

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: October 16, 2015
Findings Date: October 16, 2015

Project Analyst: Bernetta Thorne-Williams
Team Leader: Lisa Pittman

Project ID #: J-11046-15
Facility: Johnston Manor
FID #: 150290
County: Johnston
Applicants: Smithfield Property Holdings, LLC (Lessor) and Smithfield Opco Holdings, LLC (Lessee)

Project: Relocate Cardinal Care Assisted Living Village (I-VI) and Smithfield House West by constructing a 132 bed replacement adult care home

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, ambulatory surgical operating rooms, or home health offices that may be approved.

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The applicants, Smithfield Property Holdings, LLC (Lessor) and Smithfield Opco Holdings, LLC (Lessee) propose to construct a new 132 bed replacement adult care home at 6100 Hwy 42 West on the outskirts of Garner in Johnston County. The proposed facility would replace two facilities: Cardinal Care Assisted Living Village (I-VI) (CCALV) is non-operational and located at 606

East Morris Avenue in Benson. Smithfield House West (SHW) is currently operational and located at 303 Hospital Road in Smithfield. The applicants anticipate closing SHW and assisting the current residents with transitioning into new placements prior to the relocation of the facility. Both facilities are located in Johnston County. CCALV and SHW are both located approximately 18.8 miles, (according to Google Map¹), from the proposed replacement facility. The applicants propose to construct a 50,737 square foot replacement adult care home (ACH). The applicants report the management company for the proposed facility will be Meridian Senior Living.

Need Determination

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 2015 State Medical Facilities Plan (SMFP).

Policies

However, Policy LTC-2: Relocation of Adult Care Home Beds and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities in the 2015 SMFP are applicable to this review.

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 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 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.”*

CCALV, SHW and the proposed Johnston Manor are all located in Johnston County. Therefore, the inventory of ACH beds will not change as a result of the proposal to construct a replacement ACH and relocate the existing 72 beds from CCALV and 60 beds from SHW to Johnston Manor

¹ Google Maps <https://maps.google.com/maps>

for a total of 132 beds to be relocated within the same county. Therefore, 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 improving 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 resident or resident health, safety or infection control.”

The proposed capital expenditure for this project is greater than 5 million. In Section X.9 page 40, the applicants describe the measures that will be used to promote energy efficient operations and water conservation which include: dual pane windows, the most up-to-date insulation materials, modern HVAC units, and a tankless water heater system. The applicants adequately demonstrate the proposal includes a plan to assure improved energy efficiency and water conservation.

Conclusion

In summary, the applicants adequately demonstrate that the proposed project is consistent with Policy LTC-2 and Policy GEN-4 in the 2015 SMFP and is therefore conforming to this criterion subject to condition # 6 in Criterion (4).

- (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 construct a 50,737 square foot, 132-bed replacement adult care home in Johnston County. The proposed new facility would replace CCALV and SHW. CCALV was comprised of six buildings that each had 12 beds for a total of 72 ACH beds. In Exhibit C the applicants provide a letter dated June 10, 2015 from attorney J.M. Cook that states CCALV had an emergency closing due to financial problems on or about May 1, 2015. As a result of this closing, the facility does not currently have residents who would be affected by the facility being relocated from Benson to Garner. Additionally, SHW was acquired by Smithfield Property Holdings, LLC with the intention of relocating the beds to another facility before the replacement facility is operational. See Exhibit C for a letter dated June 12, 2015 which discusses the steps that will be taken to assure the residents residing at SHW are assisted with the transition into new placements. Neither CCALV nor SHW were approved for Special Care Unit (SCU) beds and thus all beds are identified as general Adult Care Home (ACH) beds. The applicants propose in this application to maintain the 132 beds with 56 private beds and 76 semi private beds.

Population to be Served

In Section III.7(b), page 16, the applicants state that CCALV is closed. However, the applicants provide the historical patient origin for SHW as of 6/12/15, as illustrated in the table below.

Patient Origin

County	% of Total Current Residents	Project Year 2
Johnston	60%	100%
New Hanover	14%	
Wake	10%	
Carteret	10%	
Chatham	2%	
Cumberland	2%	
Harnett	2%	
Total	100%	100%

The current patient origin is based on 44 residents residing at SHW. In Section III.7(c), pages 16-17, the applicants project that the patient population origin of Johnston Manor will be 100% from Johnston County based on the proposed facility's centralized location in Johnston County.

The applicants adequately identify the population it proposes to serve.

Need for the Proposed Project

In Section III, page 13, the applicants state the need to construct a new 132-bed replacement adult care home in Johnston County is based on the current facilities being old and lacking systems that would improve quality of care and increase efficiency. According to data in the Agency’s Long Term Inventory (LTI) system, the six CCALV buildings were originally licensed between 1974 and 1982. SHW was originally licensed in 1994. The applicants report that neither of the current facilities are protected by a sprinkler system and both have insufficient lighting to conduct quality care. Furthermore, CCALV is already closed and SHW is closing. In Section II.1, page 8, the applicants state the proposed facility will create a homelike setting within the community for its residents. The applicants state the design of the facility will:

- *“Promote greater social interaction;*
- *Provide a more secure, supportive atmosphere;*
- *Allow for greater, individualized care for each resident; and*
- *Enhance the overall quality of life for all residents.”*

The applicants further state on page 8, that Johnston Manor will provide a comprehensive range of long term care to its residents in accordance with all rules governing the licensure of adult care homes.

The applicants adequately demonstrate a need to replace and relocate the existing ACH facilities.

Projected Utilization

In Section IV.2, page 19, the applicants provide the projected utilization for the proposed 132-bed replacement adult care home for the first two years following completion of the project, as illustrated in the table below.

Johnston Manor Projected Utilization First (10/1/2017 – 9/30/2018) & Second(10/1/2018 – 9/30/2019) Full Federal Fiscal Years		
Year	Total Facility Days of Care All Beds	Facility Occupancy Rate
FFY 2018	17,340	36.0%
FFY 2019	38,123	79.1%

Source: Applicant’s application page 19

The applicants project 79.1% utilization in the second year of operations for the proposed replacement ACH. In Exhibit F, the applicants provide demographic data for the population in Johnston County as provided by NC State Data Center (Oct. 2014). NC population change data (2013-2033) illustrates that Johnson County will have a higher population of 65+ residents than

the state as a whole. Additionally, Exhibit F contains data from the American Community Survey 2009-2013 which illustrates that Johnston County’s 65+ population had increased 21.9% over the four year period.

The applicants’ assumptions regarding utilization can be found in Exhibit L. The applicants’ assumptions are as follows:

“Occupancy

- A) Facility begins operations with 20 ACH reserved beds on October 1, 2017.*
- B) Fill-up at the rate of 5 residents per month until ACH fills.*
- C) No SCU.*
- D) ACH considered full at 93% in First Month of the Third Year (October 2019).”*

Additionally in Exhibit L, pages 119-124, the applicants provide the following fill-up and occupancy rates for operating years 1 and 2, as summarized in the tables below.

Projected Fill-up and Occupancy Year One

	Oct 17	Nov 17	Dec 17	Jan 18	Feb 18	Mar 18
# of Beds	132	132	132	132	132	132
Projected # of Residents	20	25	30	35	40	45
% of Occupancy	15%	19%	23%	27%	30%	34%
	Apr 18	May 18	Jun 18	Jul 18	Aug 18	Sept 18
# of Beds	132	132	132	132	132	132
Projected # of Residents	50	55	60	65	70	75
% of Occupancy	38%	42%	45%	49%	53%	57%

Projected Fill-up and Occupancy Year Two

	Oct 18	Nov 18	Dec 18	Jan 19	Feb 19	Mar 19
# of Beds	132	132	132	132	132	132
Projected # of Residents	80	85	90	95	100	105
% of Occupancy	61%	64%	68%	72%	76%	80%
	Apr 19	May 19	Jun 19	Jul 19	Aug 19	Sept 19
# of Beds	132	132	132	132	132	132
Projected # of Residents	110	114	116	118	120	122
% of Occupancy	83%	86%	88%	89%	91%	92%

As demonstrated in the tables above, the applicants project to have 20 residents within the first month of operation. Then the applicants project a fill-up of five residents per month from the

second operational month (November 2017) through the nineteenth month of operations (April 2019). The applicants project a slow-down in admissions with four residents being admitted in May 2019 and two residents being admitted per month in June through and September with the facility projected to reach 92% utilization in November 2019.

Projected utilization is based on reasonable and adequately supported assumptions.

Access

In Exhibit L, the applicants state that 58.0% of its projected residents will receive State/County Special Assistance. In Section VI.3, page 24, the applicants state, “[A]ll persons will be admitted to the facility without regard to their race, color, creed, age, national origin, handicap, sex, or source of payment. ...” The applicants adequately demonstrate the extent to which all residents, including the underserved groups, will have access to the proposed services at Johnston Manor.

Conclusion

In summary, the applicants adequately identify the population to be served, adequately demonstrate the need to relocate and replace two existing adult care homes with one new 132-bed ACH, and adequately demonstrate the extent to which all residents, including underserved groups, will have access to the proposed services. Therefore, this 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.

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The applicants propose to relocate 132 licensed ACH beds from CCALV (72 non-operational beds) and SHW (60 operational beds), in Benson and Smithfield, respectively, to Johnston Manor, on the outskirts of Garner in Johnston County. According to Google Maps the proposed new replacement ACH would be located approximately 18.8 miles from CCALV and SHW. Therefore, the replacement facility would be geographically accessible to the same population previously served at CCALV I and SHW.

The applicants state in Section III.6(a), page 15, that because CCALV is closed and not currently serving residents due to financial troubles, no residents will be impacted by its relocation. The applicants further state that the owners of the proposed Johnston Manor will work closely with the Department of Social Services and family members to transition the residents at SHW into

suitable placements. In Exhibit C, the applicants state, *“The closing of Smithfield House will be planned and executed according to licensure protocols in 10A NCAC 13F .0702. The facility will provide Residents, Families and Guardians with appropriate notice to assist with placement into new facilities.”*

The applicants demonstrate that the needs of the population presently served will be adequately met and that the proposal will not adversely affect the ability of medically underserved groups to obtain needed health care. 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.

CA

In Section III.3, page 14, the applicants describe the only alternative other than maintaining the status quo that they considered. The applicants state that maintaining the status quo is not an effective alternative because of the age and condition of the existing facilities. The applicants propose to construct a replacement ACH within the same county. The applicants do not propose to add additional beds.

The applicants adequately demonstrate that the proposed alternative is the most effective or least costly alternative.

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

In summary, the applicants adequately demonstrate that the proposed alternative is their most effective or least costly alternative to meet the need to provide ACH beds/services in Johnston County. Therefore, the application is conforming to this criterion and approved subject to the following conditions.

- 1. Smithfield Property Holdings, LLC and Smithfield Opco Holdings, LLC shall materially comply with all representations made in the certificate of need application and in supplemental information provided. In those instances where representations conflict, Smithfield Property Holdings, LLC and Smithfield Opco Holdings, LLC shall materially comply with the last made representation.**
- 2. Smithfield Property Holdings, LLC and Smithfield Opco Holdings, LLC shall construct a replacement adult care home which shall be licensed for no more than 132 adult care beds upon the completion of the proposed project.**

3. **For the first two years of operation following completion of the project, Smithfield Property Holdings, LLC and Smithfield Opco Holdings, LLC of North Carolina, Inc. shall not increase actual private pay charges more than 5% of the projected private pay charges provided in Section IX of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations made in the certificate of need application.**
 4. **Smithfield Property Holdings, LLC and Smithfield Opco Holdings, LLC shall provide care to State/County Special Assistance patients with Basic Medicaid for the facility commensurate with their representations in Section VI.2, Exhibit L and supplemental materials.**
 5. **Smithfield Property Holdings, LLC and Smithfield Opco Holdings, LLC shall submit all patient charges and patient admissions for each source of patient payment to the Healthcare Planning and Certificate of Need Section at year end for each of the first three operating years following licensure of the beds in the facility.**
 6. **Smithfield Property Holdings, LLC and Smithfield Opco Holdings, LLC, shall submit a plan of energy efficiency and water conservation to the Construction Section, DHSR that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation.**
 7. **Smithfield Property Holdings, LLC and Smithfield Opco Holdings, LLC, shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and 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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Smithfield Property Holdings, LLC and Smithfield Opco Holdings, LLC propose replacing CCALV and SHW with a 132 bed replacement ACH in Johnston County.

Capital and Working Capital Costs

In Section VIII.1, page 32, the applicants project that the capital cost will be as follows:

Site Costs	\$2,169,100
Construction / Renovation Costs	\$6,116,345
Miscellaneous Costs	\$1,593,350
Total	\$9,878,795

In Exhibit P, the applicants project that the working capital costs (start-up costs and initial operating costs) will be \$766,978.

Availability of Funds

In Section VIII.2, page 33, the applicants state that the capital cost of the project will be financed with a commercial loan. In Exhibit P, the applicants state that the working capital costs for the project will also be financed with a commercial loan. In Exhibits N and P, the applicants provide letters dated June 10, 2015 from a Principal of Stirling Realty Advisors which states its interest in providing construction and permanent financing as well as working capital for the proposed project. The applicants adequately demonstrate that sufficient funds will be available for the capital and working capital needs of the project.

Financial Feasibility

The applicants provided pro forma financial statements for the first two years of the project. The applicants project operating expenses will exceed revenues in project year 1 (FFY 2018). However, the applicants project revenues will exceed operating expenses in each of the last two project years, as illustrated in the table below.

ACH Beds	Project Year 1	Project Year 2	Project Year 3
Projected # of days	17,340	38,123	44,930
Gross Revenue	\$1,590,674	\$3,582,996	\$4,300,727
Total Expenses	\$2,191,295	\$3,390,666	\$3,564,442
Net Income	(\$600,620)	\$192,330	\$736,285

Additionally, the table below reflects per diem reimbursement rates provided by the applicants in Exhibit L, and Tables IX.3A and IX.3B, page 36, of the application for FFY 2019 and FFY 2020, as shown in the table below.

Johnston Manor Projected Per Diem Reimbursement FFY 2019		
Payor Source	Private Room	Semi-Private Room
ACH Services		
Private Pay	\$125.60	\$0.00
State/County Special Assistance	\$76.41	\$76.41

Johnston Manor Projected Per Diem Reimbursement FFY 2020		
Payor Source	Private Room	Semi-Private Room
ACH Services		
Private Pay	\$125.60	\$0.00
State/County Special Assistance	\$76.41	\$76.41

In Section X, page 40, the applicants state the proposed replacement facility will consist of 56 private beds and 76 semi-private beds.

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Exhibit L for the assumptions regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicants adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicants adequately demonstrate that sufficient funds will be available for the capital and working capital needs of the project. Furthermore, the applicants adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of costs and charges. 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 132 existing adult care beds currently in Johnston County. Cardinal Care Assisted Living Village is not operational. Smithfield House West, according to information obtained from the Adult Licensure and Certification Section is still

operational. The new owners report in Exhibit C that an orderly and planned discharge for its current residents will occur in accordance with the protocols set forth in 10A NCAC 13F .0702.

On page 217, the 2015 SMFP defines the service area for ACHs as the adult care home bed planning area in which the bed is located. Thus, the service area for this facility consists of Johnston County. Facilities may also serve residents of counties not included in their service area.

The 2015 SMFP reports a surplus of 175 ACH beds in Johnston County. According to the Adult Care Licensure Section of the Division of Health Service Regulation, there are 24 licensed adult care homes in Johnston County with a total of 627 ACH beds (excluding the 80 ACH beds in Nursing Homes). Of these Johnston County facilities, nine are located in Benson with a total of 96 ACH beds, eight are located in Smithfield with a total of 250 ACH beds, three are located in Selma with a total of 36 beds, two are located in Clayton with 137 ACH beds with one each located in Four Oaks (96 beds) and Princeton (12 beds).

The applicants do not propose to develop new ACH beds, but rather to replace two old ACH facilities and relocate 132 existing beds. There will be no increase in the number of ACH beds in Johnston County. See discussion in Criterion (3) which is incorporated herein by reference. Consequently, the applicants adequately demonstrate that the proposed project would not result in an unnecessary duplication of existing and approved ACH services or facilities in Johnston 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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CCALV is currently closed and Smithfield House West is currently operational. The table below illustrates the current full-time equivalent (FTE) staff, as of June 11, 2015, for Smithfield House West as provided by the applicants on page 27 of the application.

Current Staffing for Smithfield House West

	Current FTEs 60-bed SHW
Routine Services	
Supervisor	1.0
Personal Care Aide	6.0
Total	7.0
Dietary	
Supervisor	
Cooks	1.0
Dietary Aides	1.5
Total	2.5
Activity Services	
Director	0.5
Total	0.5
Housekeeping/Laundry	
Housekeeping Supervisor	1.0
Housekeeping Aides	2.0
Total	3.0
Operations & Maintenance	
Maintenance Supervisor*	0.5
Total	0.5
Admin & General	
Administrator	1.0
Bookkeeper	1.0
Total	2.0
Total All Positions	15.5

In supplemental information, the applicants provide a staffing chart for the second full federal fiscal year for the proposed facility, as illustrated in the table below.

**Johnston Manor Proposed
 Staffing Chart Second FFY 2018**

	Adult Care Home Beds FTEs
Routine Services	
Supervisor (1/2 Direct Care)	3.0
Personal Care Aide	26.0
Med Tech (Direct Care)	8.0
Care Coordinator	1.0
Total	38.0
Dietary	
Supervisor	2.0
Cooks	3.5
Dietary Aides	3.0
Total	8.5
Activity Services	
Director	1.0
Total	1.0
Patient Transportation	
Driver	1.0
Total	1.0
Housekeeping/Laundry	
Housekeeping Supervisor	1.0
Housekeeping Aides	3.0
Laundry Aides	1.0
Total	5.0
Operations & Maintenance	
Maintenance Supervisor	0.5
Janitors	1.0
Total	1.5
Admin & General	
Administrator	1.0
Business Office Manager	1.0
Receptionist	1.5
Total	3.5
Total All Positions	58.5

The applicants project 73,840 annual direct care staff hours for the ACH beds (35.50 direct care staff x 2,080 annual hours = 73,840). In Section VII, page 30 and illustrated in the table above, the applicants project residents will receive 1.9 direct care hours per resident per day (73,840 direct care staff hours/38,123 number of projected resident days for FFY2 = 1.9).

In Exhibit B, the applicants describe the experience Meridian Senior Living, LLC has with managing adult care homes. Exhibit B also contains the resumes of the licensed professionals

associated with Meridian Senior Living, LLC who will provide consultation services to Johnston Manor. 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 8-10, the applicants describe the ancillary and support services that will be provided by the facility or made available through agreements with other providers. Exhibit X contains service agreement letters from Dawn McKenzie-Clark, RN agreeing to provide RN consultant services, Sysco Charlotte, LLC agreeing to provide dietary consultation, and Stanley Lab, Inc. agreeing to provide pharmaceutical services.

The applicants adequately demonstrate the availability of the necessary ancillary and support services and that the proposed services will be coordinated with the existing health care system. Therefore, the application is not 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

NA

- (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 adult care home which will have an estimated 50,737 square feet. In Section VIII.1, pages 31-32, the applicants project the total cost for construction will be \$6,116,345. Exhibit W contains a quote from Sherman Architecture, PLLC that provides a quote of \$120.55 per square foot for building construction only ($\$120.55 \times 50,737 = 6,116,345$). This quote concurs with the construction cost listed on pages 31 and 32. Additionally the letter from the architectural company in Exhibit W states that the proposed ACH would comply with all applicable federal, state, and local construction and licensure codes and will also ensure a structure that is energy efficient and provides water conservation. Exhibit T contains an Area Map and Exhibit V contains the line drawing.

The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative, and that the construction cost will not unduly increase costs and charges for health services. 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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According to information reported on SHW's 2015 License Renewal Application (LRA), the facility had 45 residents as of July 31, 2014. Of those 45 residents, seven were private pay, thirty-five received State/County Special Assistance (SA), and nineteen residents received Medicaid reimbursed Consolidated Personal Care. Residents who receive S/A are also eligible to receive Medicaid reimbursed Consolidated Person Care.

The Division of Medical Assistance (DMA) maintains a website which provides the number of persons eligible for Medicaid in North Carolina, and estimates the percentage of uninsured people for each county. More current data, particularly with regard to the estimated uninsured percentages, was not available. The following table illustrates those percentages for Johnston 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)
Johnston County	17%	6.7%	20.0%
Statewide	17%	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 proposed in this application.

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, handicapped persons or women utilizing health services.

The applicants demonstrate that medically underserved populations currently have adequate access to the services offered at SHW. Therefore, the application is conforming to this criterion.

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

C

In Section VI.4, page 25, the applicants state that it is not aware of any civil rights equal access complaints being filed against its facilities or programs in North Carolina within the past five years. Therefore, the application is conforming to this criterion.

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

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See Exhibit M for a copy of Johnston Manor's Admission Policy which includes its non-discrimination policy and civil rights statement.

In Section VI.3(a), page 24, the applicants states the facility will admit residents regardless of race, color, creed, age national origin, handicap, sex or source of payment.

In supplemental information, the applicants provide the resident days by payor category for Operating Year 2, as illustrated in the table below.

Johnston Manor FFY 2018		
Payor Source	Resident Days	% of ACH Days
Private Pay	14,601	38.3%
Special Assistance/Basic Medicaid	23,522	61.7%
Total	38,123	100.0%

On pages 116-134 (Exhibit L), the applicants provide the assumptions and methodology used to project payor mix. The applicants indicate its assumptions are based on the historical expertise of Meridian Senior Living, LLC in managing adult care homes. 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 out resident services, admission by house staff, and admission by personal physicians.

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In Section V.4, pages 21-22 and Exhibit 1, the applicants state residents will have access to the services offered at Johnston Manor through the following referral sources:

- Hospitals,
- Johnston County Department of Social Services,
- Local churches, and
- Community organizations.

The applicants adequately demonstrate that the facility will offer a range of means by which patients will have access to the proposed services. 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.

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Exhibit K contains a copy of an email from the Regional Director of Marketing at Meridian Senior Living to the Director of Health Education and Nursing Assistance of Johnston Community College offering the use of Johnston Manor as a clinical training site. The applicants adequately demonstrate that the proposed facility would accommodate the clinical needs of health professional training programs in the area. The information provided is reasonable and credible and supports a finding of conformity with 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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The applicants propose to relocate 132 existing licensed ACH beds, 72 of which are located at CCALV in Benson which is currently closed. Sixty beds are located at SHW in Smithfield. Those 60 beds are currently operational. In Section III.1, page 13, the applicants discuss the plan to relocate the existing licensed ACH beds from CCALV and SHW to the proposed Johnston Manor. The applicants own the 132 licensed beds in the two existing ACH facilities. Upon approval of this certificate of need, the applicants will cease operations of SHW and the current residents will be relocated through attrition and coordination with other providers of ACH services in the Johnston County area in accordance with the licensure protocols for adult care facilities set forth in 10A NCAC 13F .0702. In Exhibit C the applicants provide a letter dated June 10, 2015 from the Corporate Counsel for CCALV which states:

“For the last few years, Cardinal has had financial difficulties. This resulted in the company accruing tax debt. On or about 1 May 2015, the Internal Revenue Service, ... swept the bank accounts leaving Cardinal with no operating capital. ...Cardinal was left with no choice than to conduct an emergency closing.”

In Exhibit D, the applicants provide a copy of the April 15, 2015 Exempt from Review letter for the acquisition of Smithfield House West. Additionally, Smithfield House West reported on its 2015 LRA that it had 45 patients as of July 31, 2014 for a utilization rate of 75% [45/60=0.75].

The 72 beds at CCALV and the 60 beds at SHW are currently listed in the inventory of ACH beds in Chapter 11, Table 11A, of the 2015 SMFP. Therefore, the proposed project would not result in an increase in the inventory of ACH beds in Johnston County.

According to the 2015 SMFP, there are currently a total of 24 existing facilities in Johnston County that offer adult care home services (two of those facilities are nursing homes). The table below is a summary of the Johnston County inventory. The table is recreated from the 2015 SMFP, Chapter 11, Table 11A, pages 230-231 and Table 11B, page 244. The table below provides for Johnston County, a summary of licensed ACH beds by: number in ACH facilities, number in nursing homes, total number available in the county, total number approved, total number in the planning inventory; and the projected surplus. There is a projected surplus of 175 ACH beds in 2018 for Johnston County.

2015 SMFP ACH Inventory & 2018 Need Projections Johnston County	
# ACH Facilities	22
# Beds in ACH Facilities	624
Occupancy Rate of ACH Beds	74%
#Nursing Homes with ACH Beds	2
Occupancy Rate of ACH Beds in NH	25%
# Beds in Nursing Homes	80
Total Licensed Beds	707
# CON Approved	0
Total # Available	707
Total Occupancy of ACH Beds	69%
Projected Bed Surplus	175
Source: 2015 SMFP and LTI*	

*The Division of Health Service Regulations' Long Term Care Inventory Database

Including CCALV's six buildings, which are closed, 15 of the 24 facilities with ACH beds have only 12 beds. Seven of the facilities have between 60 to 96 beds. Two of the facilities with ACH beds are nursing home facilities.

In Section III, page 13, the applicants describe quality and other physical plant issues at the applicants' existing ACH facilities in Johnston County. The applicants also reference the projected population growth in the 65+ age group (See Exhibit F). In Section II.1, page 8 and Section VI.5, page 25, the applicants discuss how any enhanced competition in the service area will have a positive impact on the cost-effectiveness, quality of care and access to the proposed services.

See also Sections II, III, V, VI and VII where the applicants discuss the impact of the project on cost-effectiveness, quality and access.

The information in the application is reasonable and adequately demonstrates that any enhanced competition in the service area includes a positive impact on cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following analysis:

- ◆ The applicants adequately demonstrate the need for the proposed project and that it is a cost-effective alternative. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- ◆ The applicants adequately demonstrate that it will provide quality services. The discussion regarding quality found in Criterion (20) is incorporated herein by reference.
- ◆ The applicants demonstrate that it will provide adequate access to medically underserved populations. The discussion regarding access found in Criterion (13) is incorporated herein by reference.

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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In Section II, page 5, the applicants state that it currently owns, leases, or manages two adult care homes in North Carolina. According to the files in the Adult Care Licensure Section, DHSR, no incidents occurred within the eighteen months immediately preceding submission of the application through the date of this decision, for which any sanctions or penalties related to quality of care were imposed by the State on any facility owned and operated by Smithfield Property Holdings, LLC and Smithfield Opco Holdings, LLC in North Carolina. After reviewing and considering information provided by the applicants and by the Adult Care Licensure Section and considering the quality of care provided at all facilities, the applicants provided sufficient evidence that quality care has been provided in the past and adequately demonstrated that there is no pattern of substandard quality of care. 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 adult care home beds.