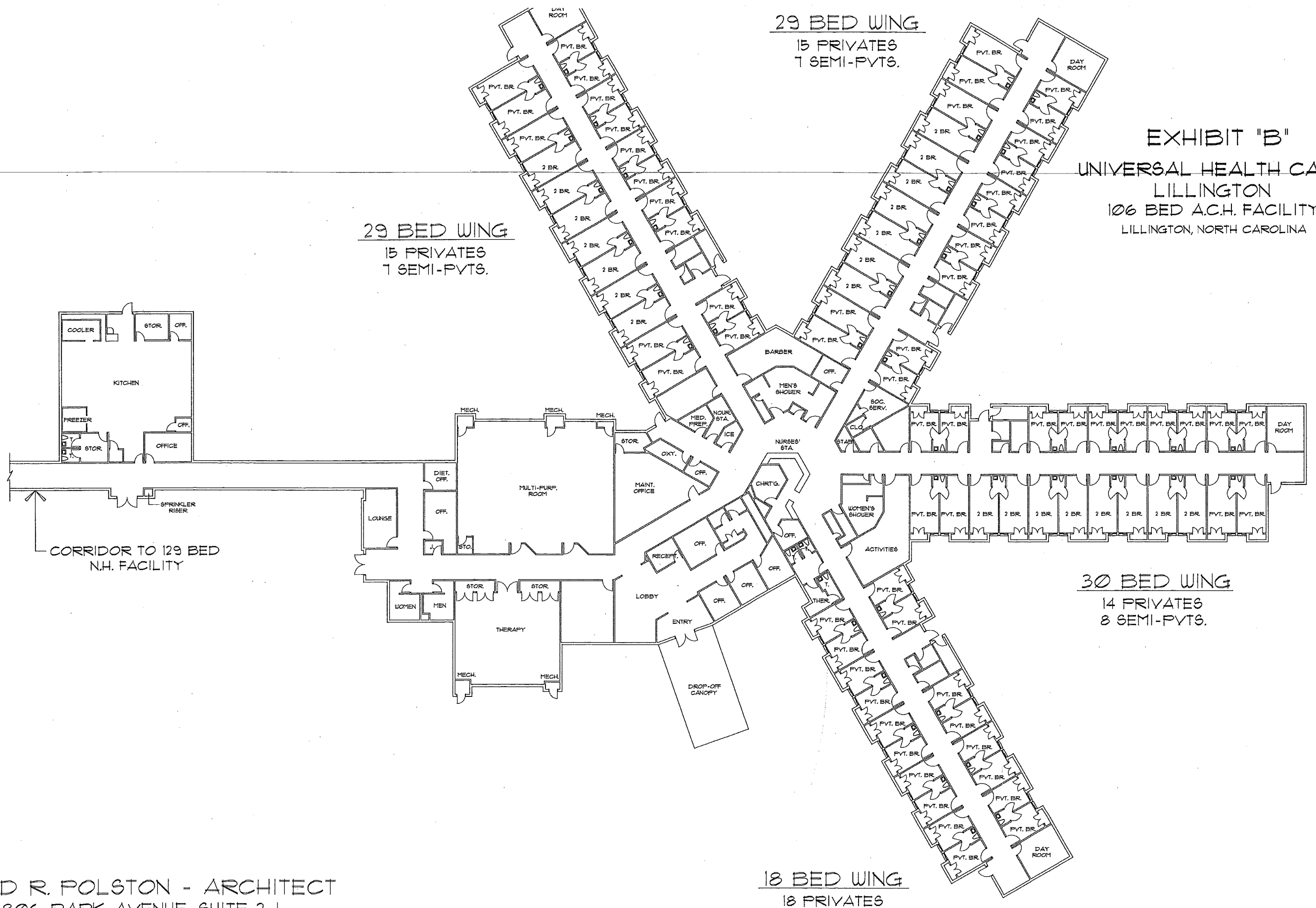


DAVID R. POLSTON - ARCHITECT  
3806 PARK AVENUE, SUITE 2-L  
WILMINGTON, NORTH CAROLINA 28403  
PH.: 910-350-8900 FAX.: 910-350-0401





EXHIBIT "B"  
 UNIVERSAL HEALTH CARE  
 LILLINGTON  
 106 BED A.C.H. FACILITY  
 LILLINGTON, NORTH CAROLINA



29 BED WING  
 15 PRIVATES  
 7 SEMI-PVTS.

29 BED WING  
 15 PRIVATES  
 7 SEMI-PVTS.

30 BED WING  
 14 PRIVATES  
 8 SEMI-PVTS.

18 BED WING  
 18 PRIVATES

CORRIDOR TO 129 BED  
 N.H. FACILITY

DAVID R. POLSTON - ARCHITECT  
 3806 PARK AVENUE, SUITE 2-L  
 WILMINGTON, NORTH CAROLINA 28403  
 PH.: 910-350-8900 FAX.: 910-350-0401