

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DECISION DATE: September 26, 2014
PROJECT ANALYST: Celia C. Inman
TEAM LEADER: Lisa Pittman

PROJECT I.D. NUMBER: B-10312-14 / Hendersonco, LLC and Hendersonville AL Holdings, LLC / Develop a new 40-bed adult care home as a replacement for two separate adult care home facilities / Henderson 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 for this proposed project are Hendersonco, LLC and Hendersonville AL Holdings, LLC. The applicants may be referred to collectively as either the applicants or Winchester House.

The applicants propose to replace and relocate 40 adult care home (ACH) beds from two separate adult care home facilities within Henderson County; Winchester House # 1, a 30-bed adult care facility, previously known as Nana's Assisted Living Facility # 2 and Winchester House # 2, a 10-bed adult care facility, previously known as Nana's Assisted Living Facility #3. The 40 existing ACH beds are currently located at 1744 / 1745 Meadowbrook Terrace, Hendersonville in Henderson County. The proposed location of the replacement facility is 4145 Haywood Road, Mills River in Henderson County. Upon completion of the proposed project, the facility will be known as Winchester House. Hendersonco, LLC will own the land and the building. Hendersonville AL Holdings, LLC holds the license for the beds and will lease the building from Hendersonco, LLC. Meridian Senior Living will manage the facility. In information requested by the Project Analyst during the expedited review of this application and received September 8, 2014, the applicants clarify the named applicants, which correspond with the legal documentation provided in Exhibit C. The licensee, Hendersonville AL Holdings, LLC, is inadvertently

referred to as Henderson AL Holdings, LLC throughout the application and in the supporting documentation. In all cases, Henderson AL Holdings, LLC refers to Hendersonville AL Holdings, LLC, the legal entity as documented in Exhibit C.

In a November 2013 letter to the Certificate of Need (CON) Section, Hendersonville AL Holdings, LLC provided prior written notice of the change in licensee of Nana's Assisted Living Facility # 2, stating:

"This letter is to notify you that Nana's Assisted Living Facility, LLC, the current licensee of the Hendersonville (Henderson County) facility, currently known as Nana's Assisted Living Facility # 2 (hereafter "the Facility"), will be relinquishing its license, and Hendersonville AL Holdings, LLC has applied to replace Nana's Assisted Living Facility, LLC as the new licensee."

Likewise, the same prior written notice of change in licensee was provided for Nana's Assisted Living Facility # 3, stating:

"This letter is to notify you that Nana's Assisted Living Facility, LLC, the current licensee of the Hendersonville (Henderson County) facility, currently known as Nana's Assisted Living Facility # 3 (hereafter "the Facility"), will be relinquishing its license, and Hendersonville AL Holdings, LLC has applied to replace Nana's Assisted Living Facility, LLC as the new licensee."

The CON Section responded to both letters stating that the change in licensee of the existing ACH facilities, as described in the letters, was not governed by CON. The applicants include the response letters from the CON Section in Exhibit D of the application. The Adult Care Licensure database shows Hendersonville AL Holdings, LLC as the licensee for both facilities as of January 1, 2014.

The facilities are listed in the inventory of ACH beds in Chapter 11 of the 2014 State Medical Facilities Plan ("SMFP") as Nana's Assisted Living # 2 (30 ACH beds) and Nana's Assisted Living # 3 (10 ACH beds), however they have not been operational since early 2014. 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 2014 SMFP.

However, the following policies are applicable:

- Policy LTC-2: Relocation of Adult Care Home Beds
- Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities

Policy LTC-2: Relocation of Adult Care Home Beds states:

"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 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 reflected in the State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

Both the existing and proposed locations are in Henderson County. The application is consistent with Policy LTC-2.

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

“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 for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy-GEN 4. The plan shall not adversely affect patient or resident health, safety, or infection control.”

In Section X.9, page 38, the applicants state:

“The current facility is far from energy efficient due to age and condition. The new building will take advantage of the newest construction techniques and materials to ensure optimal energy efficiency. This includes, but is not limited to, dual pane windows, the most up-to-date insulation materials, modern HVAC units, and a tankless water heater system. By replacing the old, inefficient technologies, the

utility costs will be dramatically reduced, allowing more money to be spent on direct resident care.”

The applicants adequately describe the project’s plan to assure improved energy efficiency and water conservation. The application is consistent with Policy GEN-4.

In summary, the application is conforming to all applicable policies in the 2014 SMFP. Therefore, the application is 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.

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The applicants propose to replace and relocate 40 existing but non-operational ACH beds from two separate facilities within Henderson County. The 40 existing but non-operational ACH beds are currently located at 1744 / 1745 Meadowbrook Terrace, Hendersonville. The proposed location of the replacement facility is 4145 Haywood Road, Mills River. The proposed location is approximately seven miles and 11 minutes from the existing location. The current name of the licensed facilities are Winchester House #1 and Winchester House #2. Upon completion of the proposed project, the facility will be known as Winchester House.

In Section III, page 12, the applicants state that the prior operator was forced to close the Nana’s Assisted Living facilities due to the Adult Care Home Licensure Section’s concerns related to the ability of the facility to provide care for the ACH residents. The Western Branch Manager of the Adult Care Licensure Section, Division of Health Service Regulation stated that in early 2014, the “then operator of the Nana’s Assisted Living facilities” moved the existing residents from those facilities to other adult care facilities. At that point, Nana’s Assisted Living #2 and #3 were no longer operational. Hendersonville AL Holdings, LLC, one of the applicants, became the new licensee in January 2014. The applicants say the current facility is old and does not have modern systems that could otherwise improve quality of care and increase efficiency, stating:

“The facility is not protected by a fire sprinkler system. The systems and insulation in place are not energy efficient. Lighting is insufficient to conduct quality care. In short, the current facility is inadequate to provide care for Adult Care home residents.”

Population to be Served

In Section III.7, page 15, the applicants provide the projected patient origin for the ACH beds, as shown in the table below.

County	Projected % of Total ACH Residents
Henderson	100.0%
Transylvania	0.0%
Polk	0.0%
Haywood	0.0%
Buncombe	0.0%
Rutherford	0.0%
Total	100.0%

On page 15, the applicants state,

“Projected patient origin will be different from existing patient origin only because the facility is not open, and therefore has no current patient origin. The projected patient origin of 100% from Henderson County is reasonable given the central location within Henderson County. The replacement facility will be within a short drive for a majority of the residents of Henderson County.”

According to google maps, the proposed replacement facility is located approximately 7 miles (11 minutes) northwest of the existing facility. Hendersonville is more centrally located in Henderson County than Mills River; however, the projected patient origin is reasonable considering the proximity of the existing facility, the projected population and the utilization of ACH beds in Buncombe, Haywood and Transylvania counties.

The 2014 SMFP shows the following statistics on ACH beds in Henderson County and the counties to the north and west.

County	2017 Projected Population Aged 65 and Older	Bed Surplus/ Deficit (-)	% of Projected Bed Need	Occupancy Rate	Beds Needed
Henderson	28,079	-67	10.15%	78.41%	0
Buncombe	49,932	28			0
Haywood	15,181	-12	3.58%		0
Transylvania	9,809	-100	42.74%	70.90%	0

As the table above demonstrates, Henderson and Transylvania show a large bed deficit, 10 to 50 percent of the total projected bed need; however both counties have an occupancy rate below 85%; therefore, per the SMFP methodology for identifying need, the existing number of ACH beds for the above counties is adequate to meet the residents’ need for ACH services in each county. Therefore, the assumption of 100% of Winchester House’s residents being from Henderson County is reasonable.

The applicants adequately identify the population to be served.

Demonstration of Need

In Section III.1, page 12, and Section III.3, pages 12-13, the applicants state the need to relocate and replace the 40 ACH beds is based on the following:

- The current facility is old and does not have modern systems that could otherwise improve quality of care and increase efficiency.
- The facility is not protected by a fire sprinkler system.
- The systems and insulation in place are not energy efficient.
- Lighting is insufficient to conduct quality care.
- The alternative of replacing and relocating the beds provides a *“new, efficient building that gives the best care to residents, while being built in a location that still serves the same population as it did before.”*

The applicants state, *“In short, the current facility is inadequate to provide care for Adult Care Home residents.”*

Projected Utilization

In Section IV.2, page 17, the applicants provide projected utilization of the 40 ACH beds for the first two full federal fiscal years (FFYs), as illustrated in the table below.

Projected Utilization- 40 Relocated ACH Beds

	1st Full FFY 10/1/16 to 9/30/17	2nd Full FFY 10/1/17 to 9/30/18
Patient Days	10,838	13,731
Occupancy Rate	74.2%	94.1%
Number of Beds	40	40

As shown in the table above, in the second FFY of operation, Winchester House projects the 40 ACH beds (formerly Nana’s Assisted Living #2 and #3) will operate at 94.1% of capacity [$13,731/365/40 = 0.941$, or 94.1%]. The applicants provide the assumptions for the above projections in Exhibit L, with an initial resident count of 15 on October 1, 2016 and a fill-up rate of 4 residents per month until full occupancy is reached at 94%.

According to the 2014 SMFP, during 2013, Henderson County had 14 licensed adult care home facilities. In addition, there were 20 licensed ACH beds in a nursing facility in Henderson County. The following table shows each facility’s July 31, 2013 census and occupancy per the License Renewal Applications filed with the Adult Care Home Licensure Section and the Nursing Home Licensure and Certification Section.

Facility	# of Beds	Census as of July 31, 2013	Occupancy as of July 31, 2013
Blue Ridge Retirement	43	34	79.07%
Cardinal Care Center - Hendersonville	60	52	86.67%
Carillon Assisted Living of Hendersonville	96	54	56.25%
Carolina Village	60	55	91.67%
Cherry Springs Village	60	51	85.00%
Country Meadow Rest Home	15	13	86.67%
Emeritus at Heritage Lodge	24	23	95.83%
Henderson's Assisted Living	26	24	92.31%
McCullough's Rest Home	13	10	76.92%
Mountain View Assisted Living	27	24	88.89%
Nana's Assisted Living # 2*	30		
Nana's Assisted Living # 3*	10		
Spring Arbor of Hendersonville	61	44	72.13%
Spring Arbor West	48	31	64.58%
The Laurels of Hendersonville**	20	12	60.00%

*Licensed but not operational – July 31, 2013 utilization is not available.

**Licensed ACH beds in NF, data as of September 30, 2013

As shown in the table above, Henderson County currently has 593 licensed (553 operational) ACH beds. The 553 operational beds are operating at over 77% ($427 / 553 = .7722$). The applicants provide demographic information in Exhibit F, illustrating that by the year 2019, Henderson County will have approximately 30,340 residents 65 years of age and older, an increase of 13% over 2014 in this age cohort. Residents 65 years of age and older will account for 26% of the total Henderson County population by 2019. It is reasonable to assume that the older the population segment, the greater the need for the type of services being proposed by the applicants; thus demonstrating the need to bring the 40 beds back into operation.

In summary, Winchester House adequately demonstrates the need to replace and relocate 40 ACH beds in Henderson County including the extent to which medically underserved groups will have access to the proposed adult care home services. See discussion regarding access by medically underserved groups in Criterion (13c) incorporated herein by reference. Therefore, the application is conforming to 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.

The applicants propose to replace and relocate 40 licensed but non-operational ACH beds within Henderson County. According to Google Maps, the distance from the current site to the proposed site is approximately seven miles and 11 minutes driving time. Thus, the replacement facility would be geographically accessible to the same population formerly served. Because the beds to be relocated are currently not occupied, no patients will be displaced as a result of the proposed project.

Furthermore, in the replacement adult care home facility, Winchester House, the applicants project 20.2% [$2,774 / 13,731 = .202$] of all resident days for ACH beds will be provided to Medicaid recipients. At present, no medically underserved residents are being served by the 40 ACH beds to be replaced and relocated since it is not operational.

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.3, pages 12-13, the applicants describe the various alternatives that were considered in the development of the proposed project and discuss the alternatives as follows.

- Reopen and operate the current facility – the applicants state this alternative is not possible because the current facility is not in the condition necessary to render quality care to residents.
- Renovate the current facility - the applicants state this alternative is not possible because the current facility does not lend itself to a cost-effective renovation.
- Build a replacement facility at the current location – the applicants state that while this alternative is possible, it does not serve the residents of the county most effectively because the current location would require significant demolition work, postponing the opening of the replacement facility. The applicants also state that the parcel of land the facility is located on does not allow for the extra square footage necessary to meet current licensure standards for adult care home.
- Build a replacement facility at a new location – the applicants state this is the best alternative because it provides, “... a new, *efficient building that gives the best care to residents, while being built in a location that still serves the same population as it did before.*”

The applicants propose to construct a 40-bed replacement facility in the same county. The applicants do not propose to add new beds. Furthermore, the application is conforming to all applicable statutory and regulatory review criteria, and thus, the application is approvable. An application that cannot be approved is not an effective alternative.

The applicants adequately demonstrate that the proposal is its least costly or most effective alternative to meet the need to replace the 40 ACH beds currently not in operation. Consequently, the application is conforming to this criterion and is approved subject to the following conditions.

1. **Hendersonco, LLC and Hendersonville AL Holdings, LLC shall materially comply with all representations made in the certificate of need application and in the supplemental information dated September 8, 2014 and submitted during the expedited review. In those instances where representations conflict, Hendersonco, LLC and Hendersonville AL Holdings, LLC shall materially comply with the last made representation.**
 2. **Hendersonco, LLC and Hendersonville AL Holdings, LLC shall construct a replacement adult care home facility (ACH) which shall be licensed for no more than 40 ACH beds upon project completion.**
 3. **For the first two years of operation following completion of the project, Hendersonco, LLC and Hendersonville AL Holdings, LLC shall not increase actual private pay charges 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 in the certificate of need application.**
 4. **Hendersonco, LLC and Hendersonville AL Holdings, LLC shall provide care to recipients of State/County Special Assistance with Medicaid for the facility, commensurate with representations made in Section VI. 2 and Exhibit L.**
 5. **Hendersonco, LLC and Hendersonville AL Holdings, LLC shall submit all patient charges and patient admissions for each source of patient payment to the CON Section at year end for each of the first three operating years following licensure of the beds in the facility.**
 6. **Hendersonco, LLC and Hendersonville AL Holdings, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.**
- (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.1, page 30, the applicants project the total capital expenditure for the proposal will be \$3,773,450, which includes:

Site Costs	\$ 905,550
Construction Costs	\$ 2,094,400
Equipment and Furniture	\$ 350,000
Consultant Fees	\$ 138,500
Financing Costs	\$ 10,000
Interest during Construction	\$ 175,000
Contingency	<u>\$ 100,000</u>
Total:	\$ 3,773,450

In Exhibit P, the applicants project that the total working capital needs for this project will be \$180,566. In Section VIII.2, page 31, the applicants indicate that the capital cost of the project, including the working capital, will be financed with a commercial loan.

Exhibit N contains a copy of a letter dated July 15, 2014 from DCR Mortgage Partners VI, LP, which states in part:

“DCR Mortgage Partners VI, LP (“DCR”) hereby expresses its interest in providing construction and permanent financing for your proposed new facility in Henderson County. Through our longstanding relationships with affiliated entities of Hendersonco, LLC and Henderson AL Holdings, LLC, whereby we have previously funded all costs associated with several like projects, DCR is comfortable with and is eager for the opportunity to fund 100% of the Winchester House project.

The following is a summary of the terms and conditions that would apply to this transaction:

Borrower: Hendersonco, LLC

Purpose: To provide 100% financing for the development, construction, and permanent financing of a 40 bed Adult Care Facility in Henderson County, NC

Amount: \$3,773,450”

Exhibit O contains the amortization schedule for the above financing.

Exhibit P contains a copy of a letter dated July 9, 2014 from DCR Mortgage Partners VI, LP, which states in part:

“DCR Mortgage Partners VI, LP (“DCR”) hereby expresses its interest in providing working capital financing for your proposed new facility in Henderson County. Through our longstanding relationships with affiliated entities of Hendersonco, LLC and Henderson AL Holdings, LLC, whereby we have previously funded all costs associated with several like projects, DCR is comfortable with and is eager for the opportunity to fund 100% of the Winchester House project.

The following is a summary of the terms and conditions that would apply to this transaction:

Borrower: Henderson AL Holdings, LLC

Purpose: To provide working capital financing inclusive of initial operating costs as well as start-up expenses for a 40 bed Adult Care Facility in Henderson County, NC

Amount: \$180,566”

The applicants adequately demonstrate the availability of sufficient funds for the capital and working capital needs for this project.

In Section IX, page 34, the applicants projected charges/rates for the first two operating years following completion of the project. The private pay charge for a private room is projected to be \$110 for an ACH bed (non special care unit) and \$93.33 for a semi-private bed in each of the first two full federal fiscal years. The state/county special assistance charge for both a private and semi-private room is projected to be \$63.82 in each of the first two full operating years.

The applicants provide the proforma financial statements on pages 41-57 of the application. Each page of the 17-page proforma is labeled as follows:

*“Henderson County
Form C
Pro Forma Operating Expense Statement
Third Full Federal Fiscal Year of Operation
October 1, 2018 through September 30, 2019”*

The Project Analyst was able to discern which pages were actually Form B, which were Form C and which year each page represents by comparison with the figures provided in the assumption worksheets provided in Exhibit L. The applicants project that revenues will exceed operating costs in the second full federal fiscal year following completion of the proposed project, as illustrated in the table below.

Winchester House ACH Services	Project Year 1	Project Year 2
Projected # of Days	10,838	13,731
Projected Average Charge	\$ 96.34	\$ 97.54
Net Patient Revenue	\$ 1,044,172	\$1,339,272
Total Expenses	\$ 1,063,164	\$1,200,732
Net Income (Loss)	\$ (18,992)	\$ 138,540

Winchester House adequately demonstrates that projected revenues and operating costs are based on reasonable, credible and supported assumptions, including projected utilization.

See Exhibit L for assumptions.

In summary, Winchester House adequately demonstrates the availability of sufficient funds for the capital and working capital needs of the project and adequately demonstrated that the financial feasibility of the proposal is based upon reasonable projections of operating costs and revenues. Therefore, the application is conforming to this 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.

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The applicants propose to replace and relocate 40 existing, licensed, but non-operational ACH beds within Henderson County.

According to the 2014 SMFP, during 2013, Henderson County had 14 licensed adult care home facilities. In addition, there were 20 licensed ACH beds in a nursing facility in Henderson County. The following table shows each facility's July 31, 2013 census and occupancy per the License Renewal Applications filed with the Adult Care Home Licensure Section and the Nursing Home Licensure and Certification Section.

Facility	# of Beds	Census as of July 31, 2013	Occupancy as of July 31, 2013
Blue Ridge Retirement	43	34	79.07%
Cardinal Care Center - Hendersonville	60	52	86.67%
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Mountain View Assisted Living	27	24	88.89%
Nana's Assisted Living # 2*	30		
Nana's Assisted Living # 3*	10		
Spring Arbor of Hendersonville	61	44	72.13%
Spring Arbor West	48	31	64.58%
The Laurels of Hendersonville**	20	12	60.00%

*Licensed but not operational – July 31, 2013 utilization is not available.

**Licensed ACH beds in NF, data as of September 30, 2013

As shown in the table above, 2013 utilization for Nana’s Assisted Living #2 and #3 (proposed Winchester House) is not available. The facilities’ residents were moved to other ACH facilities in early 2014. The applicants state that the existing facility is old and does not have modern systems that could otherwise improve quality of care and increase efficiency. The applicants also state that the facility is not protected by a fire sprinkler system, thus rendering the facility inadequate to provide care for ACH residents. Thus, state the applicants, the proposed project to replace and relocate the existing adult care home beds would increase bed availability and quality of care by making available existing licensed non-operational beds for residents in the county.

The applicants adequately demonstrate the need to replace the 40 ACH beds no longer in operation. See Criterion (3) for discussion which is hereby incorporated by reference as if set forth fully herein. Consequently, the applicants adequately demonstrate that the proposed project would not result in the unnecessary duplication of existing or approved ACH beds in Henderson County. Therefore, the application is conforming to 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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The applicants propose to provide personal care staff twenty-four hours per day, seven days per week. In Section VII.2, page 26, the applicants provide staff by shift, along with proposed supervisory positions. In Section VII.3, page 27, the applicants state that by FFY 2018 (the second full federal fiscal year), the proposed replacement adult care facility will be

staffed by 19.00 full-time equivalent (FTE) positions. 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 application is 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.1, pages 7-9, the applicants describe the ancillary and support services that will be provided by the facility or made available through agreements with other providers including dietary, transportation, dentistry, physician, respite, medication administration, personal care and beauty and barber services. In Exhibit J, the applicants provide a copy of a letter to Margaret R. Pardee Memorial Hospital expressing interest in a transfer agreement for the proposed facility. Exhibits I and K contain copies of letters of support from the Henderson County Department of Social Services and other local business representatives and physicians. Exhibit X contains letters from the proposed providers of food supplies, pharmacy services and RN consultant services. The applicants adequately demonstrate that they will provide or make arrangements for the necessary ancillary and support services and that the proposed services will be coordinated with the existing health care community. Therefore, the application is conforming to 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.

C

The applicants propose to construct a 22,400 square foot building at 4145 Haywood Road, Mills River, Henderson County to house the proposed replacement adult care facility. Construction costs are projected to be \$2,094,400 as stated in Section VIII.1, page 30 of the application. Exhibit W contains a letter dated July 15, 2014 from DH&A Architecture, PA, which states that the cost for building construction only (Table VIII.1 Line B.7) would be \$93.5 per square foot ($\$2,094,400 / 22,400$ square feet). This corresponds with Line B.7 "*Cost of construction contract(s)*" in Table VIII.1- Estimated Capital Costs on page 30.

Section X.9, page 38 details the energy and water saving features to be included in the proposed project which include: dual pane windows, up-to-date insulation materials, modern HVAC units and a tankless water heater system.

The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative and that the construction costs will not unduly increase costs and charges for health services. See Criterion (5) for discussion of costs and charges which is hereby incorporated by reference as if set forth fully herein. Therefore, the application is conforming with 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;

NA

The facilities are no longer operational. Hendersonville AL Holdings, LLC, the applicant lessee, became the licensee for the facilities in January of 2014.

- (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;

NA

The facilities are no longer operational. Hendersonville AL Holdings, LLC, the applicant lessee, became the licensee for the facilities in January of 2014.

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

C

In Section VI.2, page 21, the applicants project the following payor mix for the second full federal fiscal year of operation (FFY 2018).

Payor Category	ACH Days	Percent
Private Pay	10,957	79.8%
Special Assistance-Basic Medicaid	2,774	20.2%
Total	13,731	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 for Henderson County and statewide.

	2010 Total # of Medicaid Eligibles as % of Total Population *	2010 Total # of Medicaid Eligibles Age 21 and older as % of Total Population *	2008-2009 % Uninsured (Estimate by Cecil G. Sheps Center) *
Henderson	14%	5.4%	19.7%
Statewide	17%	6.7%	19.7%

* More current data, particularly with regard to the estimated uninsured percentages, was not available.

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 with respect to adult care home services.

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 payor 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 will have adequate access to the proposed services. Therefore, the application is conforming to this criterion.

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

C

In Section I.10, page 6, the applicants state that the proposed adult care home will be managed by Meridian Senior Living. In Section V.4, page 19, the applicants state,

"The majority of referrals will come from local hospitals, the Henderson County Department of Social Services, local churches, and community organizations. The facility will be open to both private pay residents and those requiring special assistance."

The applicants adequately demonstrate they will offer a range of means by which patients will have access to the proposed adult care home beds. Therefore, the application is conforming to this criterion.

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

C

In Section V.1, page 19, the applicants state,

“The facility is not currently in operation; therefore, there are no existing agreements. However, steps have been taken to create agreements with the following health professional training programs:

Blue Ridge Community College”

Exhibit K contains a letter from the Allied Health Faculty Coordinator at Blue Ridge Community College offering support for the project and interest in the facility as a clinical training site.

The applicants adequately demonstrate that the proposed facility would accommodate the clinical needs of area 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.

C

Nana’s Assisted Living # 2 and # 3 (now licensed as Winchester House # 1 and # 2) are not currently in operation.

According to the 2014 SMFP, during 2013, Henderson County had 14 licensed adult care home facilities. In addition, there were 20 licensed ACH beds in a nursing facility in Henderson County. The following table shows each facility’s July 31, 2013 census and occupancy per the License Renewal Applications filed with the Adult Care Home Licensure Section and the Nursing Home Licensure and Certification Section.

Facility	# of Beds	Census as of July 31, 2013	Occupancy as of July 31, 2013
Blue Ridge Retirement	43	34	79.07%
Cardinal Care Center - Hendersonville	60	52	86.67%
Carillon Assisted Living of Hendersonville	96	54	56.25%
Carolina Village	60	55	91.67%
Cherry Springs Village	60	51	85.00%
Country Meadow Rest Home	15	13	86.67%
Emeritus at Heritage Lodge	24	23	95.83%
Henderson's Assisted Living	26	24	92.31%
McCullough's Rest Home	13	10	76.92%
Mountain View Assisted Living	27	24	88.89%
Nana's Assisted Living # 2*	30		
Nana's Assisted Living # 3*	10		
Spring Arbor of Hendersonville	61	44	72.13%
Spring Arbor West	48	31	64.58%
The Laurels of Hendersonville**	20	12	60.00%

*Licensed but not operational – 2013 utilization is not available

**Licensed ACH beds in NF, data as of September 30, 2013

As shown in the table above, 2013 utilization for Nana’s Assisted Living #2 and #3 (proposed Winchester House) is not available. The facilities’ residents were moved to other ACH facilities in early 2014. The 553 operational beds are operating at over 77% ($427 / 553 = 77.22$). The applicants provide demographic information in Exhibit F, illustrating that by the year 2019, Henderson County will have approximately 30,340 residents 65 years of age and older, an increase of 13% over 2014 in this age cohort. This cohort will account for 26% of the total Henderson County population by 2019. It is reasonable to assume that the older the population segment, the greater the need for the type of services being proposed by the applicants; thus demonstrating the need to bring the 40 beds back into operation.

In Section III.6(c), page 14, the applicants state:

“Because the current facility is closed and unable to serve residents given its current condition, replacing this facility with the proposed new facility would increase bed availability for the residents in the county. Currently, the residents in the county are unable to utilize these beds.”

Thus, the proposed project to replace and relocate the existing facility would increase bed availability and quality of care by making existing, licensed non-operational beds available to the residents in the county.

In Section VI.5, page 22, the applicants discuss how any enhanced competition in the service area will have a positive impact upon the cost-effectiveness, quality and access to the proposed services. The applicants state:

“The beds in question are currently not being utilized because the facility housing them is not in a condition suitable for the care of adult care home residents. The proposed project will move these beds to a location where there is more need and into a new facility in which adult care home residents can be properly cared for. As discussed in X.9, the new facility would be much more energy efficient as well, allowing more funds to be allocated to direct care for residents rather than utility costs.”

The applicants demonstrate the proposed new facility will be a cost effective alternative for the provision of quality care. The applicants do not provide any data to demonstrate that, *“The proposed project will move these beds to a location where there is more need...”* However, the proposed location is only seven miles from the existing location; therefore the proposed location will be accessible to the same population previously served. See also Sections II, III, V, VI and VII where Winchester House discusses the impact of the project on cost-effectiveness, quality and access. The information provided by Winchester House in those sections is reasonable and credible and adequately demonstrates that any enhanced competition in the service area includes a positive impact on the cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following analysis:

- Winchester House adequately demonstrates the need to replace and relocate 40 ACH beds within Henderson County and adequately demonstrates it is a cost-effective alternative;
- Winchester House adequately demonstrates it will provide quality services; and
- Winchester House adequately demonstrates it will provide adequate access to medically underserved populations.

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.

NA

- (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, promulgated in 10A NCAC 14C .1100, are not applicable because the applicants do not propose to establish new adult care home facility beds.