



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

Pat McCrory
Governor

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

Drexdal Pratt
Division Director

RESPONSE REQUIRED

February 25, 2014

Doug Whitman
2334 South 41st Street
Wilmington, NC 28403

Conditional Approval

Project I.D. #: G-10216-13
Facility: Liberty Commons of Silas Creek
Project Description: Relocate 100 nursing facility beds from Liberty Commons Nursing & Rehabilitation Center of Springwood to a new facility in Winston-Salem
County: Forsyth
FID #: 130485

Dear Mr. Whitman:

The Certificate of Need (CON) Section, Division of Health Service Regulation, Department of Health and Human Services 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 Department shall not issue the certificate of need until all applicable conditions of approval that can be satisfied before issuance of the certificate of need have been met pursuant to G.S. 131E-187(a). The conditions are as follows:

1. Liberty Healthcare Properties of Silas Creek, LLC; Liberty Commons of Silas Creek, LLC; Liberty Commons Nursing and Rehabilitation Center of Springwood, LLC; and Liberty Healthcare Properties of Springwood, LLC shall materially comply with all representations made in the certificate of need application.
2. Liberty Healthcare Properties of Silas Creek, LLC; Liberty Commons of Silas Creek, LLC; Liberty Commons Nursing and Rehabilitation Center of Springwood, LLC; and Liberty

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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3. 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.
4. Liberty Healthcare Properties of Silas Creek, LLC; Liberty Commons of Silas Creek, LLC; Liberty Commons Nursing and Rehabilitation Center of Springwood, LLC; and Liberty Healthcare Properties of Springwood, LLC shall receive Medicaid per diem rates allowed by the Division of Medical Assistance, under the NC State Plan Section .0102.
5. Liberty Healthcare Properties of Silas Creek, LLC; Liberty Commons of Silas Creek, LLC; Liberty Commons Nursing and Rehabilitation Center of Springwood, LLC; and Liberty Healthcare Properties of Springwood, LLC 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 2013 SMFP.
6. Liberty Healthcare Properties of Silas Creek, LLC; Liberty Commons of Silas Creek, LLC; Liberty Commons Nursing and Rehabilitation Center of Springwood, LLC; and Liberty Healthcare Properties of Springwood, LLC 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.

Response to the above conditions should be submitted to the CON Section no later than 35 days from the date of the decision. Failure to respond within this time period may result in the CON Section 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 \$19,313,138. 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

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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 Certificate of Need Section.

The certificate of need will not be issued before the completion of this 30 day period ending March 27, 2014. 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 CON Section because the review period was extended. The timetable for this project is as follows:

Contract Award	February 1, 2015
50% Completion of Construction	January 1, 2016
Completion of Construction	July 1, 2016
Occupancy/Offering of Services	October 1, 2016

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 us if any clarification of this decision is required.

Please refer to the Project I.D. # and Facility I.D. # (FID) in all correspondence.

Sincerely,

Gloria C. Hale, Project Analyst

Martha J. Frisone, Interim Chief
Certificate of Need Section

GCH:MJF:mw

Attachment

cc: Medical Facilities Planning Branch, DHSR
Nursing Home Licensure & Certification Section, DHSR
Construction Section, DHSR

CERTIFICATE OF SERVICE

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

Doug Whitman
2334 South 41st Street
Wilmington, NC 28403

Project I.D. # G-10216-13
FID #130485

This the 25th day of February, 2014.

Gloria C. Hale
Project Analyst