



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK PAYNE • Director, Division of Health Service Regulation

RESPONSE REQUIRED

July 29, 2019

Timothy Walsh
2334 S. 41st Street
Wilmington, NC 28403

Conditional Approval

Project ID #: J-11698-19
Facility: Liberty Assisted Living of Durham
Project Description: Relocate no more than 29 ACH beds from Ellison's Rest Home and no more than 20 ACH beds from Carver Living Center pursuant to Policy LTC-2 for a total of no more than 49 ACH beds upon project completion
County: Durham
FID #: 190084

Approved Capital Expenditure: \$15,100,875
Conditions of Approval: See Attachment A
Approved Timetable: See Attachment B
Last Date to Appeal: August 28, 2019
Required State Agency Findings: Enclosed

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 review of the application or applications if the review was competitive, consideration of the Certificate of Need Law and regulations promulgated thereunder, the State Medical Facilities Plan, written comments if any, responses to comments if any, and other publicly applicable information.

The conditional approval is valid only for the approved capital expenditure shown above. If the capital cost will exceed the approved capital expenditure amount by more than 115%, the applicant must first obtain a new certificate of need.

Response to the conditions in Attachment A 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 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 approved timetable for this project is found in Attachment B.

Note: The applicant shall not begin developing this project until after the certificate of need has been issued and the certificate of need will not be issued until the applicant has documented that all

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.ncdhs.gov/dhsr • TEL: 919-855-3873

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conditions that must be met prior to issuance of the certificate of need have been met. Furthermore, if the project requires that plans be submitted to the Construction Section, those plans will not be reviewed or approved until after the certificate of need has been issued.

The Certificate of Need law provides that any affected person has thirty (30) days after the date of the decision to file a petition for a contested case on this approval. Further, if you are aggrieved by any of the conditions you may file a petition for a contested case hearing in accordance with N.C. Gen. Stat. §150B, Article 3. 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. Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to the 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 thirty day appeal period which ends on the date shown above. If a contested case petition is filed with OAH within the thirty day appeal period, the certificate will not be issued until the appeal is resolved.

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,



Bernetta Thorne-Williams
Project Analyst



Gloria C. Hale
Team Leader

Enclosures:

- Attachment A: Conditions of Approval
- Attachment B: Approved Timetable
- Required State Agency Findings

cc: Adult Care Licensure Section, DHSR
Construction Section, DHSR

Attachment A
Conditions of Approval

1. Liberty Healthcare Properties of Durham, LLC shall materially comply with all representations made in the certificate of need application and any supplemental responses. In the event that representations conflict, Liberty Healthcare Properties of Durham, LLC shall materially comply with the last made representation.
2. Liberty Healthcare Properties of Durham, 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.
3. Liberty Healthcare Properties of Durham, LLC shall relocate no more than 29 ACH beds from Ellison's Rest Home and no more than 20 ACH beds from Carver Living Center, pursuant to Policy LTC-2, for a total of no more than 49 ACH beds at Liberty Assisted Living of Durham upon completion of this project.
4. Upon completion of the project, Ellison's Rest Home shall delicense its 29 ACH beds and Carver Living Center will shall delicense its 20 ACH beds for a facility total of only 232 NF beds.
5. Liberty Assisted Living of Durham shall provide care to recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.
6. For the first two years of operation following completion of the project, Liberty Healthcare Properties of Durham, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q 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 fiscal years of operation following initiation of the services authorized by this certificate of need, Liberty Healthcare Properties of Durham, 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 Healthcare Properties of Durham, 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.

Attachment B
Approved Timetable

1. Drawings Completed _____ March 1, 2021
2. Construction / Renovation Contract(s) Executed _____ June 1, 2021
3. 25% of Construction / Renovation Completed
(25% of the cost is in place) _____ March 1, 2022
4. 50% of Construction / Renovation Completed _____ August 1, 2022
5. 75% of Construction / Renovation Completed _____ January 1, 2023
6. Construction / Renovation Completed _____ July 1, 2023
7. Building / Space Occupied _____ October 1, 2023
8. Licensure Obtained _____ October 1, 2023
9. Services Offered (required) _____ October 1, 2023
10. Medicare and / or Medicaid Certification Obtained _____ November 1, 2023
11. First Annual Report Due _____ December 31, 2024

