



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

Pat McCrory  
Governor

Richard O. Brajer  
Secretary DHHS

Mark Payne  
Assistant Secretary for Audit and  
Health Service Regulation

**RESPONSE REQUIRED**

January 28, 2016

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

**Conditional Approval**

Project ID #: O-11069-15  
Facility: Liberty Commons Assisted Living of Brunswick County  
Project Description: Construct a new 110-bed adult care home facility in the Towncreek  
Township  
County: Brunswick  
FID #: 150396

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 Properties of Brunswick County, LLC and Liberty Commons Assisted Living of Brunswick County, LLC shall materially comply with all representations made in the certificate of need application.
2. Liberty Healthcare Properties of Brunswick County, LLC and Liberty Commons Assisted Living of Brunswick County, LLC shall develop no more than 110 adult care home beds upon completion of this project.

**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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3. Liberty Healthcare Properties of Brunswick County, LLC and Liberty Commons Assisted Living of Brunswick County, LLC, shall provide care to recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.
4. For the first two years of operation following completion of the project, Liberty Healthcare Properties of Brunswick County, LLC and Liberty Commons Assisted Living of Brunswick County, LLC 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.
5. Liberty Healthcare Properties of Brunswick County, LLC and Liberty Commons Assisted Living of Brunswick County, LLC 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 the 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 \$18,960,750. 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:

Emery Milliken  
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 February 29, 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:

Contract Award _____	September 1, 2016
50% Completion of Construction _____	December 1, 2017
Completion of Construction _____	August 1, 2018
Occupancy/Offering of Services _____	October 1, 2018

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,

Gloria C. Hale  
Project Analyst

Lisa Pittman  
Team Leader

Martha J. Frisone  
Assistant Chief, Certificate of Need

Attachment

cc: Adult Care Licensure Section, DHSR  
Construction Section, DHSR  
Kelli Fisk, Program Assistant, Healthcare Planning, DHSR

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing notice of conditional approval on the following persons by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelopes addressed as follows:

Sonya A. Rozier  
Post Office Box 8427  
Rocky Mount, NC 27804

Project ID #: O-11061-15  
FID #: 150394

Chuck White  
PO Box 2568  
Hickory, NC 28603

Project ID #: O-11065-15  
FID #: 150395

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

Project ID #: O-11069-15  
FID #: 150396

I hereby certify that I have served the foregoing notice of disapproval on the following persons by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelopes addressed as follows:

Steve Bailey  
853 Old Winston Road, Suite 118  
Kernersville, NC 27284

Project ID #: O-11056-15  
FID #: 150390

Chuck White  
PO Box 2568  
Hickory, NC 28603

Project ID #: O-11066-15  
FID #: 960422

This the 28<sup>th</sup> day of January, 2016.

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Gloria C. Hale  
Project Analyst, Certificate of Need