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CON Section

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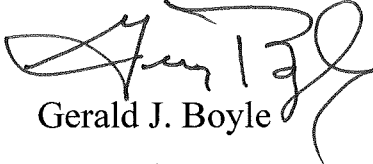
June 30, 2010

Ms. Carol Hutchison  
CON Section  
701 Barbour Drive  
Raleigh, NC 27603

Dear Ms. Hutchison,

Herewith please find enclosed The Village of Mecklenberg Assisted Living's CON comments relative to the current CON review in Mecklenberg County.

Very Truly Yours,



Gerald J. Boyle

## Preston

A. The applicant has stated that Construction Financing will be in place by 5/15/10. This is totally incomprehensible for the following reasons:

1. Permanent Financing will not be available until 10/1/12. In today's market place no lending institution will make construction loans unless Permanent Financing is in place.
2. Financing will be contingent upon the issuance of the CON. CON will not be issued until November 10.
3. Approval of proposed site by Construction Section is not until 5/1/2011.
4. For the above reasons the applicant's time schedule is totally unreasonable and doubtful whether they can adhere to its schedule.

B. Applicant proposes 14 cooks for an 80-bed facility at \$20,800.

C. Applicant proposes the highest private pay rate in private room of any competing applicant.

D. Applicant states all costs subject to inflation will increase 3.5% per year unless otherwise stated on the table for Projected Reimbursement rates. (Instructions in CON application specifies no inflation rate is to be utilized)

E. The applicant has provided a "firm commitment" for financing the proposed project. However, the commitment expires by August 15, 2010 if indeed the applicant does not receive a CON. Since the CON process only began on June 1, 2010 and a minimum of 90-days review period is required, the firm commitment is obsolete.

## **Queen City Health Investors, LLC Queen City Holding, LLC**

The CON application did not contain any financial statements for the owners or principals of either Queen City health Investors, LLC or Queen City Holding, LLC. Although the CON application contained letters from Wakefield Capital for 100% financing for construction, permanent, and working capital financing no provision was contained for any cost overrides. All numbers for construction and working capital costs are estimates and no indication as to what happens if costs are exceeded. The question is where will the additional dollars be generated without any supporting documentation? It is therefore, impossible to determine financial feasibility of the proposed project. It should be noted that the principals of this project have 6 other CON projects under development. This project will be the 7<sup>th</sup> project if CON approval is granted. The applicant has stated that it has received two other approvals from the CON Section under the same scenario. Wakefield Capital, therefore, has committed to financing three (3) CON projects at a minimum without any financial statements of either the lender or the borrower of the projects contained within the CON application. Precedent has been established by the CON Section that when requested financial information is missing, it is impossible to deem if the project conforms to the financial feasibility criteria.

There is a clear precedent in other competitive reviews that financing and financial feasibility are necessary in order to receive approval in a competitive review.

Applicant is only proposing 14 private pay rooms. The proposed facility will only be 33,483 square feet for 90 residents. This is the smallest facility of any competing applicant.

Applicant does not project competitive salaries for C.N.A.s The projected C.N.A salaries are near the bottom range of all competing applicants.

# Waltonwood

1. The applicant has proposed to utilize FHA as its financing of the proposed project. The applicant states that 90% financing will be available for both the construction and working capital for the proposed project. This assumption is not the case. The applicant states that 90% of the working capital will be funded via FHA. FHA does not fund working capital and the applicant has not provided any document to substantiate working capital availability (see letter from Lancaster Polland).
2. The applicant has proposed to locate the new facility in Southern Mecklenberg County. Mecklenberg County referral agencies have indicated that the southern portion of Mecklenberg County is saturated with assisted living beds; therefore, there is not a need for new beds in this area. This project is a corporate planning study rather than a health planning strategy.
3. The applicant proposes only to serve Medicaid residents within its Special Care Unit. This assumption is very unrestricted and, in fact, be considered as discrimination. The applicant states that in a typical Special Care Unit within a NC assisted living facility has only 10% Medicaid population. This application is projecting 100 Medicaid residents in its Special Care Unit. This is not functional or feasible while serving 100% private pay in the remainder of the facility.
4. The applicant proposes a hard construction cost of \$68.49 per square foot. The \$68.49 per square foot appears to be low particularly when using FHA financing on a project that is approximately 2 years away from beginning construction.
5. The applicant proposes the lowest salary rate for Personal Care Aides among all competing applicants.

June 18, 2010

Gerry J. Boyle  
President  
Consultant Services  
1217 Pond St  
Cary, NC 27511

Dear Mr. Boyle,

As you are aware, FHA 232 provides mortgage insurance for the new construction or sub-rehabilitation of licensed health care facilities. For licensed assisted living facilities, the maximum mortgage amount allowable under the FHA 232 program is the *lesser* of the three (3) following calculations:

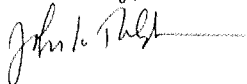
1. 90% of eligible costs
2. 1.45x debt service coverage ratio at stabilization
3. 75% loan to value on a market appraisal

In addition to the equity required in the mortgage, FHA also requires the sponsor/borrower to fund upfront – either through a cash deposit or a fully drawable bank letter of credit – two separate escrows. These escrows are not mortgageable items and must be accounted for by liquid assets. The escrows which must be funded at the closing of the financing are:

1. Working Capital escrow: amount of the working capital escrow is equal to two-percent of the mortgage amount. The use of these funds is pay for mortgage interest during construction, ground rents, mortgage insurance premiums, taxes, property insurance premiums, and assessments.
2. Initial operating deficit escrow: used to fund operating deficits in a project after completion of construction and up to stabilization.

I hope you find this information helpful. Please review at your convenience and feel free to give me a call at 770-772-4778, ext. 205 or email at [jrandolph@lancasterpollard.com](mailto:jrandolph@lancasterpollard.com) to discuss further.

Sincerely,



John K. Randolph  
Vice President

# Shamrock Village

The owners of this building had previously announced in 2007 that the building was unsuitable to provide quality patient care. The CON office approved the transfer of 289 nursing beds to two (2) new facilities for a combined cost of \$20,000,000.00. Now the applicant wants this same facility to be utilized as a 340-bed assisted living facility. This building still has the same problems and operating inefficiencies as described in their 2007 CON application.

1. Building portrays an institutional environment with 6 stories.
2. Facility was used as a Civil Defense Center in 1967.
3. The placement of 340-beds at Shamrock Village creates a mal-distribution of beds in Mecklenberg County.
4. Neither the Mecklenberg Department of Social Services nor the Regional Ombudsman have stated their support for the project as well as the agencies wanted the 340-beds located in the northern portion of Mecklenberg County.
5. Present location will be difficult to attract residents because of the social economic area where the facility is located.
6. The applicant failed to comply with CON rules and did not file two (2) Section 8(s). One for Lessor and one for the Lessee.
7. Applicant failed to provide amortization schedule for the outstanding loan amount of \$5,500,000. Additionally, the applicant did not specify the terms and conditions of the loan. Precedent has been established by the CON Section that when requested financial information is missing, it is impossible to deem if the project conforms to the financial feasibility criteria.
8. Shamrock Village has proposed the lowest staffing ratios of any competing applicant.
9. Shamrock Village projects very low salaries as compared to other competing applicants. (ie difference of \$5,000/year in C.N.A salaries).
10. Shamrock Village has proposed only 50 Alzheimer's beds for its project. If Shamrock Village was approved, the 50 Alzheimer's beds would be the smallest number of special care beds that could be potentially approved. Five other

applicants have a total of approximately 152 Alzheimer's beds.

11. Approval of 340-beds for Shamrock Village in Crab Orchard Township has the potential of mal-distribution of beds in Mecklenberg County. The Southern portion of Mecklenberg County is saturated with assisted living beds and this project only adds to the problems.

12. Applicant (Lessor) has not properly identified the appropriate Capital Expenditures with the proposed project.

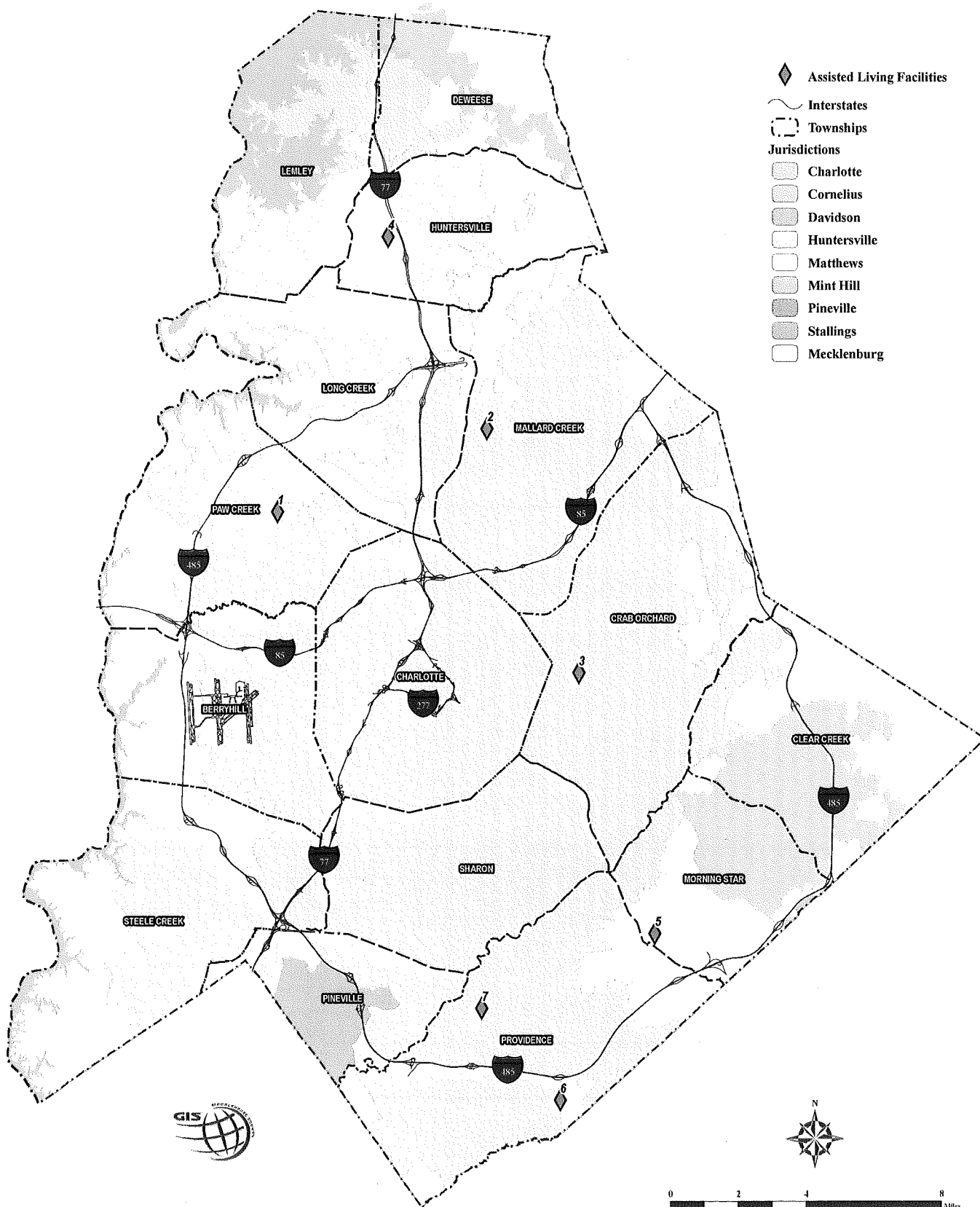
A) The applicant states that the building will be converted from a 289-bed skilled nursing facility to a 340-bed assisted living facility. The applicant states that the proposed project will only cost \$1,397,285.00 for capital expenditures associated with the proposed conversion. The building will be vacated and emptied in order to accomplish the conversion. The facility will no longer be a skilled facility and no conversion is possible but rather a complete renovation of a vacant facility. Since the facility is vacant without a provider number, the applicant's correct capital expenditure should have been the cost of the renovations plus the residual value of the vacated building. The applicant states that the current building is valued at \$7,000,000 (\$5,500,000 loan and \$1,500,00 equity), plus \$1,397,000. for renovations. The applicant calculated its capital expenditure of \$2,901,840 which was incorrect because \$1,504,555 was working capital and not a capital expenditure. Thus the CON Lessor applicant understated its capital expenditure by approximately \$5,500,000. The applicant, therefore, did not provide the correct fee for CON review.

B) The applicant states on page 8 of the CON application the facility has zero licensed beds.

13. This proposal appears more to be corporate planning rather than health planning.

# PROPOSED

## Mecklenburg County Townships and Assisted Living Facilities

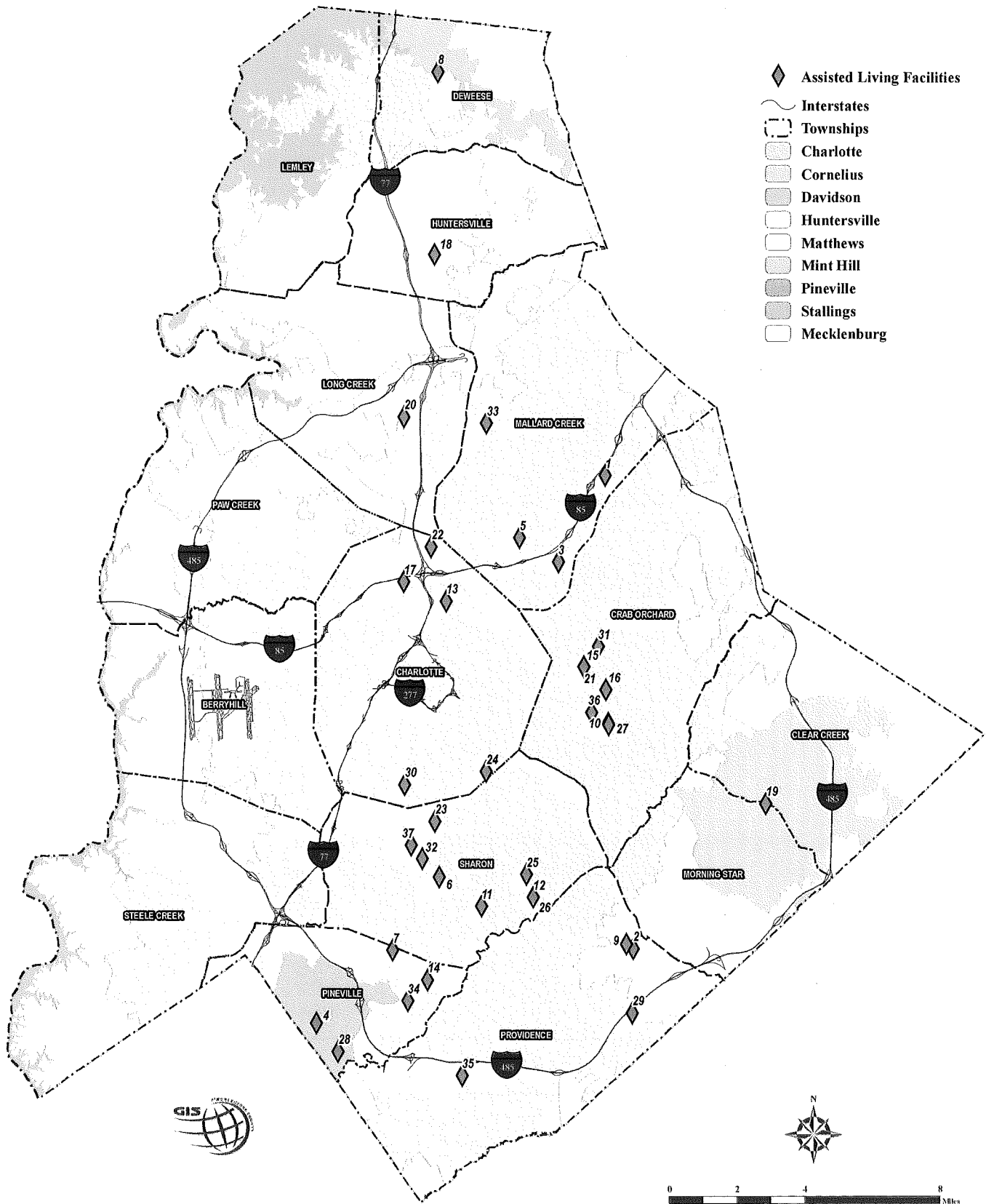


Scale: 1 Inch = 4 Miles



# EXISTING

## Mecklenburg County Townships and Assisted Living Facilities



<b>Label</b>	<b>Facility</b>	<b>Beds</b>
1	Britthaven of Charlotte	217
2	Carrington Place	176
3	Hunter Woods Nursing and Rehabilitation Center	130
4	Pineville Rehabilitation and Living Center	116
5	Saturn Nursing and Rehabilitation Center	140
6	Sharon Towers	136
7	Southminster	100
8	The Pines at Davidson	81
9	WillowBrooke Court SC Ctr. at Plantation Estates	140
10	Wilora Lake Healthcare Center	90
11	Carmel Hills	38
12	Carriage Club of Charlotte (Coach House)	108
13	Charlotte Manor	40
14	Charlotte Square	125
15	Cuthbertson Village at Aldersgate	45
16	East Towne	120
17	Helton Manor West, Inc.	120
18	Hunter Village	68
19	Lawyers Glen Retirement Living Center	82
20	Lee's Living Center	48
21	Parker Terrace	53
22	Slay's Rest Home	12
23	Summit Place of Southpark	120
24	Sunrise Eastover Assisted Living, LLC	104
25	Sunrise on Providence	95
26	The Arbors at Carriage Club of Charlotte	34
27	The Cove at Wilora Lake Lodge	50
28	The Haven in the Village at Carolina Place	60
29	Weddington Park	83
30	Atria Merrywood	20
31	Willow Ridge Assisted Living	52
32	Brighton Gardens of Charlotte	125
33	Preston House	40
34	Elmcroft of Little Avenue	62
35	Legacy Heights Senior Living Community	122
36	The Parc at Sharon Amity	64
37	The Court at South Park	56

## Brookdale Place

1. This applicant did not provide sufficient evidence that Wyman Hamilton had the authority to sign the Certificate of Need application. Brookdale in its CON application states that Brookdale Pace of South Charlotte, LLC is a limited liability company and lists the following managers:

W.E. Sheriff  
John P. Rijos  
Mack Oklendorf

Mr. Wayne Hamilton, who signed the application, is not a manager, therefore, does not have the authority to sign the CON application. Therefore, the CON application should not be considered in the review process by the CON Section Office.

2. The applicant only projects a 9% Medicaid participation. This 9% does not meet Mecklenberg County's private pay / Medicaid averages and, therefore, cannot be approved by the CON Section Office.
3. The proposed facility is to be located in the Southern portion of Mecklenberg County. The majority of referral agencies contend this area is "saturated" with beds and additional assisted living beds should be located in the Northern portion of Mecklenberg County.

# **Mount Tabor House Adult Care Home**

This application is missing vital information which was necessary to make a proper evaluation, therefore, no components were rendered.