

**COMMENTS ABOUT SAME DAY SURGERY CENTER FRANKLIN &
NOVANT HEALTH, INC.'S CON APPLICATION TO RELOCATE ONE
EXISTING OPERATING ROOM IN FRANKLIN COUNTY**

**SUBMITTED BY THE TOWN OF LOUISBURG
DECEMBER 31, 2013**

Same Day Surgery Center Franklin, LLC ("SDSCF") is a limited liability company owned one hundred percent (100%) by Novant Health, Inc. ("Novant"). On November 15, 2013, SDSCF submitted a Certificate of Need (CON) Application to relocate one existing operating room (OR) from Novant Health Franklin Regional Medical Center (FMC "FMC" or the "Hospital") to SDSCF (the "Application"). The Application proposes to reduce surgical capacity at the only hospital located in Franklin County FMC, by developing an OR in a new facility approximately two miles northwest of Youngsville, Franklin County, just north of the intersection of US Highway 1 and NC Highway 96 and approximately two miles from the Wake County line.

Novant's current proposal to reduce the operating room inventory at Franklin Medical Center is a new tactic in Novant's long-standing strategy to close the Hospital in Louisburg. In February 2007, and then again in November 2007, the owners of Franklin Medical Center filed two separate CON Applications (Project ID #s K-7806-07 and K-8024-07) to relocate the Hospital to Youngsville. The Agency found both Applications to be non-conforming to the Review Criteria and disapproved them.

Novant created SDSCF, an ambulatory surgery center in Youngsville via a 2009 CON Application (Project ID # K-8357-09). When Novant proposed the 2009 project, as an experienced facility operator Novant certainly was aware that an ambulatory surgery center with one operating room is very limited in its capacity to serve as a multi-specialty ASC. This is clear because Novant did not develop the project per the CON-approved timetable, which projected completion during 2011. In fact, during both summer 2012 and summer 2013 the Agency demanded that Novant complete comprehensive progress reports to explain the lack of progress on the ASC project. Novant simply has been buying time in order to put into effect its long-planned strategy of gutting FMC with this new proposal.

This new Novant scheme would reduce the Hospital's operating room capacity by 33%. This is a significant reduction in the Hospital's capacity to offer surgical services, and would negatively impact the long-term viability of Franklin Medical Center. As Novant well knows, surgical services are a key to the financial viability of a hospital. In North Carolina, very few hospitals have only two operating rooms and those that do are located in very rural communities and do not have favorable

prospects for long-term viability. Reduction of OR capacity at FMC is a clear signal to the Medical Staff that Novant is not investing long-term in FMC, and will be a disincentive for surgeons to perform surgery there.

As a result, the residents of Franklin County will be negatively impacted by the OR relocation because relatively higher populations of medically underserved groups, including lower income persons, the elderly, and racial minorities will have less convenient and/or more difficult access to care.

These comments demonstrate the various reasons why the Application is not conforming to the CON Review Criteria and should therefore not be approved. These comments also address reasons why the proposed project would not be in the best interest of the residents of Franklin County.

In assessing the Application, the CON Section should consider several key issues. These include, but are not limited to:

- (1) The reasonableness of the applicant's projections of future utilization and accuracy of projected patient origin;
- (2) The extent to which underserved populations will have decreased access to healthcare services, namely the elderly, low income persons, and racial and ethnic minorities;
- (3) The proximity of the proposed site to the Wake County line;
- (4) The negative impact on the long-term viability of FMC; and
- (5) The lack of evidence to support that the proposal represents the least costly or most effective alternative.

Comments regarding CON Project I.D. #K-10229-13

Submitted by the Town of Louisburg

Required Applicant(s)

CON Project I.D. K-10229-13 identifies only one applicant in Section I.1 (SDSC Franklin, LLC); however, the proposed project involves relocation of one OR from an existing health service facility (FMC) to another health service facility (SDSCF). In previous CON reviews involving the relocation of healthcare services from licensed health service facilities, both the source and destination facilities have been identified as applicants. For example, see CON Project I.D. #F-8161-08 (relocate inpatient rehabilitation beds), C-8737-11 (relocate skilled nursing beds) and F-10073-13 (relocate adult care home beds). Therefore, the Novant Application should have identified both FMC and SDSCF as applicants for the proposed project. An Application that is not complete cannot be found conforming to all regulatory review criteria. Therefore, the Novant Application is not approvable. In addition, CON Project I.D. K-10229-13 should not be approved for the following reasons.

CON Review Criteria

- (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, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.**

Population to Be Served

Novant failed to adequately identify the population to be served by the proposed project. Specifically, Novant failed to provide historical and projected surgical patient origin for FMC. The applicant's response to Sections III.6-7 provides patient origin information relevant only to SDSCF. As described previously, Novant proposes to remove one OR from the Hospital and relocate it to a separately licensed health service facility; thus, the historical and projected patient origin for both SDSCF and FMC are relevant to the services proposed. Absent any information regarding how the proposed project will impact patient origin on the

Hospital, one cannot determine or evaluate the need that FMC’s patient population will have for surgical services, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed. Novant failed to adequately identify the population to be served. Consequently, the Application is not conforming to Criterion 3.

Projected Utilization

Outpatient Surgery Use Rate

Novant utilized an aggressive and unrealistic methodology to project surgical procedures to be performed at the proposed ASC in Youngsville and at FMC. Novant’s methodology and assumptions to project utilization at SDSCF and FMC are included in pages 58 – 69 and Exhibit 3 of Novant’s CON Application.

Step One of Novant’s methodology begins with a flawed and overstated assumption to utilize a four-year average use rate for the counties included in the proposed service area. The decision to utilize a four-year average use rate results in a higher use rate for each of the four counties in the proposed service area compared to most recent use rate data, as calculated by Novant. As shown in the applicant’s own table provided in Exhibit 3: Table 6, county-based ambulatory surgical use rates have consistently decreased during the most recent four years.

Ambulatory Surgery Use Rates

	County Specific Outpatient Surgery Use Rates				
	2009	2010	2011	2012	4Yr Avg
Franklin County	60.69	60.43	59.04	58.31	59.62
Vance County	61.06	63.05	63.04	57.33	61.12
Wake County	61.49	61.90	57.49	55.37	59.06
Nash County	70.28	63.96	66.93	65.32	66.62

Source: CON Project I.D. K-10229-13, Application, Exhibit 3, Table 6

Novant speculates that ambulatory surgery use will increase as a result of the Affordable Care Act and the impact of the aging Baby Boomer population; however, there is not sufficient evidence available at this time to substantiate the immediate increase in ambulatory surgery use based solely on these factors. Since its launch in early October, Healthcare.gov has been plagued with bugs, errors, and issues that have hindered or delayed the enrollment of tens of thousands of individuals. Thus, it cannot reasonably be assumed, as Novant does, that the Affordable Care Act will immediately increase surgical utilization in Franklin, Wake, Nash and Vance counties beginning in 2014. Additionally, Franklin County has long been comprised of an older population as compared to the remainder of the counties in the State. Thus, the aging Baby Boomer population will not be a new phenomenon in Franklin County. In summary, the methodology for projecting utilization for ambulatory surgery utilization in the proposed service area is predicated on unrealistic and inflated use rates that are inconsistent with the four-year trend of decreasing use rates for Franklin, Wake, Nash and Vance counties. The result is overstated ambulatory surgery projections that cannot be achieved.

Market Share

Step Three of Novant's methodology provides market share assumptions for the zip codes in the proposed service area. Novant's market share assumptions and projections are unreasonable for several reasons.

First, for each of the zip codes in the proposed service area, Novant projected combined market shares for SDSCF and FMC. However, SDSCF and FMC will be two separately-licensed healthcare facilities, and, more importantly, will be located in two completely different geographic locations in Franklin County. SDSCF will be located in the extreme southwest corner of Franklin County, near the Wake County border. FMC is located in Louisburg, which is centrally located within the county. It is not logical to project combined market shares for the two distinctly separate entities.

Second, the market shares for FMC and SDSCF are very aggressive and unrealistic. For example, in Exhibit 3: Table 2 (bates stamp page 213) of the Application, Novant projects that ambulatory surgery market share in zip code 27549 (Louisburg) will increase from 19.4% in FFY2013 to 50% in FFY2019. Zip code 27549, the zip code in which FMC is located, extends to the northeastern corner of Franklin County. Considering that the majority of the area encompassed by zip code 27549 is geographically located a significant distance from the proposed ASC

location of SDSC at the extreme southwest corner of the county, it is not reasonable to project that such a high market share can be achieved.

Third, because Novant’s projected market shares represent combined market shares for SDSCF and FMC, Novant assumes market share will increase at the Hospital as a result of the proposed project, despite the fact that Novant will be reducing availability of ORs at the Hospital.

The shaded area in the following table provides the projected increase in market share and ambulatory surgical volume at FMC from zip code 27549 as a result of Novant’s proposed project.

Projected Market Share Change

Zip	Town	County		FFY2013	FFY2014	FFY2015	FFY2016	FFY2017	FFY2018	FFY2019
27549	Louisburg	Franklin								
			Projected Outpt Surgery Cases	1,430	1,437	1,443	1,450	1,456	1,463	1,469
			Volume Remaining at FMC	277	290	304	319	335	373	441
			Market Share at FMC	19.4%	20.2%	21.1%	22.0%	23.0%	25.5%	30.0%
			Volume at SDSCF					175	249	294
			Market Share at SDSCF					12.0%	17.0%	20.0%
			FMC/SDSCF Market Share	19.4%	20.2%	21.1%	22.0%	35.0%	42.5%	50.0%

Source: CON Project I.D. K-10229-13, Application, Exhibit 3

As shown in the previous table, Novant projects that FMC’s market share for ambulatory surgery procedures from zip code 27549 will begin to increase in FFY2014, before SDSCF is even developed. In fact, Novant projects that FMC’s market share for nearly all of the zip codes in the proposed service area will increase. This is not realistic given FMC experienced a decrease in both inpatient and ambulatory surgical volume from FFY2012 to FFY2013 as demonstrated in the table below.

FMC Surgical Cases

FMC Surgical Cases		
	FFY2012	FFY2013
IP Cases	153	109
	66.3%	-28.8%
OP Cases	838	816
	12.9%	-2.6%
Total	992	925

Source: FMC License Renewal Applications 2011-2013; CON Project I.D. K-10229-13

Novant failed to provide any background information to describe why utilization decreased during the most recent federal fiscal year. Nevertheless, Novant projects FMC’s ambulatory surgery market share in zip code 27549 will increase over 54% as a result of the proposed project despite the facts that a) utilization has recently decreased and b) FMC’s OR capacity will be reduced. As shown in Exhibit 3: Table 2 of the CON Application, Novant projected FMC would achieve market share increases from FFY 2013 in all but one of the zip codes in the proposed service area (27587).

NMFMC Market Share Projections

Outpatient Surgery Market Share at FMC								
Zip Code	Town	FFY2013	FFY2014	FFY2015	FFY2016	FFY2017	FFY2018	FFY2019
27549	Louisburg	19.4%	20.2%	21.1%	22.0%	23.0%	25.5%	30.0%
27508	Bunn	30.2%	31.8%	33.4%	35.2%	36.4%	39.0%	41.0%
27525	Franklinton	8.0%	8.3%	8.7%	9.0%	9.4%	9.8%	10.2%
27526	Youngsville	3.0%	3.1%	3.2%	3.4%	3.4%	3.6%	3.7%
27816	Castalia	10.4%	10.9%	11.4%	12.0%	12.5%	13.1%	13.7%
27882	Spring Hope	2.3%	2.4%	2.5%	2.6%	2.7%	2.9%	2.9%
27544	Kitrell	8.8%	9.2%	9.5%	10.0%	10.5%	10.8%	11.2%
27571	Rolesville	1.4%	1.5%	1.5%	1.5%	1.6%	1.5%	1.5%
27587	Wake Forest	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%
27597	Zebulon	1.1%	1.1%	1.2%	1.2%	1.3%	1.4%	1.3%

Source: Projections provided in CON Project I.D. K-10229-13, Exhibit 3: Table 2, bates stamp page 213

While it is conceivable that some market share can be achieved by SDSCF upon development of its approved surgery center in Youngsville, it is not reasonable to assume that FMC will achieve such dramatic increases in market share due to the expansion of a separately licensed surgery center located in the southwest corner of Franklin County. Novant even admits as much on page 83 of its CON Application stating, “FMC is not in a position to recapture out-migration”. Thus, Novant’s own admissions are entirely inconsistent with its projections of such significant market share increases at FMC. Nonetheless, Novant’s ambitious market share assumptions result in the following surgical utilization at FMC.

FMC Historical & Projected Outpatient Surgery Cases

	Actual/Historical*				Projected					
	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019
OP Cases	752	742	838	816	856	897	941	987	1,057	1,158
% Change		-1.3%	12.9%	-2.6%	4.9%	4.8%	4.9%	4.9%	7.1%	9.6%

Source: FMC License Renewal Applications, projections provided in CON Project I.D. K-10229-13, Exhibit 3: Table 2, bates stamp page 213

**It is important to note that in its Application, Novant omitted FMC’s historical surgical utilization from Application K-10229-13 to obfuscate the disconnection between historical and projected surgical utilization at FMC.*

As a result of the inflated use rates and unreasonable market share increases, Novant projects utilization that cannot be realized at FMC, especially in light of the proposed reduction of OR capacity at FMC. While it is apparent that the assumptions are inappropriate, Novant needed these assumptions to achieve the necessary utilization targets for its proposed expanded surgery center in Youngsville. This further underscores Novant’s intent to reduce access to healthcare services at FMC Louisburg by segmenting service lines and relocating them one-by-one to Youngsville. As stated earlier in these comments, Novant previously twice failed to receive regulatory approval to relocate the Hospital out of Louisburg; the plan in this Application is an alternative tactic to ultimately achieve the same result.

In-Migration

In Step 6 of the projection methodology, Novant utilized a 15% migration factor to further inflate surgical cases at SDSCF. This is in addition to the inflated projected use rates and aggressive market share assumptions. Novant compared the projected 15% migration to the historical patient origin for FMC as a means to justify the projection; however, this is not an apples-to-apples comparison. FMC is an acute care hospital that provides a wide variety of medical services ranging from emergency, surgical and cardiopulmonary care to outpatient radiology and lab tests. Aside from ambulatory surgery, SDSCF will not provide any other comparable services to FMC. Novant also assumes an immediate 15% in-migration beginning Project Year 1 at SDSCF. This is inconsistent with the market share increases projected during the initial three project years.

For all the foregoing reasons, Novant does not adequately demonstrate that projected utilization is based on reasonable, credible and supported assumptions. Therefore, Novant failed to adequately demonstrate the need to relocate an OR from FMC to expand its planned surgery center in Youngsville. Consequently, the Application is nonconforming with Criterion (3).

- (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, handicapped persons, and other underserved groups and the elderly to obtain needed health care.**

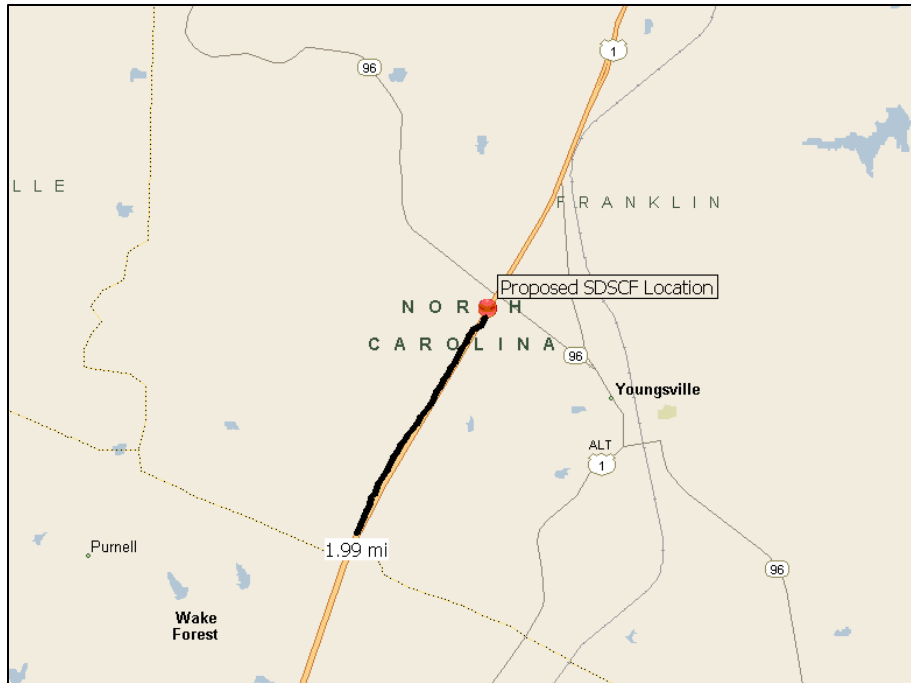
Population to Be Served

As described previously, Novant failed to provide historical and projected surgical patient origin for FMC. Thus, Novant failed to demonstrate that the needs of the population presently served will be met adequately by the proposed OR relocation.

According to the FMC's 2013 License Renewal Application, 58.5% of the Hospital's ambulatory surgical patients originated from Franklin County. FMC is the primary provider of health care services to all of Franklin County. The removal of an OR from FMC for relocation to the southwest corner of the county would create and make permanent a large void in access to healthcare services for many residents of

Franklin County and surrounding communities. As shown in the map on the following page, the proposed SDSCF facility will be developed approximately two (2) miles from the Wake County/Franklin County border.

Proposed Site in Relation to Wake County



Source: Microsoft MapPoint

Novant proposes to reduce surgical capacity at the Hospital, despite its plans to recruit additional surgical specialists in the near term. Given the reduced surgical capacity at the Hospital, Novant failed to describe how the reduction of services would impact patient origin at FMC. For example, with reduced access at the Hospital, Franklin County residents may seek to receive services at a hospital outside the county. Novant failed to discuss any potential negative consequences from its OR relocation plan.

Furthermore, in FFY2012, 18.9% of patients originated from Vance County. The proposed relocation of an OR from the centrally located Hospital in Louisburg to the Franklin/Wake County line decreases the likelihood that Vance County patients will travel to Franklin County for healthcare services. FMC does not attempt to address the impact its proposed project will have on patient origin at FMC.

Novant's failure to consider or address these important issues should render the Application non-conforming under Criterion 3a.

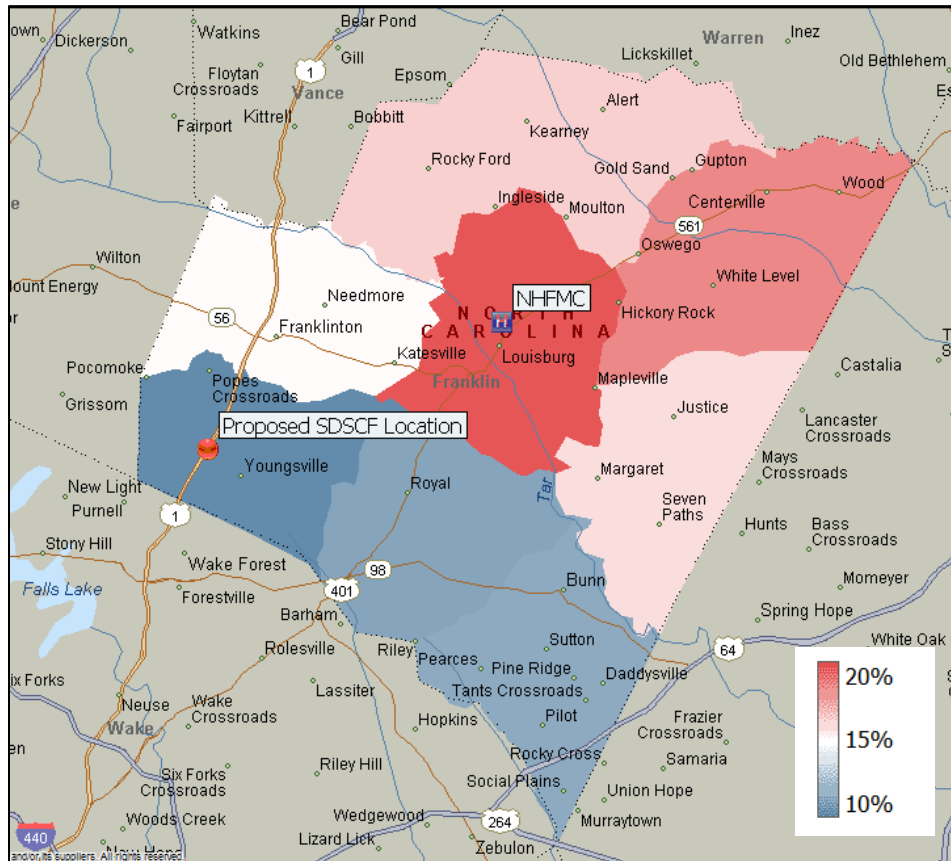
Access for Underserved

The Application submitted by Novant does not address the effects that the proposed project would have on the elderly, low income persons, racial and ethnic minorities, and other underserved groups within Franklin County. The Town of Louisburg is particularly concerned about this deficiency, as these populations constitute a significant portion of the need for health care services in this area. The proposed reduction of OR capacity at the Hospital facility poses real threats on access to healthcare for these populations. Each of these cohorts is addressed individually below.

Elderly

Novant failed to adequately consider how the aging population is distributed in Franklin County, and that decreasing services from the Hospital to expand services at SDSCF would move surgical services farther away from the aging population. Consequently, FMC failed to address the extent to which the elderly will be adversely affected by reducing hospital services in Louisburg.

Franklin County 2013 – % of Population Age 65+ by Census Tract



Source: Claritas & Microsoft MapPoint

As discussed more fully below, Novant proposes to relocate the OR to the area of Franklin County with the lowest percentage of elderly residents. Indeed, Census tract 605 (the site of the proposed relocated OR) has the lowest percentage (10.4%) of elderly residents in Franklin County. Census tract 603, which includes Louisburg, has the highest percentage (19.8%) of elderly residents in Franklin County. It is followed by census tracts 601, 602, and 607, areas that lie in the northern and eastern parts of the county, away from SDSCF.

Franklin County Elderly Population

FRANKLIN COUNTY % POPULATION AGE 65+		
Census Tract	2013 % of Pop 65+	2018 % of Pop 65+
Census Tract 603 (Hospital Location)	19.8%	21.7%
Census Tract 602	18.3%	20.8%
Census Tract 601	16.4%	19.0%
Census Tract 607	15.8%	18.9%
Census Tract 604	15.1%	17.6%
Census Tract 608	11.6%	13.5%
Census Tract 606	11.5%	13.8%
Census Tract 605 (SDSCF Location)	10.4%	12.9%

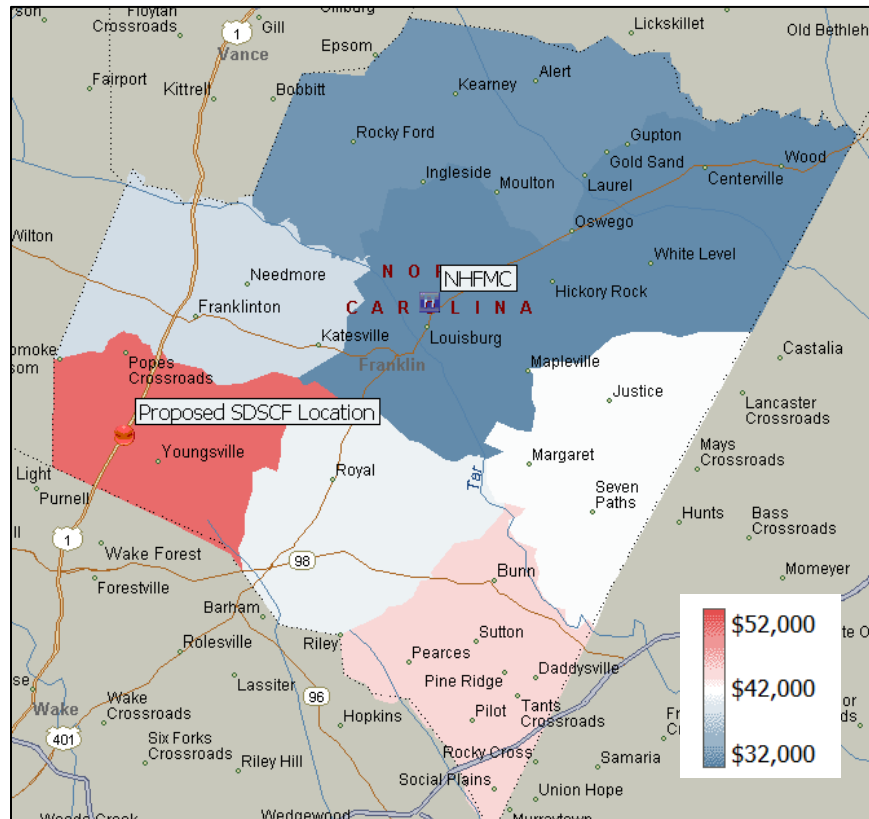
Source: Claritas

The majority of aging persons in Franklin County would be adversely affected in terms of access to healthcare services if Novant reduces the Hospital’s surgical capacity by relocating an OR to expand SDSCF in Youngsville. A greater percentage of persons over the age of 65 are in and around Louisburg, as well as the northern parts of the county, than are found in the area surrounding the proposed site near the Wake County line in Youngsville. Aged patients with decreased mobility and fewer transportation options would have to go farther to reach healthcare services than would younger and healthier populations on the whole. This evidences that Novant failed to demonstrate the effect of relocation on the ability of aged persons in Franklin County to obtain healthcare services.

Low Income Persons

The site for the proposed relocated operating room in southern Franklin County will have a negative impact on the medically underserved low-income population. The census tracts in the northern part of the county represent the areas with the lowest income per capita, while census tract 605 (proposed site) in the southwest portion of Franklin County represents the highest in the county. See the map on the following page.

Franklin County 2013 – Median Household Income by Census Tract



Source: Claritas & Microsoft MapPoint

The map of income distribution in Franklin County shows that there would be detrimental consequences for low income persons if surgical services are reduced in Louisburg and relocated to Youngsville. Census tract 603, which includes Louisburg, has a median household income of only \$32,618. In stark contrast, census tract 605 (the location of SDSCF) has a median household income of \$50,288, which is over 54% higher compared to the Louisburg census tract. By relocating an OR to SDSC in Youngsville, a majority of the Medicaid patients and those residents with fewer economic resources in Franklin County would be placed further from health care services. The end result of Novant’s proposal would thus be a decrease in access to healthcare for Franklin County residents with lower incomes.

Racial and Ethnic Minorities

A composition of racial and ethnic distribution in Franklin County further demonstrates that the proposed project by FMC is not the most effective alternative in terms of increasing access to healthcare services for Franklin County’s residents. Census tract 603, which includes Louisburg and the Hospital facility, has the highest percentage minority population in the county. Conversely, census tract 605 (where the proposed site for SDSC is located) has a population that is made up of only 18 percent minorities; this is the second lowest in the county by a tenth of a percentage point and approximately 31% lower than the area surrounding the current Hospital site.

Franklin County Minority Population (as a % of Total Population), 2013

Census Tract	2013 % Minority Pop
Census Tract 603 (Hospital Location)	52.1%
Census Tract 604	43.5%
Census Tract 601	43.1%
Census Tract 608	31.7%
Census Tract 602	27.8%
Census Tract 607	26.9%
Census Tract 605 (SDSCF Location)	20.9%
Census Tract 606	20.8%

Source: Claritas

The above table shows the distribution of minorities varies widely across different regions within the county. Youngsville incorporates a very small percentage of the county’s minorities relative to other areas in Franklin County. Access to healthcare services for racial and ethnic minorities will be significantly harmed if Novant reduces the Hospital’s surgical capacity and relocates an OR to the southeast corner of the county.

Overall Population

Relocating an OR from FMC to Youngsville is not the most effective alternative in terms of generally increasing access to healthcare services for Franklin County

residents. The following table summarizes the geographic disparity between FMC and SDSDCF for residents of Franklin County.

**Disparate Access to SDSCF for
Primary Towns of Franklin County**

Location	Bunn (Census Tract 608)	Pilot (Census Tract 608)	Centerville (Census Tract 602)	Ingleside (Census Tract 601)
FMC (Louisburg)	11.7 mi, 16 mins	18.0 mi, 26 mins	12.4 mi, 15 mins	4.6 mi, 7 mins
SDSCF (Youngsville)	18.1 mi, 24 mins	23.0 mi, 30 mins	28.4 mi, 35 mins	21.4 mi, 28 mins

Census tract 601 in the northern part of the county has the lowest median household income in Franklin County, and yet Novant proposes to relocate vital hospital services to the opposite side of the county for these residents. The drive time for residents of Ingleside to travel to Youngsville is four times longer compared to the drive to Louisburg. Similarly, census tracts 601, 602 and 603, which comprise the northern half of Franklin County, have the lowest median household income in Franklin County. The entire northern half of Franklin County would be distanced farther from surgical services if Novant relocates an OR from the Hospital to Youngsville. Even residents in towns in the southeast part of the county (census tract 608) will be distanced further from acute care services by the proposed move. Geographic proximity is very important for residents with limited economic resources. Novant has not demonstrated how Franklin County residents without adequate transportation will be able to access the ambulatory surgical services in Youngsville.

In addition, Novant does not in any way discuss the very negative implications on the long-term financial feasibility of FMC as a result of its proposed OR relocation project. This new Novant scheme would reduce the Hospital’s operating room capacity by 33%. This is a significant reduction in the Hospital’s capacity to offer surgical services, and would negatively impact the long-term viability of Franklin Medical Center. As Novant well knows, surgical services are a key to the financial viability of a hospital. In North Carolina, very few hospitals have only two operating rooms and those that do are located in very rural communities and do not have favorable prospects for long-term viability. As previously discussed in Criterion 3, reduction of OR capacity at FMC is a clear signal to the Hospital Medical Staff that Novant is not investing long-term in the Louisburg Hospital, and will be a disincentive for surgeons to perform surgery there going forward.

In summary, stripping away hospital services and relocating them to the southwest corner of the county simply does not represent the best alternative for the medically underserved in Franklin County. Novant has failed to demonstrate the effect of the relocation of the service on the ability of the elderly, low-income persons, and racial and ethnic minorities to obtain needed healthcare. Access for these populations will be harmed if Novant removes an OR from the Hospital to expand the surgery center in Youngsville (SDSCF). Also, the reduction in the Hospital's capacity to offer surgical services would negatively impact the long-term viability of Franklin Medical Center. Thus the Application is not conforming to Criterion 3a.

(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.

Novant also failed to substantiate that the least costly or most effective alternative has been proposed by relocating an OR to SDSCF. The proposed project is not needed to serve residents of southwest Franklin County and northern Wake County.

Novant was approved in 2009 to develop a freestanding ambulatory surgery center in Youngsville. It is now over four years later and Novant has yet to develop the approved facility. Despite this fact, Novant insists there is need for yet another OR at the SDSCF facility. Novant has not demonstrated its ability to achieve the market share or utilization that is projected in its 2009 proposal, nonetheless it is projecting to achieve even greater market share for the proposed service area.

Additionally, Novant projects to increase the capital cost of the project from \$6.13 million to \$10.44 million. Novant failed to discuss how any such capital cost could be utilized to potentially improve surgical services at the Hospital in Louisburg. Novant's Application fails to demonstrate that the proposed project is the least costly alternative, especially in light of the capital cost required to develop a second OR at SDSCF, which is intended to serve the residents of northern Wake County. Indeed, Novant failed to describe any rationale for its lack of investment in FMC's surgical services, and as a result, Novant's proposal is not the least costly alternative.

Further, Novant does not in any way discuss the very negative implications on the long-term financial feasibility of FMC as a result of its proposed OR relocation project. This new Novant scheme would reduce the Hospital's operating room

capacity by 33%. This is a significant reduction in the Hospital's capacity to offer surgical services, and would negatively impact the long-term viability of Franklin Medical Center. As Novant well knows, surgical services are a key to the financial viability of a hospital. In North Carolina, very few hospitals have only two operating rooms and those that do are located in very rural communities and do not have favorable prospects for long-term viability. As previously discussed in Criterion 3, reduction of OR capacity at FMC is a clear signal to the Hospital Medical Staff that Novant is not investing long-term in the Louisburg Hospital, and will be a disincentive for surgeons to perform surgery there going forward.

As described previously in the discussion under Criterion (3), Novant does not adequately demonstrate the need the population to be served has for Novant's proposal. A proposal that is not needed is not the most effective alternative.

Additionally, as discussed on Criterion (3a), Novant failed to demonstrate that the needs of the population presently served will be met adequately by the proposed reduction of OR capacity at FMC. A proposal that reduces a facility's existing health resources without demonstrating any negative impact on the existing patient origin at the Hospital is not the most effective alternative.

The applicant also failed to accurately project the unnecessary and undue increase in costs that the residents of Franklin County will experience as a result of Novant's proposed project. Novant's Application does not provide any information or analysis regarding incremental costs per procedure. In this Application, Novant project 1,622 surgical cases in PY3. The original 2009 Application projects 1,063 surgical cases in PY3. This translates into an incremental cost per procedure of \$10,966 (\$6,130,060/559) in one project year. In an era where the general public, payors, insurers and the government are concerned about the escalating cost of health care, these excessive incremental costs cannot be the most reasonable alternative.

Furthermore, the Application is not conforming to all applicable statutory and .2100 regulatory review criteria, and thus, the Application is not approvable. An Application that cannot be approved is not an effective alternative.

For these reasons, Novant did not adequately demonstrate that the proposal is the least costly or the most effective alternative. Consequently, the Application is not conforming to Criterion 4.

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

Novant does not adequately demonstrate that its proposal would not result in the unnecessary duplication of existing or approved surgical providers in the proposed service area. See discussion regarding conformity to Criterion (3).

Consequently, the Novant Application is not conforming to Criterion 6.

- (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.**

In the Application, FMC failed to demonstrate that the cost and design of construction for the proposed OR relocation represent the most reasonable alternative. It also failed to accurately demonstrate that the project will not unduly increase the costs of providing health services to the public. A lack of documentation showing comparative estimates and alternatives or incremental costs of Novant's proposed relocation indicate that Novant failed to demonstrate (or even consider) that the cost and design of construction for the proposed facility represent the most reasonable alternative and that the project will not unduly increase the costs of providing health services to the public.

As previously stated, on page 128 of the Application, Novant reports that the incremental project cost is \$6,130,060. This would result in a cumulative total capital cost of \$10,440,572 for the proposed ambulatory surgery center. Although Novant's Application provides no comparative or alternative cost estimates, it is abundantly clear that \$10+ million represents a very high cost for development of a 2-OR ambulatory surgery center. In particular, the proposed incremental increase of \$6,130,060 is significant, given that this project does not increase surgical capacity in Franklin County. Rather, this operating room already exists. Novant is simply proposing to spend over \$6 million to relocate an asset that is currently available for use of all Franklin County residents at FMC, to move it to serve the lucrative northern Wake County market. Therefore, Novant has failed to demonstrate that

the proposed project represents that the cost of the proposal represents the most reasonable alternative.

The applicant also failed to accurately project the unnecessary and undue increase in costs that the residents of Franklin County will experience as a result of Novant's proposed project. Novant's Application does not provide any information or analysis regarding incremental costs per procedure. In this Application, Novant project 1,622 surgical cases in PY3. The original 2009 Application projects 1,063 surgical cases in PY3. This translates into an incremental cost per procedure of \$10,966 (\$6,130,060/559) in one project year. In an era where the general public, payors, insurers and the government are concerned about the escalating cost of health care, these excessive incremental costs cannot be the most reasonable alternative.

There are no supporting materials in the Application to indicate if or how Novant considered the possibilities of improving or better utilizing the existing operating rooms at FMC. Thus, the Application is not conforming to Criterion 12.

(13c) For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show 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

As shown under Criterion 3 of these comments, Novant failed to show that the elderly and medically underserved groups will not be well served by relocating an operating room to the southwestern corner of Franklin County. On the contrary, evidence shows that access to healthcare services for residents 65 years of age and older and other medically underserved groups, including low income persons and racial and ethnic minorities, would be harmed if a hospital OR were to be relocated to Youngsville. In fact, it is clear that Novant intends to decreasingly serve the elderly and medically underserved groups, including low income persons and racial and ethnic minorities at the SDSCF. The tables on the following page compare the most recently reported ambulatory surgery payor mix at FMC with the proposed payor mix at SDSCF.

**Novant Health Franklin Medical Center
 FY2012**

Payer Source	Percent of Total Patient Days
Self Pay	2.27%
Medicare	52.27%
Medicaid	20.05%
Managed Care	1.19%
Commercial Insurance	22.08%
Other	2.15%
Total	100.00%

Source: NHFMC 2013 hospital license renewal application, p.5

**Same Day Surgery Center-Franklin
 Project Year 2 (FY2018)**

Payer Source	Percent of Total Patient Days
Self Pay	2.33%
Medicare	38.9%
Medicaid	6.18%
Managed Care	45.07%
Commercial Insurance	3.05%
Other	4.47%
Total	100.00%

Source: SDSC-Franklin CON Application, p.162.

These tables clearly show that Novant will reduce access for the medically underserved. Novant will decrease the payor mix for the relocated operating room from a combined 22.32% self pay and Medicaid patients to just 8.51% combined self pay/Medicaid. This represents a 62% reduction of service to this medically indigent cohort. Similarly, Novant plans to decrease its service to the elderly of Franklin County by reducing its Medicare payor mix by over 25%, from 52.27% down to 38.9%

Novant has also failed to demonstrate the extent to which the proposed service will be accessible by their lack of evidence to demonstrate wide spread support and community dialogue to indicate that utilization of FMC's services will not be harmed by the proposed project. As indicated under Criterion 3a of these comments, a majority of the support for this project originated from those towns immediately surrounding the proposed ASC site or from areas outside of Franklin County, including the lucrative area of Wake County from which Novant intends to draw patients. The support expressed by Hospital employees is no indication of

local community sentiments because Novant has economic leverage over individuals on its payroll to obtain letters of support from them.

(13d) For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show 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.

As shown under Criterion 3a of these comments, FMC failed to determine the extent to which the proposed service will be accessible to all residents of Franklin County. This failure includes an absence of proposed means by which the residents of central and northern Franklin County will have access to the proposed relocated operating room. Novant's proposed facility, which is located in a remote corner of Franklin County close to the Wake County line rather than being in a centralized location of Franklin County such as Louisburg, will be less accessible to residents who are 65 years of age and older and other medically underserved groups, including low income persons and racial and ethnic minorities. Even though Novant mentions the general availability of limited local public transportation options, these services still cost money, and will be a factor limiting access for these medically underserved residents. This is clearly evident from the projected payor mix change shown in Criterion 13c above, and replicated on the following page.

**Novant Health Franklin Medical Center
 FY2012**

Payer Source	Percent of Total Patient Days
Self Pay	2.27%
Medicare	52.27%
Medicaid	20.05%
Managed Care	1.19%
Commercial Insurance	22.08%
Other	2.15%
Total	100.00%

Source: NHFMC 2013 hospital license renewal application, p.5

**Same Day Surgery Center-Franklin
 Project Year 2 (FY2018)**

Payer Source	Percent of Total Patient Days
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Managed Care	45.07%
Commercial Insurance	3.05%
Other	4.47%
Total	100.00%

Source: SDSC-Franklin CON Application, p.162.

As the sole provider of acute care in Franklin County, it is critical that FMC's services be as accessible as possible. FMC failed to propose a range of means by which all residents of Franklin County will have access to the proposed services. Thus, the Application is not conforming to Criterion 13d.

10A NCAC 14C .2103 (b) A proposal to establish a new ambulatory surgical facility, to establish a new campus of an existing facility, to establish a new hospital, to increase the number of operating rooms in an existing facility (excluding dedicated C-section operating rooms), to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall:

- (1) demonstrate the need for the number of proposed operating rooms in the facility which is proposed to be developed or expanded in the third operating year of the project based on the following formula: $\{[(\text{Number of facility's projected inpatient cases, excluding trauma cases reported by Level I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours}) \text{ plus } (\text{Number of facility's projected outpatient cases times 1.5 hours})] \text{ divided by } 1872 \text{ hours}\}$ minus the facility's total number of existing and approved operating rooms and operating rooms proposed in another pending Application, excluding one operating room for Level I or II trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-section operating rooms or demonstrate conformance of the proposed project to Policy AC-3 in the State Medical Facilities Plan titled "Exemption From Plan Provisions for Certain Academic Medical Center Teaching Hospital Projects;" and**
- (2) The number of rooms needed is determined as follows:**

 - (A) in a service area which has more than 10 operating rooms, if the difference is a positive number greater than or equal to 0.5, then the need is the next highest whole number for fractions of 0.5 or greater and the next lowest whole number for fractions less than 0.5; and if the difference is a negative number or a positive number less than 0.5, then the need is zero;**
 - (B) in a service area which has 6 to 10 operating rooms, if the difference is a positive number greater than or equal to 0.3, then the need is the next highest whole number for fractions of 0.3 or greater and the next lowest whole number for fractions less than 0.3, and if the difference is a negative number or a positive number less than 0.3, then the need is zero; and**
 - (C) in a service area which has five or fewer operating rooms, if the difference is a positive number greater than or equal to 0.2, then the need is the next highest whole number for fractions of 0.2 or greater and the next lowest whole number for fractions less than 0.2; and if the difference is a negative number or a positive number less than 0.2, then the need is zero.**

Novant failed to provide responses to 10A NCAC 14C .2103 (b) (1-2). Pursuant to Novant's response to Question I.8 of the Application, Novant proposes to increase the number of operating rooms at its approved SDSCF facility. Therefore, 10A NCAC 14C .2103 (b) (1-2) is applicable to this review.