



NC DEPARTMENT OF  
**HEALTH AND  
HUMAN SERVICES**

**ROY COOPER** • Governor

**KODY H. KINSLEY** • Secretary

**MARK PAYNE** • Director, Division of Health Service Regulation

**RESPONSE REQUIRED**

September 27, 2023

Timothy Walsh  
2334 S. 34<sup>th</sup> Street  
Wilmington, NC 28403

**Conditional Approval**

Project ID #: J-12354-23  
Facility: Liberty Commons Nursing & Rehabilitation Center of Wake County  
Project Description: Develop a new 125-bed NF by relocating 19 NF beds from Liberty Commons of Alamance, 28 NF beds from Cross Creek (Hyde County), 20 NF beds from Oak Forest (Forsyth County), and 58 NF beds from Golden Years (Cumberland County)  
County: Wake  
FID #: 230316  
Approved Capital Expenditure: \$34,454,934  
Conditions of Approval: See Attachment A  
Approved Timetable: See Attachment B  
Last Date to Appeal: October 27, 2023  
Required State Agency Findings: Will be mailed within five business days after the date of this letter

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. 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 attached to an email addressed to the Project Analyst and the Co-signer no later than 35 days from the date of the decision.** The certificate of need will not be issued if the response to the conditions in Attachment A has not been received by the Agency.

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.

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 conditions that must be met prior to issuance of the certificate of need have been met.

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

**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  
<https://info.ncdhhs.gov/dhsr/> • TEL: 919-855-3873

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conditions you may file a petition for a contested case hearing in accordance with G.S.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).

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:

Julie Cronin  
Department of Health and Human Services,  
Office of Legal Affairs,  
Adams Building – Room 154  
2001 Mail Service Center  
Raleigh, North Carolina, 27699-2001

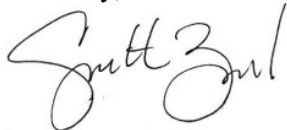
It is requested that a copy of the petition also be served on the Agency.

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,



Cynthia L. Bradford  
Project Analyst  
[Cynthia.bradford@dhhs.nc.gov](mailto:Cynthia.bradford@dhhs.nc.gov)



Micheala Mitchell  
Chief  
[Micheala.mitchell@dhhs.nc.gov](mailto:Micheala.mitchell@dhhs.nc.gov)

Enclosures:

- Attachment A: Conditions of Approval
- Attachment B: Approved Timetable

cc: Construction Section, DHSR  
Nursing Home Licensure & Certification Section, DHSR

## **Attachment A**

### **Conditions of Approval**

1. Liberty Healthcare Nursing Properties of Wake County, LLC and Liberty Commons of Wake County, LLC (hereinafter certificate holder) shall materially comply with all representations made in the certificate of need application.
2. The certificate holder shall develop a new facility by relocating no more than 19 NF beds from Liberty Commons of Alamance in Alamance County, 28 NF beds from Cross Creek Care Center in Hyde County, 20 NF beds from Oak Forest Care Center in Forsyth County, and 58 NF beds from Golden Years Care Center in Cumberland County for a total of no more than 125 NF beds.
3. Upon completion of the project Liberty Commons of Wake County shall be licensed for no more than 125 nursing facility beds.
4. Upon completion of this project the certificate holder shall take the necessary steps to delicense 19 NF beds from Liberty Commons of Alamance in Alamance County, 28 NF beds from Cross Creek Care Center in Hyde County, 20 NF beds from Oak Forest Care Center in Forsyth County, and 58 NF beds from Golden Years Care Center in Cumberland County for a total of no more than 125 NF beds.
5. For the first two years of operation following completion of the project, the certificate holder 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.
6. Prior to the issuance of the certificate of need, Liberty Healthcare and Rehabilitation Center of Wake County, LLC shall obtain documentation from AKA Real Holdings, LLC., and KB Square, LLC. showing that the purchase transaction between the buyer and seller has completed and shall provide a copy of the documentation to the Healthcare Planning and Certificate of Need Section.
7. The certificate holder 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.
8. Progress Reports:
  - a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.
  - b. The certificate holder shall complete all sections of the Progress Report form.
  - c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.
  - d. The first progress report shall be due on January 1, 2024.
9. The certificate holder shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.
10. The certificate holder 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**

<b>Milestone</b>		<b>Date</b> <i>mm/dd/yyyy</i>
1	Drawings Completed	1/1/26
2	Land Acquired	3/1/26
3	Construction / Renovation Contract(s) Executed	6/1/26
4	25% of Construction / Renovation Completed (25% of the cost is in place)	3/1/27
5	50% of Construction / Renovation Completed	8/1/27
6	75% of Construction / Renovation Completed	1/1/28
7	Construction / Renovation Completed	7/1/28
8	Building / Space Occupied	10/1/28
9	Licensure Obtained	10/1/28
<b>10</b>	<b>Services Offered</b>	10/1/28
11	Medicare and / or Medicaid Certification Obtained	12/1/28