

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: March 14, 2016

Findings Date: March 14, 2016

Project Analyst: Celia C. Inman

Assistant Chief: Lisa Pittman

Project ID #: G-11121-16

Facility: Abbotswood at Irving Park

FID #: 150329

County: Guilford

Applicant: KC Greensboro Expansion, LLC

Project: Relocate 26 adult care home beds from Elm Villa to Abbotswood at Irving Park for a total of 48 adult care home beds upon completion of this project and Project I.D. #G-11053-15 (Relocate 22 ACH beds from Bell House)

### 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.

C

KC Greensboro Expansion, LLC (KCGE or “the applicant”) d/b/a Abbotswood at Irving Park (Abbotswood) proposes to relocate 26 existing adult care home (ACH) beds from Elm Villa to Abbotswood for a total of 48 ACH beds to be developed on the Abbotswood at Irving Park (AIP) campus upon completion of this project and previously approved Project I.D. #G-11053-15. Project I.D. #G-11053-15, relocate 22 ACH beds from Bell House to the AIP campus in Greensboro, is yet undeveloped.

AIP is a senior living community with independent living units as well as an existing 28-bed ACH facility known as Abbotswood at Irving Park Assisted Living (AIP1). AIP1 is managed by Kisco Senior Living, LLC (Kisco), an owner-affiliated entity. The proposed 48-

bed (26 from this project plus the previously approved 22 beds in Project ID #G-11053-15) Abbotswood facility (AIP2) would be separately licensed and, upon completion, integrated into the AIP campus. Upon completion, the applicant plans to operate the proposed new facility, AIP2, under the Abbotswood at Irving Park trade name. AIP2 would also be managed by Kisco.

The 2016 State Medical Facilities Plan (SMFP) lists Elm Villa with 44 existing ACH beds in the inventory of Guilford County ACH beds in Chapter 11, Table 11A. This project relocates 26 of the 44 beds to Abbotswood. KC Heritage Greens, LLC (KCHG), an owner-affiliated entity, proposes to relocate the remaining 18 Elm Villa ACH beds to a separately licensed facility in a concurrently filed application, Project I.D. #G-11120-16.

### **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 2016 SMFP. Therefore, there are no need determinations applicable to this review.

### **Policies**

There are two policies in the 2016 SMFP that are applicable to this review: POLICY LTC-2: RELOCATION OF ADULT CARE HOME BEDS and POLICY GEN-4: ENERGY EFFICIENCY AND SUSTAINABILITY FOR HEALTH SERVICE FACILITIES

Policy LTC-2 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 Guilford County. The application is consistent with Policy LTC-2.

Policy GEN-4 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.”*

The proposed capital expenditure for this project is greater than \$2 million and less than \$5 million. In Section III.4, page 39, the applicant provides a written statement describing the proposed project’s plan to assure improved energy efficiency and water conservation. The application is consistent with Policy GEN-4.

### **Conclusion**

In summary, the applicant adequately demonstrates that its proposal is consistent with Policy LTC-2 and Policy GEN-4. 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.

C

The applicant proposes to relocate 26 existing ACH beds from Elm Villa to Abbotswood for a total of 48 ACH beds to be developed on the AIP campus upon completion of this project and Project I.D. #G-11053-15. Project I.D. #G-11053-15 approved the relocation of 22 ACH beds from Bell House to the AIP campus in Greensboro and is yet undeveloped.

AIP is a senior living community with independent living units as well as an existing 28-bed ACH facility known as AIP1. AIP1 is managed by Kisco. The proposed 48-bed (26 from this project plus the previously approved 22) facility referred to as AIP2 would be separately licensed and, upon completion, integrated into the AIP campus. In addition, AIP2 would also be managed by Kisco. Upon completion, the applicant plans to operate the proposed new facility under the Abbotswood at Irving Park trade name.

**Population to be Served**

On page 223, the 2016 SMFP defines the service area for adult care home beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.”* Thus, the service area for this project consists of Guilford County. Facilities may also serve residents of counties not included in their service area.

In Section III.7, page 41, the applicant provides the projected patient origin as shown in the table below.

County	Projected % of Total ACH Admissions
Guilford	100.0%
Total	100.0%

Project I.D. #G-11053-15 approved the relocation of 22 existing ACH beds from the Bell House facility to Abbotswood. The project is yet to be developed. The Bell House facility is no longer operational and has not housed any residents since November, 2014. With the addition of this project’s 26 proposed relocated beds, the new Abbotswood facility will have 48 ACH beds.

On page 41, the applicant states that the prospective residents will transition from independent living in the AIP senior living community to assisted living residences in the new ACH facility. Thus, all prospective Abbotswood residents will be residents of Guilford County.

The applicant adequately identified the population to be served.

### **Analysis of Need**

In Section III.1, pages 25-33, the applicant describes the need to replace and relocate the 44 existing Elm Villa ACH beds. In this application, the applicant proposes to relocate 26 of the existing Elm Villa beds to the AIP campus.

AIP1, the existing 28-bed ACH facility located on the AIP campus, is currently operating at 87.6 % of capacity, based on the last nine month period ending November 2015, as illustrated in the following table.

**AIP1 ACH Patient Days of Care**

	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>Aug</b>	<b>Sept</b>	<b>Oct</b>	<b>Nov</b>	<b>Total</b>
Resident Days	789	778	806	776	789	705	683	736	685	6,747
Occupancy	28	28	28	28	28	28	28	28	28	28
# of Beds	90.9%	92.6%	92.9%	92.4%	90.9%	81.2%	81.3%	84.8%	81.5%	87.6%

Beginning on page 26, the applicant describes the need to relocate 26 beds to the AIP campus as being based on the following qualitative and quantitative factors:

- There are currently no vacant ACH beds at AIP1. There has not been a vacancy at AIP1 in 12 months. While the occupancy rate is calculated at 87.6%, AIP1 is functionally at 100.0% of capacity due to the fact that some of the rooms at AIP1 are double occupancy and admission decisions are “*subject to limitation based on gender, individual personalities and/or isolation status.*”
- AIP has a waitlist of 19 residents living in independent living residences who need assisted living. Furthermore, 28 AIP independent residents have moved out since January 2015 because they needed assisted living care and there were no ACH beds available at AIP1. Therefore 47 (19 + 28) AIP residents could have benefited from additional ACH bed access on the AIP campus in 2015.
- A second senior living community in Guilford County (Heritage Greens), a Kisco managed and affiliated community, is also operating at practical capacity. These ACH beds are also “*subject to limitation based on gender, individual personalities and/or isolation status.*” Thus, there is virtually no capacity for additional assisted living residences in either of Kisco’s Guilford County senior living communities.
- Elm Villa, located in Guilford County, has 44 existing ACH beds which the owners can no longer continue to operate. See Elm Villa owner’s letter in Exhibit 14. This project will relocate 26 of the beds to the approved ACH facility on the AIP campus, redistributing existing Guilford County ACH beds.
- Population and demographic data for Guilford County, Section III, pages 27-32, suggests a rapidly growing base of local residents of age 65 and older and highlights the need for additional ACH beds.

The applicant adequately demonstrates the need to replace and relocate the 26 ACH beds to the proposed 22-bed Abbotswood facility (Project G-11053-15) for a total of 48 beds in a second licensed facility on the AIP campus (AIP2).

Projected Utilization

In Section IV, pages 42-43, the applicant provides projected utilization as shown in the following tables.

**Abbotswood at Irving Park Assisted Living (AIP2) Projected Utilization  
 First Project Year (October 2017 – September 2018)**

	<b>1<sup>ST</sup> QUARTER 10/1 /17– 12/31/17</b>	<b>2<sup>ND</sup> QUARTER 1/1/18 – 3/31/18</b>	<b>3<sup>RD</sup> QUARTER 4/1/18-6/30/18</b>	<b>4<sup>TH</sup> QUARTER 7/1/18-9/30/18</b>	<b>TOTAL</b>
Resident Days	2,486	4,104	4,150	4,195	14,935
# Beds	48	48	48	48	48
Occupancy	56.3%	95.0%	95.0%	95.0%	85.2%

**Abbotswood at Irving Park Assisted Living (AIP2) Projected Utilization  
 Second Project Year (October 2018 – September 2019)**

	<b>1<sup>ST</sup> QUARTER 10/1 /18– 12/31/18</b>	<b>2<sup>ND</sup> QUARTER 1/1/19– 3/31/19</b>	<b>3<sup>RD</sup> QUARTER 4/1/19-6/30/19</b>	<b>4<sup>TH</sup> QUARTER 7/1/19-9/30/19</b>	<b>TOTAL</b>
Resident Days	4,195	4,104	4,150	4,195	16,644
# Beds	48	48	48	48	48
Occupancy	95.0%	95.0%	95.0%	95.0%	95.0%

**Abbotswood at Irving Park Assisted Living (AIP2) Projected Utilization  
 Third Project Year (October 2019 – September 2020)**

	<b>1<sup>ST</sup> QUARTER 10/1 /19– 12/31/19</b>	<b>2<sup>ND</sup> QUARTER 1/1/20– 3/31/20</b>	<b>3<sup>RD</sup> QUARTER 4/1/20-6/30/20</b>	<b>4<sup>TH</sup> QUARTER 7/1/20-9/30/20</b>	<b>TOTAL</b>
Resident Days	4,195	4,104	4,150	4,195	16,644
# Beds	48	48	48	48	48
Occupancy	95.0%	95.0%	95.0%	95.0%	95.0%

As shown in the tables above, for each quarter of the second and third years following completion of the proposed project, the applicant projects the 48 ACH beds will operate at 95.0% of capacity [ $16,644/365/48 = 0.95$  or 95.0%]

In Section IV, page 44, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

- AIP is a senior living community. Prospective residents of AIP will transition from independent living to assisted living in the proposed ACH facility. This is consistent with the admission patterns for Kisco’s existing senior living communities.

- A net average fill-up rate of four patients per week for the ACH beds during the fill-up period until the 48 ACH beds (22 approved + 26 proposed) reach 95 percent occupancy.
- AIP has 19 residents on a waitlist for assisted living residences.
- In addition to the 19 person waitlist, the AIP senior living community has had a total of 28 residents move out since January 2015 because they were in need of assisted living and AIP had no ACH beds available on the AIP campus. This represents a total of 47 AIP residents who would have transitioned to ACH beds at AIP.
- Population and demographic data for Guilford County set forth in Section III.1, pages 27-32.

Projected utilization is based on reasonable and adequately supported assumptions.

### Access

In Section VI.4, pages 52-53, the applicant states:

*“Kisco affords equal treatment and access to its services for all persons, without discrimination due to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability. AIP independent living residents will be admitted to the KCGE ACH bed facility when a resident needs assistance with daily living.”*

The applicant states that source of payment does not affect the delivery of routine ACH care. As part of an independent living community, residents are all private pay and do not utilize governmental or special assistance. On page 53, the applicant states:

*“During at least the past 15 years, Kisco has not evicted any AIP ACH resident for non-payment. During this same 15-year period, AIP has had fewer than five residents who lived much longer than they or the families planned for. In one of these instances, the family chose to spend down with AIP and to then move the resident to a Medicaid facility. In the few remaining cases, AIP, while still providing the needed care, worked with the families of each resident to find a lower cost options [sic]. Examples of the lower cost options are: 1) moving into a lower cost two-bedroom/two roommate room at AIP, 2) moving to a lower cost facility, or 3) getting care through the use of Kisco’s MUAHS license.” (note: MUAHS is Multi-unit Assisted Housing with Services)*

The applicant adequately demonstrates the extent to which all residents of the area, including underserved groups, are likely to have access to the services.

## Conclusion

In summary, the applicant adequately identifies the population to be served; adequately demonstrates the need the population to be served has for the proposed services; and demonstrates the extent to which all residents of the area, including underserved groups, are likely to have access to the services. 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.

## C

The applicant proposes to relocate 26 existing ACH beds from Elm Villa to the approved 22-bed Abbotswood ACH facility (Project ID #G-11053-15) for a total of 48 ACH beds (AIP2). In the concurrently filed CON application, Project I.D. #G-11120-16, KCHG proposes to relocate the remaining 18 Elm Villa ACH beds to The Arboretum at Heritage Greens. All three facilities are located in Guilford County. In Section III.1, page 35, the applicant states that due to aging and declining health, the owners of Elm Villa have determined to close the facility; therefore, the proposed project will result in an effective reallocation of existing ACH bed capacity in Guilford County. In his letter in Exhibit 14, the owner of Elm Villa states:

*“... to maintain the needed assisted living beds in Guilford County, we have entered into an agreement with Kisco to sell the right to operate the 44 ACH beds. We are currently working to relocate the remaining Elm Villa residents to existing and available local facilities. We anticipate that all remaining Elm Villa residents will be relocated out of our facility before April 2016.”*

On page 52 the applicant states that the ACH beds to be relocated from the Elm Villa facility were not developed pursuant to a certificate of need, and thus, no representations were made regarding access by the medically underserved in those beds.

The applicant demonstrates 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.2, pages 36-38, the applicant describes the alternatives considered, including maintaining the status quo, as discussed below.

- 1) Maintain the Status Quo – The applicant states that maintaining the status quo would not improve AIP independent living residents’ access to assisted living services at AIP. The existing adult care home beds at AIP are operating at 87.6% occupancy. Based on some double occupancy rooms in AIP1, admission decisions are subject to limitations; therefore, there is no available capacity for additional assisted living residences at AIP1. In addition, 19 residents are on the waiting list and another 28 independent living residents moved out of AIP because they needed assisted living care, which was unavailable on the AIP campus. The applicant further states that as the local population continues to grow and age, there will be a continued, growing need for access to assisted living services at Kisco’s senior living communities in Guilford County. For these reasons, the applicant states that maintaining the status quo is not a viable option.
- 2) Construct Space for the Relocated ACH Beds in Another Geographic Location – The applicant states that the primary need for the proposed project is driven by the demand for assisted living services within Kisco’s senior living communities in Guilford County: Abbotswood at Irving Park and The Arboretum at Heritage Greens. Constructing space elsewhere would not address the identified need. Therefore, this option was rejected.
- 3) Relocate the Elm Villa Beds to Abbotswood at Irving Park and The Arboretum at Heritage Greens – The applicant states that the proposed project, as presented in this application, and the concurrently filed Project I.D. #G-11120-16 provide the most effective alternative for addressing the identified needs.

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 applicant adequately demonstrates that the proposed alternative is the most effective or least costly alternative to meet the need identified. The application is conforming to this criterion and approved subject to the following conditions.

1. **KC Greensboro Expansion, LLC shall materially comply with all representations made in the certificate of need application.**
2. **KC Greensboro Expansion, LLC shall relocate 26 adult care home beds from Elm Villa to Abbotswood at Irving Park for a total of 48 adult care home beds upon completion of this project and Project I.D. #G-11053-15 (Relocate 22 ACH beds from Bell House).**

3. **For the first two years of operation following completion of the project, KC Greensboro Expansion, LLC 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. **KC Greensboro Expansion, 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.

C

The applicant proposes to relocate 26 existing ACH beds from Elm Villa to Abbotswood for a total of 48 ACH beds to be developed on the AIP campus upon completion of this project and Project I.D. #G-11053-15. Project I.D. #G-11053-15 approved the relocation of 22 ACH beds from Bell House to the AIP campus in Greensboro and is yet undeveloped.

**Capital and Working Capital Costs**

In Section VIII, page 63, the applicant projects the total capital cost of the proposed project will be \$4,900,000, including:

<b>Costs</b>	<b>Total Costs</b>
Site Costs	\$ 680,000
Construction Contract	\$ 2,395,000
Movable Equipment	\$ 75,000
Equipment / Furniture	\$ 125,000
Landscaping	\$ 150,000
Consultant Fees	\$ 955,000
Other (bed purchase)	\$ 520,000
<b>Total Capital Costs</b>	<b>\$ 4,900,000</b>

In Section IX.1-3, pages 68-69, the applicant projects the total working capital (start-up expenses) costs will be \$79,752.

**Availability of Funds**

In Section VIII.5, page 65, Section IX.8, page 72, and Exhibit 10, the applicant documents that the cost (capital costs and working capital) of the proposed project will be financed by an investment from KCGE’s sole member, Andrew S. Kohlberg Trust (Trust).

In Exhibit 10, the applicant provides a letter dated January 11, 2016 from Kenneth L. Johnson, CPA, Partner- Kushner, Smith, Joanou & Gregson, LLP, which states that the Trust has in excess of \$50 million in net worth, that the funds are currently available to the Trust and that the Trust is planning to invest up to \$7 million in this project and the concurrently filed Project I.D. #G-11120-16.

In Exhibit 10, there is also a letter dated January 6, 2016 from Andrew S. Kohlberg, Trustee- Andrew S. Kohlberg Trust, which confirms that the Trust has the funds and will invest them in KCGE to support the proposed project.

Furthermore, Exhibit 10 also contains a letter dated January 6, 2016 from Craig Taylor, General Counsel- KC Greensboro Expansion, LLC, which confirms that KCGE owners intend to use the Trust funds for the proposed project.

The applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the project.

**Financial Feasibility**

In the tables in Section X.4, pages 76-77, the applicant projects that the monthly charge will be \$4,950 for private rooms and \$4,650 for semi-private rooms.

In Section XI.8, page 87, the applicant states the proposed replacement facility will consist of 22 previously approved private beds, 10 new private beds and 16 new semi-private beds, as shown below.

	<b>Private Beds</b>	<b>Semi-Private Beds</b>	<b>Total Beds</b>
Previously Approved	22	0	22
New Beds	10	16	16
Total Beds	32	16	48

In the projected revenue and expense statement (Form B), the applicant projects revenues will exceed operating expenses in Project Year 2 following completion of the proposed project, as shown in the table below.

	<b>Project Year 1</b>	<b>Project Year 2</b>
Gross Revenues	\$2,407,245	\$2,682,923
Total Operating Expenses	\$2,503,392	\$2,626,808
Net Profit	(\$96,147)	\$56,115

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

### **Conclusion**

In summary, the applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the project. Furthermore, the applicant adequately demonstrates 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.

### C

The applicant proposes to relocate 26 existing ACH beds from Elm Villa to Abbotswood for a total of 48 ACH beds to be developed on the AIP campus upon completion of this project and Project I.D. #G-11053-15.

On page 223, the 2016 SMFP defines the service area for adult care home beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area”*. Thus, the service area for this project consists of Guilford County. Facilities may also serve residents of counties not included in their service area.

The 2016 SMFP documents that there are currently a total of 37 existing facilities in Guilford County that offer ACH services. The table below is a summary of the 37 facilities in Guilford County. The table is recreated from the 2016 SMFP, Chapter 11, Table 11A, pages 233-234 and Table 11B, page 251. There is a projected surplus of 481 ACH beds in 2019 for Guilford County.

<b>2016 SMFP ACH Inventory &amp; 2019 Need Projections Guilford County</b>	
# ACH Facilities	37
# Beds in ACH Facilities	1,951
# Beds in Nursing Homes	389
Total Licensed Beds	2,340
# CON Approved (License Pending)	0
Total # Available	2,340
Total # in Planning Inventory	2,327
Projected Bed Surplus	481

Source: 2016 SMFP

The applicant does not propose to develop new ACH beds, but rather to replace and relocate 26 ACH beds, currently operated in a facility which is closing, to the proposed 22-bed Abbotswood facility approved in Project ID #G-11053-15 and yet undeveloped (AIP2). There will be no increase in the inventory of ACH beds or the number of facilities in Guilford County. In fact, the inventory of ACH facilities will be reduced by one; upon relocation of its beds through this project and concurrently filed Project I.D. #G-11120-16, the Elm Villa ACH facility will close. The discussions regarding analysis of need, including projected utilization, and access, and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference. The applicant adequately demonstrates that the proposed project would not result in the unnecessary duplication of existing or approved ACH beds in Guilford County. Consequently, 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.

C

The applicant proposes to provide personal care staff twenty-four hours per day, seven days per week. In Section VII.3, page 58, the applicant states that by FFY2019 (the second full fiscal year) the adult care home facility will be staffed by 32.48 full-time equivalent (FTE) staff positions, including 21.7 FTE direct care staff positions (Section VII.4, page 59). Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements.

In Section VII.6, pages 60-61, the applicant describes Kisco's experience and process for recruiting and retaining staff. The applicant adequately demonstrates 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.

C

In Section II.2, pages 15-20, the applicant describes the ancillary and support services that will be provided by the facility or made available through agreements with other providers including dietary, medical transportation, dentistry, physician, therapy, recreation, personal care, housekeeping and laundry services. Exhibit 5 contains a copy of a letter from Southern Pharmacy Services expressing an interest in continuing to provide pharmacy services and to extend pharmacy services to the Abbotswood expansion. In addition, Exhibit 3 contains a copy of the management agreement for Kisco to manage the proposed Abbotswood facility. In Section V, page 48, the applicant states that Kisco has a long history of providing health care services locally and thus, has well-established relationships with local healthcare providers. The applicant adequately demonstrates that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming 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 applicant proposes to relocate 26 existing ACH beds from Elm Villa to Abbotswood for a total of 48 ACH beds (AIP2) to be developed on the AIP campus upon completion of this project and Project I.D. #G-11053-15.

Exhibit 13 contains a letter from an architect that estimates site preparation costs and construction costs will total \$3,075,000, which corresponds to the project site and construction capital cost projections (\$680,000 + \$2,395,000) provided by the applicant in Section VIII, page 63. In Section XI.14, pages 89-90, the applicant describes the methods that will be used by the facility to maintain efficient energy operations and contain the costs of utilities. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicant adequately demonstrates 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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AIP2 is not an existing operational facility. The existing 28-bed Abbotswood at Irving Park ACH facility (AIP1), also managed by Kisco, reported that all its residents were aged 75 and older on its 2016 License Renewal Application (LRA). The LRA also shows all reimbursement was by private-pay. The AIP ACH beds, established as part of the AIP senior-living community, will be filled by private-pay independent living residents who need to step up to assisted living.

The United States Census Bureau<sup>1</sup> provides demographic data for North Carolina and all counties in North Carolina. The following table contains relevant demographic statistics for the applicant’s service area.

<b>Percent of Population</b>						
<b>County</b>	<b>% 65+</b>	<b>% Female</b>	<b>% Caucasian</b>	<b>% Persons in Poverty</b>	<b>% &lt; Age 65 with a Disability</b>	<b>% &lt; Age 65 without Health Insurance</b>
Guilford	14%	53%	52%	18%	7%	18%
Statewide	15%	51%	64%	17%	10%	15%

However, a direct comparison to the applicant’s 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, women or handicapped persons utilizing health services.

The applicant demonstrates that it currently provides adequate access to medically underserved populations. 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;

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The applicant states that KCGE and Kisco afford equal treatment and access to its services for all persons, without discrimination due to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability. The Application for Residency is in Exhibit 4 and Exhibit 6 contains relevant resident billing policies and procedures. In Section VI.5, pages 53-54, the applicant states that the proposed facility is not an existing operational facility and as such has not had any civil rights access complaints or violations filed against it. The applicant further states: *“No one has filed any civil rights access complaints against Abbotswood at Irving Park or against any Kisco Senior Living-managed facilities in North Carolina.”* 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

<sup>1</sup> <http://www.census.gov/quickfacts/table>



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In Section VI.2, page 51, the applicant projects the following payor mix during its second operating year.

<b>Payor Source</b>	<b>ACH Beds</b>
Private Pay	100.0%
Total	100.0%

As shown in the table above, the applicant project 100% private pay for the relocated ACH beds. The proposed beds are being relocated from Elm Villa which was operating at 68% occupancy on July 31, 2015 and which the owners intend to close. In Section VI.4, pages 52-53, the applicant states:

*“Kisco affords equal treatment and access to its services for all persons, without discrimination due to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability. AIP independent living residents will be admitted to the KCGE ACH bed facility when a resident needs assistance with daily living.”*

KCGE is not an existing operational facility. The existing 28-bed Abbotswood at Irving Park ACH facility (AIP1), also managed by Kisco, reported all residents were aged 75 and older on its 2016 License Renewal Application. The AIP ACH beds are filled by private-pay independent living residents who need to step up to assisted living.

The applicant demonstrates that medically underserved populations would have adequate access to the proposed ACH 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.

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In Section VI.4, pages 52-53, the applicant states that independent living residents will be admitted to an ACH bed when they need assistance with daily living. See the Application for Residency in Exhibit 4. In Section VI.6, page 54, in describing the range of means by which a person will have access to the proposed services, the applicant states that KCGE will provide ACH services to all Abbotswood at Irving Park independent living residents in need of assisted living services. The applicant adequately demonstrates 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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In Section V.1, page 48, the applicant describes how the facility will accommodate the clinical needs of area health professional training programs, as follows:

*“Upon completion of the proposed project, KCGE may be available to accommodate the clinical needs of health professional training programs. Please refer to Exhibit 8 for a copy of a letter to a clinical training program.”*

Exhibit 8 contains a copy of a letter dated January 12, 2016 and addressed to Guilford Technical Community College (GTCC) offering the proposed facility as a training site for GTCC’s nursing program.

The information provided is reasonable and adequately supports a determination that the application is conforming to this criterion.

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

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The applicant proposes to relocate 26 existing ACH beds from Elm Villa to Abbotswood for a total of 48 ACH beds (AIP2) to be developed on the AIP campus upon completion of this project and Project I.D. #G-11053-15. Project I.D. #G-11053-15 approved the relocation of 22 ACH beds from Bell House to the AIP campus in Greensboro and is yet undeveloped.

AIP is a senior living community with independent living units as well as an existing 28-bed ACH facility known as AIP1. AIP1 is managed by Kisco. The proposed 48-bed (26 from this project plus the previously approved 22) ACH facility referred to as AIP2 would be separately licensed and, upon completion, integrated into the AIP campus. In addition, AIP2 would also be managed by Kisco. Upon completion, the applicant plans to operate the proposed new facility under the Abbotswood at Irving Park trade name.

On page 223, the 2016 SMFP defines the service area for adult care home beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.”* Thus, the service area for this project consists of Guilford County. Facilities may also serve residents of counties not included in their service area.

The 2016 SMFP documents that there are currently a total of 37 existing facilities in Guilford County that offer ACH services. The table below is a summary of the 37 facilities in Guilford County. The table is recreated from the 2016 SMFP, Chapter 11, Table 11A, pages 233-234 and Table 11B, page 251. There is a projected surplus of 481 ACH beds in 2019 for Guilford County.

<b>2016 SMFP ACH Inventory &amp; 2019 Need Projections Guilford County</b>	
# ACH Facilities	37
# Beds in ACH Facilities	1,951
# Beds in Nursing Homes	389
Total Licensed Beds	2,340
# CON Approved (License Pending)	0
Total # Available	2,340
Total # in Planning Inventory	2,327
Projected Bed Surplus	481

The applicant does not propose to develop new ACH beds, but rather to replace and relocate 26 ACH beds currently operated in a facility which is closing. There will be no increase in the inventory of ACH beds or the number of facilities in Guilford County.

In Section V.4, pages 49-50, the applicant discusses how the project will promote the cost-effectiveness, quality and access to the proposed services.

See also Sections II, III, V, VI and VII where the applicant discusses the impact of the project on cost-effectiveness, quality and access to the proposed services

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

Therefore, the application is conforming to this criterion.

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

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The applicant states that KCGE does not own, lease or manage any adult care homes in North Carolina. In Section II.6, page 24, the applicant states that Kisco, AIP's management company, manages the following existing adult care homes in North Carolina:

- The Arboretum at Heritage Greens, Guilford County
- Verra Springs at Heritage Greens, Guilford County
- Abbotswood at Irving Park, Guilford County
- Verra Springs at Heritage Woods, Forsyth County
- Magnolia Glen, Wake County
- Woodland Terrace, Wake County
- Abbotswood at Stonehenge, Wake County (Multi-unit assisted Housing with Services)

The applicant states that the list above includes all the facilities with ACH beds that Andrew S. Kohlberg or the Andrew S. Kohlberg Trust owns and operates in North Carolina. The applicant further states:

*“During the eighteen months immediately preceding the submittal of this CON application, there have been no substandard quality of care issues, fines, payment denial or suspension of admissions at any North Carolina ACH facility managed by Kisco Senior Living, LLC.”*

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 the applicant or managed by Kisco. After reviewing and considering information provided by the applicant and by the Adult Care Licensure Section and considering the quality of care provided at all five facilities, the applicant provided sufficient evidence that quality care has been provided in the past. 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 promulgated in 10A NCAC 14C .1100 are not applicable because the applicant does not propose to establish new adult care home beds.