

## REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: March 28, 2024

Findings Date: March 28, 2024

Project Analyst: Crystal Kearney

Co-Signer: Micheala Mitchell

Project ID #: J-12452-23

Facility: Mayview Assisted Living Center

FID #: 170322

County: Wake

Applicant(s): Mayview Assisted Living, LLC  
Mayview Healthcare Properties, Inc.  
Whitaker Glen, Inc.

Project: Develop 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID# J-11371-17 (develop a new ACH facility)

### REVIEW CRITERIA

G.S. 131E-183(a): The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

### C

Mayview Assisted Living Center, LLC, Mayview Healthcare Properties, Inc. and Whitaker Glen, Inc. (hereinafter collectively referred to as “the applicant” or “Mayview ALC”) propose a cost overrun (COR) and change of scope (COS) to Project ID # J-11953-20 (COS for Project ID# J-11371-17).

A certificate of need was issued on March 16, 2021, for Project ID# J-11953-20 to relocate 55 existing ACH beds from Brookridge Assisted Living for a total of no more than 75 ACH beds,

which was a change of scope for Project ID# J-11371-17 (develop a new ACH facility). The applicant was authorized a capital expenditure of \$ 37,653,063.

The current application proposes another COS in which the applicant proposes to develop an additional 27 ACH beds for a total of 102 ACH beds upon project completion. The application also proposes a COR of \$ 27,738,879 over the previously approved capital expenditure for a total combined capital expenditure of \$65,391,942.

### **Need Determination**

The original project did not involve a need determination pursuant to any of the applicable State Medical Facilities Plans (SMFP) and the current COR/COS application does not involve the addition of any new health service facility beds, services, or equipment for which there is a need determination in the 2023 SMFP. Therefore, there are no need determinations applicable to this review.

### **Policies**

There are two policies in the 2023 SMFP that apply to this review. *Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

#### **Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds**

*Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds* on page 25 of the 2023 SMFP states:

*“Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes. To qualify for such exemption, applications for certificates of need shall document that the proposal meets all the following requirements:*

- 1. will only be developed concurrently with, or subsequent to, construction on the same site of independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages, and rooms.*
- 2. will provide for the provision of nursing services, medical services or other health related services as required for licensure by the North Carolina Department of Insurance.*
- 3. will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing or adult care*

*unit of the continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.*

4. *reflects the number of adult care home beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care after making use of all feasible alternatives to institutional adult care home care.*
5. *will not participate in the Medicaid program or serve State-County Special Assistance recipients.*

*One hundred percent of the adult care home beds developed under this exemption shall be excluded from the inventory used to project adult care home bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the North Carolina 2002 State Medical Facilities Plan are automatically amended to conform with the provisions of this policy at the effective date of this policy.”*

The applicant states that Mayview ALC will be located on the campus of The Oaks at Whitaker Glen CCRC, the independent living accommodations in Raleigh, NC. Mayview ALC staff will provide care coordination and assistance with activities of daily living. The Pruitt Health affiliates that Mayview ALC will utilize PruittHealth Consulting Services, PruittHealth Therapy Services, and PruittHealth Medical Services. These affiliates will provide nursing consultants, specialist staff, and therapeutic services (e.g. physical, occupational, speech, and respiratory therapy) meet the needs of people with continuing care, contracts and reflects the number of adult care home beds required to meet projected resident need. The applicant will not participate in the Medicaid program or serve State-County Special Assistance recipients.

Therefore, the application is consistent with Policy LTC-1.

*Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*

*Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*, on page 30 of the 2023 SMFP, states:

*“Any person proposing a capital expenditure greater than \$4 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.*

*In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178, Certificate of Need shall impose a condition requiring the applicant to 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. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy GEN-4.*

*Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 is required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy- GEN 4. The plan shall not adversely affect patient or resident health, safety or infection control."*

The capital expenditure of the project is greater than \$4 million. In Section B, pages 28-29, the applicant describes its plan to assure improved energy efficiency and water conservation.

The application is consistent with Policy GEN-4.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion based on the following:

- The applicant adequately demonstrates that the proposal is consistent with Policy LTC- 1 for all the reasons cited above.
- The applicant adequately demonstrates that the proposal is consistent with Policy GEN-4 because application includes a written statement describing the applicant's commitment to assuring energy efficiency and water conservation.

(2) Repealed effective July 1, 1987.

(3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, ... persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

- Project ID # J-11371-17 was approved on November 8, 2017, to develop a new ACH by acquiring and relocating 20 ACH beds on the campus of the Oak at Whitaker Glen, and a certificate of need was issued on December 9, 2017.
- The applicant subsequently submitted a second CON application, Project ID# J-11953-20, for a change in scope of Project ID # J-11371-17 which the Agency approved through settlement. On March 16, 2021, the Agency issued a CON to the applicant to acquire, relocate, and develop 55 ACH beds at the new adult care home facility on the campus of The Oaks at Whitaker Glen.
- The total number of ACH beds previously approved for development is 75 beds.
- The applicant proposes a change of scope by developing an additional 27 ACH beds under Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds.

### **Patient Origin**

On page 171, the 2023 SMFP defines the service area for ACH beds as “...*the county in which the bed is located.*” Thus, the service area for this facility is Wake County. Facilities may also serve residents of counties not included in their service area.

In Section C, page 33, the applicant states it does not project a change to patient origin from what was projected Project ID# J-11953-20. The applicant states,

*“Most residents who enter an assisted living facility do so because they can no longer accomplish the necessary activities of daily living to live independently. However, when possible, these residents attempt to enter an assisted living facility close to their home to maintain their established family, social, medical, religious, and other relationships. Mayview ALC will focus on Wake County residents living within a 45 minute or closer drive to the adult care home.*

*Mayview ALC has determined that almost the entire population of Wake County lives within 45 minutes of adult care home facility and this population makes up 100.0 percent of the anticipated ACH facility resident population.*

*Additionally, the proposed 27 adult care home beds in this application will be dedicated to the CCRC residents living at The Oaks at Whitaker Glen, as such, all of those residents will be residents of Wake County.”*

The Agency approved Project ID# J-119530-20.

This information is reasonable and adequately supported because the applicant proposes no changes to patient origin from what it projected in Project ID # J-119530-20.

**Analysis of Need**

The following table compares the capital cost approved in Project I# J-11953-20, the changes proposed in this application, and the new projected capital costs, as reported on Form F.1b in Section Q.

Cost Category	Cost Overrun CON Project ID #s J-11371-17 J-11953-20	Cost Overrun CON	Change in Cost
Site Preparation	\$1,018,000	\$2,836,610	\$1,818,610
Construction/Renovation Contract(s)	\$31,213,978	\$48,505,945	\$17,291,967
Landscaping	\$200,000	\$600,000	\$400,000
Architect / Engineering Fees	\$827,000	\$1,238,626	\$411,626
Permits and Inspections	\$230,000	\$792,124	\$562,124
Non Medical Equipment	\$673,740	\$1,648,424	\$974,684
Furniture	\$1,041,644	\$1,973,590	\$931,946
Consultant Fees (specify)	\$75,000	\$125,000	\$50,000
Financing Costs	\$424,983	\$560,771	\$135,788
Interest During Construction	\$1,242,849	\$6,404,983	\$5,162,134
Other (Bed Acquisition)	\$705,869	\$705,869	\$0
<b>Total Capital Cost</b>	<b>\$37,653,063</b>	<b>\$65,391,942</b>	<b>\$27,738,879</b>

In Section C, page 32, the applicant states the delay in beginning construction of Mayview ALC, which should have occurred in October 2022, is primarily due to the urgency of demolishing and replacing a 65-year-old skilled nursing facility, The Oaks at Whitaker Glen – Mayview, on the CCRC campus. The replacement skilled nursing facility, which is located adjacent to the proposed Mayview ALC, became the priority, and was approved to be replaced by the Agency in June 2022.

The information is reasonable and adequately supported on the following:

- There have been numerous cost overrun applications submitted to the Agency within the last several years due to increases in construction costs and the representations made by the applicant are consistent with representations made by unrelated applicants.
- The applicant adequately explains the reasons additional costs are necessary to develop the proposed project.
- Project ID #J-11953-20 was not conforming with Criterion (3) with regard to demonstration of need; however, additional information submitted by the applicant as part

of a settlement agreement adequately demonstrated the need for the proposed project, and no changes are proposed in this application which would affect that determination.

**Project Utilization**

In Section C, page 33, the applicant projects changes in utilization. The applicant projects that utilization will double during its ramp up period between the commencement of operations and the end of the first quarter of its second fiscal year. Additionally, its occupancy rate is projected to remain stable at 95.1% at the end of its third full fiscal year.

In Section Q, Form C.1b the applicant provides historical and projected utilization, as illustrated in the following table:

<b>Form C.1b Projected Health Service Facility Bed Utilization upon Project Completion Mayview ALC</b>	<b>1<sup>st</sup> Full FY 2027</b>	<b>2<sup>nd</sup> Full FY 2028</b>	<b>3<sup>rd</sup> Full FY 2029</b>
<b>Adult Care Home – All Beds</b>			
Total # of Beds, including all those in a SCU	102	102	102
# of Admissions or Discharges (Move-Ins)	84	37	29
# of Patients Days	16,352	34,858	35,405
Average Length of Stay	250	250	250
Occupancy Rate	43.9%	93.6%	95.1%

As shown in the table above, the applicant projects that the 102 beds will operate at 93.6% of capacity in the second year of operation [ $34,858 \text{ patient days} / 365 \text{ days per year} / 102 \text{ beds} = 0.936$ ]. In Section Q, the applicant provides the assumptions and methodology used to project utilization, which is summarized below:

- The proposed facility will consist of 82 units with 102 beds.
- The applicant projects a ramp-up period of 15 months beginning in FY 2027 with admissions totaling between 6-8 residents per month.
- The applicant further projects that the average annual occupancy will stabilize between the second and third fiscal years and that its occupancy rate will be 95.1% at the conclusion of its third full fiscal year.

Projected utilization is reasonable and adequately supported.

**Access to Medically Underserved Groups**

In Section C, page 34, the applicant states it does not project changes to access by medically underserved groups as a result of the proposed project. The applicant is proposing to develop

an additional 27 adult care home beds under Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds. The 5<sup>th</sup> requirement to meet the exemption under Policy LTC-1 states:

*“5. will not participate in the Medicaid program or serve State-County Special Assistance recipients.”*

As such, no change in the previously approved access by medically underserved groups will change as a result of this change of scope.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion and there are no changes proposed in this application which would affect that determination.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, ... persons [with disabilities], and other underserved groups and the elderly to obtain needed health care.

NA

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

Project ID #J-11953-20 was not conforming with Criterion (3a); however, additional information submitted by the applicant during settlement adequately demonstrated the needs of the population would be met adequately by alternative arrangements and the proposed project would not adversely impact the ability of underserved groups to access these services following project completion.

In this cost overrun application, the applicant does not propose to reduce a service, eliminate a service, or relocate a facility or service. Therefore, Criterion (3a) is not applicable to this review.

- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.



## CA

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

In Section E, page 37, the applicant states in Mayview ALC's two previously approved CON applications, Project ID# J-11371-17 and Project ID# J-11953-20, Mayview ALC discussed the need to construct an assisted living center on the campus of The Oaks at Whitaker Glen CCRC and those reasons have not changed.

On page 37, Mayview ALC states that it considered developing the assisted living facility at The Oaks at Whitaker Glen-Mayview site for the following reasons, and this alternative was found to be more effective because:

- Building on the campus of The Oaks at Whitaker Glen-Mayview will allow the sharing/contracting of services, as well as a continuum of care on the same campus. As adult care home residents' needs change, they may be able to transition to the skilled nursing beds at The Oaks at Whitaker Glen, without disrupting their familiar surroundings and their network of support.
- The site has space available for the assisted living facility as well as for future development.
- All residents of Wake County live within a 45-minute drive time of The Oaks at Whitaker Glen- Mayview.
- An assisted living facility in north Raleigh eliminates the need for Raleigh residents to relocate to surrounding communities of Wendell, Wake Forest, Knightdale, Cary, Apex, Fuquay-Varina, etc. Keeping residents close to their familiar surroundings and network of support is essential for the residents' overall physical and mental health.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective to meet the need for the following reasons:

- The applicant is conforming to all statutory and regulatory review criteria.
- The applicant provides creditable information to explain why it believes the proposed project is the most effective alternative.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on the review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is approved subject to the following conditions:

1. **Mayview Assisted Living Center, LLC, Mayview Healthcare Properties, Inc. and Whitaker Glen, Inc. (hereinafter certificate holder) shall materially comply with all representations made in the certificate of need application.**
2. **The certificate holder shall develop Mayview Assisted Living Center as approved in the certificate of need for Project ID # J-11953-20, with change of scope in the development of the proposed project.**
3. **The certificate holder shall develop 27 new adult care home beds at Mayview Assisted Living Center.**
4. **Upon completion of this project, Project ID# J-11953-20 and Project ID# J-11371-17, Mayview Assisted Living Center shall be licensed for no more than 102 adult care home beds.**
5. **The total combined capital expenditure for this project and Project ID #J-11953-20 is \$37,653,063, an increase of \$27,738,879 over the capital expenditure of \$65,391,942 previously approved in Project ID #J-11953-20.**
6. **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.**
7. **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 November 1, 2024.**

8. **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.**
  9. **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.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

**Capital and Working Capital Costs**

The certificate of need issued on March 16, 2021, Project ID # J-11953-20 approved a capital expenditure of \$37,653,063. The applicant states to develop the project it requires a total capital expenditure of \$65,391,942. The COR/COS application is necessary due to increased construction costs, increased costs of goods and services, and due to the increased number of ACH beds since the original project was approved.

The following table compares the previously approved capital costs and the proposed capital cost for this project, as reported by the applicant in Section Q, Form F.1b.

Cost Category	Cost Overrun CON Project ID #s J-11371-17 J-11953-20	Cost Overrun CON	Change in Cost
Site Preparation	\$1,018,000	\$2,836,610	\$1,818,610
Construction/Renovation Contract(s)	\$31,213,978	\$48,505,945	\$17,291,967
Landscaping	\$200,000	\$600,000	\$400,000
Architect / Engineering Fees	\$827,000	\$1,238,626	\$411,626
Permits and Inspections	\$230,000	\$792,124	\$562,124
Non Medical Equipment	\$673,740	\$1,648,424	\$974,684
Furniture	\$1,041,644	\$1,973,590	\$931,946
Consultant Fees (specify)	\$75,000	\$125,000	\$50,000
Financing Costs	\$424,983	\$560,771	\$135,788
Interest During Construction	\$1,242,849	\$6,404,983	\$5,162,134
Other (Bed Acquisition)	\$705,869	\$705,869	\$0
<b>Total Capital Cost</b>	<b>\$37,653,063</b>	<b>\$65,391,942</b>	<b>\$27,738,879</b>

In Section C, page 31, the applicant states the cost overrun application is necessary due to increased costs, primarily related to construction and site preparation, since the issuance of the original certificate of need. The applicant states the reason behind the increases is primarily related to costs that were known to affect the construction industry in particular.

**Availability of Funds**

In Section F, page 40, the applicant states that the capital cost will be funded, as shown in the table below.

**Sources of Capital Cost Financing**

<b>Applicant 1</b>	<b>Mayview Assisted Living Center, LLC</b>		
	<b>Previously Approved</b>	<b>Proposed</b>	<b>Difference</b>
<b>Total to be Incurred by Applicant 1</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Applicant 2</b>	<b>Mayview Healthcare Properties, Inc.</b>		
	<b>Previously Approved</b>	<b>Proposed</b>	<b>Difference</b>
Loans	\$29,268,005	\$51,459,108	\$22,191,103
Cash and Cash Equivalents, Accumulated Reserves, or Owner's Equity	\$7,679,189	\$13,226,965	\$5,547,776
<b>Total to be Incurred by Applicant 2</b>	<b>\$36,947,194</b>	<b>\$64,686,073</b>	<b>\$27,738,879</b>
<b>Applicant 2</b>	<b>Whitaker Glen, Inc.</b>		
	<b>Previously Approved</b>	<b>Proposed</b>	<b>Difference</b>
Cash and Cash Equivalents, Accumulated Reserves, or Owner's Equity	\$705,869	\$705,869	\$0
<b>Total to be Incurred by Applicant 3</b>	<b>\$705,869</b>	<b>\$705,869</b>	<b>\$0</b>

In Section F, page 39, the applicant states that the capital costs will be funded by Synovus Bank. In Exhibit F.5, the Synovus Bank indicates its willingness to provide funding for the cost overrun in the form of a commercial loan. The applicant will not use other forms of financing to fund the cost overrun.

The applicant adequately demonstrates the availability of sufficient funds for the capital needs of the project based on the following:

- The applicant provides documentation that confirms the commitment of the Synovus Bank to fund the capital needs of the project.
- The applicant provides documentation that Pruitt Health has sufficient funds available from Synovus Bank to cover the capital needs of the project.

### **Financial Feasibility**

In Section F, page 40, The applicant states the proposed changes to the scope or the cost overrun results in changes to total working capital from the previously approved application.

<b>Line 1</b>	New total estimated start-up costs	\$325,000
<b>Line 2</b>	New total estimated initial operating costs during initial operating period	\$1,175,000
<b>Line 3</b> (Line 1 + Line 2)	New total working capital	<b>\$1,500,000</b>
<b>Line 4</b>	Previously approved total working capital	\$1,340,563
<b>Line 5</b> (Line 3 – Line 4)	Difference	\$159,437

In Section F, page 40, the applicant states the current application proposes an increase due to the cost overrun. Start-up expenses will increase due to increased staffing salaries, as well as increased meeting/seminars/training. The initial operating period will be 9 months or the 1<sup>st</sup> three quarters of Year 1.

The applicant provided pro forma financial statements for the first three full fiscal years (FY) of operation (2027 – 2029) following completion of the project. The applicant states the cost overrun will result in an increase in revenue due to updated utilization projections and an increase in both revenue and operating costs related to the updated utilization projections and depreciation, as the following table summarizes:

<b>Form F.2b Projected Revenues and Net Income upon Project Completion</b>	<b>1<sup>st</sup> Full FY 2027</b>	<b>2<sup>nd</sup> Full FY 2028</b>	<b>3<sup>rd</sup> Full FY 2029</b>
Total Patient Days of Care	16,352	34,858	35,405
Total Gross Revenues (Charges)	\$3,706,123	\$7,085,235	\$7,387,212
Total Net Revenue	\$3,647,828	\$6,963,968	\$7,260,769
Average Net Revenue per &	\$223	\$200	\$205
Total Operating Expenses (Costs)	\$4,745,480	\$5,915,004	\$6,212,286
Average Operating Expense per &	\$290	\$170	\$175
Net Income	(\$1,097,652)	\$1,048,963	\$1,048,483

The assumptions used by the applicant in preparation of the pro forma financial statements are provided in Section Q. The applicant adequately demonstrates that the financial feasibility of the proposal is reasonable and adequately supported based on the following reasons:

- Exhibit F.5 provides documentation of sufficient funding through commitment letters from the owners Pruitt Health.
- Exhibit F.5 provides a commitment letter from the Chief Financial Officer committing the necessary funds to the project development.
- Exhibit F.5 provides documentation of sufficient cash reserves and total assets to fund the project capital costs.
- The applicant accounts for the increase in projected operating expenses, such as salaries, consistent with projections elsewhere in the application.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately demonstrates that the capital costs are based on reasonable and adequately supported assumptions for all the reasons described above.
- The applicant adequately demonstrates availability of sufficient funds for the capital needs of the proposal for all the reasons described above.
- The applicant adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of revenues and operating expenses.

- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

On page 171, the 2023 SMFP defines the service area for ACH beds as “...*the county in which the bed is located.*” Thus, the service area for this facility is Wake County. Facilities may also serve residents of counties not included in their service area.

The applicant proposes to increase the number of ACH beds to be developed at the proposed facility, Mayview ALC. The applicant’s proposed health services will remain unchanged from the original CON application even when considering the increase in costs due to the reasons described in Section F.

Project ID # J-11953-20 was approved by settlement and found conforming to this criterion and the applicant proposes no changes in the current application that would affect that determination.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

C

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

In Section H, page 43, the applicant states that Mayview ALC expects the projected staffing during the first three full fiscal years of operation to change from the original CON application due to the revised number of residents receiving enhanced services and more efficient staffing. Additionally, the management fee includes services previously performed by facility staff.

The following table compares the previously approved staff with the proposed staffing:

<b>Staffing Comparison</b>					
	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>
<b>Previously Approved</b>	<b>1<sup>st</sup> Year</b>	<b>2<sup>nd</sup> Year</b>	<b>3<sup>rd</sup> Year</b>		
<b>Total Staffing</b>	31.8	41.8	41.8		
<hr/>					
<b>Cost Overrun CON</b>			<b>1<sup>st</sup> Year</b>	<b>2<sup>nd</sup> Year</b>	<b>3<sup>rd</sup> Year</b>
<b>Total Staffing</b>			20.9	28.9	31.9

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

C

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

In Section I, pages 44-45, Mayview ALC expects the provision of necessary ancillary and support services at the facility to remain unchanged from the original CON application even when considering the increase in costs due to the reasons described in Section F.

The ancillary and support services required to operate the new adult care home will be provided by Mayview ALC staff or by PruittHealth corporate contracts or staff.



Mayview ALC expects coordination with existing healthcare systems after the completion of the facility to remain unchanged from the original CON application even when considering the increase in costs due to the reasons described in Section F.

The Oaks at Whitaker Glen-Mayview has formal agreements with existing health professional training programs in the service area and Mayview ALC will establish formal agreements with these same programs

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

The applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
- (i) would be available under a contract of at least 5 years duration;
  - (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
  - (iii) would cost no more than if the services were provided by the HMO; and
  - (iv) would be available in a manner which is administratively feasible to the HMO.

NA

The applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review.

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

C

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

In Section K, page 47, the applicant states this project does not propose changing sites. This project proposes construction of 132,893 square feet of new construction. The project architect has reviewed the necessary construction requirements and codes to construct Mayview ALC and has estimated total construction costs alone to be \$17.3 million over the 2020 estimate [\$48.5 million - \$31.2 million = \$17.3 million]. Exhibit F.5 includes an Anticipated Project Cost worksheet that estimates construction and related costs (site, landscaping, A&E fees, and permits) for the 132,893 square foot facility to be approximately \$54.0 million, which is consistent with Form F.1a Capital Costs in Section Q of the CON application.

The following plans will be incorporated into the design of the Mayview ALC facility to improve energy efficiency and water conservation:

#### Building Envelope

- The building envelope will contain R-19 insulated walls with building wrap to reduce thermal transmission and air infiltration.
- Dual pane low-E glass is incorporated into the buildings fenestration to minimize heat loss during the heating season and heat gain during the cooling season.
- The main entry vestibules incorporate dual automatic doors to provide an air-lock to prevent excessive air infiltration.
- Wind baffles will be used to maintain the insulation coverage at the edges of the ventilated attic.

- Landscaping will be considered for breaking sun and wind exposure to the building.

#### Lighting

- Natural lighting will be utilized throughout the facility including high clear-story glass at activity areas and indirect skylights in neighborhood corridors.
- General lighting fixtures will utilize high efficiency lamps.
- Occupancy sensors will be used throughout public areas to minimize energy loss due to lighting in unoccupied spaces.

#### Mechanical Systems

- Mechanical heating and cooling systems will interface with an energy recovery system to precondition and dehumidify outside air before entering the building.
- Energy management systems will optimize the operation of mechanical units.

#### Plumbing Systems

- Hot water heating will utilize high efficiency heaters with return circulating loop providing instantaneous hot water to residents, reducing water consumption.
- Low usage fixtures will be utilized where possible to reduce water consumption.

The information is reasonable and adequately supported because the applicant proposes an increase to the number of beds being developed in Project ID# J-11953-20 (COS for Project ID# J-11371-17) and the square footage at the construction site. Additionally, the project architect has reviewed the construction requirements and provided estimates for that construction and all related costs.

#### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as

medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and ... persons [with disabilities], which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

Project ID# J-11953-20 (COS for Project ID# J-11371-17) was conforming to this criterion and the applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, the application is conforming to this criterion

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and persons with disabilities to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

Project ID# J-11953-20 (COS for Project ID# J-11371-17) was conforming to this criterion and the applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, the application is conforming to this criterion

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

In Section L, page 50, Mayview ALC expects access by medically underserved groups by the development of the facility to remain unchanged from the original CON application even when considering the increase in costs due to the identified reasons. Mayview ALC is proposing to develop an additional 27 adult care home beds under Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds. The 5<sup>th</sup> requirement to meet the exemption under Policy LTC-1 states:

*“5. will not participate in the Medicaid program or serve State-County Special Assistance recipients.”*

Project ID# J-11953-20 was found conforming to this criterion through settlement and the applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, the application is conforming to this criterion.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C

In Project ID #J-11953-20, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, this application is conforming to this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

In Section M, page 51, the applicant states,

*“Mayview ALC expects meeting the clinical needs of area health professional training programs after the completion of the facility to remain unchanged from the original CON application even when considering the increase in costs due to the reasons described in Section F.*

*The Oaks at Whitaker Glen-Mayview has formal agreements with existing health professional training programs in the service area and Mayview ALC will establish formal agreements with these same programs.”*

Project ID# J-11953-20 was conforming to this criterion and the applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, the application is conforming to this criterion.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (15) Repealed effective July 1, 1987.
  - (16) Repealed effective July 1, 1987.
  - (17) Repealed effective July 1, 1987.
  - (18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

## C

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

On page 171, the 2023 SMFP defines the service area for ACH beds as “...*the county in which the bed is located.*” Thus, the service area for this facility is Wake County. Facilities may also serve residents of counties not included in their service area.

In Section N, pages 52-53, the applicant states there are no changes to the expected effects of the proposal on competition in the proposed service area and there are no changes to the impact of enhanced competition on the cost-effectiveness, quality, and access by medically underserved groups to what was approved by settlement in Project ID# J-11953-20. The information is reasonable and adequately supported because the applicant proposes the impact of enhanced competition on the cost effectiveness, quality and access by medically underserved groups by the development of the facility to remain unchanged from the original CON application even when considering the increase in costs due to the identified reasons. The 102-bed adult care home facility will have a positive impact on cost effectiveness and quality of care. Therefore, the application is conforming to this criterion.

## **Conclusion**

The Agency reviewed the:

- Application

- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion based on all the reasons described above.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

The applicant proposes to develop an additional 27 adult care home (ACH) beds at a healthcare facility for a total of 102 ACH beds upon project completion which is a change of scope and cost overrun for Project ID# J-11953-20 (relocate 55 existing ACH beds from Brookridge Assisting Living for a total of 75 beds) and Project ID#J-11371-17 (develop a new ACH facility).

In Section O, page 54, the applicant states that,

*“Mayview ALC is committed to the appropriate provision of comprehensive, high quality, safe, and cost-effective adult care home services to persons in need of such services. PruittHealth experience and expertise in providing quality adult care home services is not only evidenced by its number of successful programs, but also in its quality assurance practices.*

*The quality program at Mayview ALC will consist of corporate standards, leadership and training, external benchmarking and awards, continuous process improvement and transparency.”*

In Section O, page 60, the applicant states that Mayview ALC is currently approved to operate a 75-bed, adult care home facility in Wake County. Mayview ALC is not yet developed and is not licensed. However, United Health Services, the parent company of Mayview, LLC, operates 10 adult care home beds at The Oaks-Brevard (NH0563), a nursing home facility in Transylvania County. According to the files in the Nursing Home Licensure and Certification Section, DSHR, there were no incidents related to quality of care during the 18 months immediately preceding the submission of the application through the date of this decision. Therefore, the applicant is conforming to this criterion.

- (21) Repealed effective July 1, 1987.

G.S. 131E-183 (b): The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical

center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C

The application is conforming with all applicable Criteria and Standards for Adult Care Homes. The specific criteria are discussed below.

**SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES**

**10A NCAC 14C .1102 PERFORMANCE STANDARDS**

*(a) An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.*

-NA- The applicants do not propose to add nursing facility beds to an existing facility.

*(b) An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*

-NA- The applicants do not propose to establish a new nursing facility or add nursing facility beds to an existing facility.

*(c) An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*

-NA- The applicants do not propose to develop adult care home beds to an existing facility.

*(d) An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*



-C- In Section Q, on Form C, the applicants project that the proposed facility will have an occupancy rate of 93.6% by the end of the second operating year following project completion. The applicants describe their assumptions and methodology for projecting utilization in Section Q, Form C. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.