

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DECISION DATE: May 24, 2012

PROJECT ANALYST: Michael J. McKillip

SECTION CHIEF: Craig R. Smith

PROJECT I.D. NUMBER: F-8786-12/ Peak Resources Realty-Gaston, LLC (Lessor) and Century Care of Cherryville, Inc. d/b/a Peak Resources-Cherryville (Lessee)/ Relocate 54 nursing care beds and 57 adult care home beds to a new 111-bed replacement facility in Cherryville / Gaston County

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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.

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The applicants, Peak Resources Realty-Gaston, LLC (Lessor) and Century Care of Cherryville, Inc. d/b/a Peak Resources-Cherryville (Lessee), propose to relocate an existing nursing facility with 54 nursing care beds and 57 adult care home beds to a new 111-bed combination nursing facility to be located at 7615 Dallas Cherryville Highway, Cherryville in Gaston County. The proposed replacement facility would continue to operate 54 nursing care beds and 57 adult care home beds. The proposed project does not involve the addition of any new health service facility beds, services or equipment for which there is a need determination in the 2012 State Medical Facilities Plan (SMFP). However, there are several policies in the 2012 SMFP that are applicable to this review; Policy NH-6: *Relocation of Nursing Facility Beds*; Policy NH-8: *Innovations in Nursing Facility Beds*; Policy LTC-2: *Relocation of Adult Care Home Beds*; and Policy GEN-4: *Energy Efficiency and Sustainability for Health Service Facilities*. Those policies are discussed below:

“Policy NH-6: Relocation of Nursing Facility Beds

Relocations of existing licensed nursing facility beds are allowed only within the host county and to contiguous counties currently served by the facility, except as provided in Policies NH-4, NH-5 and NH-7. Certificate of need applicants proposing to relocate licensed nursing facility beds to contiguous counties shall:

- 1. Demonstrate that the proposal shall not result in a deficit in the number of licensed nursing facility beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins, and*
- 2. Demonstrate that the proposal shall not result in a surplus of licensed nursing facility beds in the county that would gain adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

The applicants propose to relocate 54 existing nursing facility beds within Gaston County. Therefore, the proposal will not change the current nursing facility bed inventory in Gaston County. Consequently, the application is conforming with Policy NH-6.

“Policy NH-8: Innovations in Nursing Facility Beds

Certificate of need applicants proposing new nursing facilities, replacement nursing facilities, and projects associated with the expansion and/or renovation of existing nursing facilities shall pursue innovative approaches in care practices, work place practices and environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.”

In Section III.3, pages 26-27, the applicants state:

“The new building will have 65 private rooms with private bathrooms within each private or semi private room/suite of rooms. The building will also have 4 separate private living rooms, a private dining room, and a large staff lounge.

The innovative care practices that have been implemented in the existing facility and will be implemented in the replacement facility.

Advancing nursing excellence in Peak Resources buildings is an ongoing process. Most recently the nurse consultants have launched coordinated initiatives that involve advancement in nursing education and coordinated care among our acute care communities.”

The applicants adequately demonstrate the proposal incorporates innovative approaches to patient care, work place practices and environmental design that address quality of care and quality of life needs of the residents. Therefore, the applicants adequately demonstrate the proposal is consistent with Policy NH-8.

Policy LTC-2: Relocation of Adult Care Home Beds

“Relocations of existing licensed adult care home beds are allowed only within the host county and to contiguous counties currently served by the facility. Certificate of need applicants proposing to relocate licensed adult care home beds to contiguous counties shall:

- 1. Demonstrate that the proposal shall not result in a deficit in the number of licensed adult care home beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins, and*
- 2. Demonstrate that the proposal shall not result in a surplus of licensed adult care home beds in the county that would gain adult care home beds as a result of the proposed project, as reflecting in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

The applicants propose to relocate 57 adult care home (ACH) beds within Gaston County. As such, the replacement facility will not change the current ACH bed inventory in Gaston County. Therefore, the application is conforming to Policy LTC-2.

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

“Any person proposing a capital expenditure greater than \$2 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, the Certificate of Need Section 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 are required to submit a plan of 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."

In Section III.3, pages 30-31, the applicants state:

"The building will be constructed with energy efficient insulation, consistent with existing building codes. Insulated windows, energy efficient split heating and cooling equipment as well as energy efficient appliances will be incorporated into the design of the building. The building will also have programmable thermostats, energy efficient fluorescent lighting and LED lighting, and dual level switching. Motion sensors for the lighting will be placed in the common areas. A central lighting control system will be used for the common areas which will reduce consumption...."

Water conservation will be achieved through the use of low flow toilets in general area bathrooms. New water pipes will minimize water leak potential. On demand gas water heaters with a recirculation loop will be utilized which will reduce the potential for water heater ruptures and leaks.

Should Peak Resources-Cherryville be awarded this certificate of need, they understand and acknowledge the Certificate of Need Section will impose a condition requiring them 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 will be consistent with the energy efficiency measures outlined above."

The applicants adequately demonstrate that they will assure improved energy efficiency and water conservation in the proposed replacement nursing facility. Therefore, the application is consistent with Policy GEN-4.

The application is consistent with Policy NH-6, Policy NH-8, Policy LTC-2, and Policy GEN-4, and is therefore conforming to this criterion.

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

The applicants, Peak Resources Realty-Gaston, LLC (Lessor) and Century Care of Cherryville, Inc. d/b/a Peak Resources-Cherryville (Lessee) [**Peak Resources-Cherryville**], propose to relocate an existing nursing facility with 54 nursing care beds and 57 adult care home beds to a new 111-bed nursing facility to be located at 7615 Dallas Cherryville Highway, Cherryville in Gaston County. The proposed replacement facility would continue to operate 54 nursing care beds and 57 adult care home beds. The proposed nursing facility will be managed by Peak Resources, Inc.

Population to be Served

In Section III.6-7, page 33, the applicants provide the projected patient origin for Peak Resources-Cherryville during the first full year of operation following completion of the proposed project, as illustrated in the table below.

Projected Patient Origin- First Full Federal Fiscal Year

County	Percent of Total NF Admissions	Percent of Total ACH Admissions
Cleveland	46.94%	41.66%
Gaston	38.78%	37.50%
Lincoln	6.12%	16.67%
Catawba	0.00%	4.17%
Guilford	2.04%	0.00%
Richmond	2.04%	0.00%
Transylvania	2.04%	0.00%
South Carolina	2.04%	0.00%
Total	100.0%	100.0%

In Section III.7, page 34, the applicants state, “*Patient origin percentages were based on the county of origin for the residents at the existing facility.*” The applicants adequately identify the population to be served.

Need Analysis

In Section III.1(a), the applicants describe the need for the replacement facility as follows:

“All licensed nursing facilities are under a federal mandate by CMS to have sprinkler systems installed by August 13, 2013. Rather than install a sprinkler system in an old, outdated existing facility, the applicant has chosen to build a replacement facility which will meet the federal mandate while providing the medically underserved of Gaston County a newly constructed, modern nursing facility.

The current building is an antiquated model built in 1964 and has multiple safety, environmental, privacy, and storage concerns. The building design compared to other more modern nursing facilities is inadequate at best....

It is evident this building should be replaced and relocated and that approval of this project will greatly enhance the quality of life of the Peak Resources-Cherryville residents.”

In Section IV.1, page 35, the applicants provide the utilization data for the nine months immediately preceding the submission of the application, as illustrated in the table below.

**Table IV.1 – Historical Utilization
 April 1, 2011 – December 31, 2011**

	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Total
NF Patient Days	1,563	1,569	1,629	1,512	1,541	1,537	1,527	1,586	1,534	13,998
Occupancy Rate	93%	97%	97%	93%	92%	92%	94%	95%	95%	94%
# of Beds	54	54	54	54	54	54	54	54	54	54
ACH Patient Days	666	647	645	548	561	524	486	484	420	4,981
Occupancy Rate	38%	38%	37%	32%	32%	30%	29%	27%	25%	32%
# of Beds	57	57	57	57	57	57	57	57	57	57
Patient Days	2,229	2,216	2,274	2,060	2,102	2,061	2,013	2,070	1,954	18,979
Occupancy Rate	65%	67%	66%	62%	61%	60%	60%	60%	59%	62%
# of Beds	111	111	111	111	111	111	111	111	111	111

In Section III.1(b), page 19, the applicants state

“The nursing facility operated at 91.13% capacity for the fiscal year ended September 30, 2011. The adult care home operated at 28.54% capacity.

The adult care home is currently underutilized mainly because the physical plant is approximately 48 years old and lacks many desirable amenities of newer facilities such as private dining areas, individually heated and cooled rooms, and larger common areas. The adult care home also consists of 3 ward rooms, something that has not been incorporated into the design of long term care facilities in many years.”

In Section IV.2, pages 40-41, the applicants provide projected utilization data for the nursing facility for the first two full federal fiscal years of operation following completion of the proposed project, as illustrated in the tables below.

**Table IV.2 – Projected Utilization First Full Federal Fiscal Year
 October 1, 2013 – September 30, 2014**

	1 st Quarter 10/1-12/31	2 nd Quarter 1/1-3/31	3 rd Quarter 4/1-6/30	4 th Quarter 7/1-9/30	Total
NF Patient Days	4,769	4,666	4,718	4,769	18,922

Occupancy Rate	95.99%	96.01%	96.01%	95.99%	96.00%
# Beds	54	54	54	54	54
ACH Patient Days	4,009	4,571	4,627	4,679	17,886
Occupancy Rate	76.45%	89.10%	89.20%	89.23%	85.97%
# Beds	57	57	57	57	57
Total Patient Days	8,776	9,237	9,345	9,448	36,808
Occupancy Rate	85.96%	92.46%	92.52%	92.52%	90.85%
Total # of beds	111	111	111	111	111

**Table IV.2 – Projected Utilization Second Full Federal Fiscal Year
 October 1, 2014 – September 30, 2015**

	1 st Quarter 10/1-12/31	2 nd Quarter 1/1-3/31	3 rd Quarter 4/1-6/30	4 th Quarter 7/1-9/30	Total
NF Patient Days	4,769	4,666	4,718	4,769	18,922
Occupancy Rate	95.99%	96.01%	96.01%	95.99%	96.00%
# Beds	54	54	54	54	54
ACH Patient Days	4,679	4,575	4,627	4,679	18,560
Occupancy Rate	89.23%	89.18%	89.20%	89.23%	89.21%
# Beds	57	57	57	57	57
Total Patient Days	9,448	9,241	9,345	9,448	37,482
Occupancy Rate	92.52%	92.50%	92.52%	92.52%	90.85%
Total # of beds	111	111	111	111	111

In Section IV.2, page 58, the applicants describe the assumptions and methodology used to project utilization at Peak Resources-Cherryville as follows:

“Nursing Facility

All existing residents (assumed to be 49) will be transferred to the new facility. A fill up rate of 4 residents per week is assumed consistent with previous CON application instructions until 96% nursing facility occupancy is realized and maintained based on operational experience. No mathematical formula was utilized. This is consistent with the following other provider of choice Gaston County nursing facilities that had similar occupancy rates based on 2011 cost report data (See Exhibit 12):

<i>Facility</i>	<i>Occupancy Rate</i>
<i>Alexandria Place</i>	<i>95%</i>
<i>Carolina Care Center of Cherryville</i>	<i>95%</i>
<i>Courtland Terrace</i>	<i>99%</i>
<i>Stanley Total Living Center</i>	<i>99%</i>

The company that will be managing the facility has 2 facilities that achieved 96% occupancy for the fiscal year ended September 30, 2011 as follows:

Peak Resources-Pinelake 96%
Peak Resources-Shelby 96%

Not only is 96% occupancy possible, this organization has shown the capability of producing these results in other buildings.

Adult Care Home

All existing residents (assumed to be 16) will be transferred to the new facility. A fill up rate of 2 patients per week for the first month and then 3 residents per month is assumed until an overall (combined 'regular' adult care home and special care unit beds) occupancy rate of 89.21% is realized and maintained.

The occupancy rate is projected based on operational experience, this provider providing a new physical plant to the medically underserved, the demonstrated need for special care unit beds in the country, and the occupancy rate of other provider of choice adult care home in Gaston County as follows (See Exhibit 13):

<i>Facility</i>	<i>Occupancy Rate</i>
<i>Alexandria Place</i>	<i>89%</i>
<i>Carolina Care Center`</i>	<i>94%</i>
<i>Stanley Total Living</i>	<i>95%</i>
<i>Gaston Place</i>	<i>98%</i>
<i>Wellington Place</i>	<i>100%</i>
<i>Woodlawn Haven</i>	<i>93%</i>
<i>Somerset Court of Cherryville</i>	<i>98%</i>
<i>Gaston Manor</i>	<i>91%</i>
<i>Country Time Inn</i>	<i>98%</i>
<i>Abingdon Place of Gastonia</i>	<i>93%</i>

These assumptions were developed based on the factors of occupancy and operational history and not specific mathematical formulas. Based on a review of most recent license renewal data, there was an Occupancy Rate of 80.76% for all adult care homes in Gaston County. We arrayed adult care home cost reports and identified facilities that were 10 years old or newer. There were 140 Adult Care Homes in the database that fell into this category. Of these, 140 homes, 46, or 33% had occupancy rates of 96% or higher. This substantiates the assumption that it is not only possible, but highly probable that a newer facility will be able to achieve 89.21% occupancy."

The applicants' projected utilization is based on reasonable assumptions regarding the increased number of private rooms and the other planned improvements to the overall size

and functionality of the proposed replacement facility. The applicants adequately identify the population to be served and demonstrate the need the population has for the development of a new 111-bed replacement nursing facility with 54 nursing care beds and 57 adult care home beds. Therefore, the application is conforming with this criterion.

- (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.

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The applicants propose to relocate the 111-bed nursing facility from its current location at 700 Self Street in Cherryville to 7615 Dallas Cherryville Highway in Cherryville, which is approximately 2.5 miles away. The total number of licensed beds at the proposed replacement facility will remain the same, including 54 nursing care beds and 57 adult care home beds, for a total of 111 licensed beds. Peak Resources-Cherryville will be geographically accessible to the same population currently being served at the existing facility.

In Section III.5, page 32, the applicants state:

“All current Peak Resources-Cherryville residents will be offered the opportunity to transfer to the new facility. ...There will be no financial impact on either Medicare or Medicaid residents as Peak Resources-Cherryville will accept payment from these third party payors as payment in full. ... There will be a positive impact on the ability of the residents in the county to obtain the same services in the future because a modern, new facility will become available to the medically underserved of Gaston County. The new facility will be housed approximately 2.5 miles from the current location. From a geographical standpoint, the residents of the county will realize the same ability they currently realize. ... The applicant is not aware of any current residents that do not want to move; however, there are several other nursing facilities in Gaston and surrounding counties. The current occupancy rate in other buildings would provide sufficient vacancy should a small number of current residents choose not to move to the new facility.”

The applicants demonstrate that the relocation and replacement of the beds will have a positive effect 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. In addition, the applicants demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements. Therefore, the application is conforming to this criterion.

- (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.

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In Section III.2 (a), pages 23-24, the applicants describe the alternatives considered, including maintaining the status quo, renovating the existing facility, or developing a new facility at the current location. The application is conforming to all other applicable statutory review criteria. See Criteria (1), (3), (3a), (5), (6), (7), (8), (12), (13), (14), (18a), and (20). The applicants adequately demonstrated that the proposal is their least costly or most effective alternative to meet the need. Therefore, the application is conforming to this criterion and approved subject to the following conditions.

1. **Peak Resources Realty-Gaston, LLC (Lessor) and Century Care of Cherryville, Inc. d/b/a Peak Resources-Cherryville (Lessee) shall materially comply with all representations made in its certificate of need application.**
2. **Peak Resources Realty-Gaston, LLC (Lessor) and Century Care of Cherryville, Inc. d/b/a Peak Resources-Cherryville (Lessee) shall construct a replacement nursing facility with a total licensed bed complement of no more than 54 nursing care beds and 57 adult care home beds upon completion of the project.**
3. **Peak Resources Realty-Gaston, LLC (Lessor) and Century Care of Cherryville, Inc. d/b/a Peak Resources-Cherryville (Lessee) shall provide documentation that the 111 beds at the existing Peak Resources-Cherryville facility are delicensed following completion of the proposed replacement nursing facility.**
4. **Peak Resources Realty-Gaston, LLC (Lessor) and Century Care of Cherryville, Inc. d/b/a Peak Resources-Cherryville (Lessee) shall submit all patient charges and actual per diem reimbursement for each source of patient payment to the Certificate of Need at year end for each of the first two operating years following licensure of the beds in the new facility.**
5. **For the first two full federal fiscal years of operation following completion of the project, actual private pay charges shall not be increased more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Certificate of Need Section that the proposed increase is in material compliance with the representations made in the certificate of need application.**
6. **Peak Resources Realty-Gaston, LLC (Lessor) and Century Care of Cherryville, Inc. d/b/a Peak Resources-Cherryville (Lessee) shall receive Medicaid per diem rates allowed by the Division of Medical Assistance, under the NC State Plan Section .0102.**

- 7. Peak Resources Realty-Gaston, LLC (Lessor) and Century Care of Cherryville, Inc. d/b/a Peak Resources-Cherryville (Lessee) shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section, in writing prior to issuance of the certificate of need.**
- (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.

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In Section VIII, page 61, the applicants project the total capital expenditure for the proposed project to be \$9,582,330. In Section VIII.2, page 62, the applicants indicate that the capital cost of the project will be financed with a “*Government loan-HUD Backed*” in the amount of \$7,700,000 and current assets of Century Care of Cherryville, Inc. in the amount of \$1,882,330. In Section IX, the applicants state that no working capital will be required for the project. Exhibit 28 contains a letter dated March 12, 2012, from a Vice President of Lancaster Pollard Mortgage Company, which states

“We understand Peak Resources Realty-Gaston, LLC and Century Care of Cherryville, Inc. d/b/a Peak Resources-Cherryville, intend to file a certificate of need application to relocate their combination skilled nursing (54 beds)/adult care home (57 beds) to another location in Gaston County and construct a new building.”

Lancaster Pollard Mortgage Company has had an opportunity to review information and the financial proformas for the above referenced project. Based upon our preliminary underwriting assessment of this information, we believe the project, combined with an equity contribution of \$1,900,000, would meet the guidelines to obtain mortgage insurance under the Department of Housing and Urban Development’s (HUD) Section 232 program for the construction of a licensed health care facility. The mortgage insurance would be used as security to obtain an approximately \$7,700,000 loan for the project.”

Exhibit 30 contains a letter dated March 13, 2012 from the President of Century Care of Cherryville, Inc., Harold P. Nunn, which states

“As the President of Century Care of Cherryville, Inc., I pledge to reserve approximately \$1,900,000 in cash or cash equivalents identified in my most recent personal financial statement for relocation of our existing combination nursing/adult care home facility and construction of a new building.”

Exhibit 30 contains a copy of the “*Personal Financial Statement*” for Harold P. and Deborah J. Nunn as of September 30, 2011, which shows cash and cash equivalents of \$1,593,000 and \$7,900,000 in “*Stocks in Closely Held Corporations.*” The applicants adequately demonstrate the availability of funds for the capital needs of the proposed project.

In Section X.4, page 68, the applicants project the following per diem rates and charges by payor source for the facility in the first two full federal fiscal years (October 1, 2013 – September 30, 2015) of operation following completion of the proposed project.

Payor Source	Private Room	Semi-Private Room
Nursing Care Beds		
Private Pay	\$235.00	\$215.00
Medicare *	\$399.96	\$399.96
Medicaid	\$174.86	\$174.86
Adult Care Home Beds		
Private Pay	\$140.00	\$120.00
County Assistance	\$57.64	\$57.64
ACH Special Care Unit		
Private Pay	\$150.00	\$130.00
County Assistance	\$117.27	117.27

* For Medicare: the charge reported in this table is the weighted average of the facility's RUG rates.

In the projected revenue and expense statement, the applicants project that revenues will exceed operating costs in the second year of operation, as illustrated in the following table.

Revenues and Operating Costs Second Full Federal Fiscal Year 10/1/14 – 9/30/15	
Total Revenue	\$6,313,135
Total Operating Costs	\$6,118,363
Net Profit	\$194,772
Total Direct Operating Cost / Patient Day	\$109.76
Total Indirect Operating Cost / Patient Day	\$50.69
Total Operating Cost / Patient Day	\$160.45

The assumptions used by the applicants in preparation of the pro forma financial statements, including projected utilization, are reasonable. See Criterion (3) for discussion of utilization projections.

In summary, the applicants adequately demonstrated the availability of funds for the capital needs of the proposal and adequately demonstrate that the financial feasibility of the proposal is based on reasonable projections of cost and revenues. Therefore, the applicants are conforming to the criterion.

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

The applicants adequately demonstrate the need to construct a new 111-bed replacement nursing facility to replace the existing 48-year old facility. In Section IV.2, the applicants reasonably project utilization of the 54 nursing care beds will be 96 percent of capacity and utilization of the 57 adult care home beds will be 89 percent of capacity, by the second full fiscal year of operation. Also, the applicants reasonably project utilization of the entire 111-bed combination nursing facility will be 91 percent of capacity by the second full fiscal year of operation. The applicants do not propose to develop additional nursing care or adult care home beds. Consequently, the applicants adequately demonstrate the proposed project would not result in the unnecessary duplication of existing or approved health service capabilities or facilities in Gaston County. Therefore, the application is conforming with this criterion.

- (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.

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In Section VII, pages 58-59, the applicants project the following staff for the second full federal fiscal year of the proposed project, as illustrated in the table below.

	FTEs
Director of Nursing	1.00
Staff Development Coordinator	1.00
MDS Nurse	1.50
RNs	3.50
LPNs	9.80
Special Care Unit Coordinator	0.70
Certified Nursing Assistants	42.00
Certified Medical Technicians	4.20
Ward Secretary/Med Records	1.00
Med Records Consultant	1.00
Social Services Director	1.00
Social Services Assistant	1.00

Activity Director	1.00
Activity Assistant	0.50
Maintenance Supervisor	1.00
Administrator	1.00
Bookkeeper	1.00
Total	72.20

The applicants project direct care nursing staff hours per patient day for the second full federal fiscal year as follows:

**Direct Care Nursing Staff Hours per Patient Day
 2nd Full Federal Fiscal Year
 (October 1, 2014- September 30, 2015)**

	RN's	LPN's	Aides	Total
Total Nursing				
A. Number of FTEs	3.5	9.8	46.2	59.5
B. Number of Nursing Hours per year per FTE	2,080	2,080	1,950	
C. Total nursing hours per year (A x B)	7,280	20,384	90,090	117,754
D. Number of Patient Days (Table IV.2)	37,482	37,482	37,482	37,482
E. Nursing hours per patient day (C/D)	0.20	0.54	2.40	3.14

Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in the pro forma financial statements. The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the applicants are conforming to this criterion.

- (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.

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In Section II.3, pages 15-16, the applicants describe the proposed ancillary services to be available including social services, housekeeping, barber/beautician, dietary, pharmacy, rehabilitation, dental, podiatry, ophthalmology, psychological, and pastoral services. In Section V.2, page 45, the applicants state that the existing currently has transfer agreements with Cleveland Memorial Hospital, Gaston Memorial Hospital, and Frye Regional Medical Center. Therefore, the applicants adequately demonstrate that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming with this criterion.

- (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

- (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

- (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.

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The applicants propose to construct a replacement nursing facility consisting of 65,814 square feet. The replacement nursing facility will have 65 beds in private rooms and 46 beds in semi-private rooms. In Exhibit 41, an architect certifies that the total construction costs are estimated to be \$6,252,330, which is consistent with the costs reported by the applicants in Section VIII.1, page 61. In Section XI.14, page 81, the applicants state that applicable energy savings features will be incorporated into the plans. The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative for the project they propose, and that the construction costs will not unduly increase costs and charges for health services. See Criterion (5) for discussion of costs and charges. Therefore, the application is conforming to this criterion.

- (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 handicapped persons, 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;

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In Section VI.2, page 49, the applicants provide the payer mix during FFY2011 for the existing Peak Resources-Cherryville facility, as shown in the table below.

Payer Category	NF Patient Days as Percent of Total	ACH Patient Days as Percent of Total
Private Pay	3.73%	0.0%
Medicare	10.73%	0.0%
Medicaid	83.87%	0.0%
County Assistance	0.0%	100.0%
Other (Hospice)	1.67%	0.0%
Total	100.0%	100.0%

The Division of Medical Assistance (DMA) maintains a website which offers information regarding the number of persons eligible for Medicaid assistance and estimates of the percentage of uninsured for each county in North Carolina. The following table illustrates those percentages as of June 2010 and CY2008-2009, respectively. The data in the table was obtained on April 24, 2012. More current data, particularly with regard to the estimated uninsured percentages, was not available.

	Total # of Medicaid Eligibles as % of Total Population	Total # of Medicaid Eligibles Age 21 and older as % of Total Population	% Uninsured CY 2008-2009 (Estimate by Cecil G. Sheps Center)
County			
Cleveland	23.0%	10.5%	18.6%
Gaston	20.0%	8.6%	19.0%
Lincoln	15.0%	6.2%	19.0%
Statewide	17.0%	6.7%	19.7%

The majority of Medicaid eligibles are children under the age of 21. This age group does not utilize the same health services at the same rate as older segments of the population, particularly the services offered by the applicants.

Moreover, the number of persons eligible for Medicaid assistance may be greater than the number of Medicaid eligibles who actually utilize health services. The DMA website includes information regarding dental services which illustrates this point. For

dental services only, DMA provides a comparison of the number of persons eligible for dental services with the number actually receiving services. The statewide percentage of persons eligible to receive dental services who actually received dental services was 48.6% for those age 20 and younger and 31.6% for those age 21 and older. Similar information is not provided on the website for other types of services covered by Medicaid. However, it is reasonable to assume that the percentage of those actually receiving other types of health services covered by Medicaid is less than the percentage that is eligible for those services.

The Office of State Budget & Management (OSBM) maintains a website which provides historical and projected population data for each county in North Carolina. In addition, data is available by age, race or gender. However, a direct comparison to the applicants' current payer mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities or women utilizing health services. Furthermore, OSBM's website does not include information on the number of handicapped persons.

The applicants demonstrate that medically underserved populations currently have adequate access to the applicants' existing services and are 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 handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

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In Section VI.5, page 51, the applicants state that "*No civil rights complaints have been filed.*" 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

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In Section VI.3, page 50, the applicants project the payer mix for the second full Federal Fiscal Year 2010 (October 1, 2014 – September 1, 2015), as illustrated in the table below.

Payer Category	NF Patient Days as Percent of Total	ACH Patient Days as Percent of Total	ACH SCU Patient Days as Percent of Total
Private Pay	12.00%	40.00%	10.00%
Medicare	20.00%	0.0%	0.0%
Medicaid	68.00%	0.0%	0.0%

County Assistance	0.0%	60.0%	90.0%
Total	100.0%	100.0%	100.0%

In Section III.3, pages 28-29, the applicants state

“The average Medicaid occupancy rate in Gaston County nursing facilities was 66% based on 2011 Medicaid cost report data (See Exhibit 12). The applicant is proposing a nursing facility Medicaid utilization of 68%, consistent with the county average. ... The Special Assistance occupancy rate in Gaston County adult care homes based on most recent license renewal applications was approximately 57%. See Exhibit 13. The applicant is proposing a Special Assistance rate of approximately 73%, far in excess of the current county average volumes. This will contribute significantly to providing this important healthcare service to the medically underserved.”

The applicants demonstrated that the proposed replacement nursing facility will provide adequate access to medically underserved populations. Therefore, the application is conforming with 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.

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In Section V.6, page 51, the applicants demonstrate a range of means by which a person would have access to the proposed services. Therefore, the application is conforming with 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.

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In Section V.1, page 45, with regard to agreements with health professional training programs, the applicants state, *“Peak Resources-Cherryville is not currently providing this service but anticipates to begin providing this service in the near future.”* Exhibit 19 contains a letter from the applicants to Gaston College expressing their intention to provide the proposed replacement nursing facility as a clinical training site. The applicants adequately demonstrate that the proposed project will accommodate the clinical needs of health professional training programs. Therefore, the application is conforming to this criterion.

- (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.

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See Sections II, III, V, VI and VII. In particular, see Section V.6, pages 47-48, in which the applicants discuss the impact of the replacement combination nursing facility as it relates to promoting cost-effectiveness, quality and access. The information provided by the applicants in those sections is reasonable and credible and adequately demonstrates that the expected effects of the proposal on competition include a positive impact on cost-effectiveness, quality and access to nursing care and adult care home bed services in Gaston County. This determination is based on the information in the application, and the following:

- ◆ The applicants adequately demonstrate the need to replace the existing nursing facility and that it is a cost-effective alternative;
- ◆ The applicants have and will continue to provide quality services; and
- ◆ The applicants have and will continue to provide adequate access to medically underserved populations.

Therefore, the application is conforming to this criterion.

- (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.

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Peak Resources-Cherryville is certified by CMS for Medicare and Medicaid participation. According to files in the Nursing Home and Licensure and Certification Section in the Division of Health Service Regulation, no incidents have occurred at Peak Resources-Cherryville within the eighteen months immediately preceding the date of the decision for which any sanctions or penalties related to quality of care were imposed by the State. Therefore, the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.
- (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.

NA

The Criteria and Standards for Nursing Facility or Adult Care Home Facility Services in 10A NCAC 14C .1100 are not applicable because the applicants do not propose to establish new nursing care or adult care home beds.