



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

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Division Director

February 19, 2013

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Post Office Box 14210  
Research Triangle Park, NC 27709-4210

**Exempt from Review – Acquisition of Facility**

Facility: Danby House  
Acquisition by: HP Wilson-Salem, LLP  
County: Forsyth  
FID #: 980709

Dear Ms. Hackney:

In response to your letter of January 29, 2013, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(a)(8). Therefore, HP Wilson-Salem, LLP may proceed to acquire the above referenced health service facility without first obtaining a certificate of need. However, you need to contact the Adult Care Licensure Section of the Division of Health Service Regulation to obtain instructions for changing ownership of the existing facility. Note that pursuant to N.C.G.S. §131E-181(b): *“A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need.”*

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Kimberly Randolph  
Project Analyst

  
Craig R. Smith, Chief  
Certificate of Need Section

cc: Adult Care Licensure Section, DHSR  
Medical Facilities Planning Section, DHSR



**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

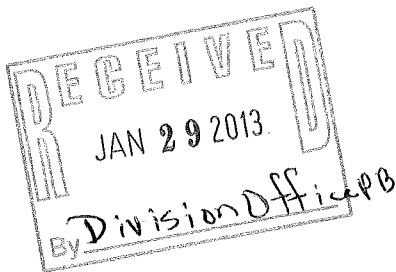
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January 29, 2013

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Mr. Craig Smith, Chief  
Ms. Martha Frisone, Assistant Chief  
Certificate of Need Section  
Division of Health Service Regulation  
Department of Health and Human Services  
809 Ruggles Drive  
Raleigh, NC 27603

Re: Exemption Notice for Danby House (Adult Care Home in Forsyth County)

Dear Craig and Martha:

Our client, HP Winston-Salem, LLC ("HP Winston-Salem") is planning to acquire an adult care home in Forsyth County, known as Danby House (hereafter "the Facility"). The Facility is located at 3150 Burke Mill Road in Winston-Salem. The Facility is listed in the "Inventory of Adult Care Home Beds" in the 2013 State Medical Facilities Plan as having 100 adult care home beds. See Exhibit A.

HP Winston-Salem is seeking to purchase the Facility through a purchase and sale agreement. The purpose of this letter is to provide prior notice of this acquisition, which is exempt from certificate of need ("CON") review, to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (the "Agency"). HP Winston-Salem seeks confirmation that it is permitted to acquire the Facility as described herein without CON Review, thus acquiring the Facility's existing CON rights to own that existing health service facility (as defined in the CON statute) with 100 adult care beds.

**I. THE PROPOSAL**

As of this date, IP-Winston-Salem Health Holdings, LLC owns the property and building comprising the Facility, which is an existing "health service facility," as that term is defined in N.C. Gen. Stat. § 131E-176(9b) and Danby House, LLC is the licensee. HP Winston-Salem will

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purchase the Facility, and the licensee will remain the same, Danby House, LLC. The Facility will still be known as Danby House.

## **II. EXEMPTION NOTICE**

Under North Carolina law, a certificate of need ("CON") is required only prior to offering or developing a "new institutional health service." "New institutional health service" includes a variety of services and activities, including a capital expenditure exceeding \$2 million. N.C. Gen. Stat. § 131E-176(16)(b).

The North Carolina General Assembly saw fit to exempt certain types of services or proposals from CON review, pursuant to N.C. Gen. Stat. § 131E-184. One such exempt service or proposal includes the acquisition of an existing health service facility, "including equipment owned by the health service facility at the time of acquisition." N.C. Gen. Stat. § 131E-184(a)(8).

This project involves only the acquisition of an existing adult care home, which falls within the purview of the statutory definition of "health service facility." After acquisition, the current licensee, Danby House, LLC, will continue to operate the Facility as an adult care home. Furthermore, HP Winston-Salem's acquisition of the Facility does not entail the purchase of any major medical equipment or any *per se* reviewable equipment as defined in N.C. Gen. Stat. §§ 131E-176(14o) and (16)(f1). Likewise, the acquisition does not include the offering of any *per se* reviewable services. N.C. Gen. Stat. § 131E-176(16)(f). Thus, given that the transaction involves only the acquisition of an existing health service facility, it is exempt from CON review.

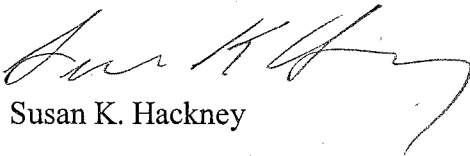
## **III. CONCLUSION**

Based on the foregoing information, we hereby request the Agency's confirmation that the proposal described above is exempt from CON review, pursuant to N.C. Gen. Stat. § 131E-184(a)(8), and thus HP Winston-Salem may acquire the Facility with all its existing CON rights without a CON.

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In addition, we respectfully request that this request be considered on an expedited basis because the parties wish to proceed with this transaction as soon as possible. If you require additional information to consider this request, please contact us at the above number as soon as possible. We thank you for your consideration of this request.

Sincerely,



Susan K. Hackney

Enclosures

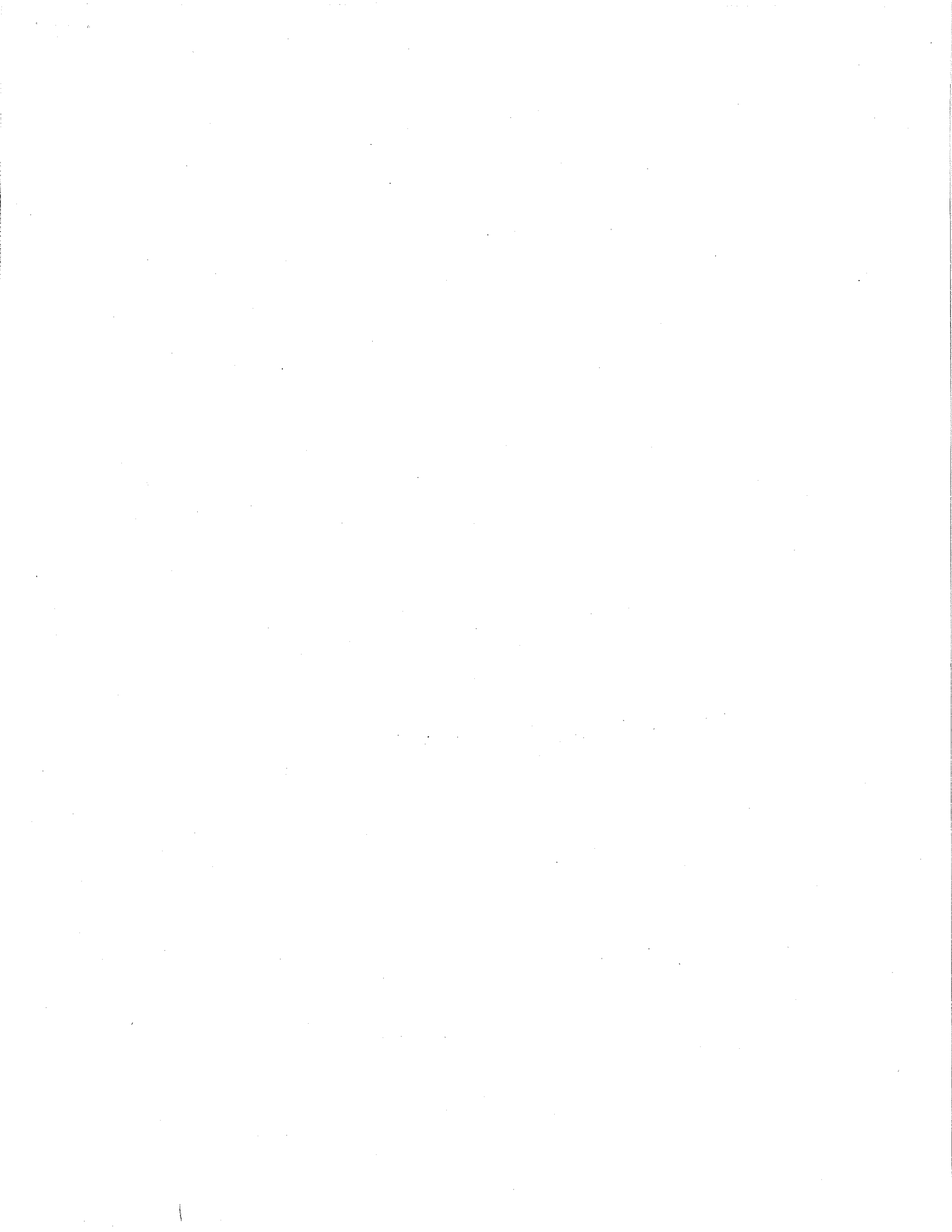


Table 11A: Inventory of Adult Care Homes (Assisted Living) Beds

County	Facility Name	Licensed Beds in Nursing Homes	Licensed Beds in Hospitals	Licensed Beds in Adult Care Facilities	Total Licensed Beds	CON Approved/License Pending				Available in SMFP	Total Available	Sum of Exclusions	Total Planning Inventory
						CON	ACH Exempt	ACH Pipeline	CON Bed Transfer				
Duplin	Wallace Gardens	0	0	64	64	0	0	0	0	0	64	0	64
Duplin	Warsaw Health & Rehabilitation Center	26	0	0	26	0	0	0	0	0	26	0	26
Duplin	Windham Hall	0	0	80	80	0	0	0	0	0	80	0	80
<b>Duplin Totals</b>		<b>26</b>	<b>0</b>	<b>387</b>	<b>413</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>413</b>	<b>0</b>	<b>413</b>
Durham	Arbor Walk	0	0	20	20	0	0	0	0	0	20	0	20
Durham	Carolina House of Durham	0	0	119	119	0	0	0	0	0	119	0	119
Durham	Carver Living Center	20	0	0	20	0	0	0	0	0	20	0	20
Durham	Clare Bridge of Chapel Hill	0	0	38	38	0	0	0	0	0	38	0	38
Durham	Crossdale Village	0	0	30	30	0	0	0	0	0	30	0	30
Durham	Durham Ridge Assisted Living	0	0	142	142	0	0	0	0	0	142	0	142
Durham	Eden Spring Living Center	0	0	19	19	0	0	0	0	0	19	0	19
Durham	Ellison's Rest Home #1	0	0	29	29	0	0	0	0	0	29	0	29
Durham	Eno Pointe Assisted Living	0	0	147	147	0	0	0	0	0	147	0	147
Durham	Hillcrest Convalescent Center	34	0	0	34	0	0	0	0	0	34	0	34
Durham	KC Care Management - Camelia Gardens	0	0	81	81	0	0	0	0	0	81	0	81
Durham	Seasons at Southpoint	0	0	51	51	0	0	0	0	0	51	0	51
Durham	Spring Arbor of Durham	0	0	60	60	0	0	0	0	0	60	0	60
Durham	The Forest at Duke	34	0	0	34	0	0	0	0	0	34	0	34
Durham	Wynwood of Chapel Hill	0	0	70	70	0	0	0	0	0	70	0	70
<b>Durham Totals</b>		<b>88</b>	<b>0</b>	<b>806</b>	<b>894</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>894</b>	<b>0</b>	<b>894</b>
Edgecombe	Heritage Care of Rocky Mount	0	0	126	126	0	0	0	0	0	126	0	126
Edgecombe	Open Fields Assisted Living	0	0	130	130	0	0	0	0	0	130	0	130
Edgecombe	The Fountains at The Albemarle	56	0	0	56	0	0	0	0	0	56	0	56
<b>Edgecombe Totals</b>		<b>56</b>	<b>0</b>	<b>256</b>	<b>312</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>312</b>	<b>0</b>	<b>312</b>
Forsyth	Arbor Acres United Methodist Retirement Community (bed counts per CON project conditions)	50	0	0	50	52	0	0	0	0	102	9	93
Forsyth	Brian Center Health & Retirement/Winston Salem	40	0	0	40	0	0	0	0	0	40	0	40
Forsyth	Brighton Gardens of Winston-Salem	0	0	115	115	0	0	0	0	0	115	0	115
Forsyth	Brookridge Retirement Community	36	0	0	36	0	0	0	0	0	36	0	36
Forsyth	Brookstone Terrace	0	0	40	40	0	0	0	0	0	40	0	40
Forsyth	C.R.T. - Golden Lamb Rest Home	0	0	40	40	0	0	0	0	0	40	0	40
Forsyth	Clare Bridge of Winston-Salem	0	0	38	38	0	0	0	0	0	38	0	38
Forsyth	Clemmons Village I	0	0	60	60	0	0	0	0	0	60	0	60
Forsyth	Clemmons Village II	0	0	66	66	0	0	0	0	0	66	0	66
Forsyth	Cornerstone Living Center of Winston-Salem	0	0	121	121	0	0	0	0	0	121	0	121
Forsyth	Creekside Manor	0	0	60	60	0	0	0	0	0	60	0	60
Forsyth	Danby House	0	0	100	100	0	0	0	0	0	100	0	100
Forsyth	Diversified Health Group	0	0	85	85	0	0	0	0	0	85	0	85
Forsyth	Elms at Tanglewood	0	0	104	104	0	0	0	0	0	104	0	104
Forsyth	Forest Heights Senior Living Community	0	0	125	125	0	0	0	0	0	125	0	125
Forsyth	Forsyth Village	0	0	60	60	0	0	0	0	0	60	0	60
Forsyth	Heritage Woods	0	0	29	29	0	0	0	0	0	29	0	29
Forsyth	Homestead Hills Retirement Limited Partnership	0	0	66	66	0	0	0	0	0	66	0	66
Forsyth	Kerner Ridge Assisted Living	0	0	66	66	0	0	0	0	0	66	0	66
Forsyth	Magnolia Creek Assisted Living	0	0	117	117	0	0	0	0	0	117	0	117
Forsyth	Reynolds Park	0	0	72	72	0	0	0	0	0	72	0	72
Forsyth	Salem Terrace	0	0	142	142	0	0	0	0	0	142	0	142
Forsyth	Salemtowne	46	0	0	46	0	0	0	0	0	46	0	46
Forsyth	Shuler Health Care/Crane Villa	0	0	12	12	0	0	0	0	0	12	0	12
Forsyth	Shuler Health Care/Phillips Villa	0	0	12	12	0	0	0	0	0	12	0	12
Forsyth	Shuler Health Care/Pierce Villa	0	0	12	12	0	0	0	0	0	12	0	12
Forsyth	Shuler Health Care/Record Villa	0	0	12	12	0	0	0	0	0	12	0	12
Forsyth	Shuler Health Care/Storey Villa	0	0	12	12	0	0	0	0	0	12	0	12

