

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: November 23, 2016

Findings Date: November 23, 2016

Project Analyst: Gregory F. Yakaboski

Team Leader: Lisa Pittman

Project ID #: O-11187-16

Facility: Liberty Commons of Brunswick County

FID #: 160283

County: Brunswick

Applicants: Liberty Healthcare Nursing Properties of Brunswick, LLC

Southport Nursing Center, LLC

S&R Properties III, LLC

J.A. McNeill and Sons, Inc.

Project: Construct a combination nursing facility by relocating 32 adult care home beds from The Commons at Brightmore located in New Hanover County and 64 nursing facility beds from Doshier Nursing Center located in Brunswick County/ Brunswick County

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

CA

Four applicants, Liberty Healthcare Nursing Properties of Brunswick, LLC (Liberty Properties), Southport Nursing Center, LLC (Southport Nursing), S&R Properties III, LLC (The Commons Properties) and J.A. McNeill and Sons, Inc. (The Commons at Brightmore), propose to develop a combination nursing facility by relocating 32 licensed adult care home (ACH) beds from The Commons at Brightmore, located in New Hanover County, and 64 nursing facility (NF) beds from Doshier Nursing Center (Doshier), located in Brunswick County, to a proposed new facility in Brunswick County. Liberty Properties will be the

lessor and Southport Nursing will be the lessee. The proposed new combination nursing facility will be known as Liberty Commons of Brunswick County (Liberty Commons).

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 State Medical Facilities Plan (2016 SMFP).

Policies

The following four policies are applicable to this review:

- **Policy NH-6: Relocation of Nursing Facility Beds**
- **Policy NH-8: Innovations in Nursing Facility Design**
- **Policy LTC-2: Relocation of Adult Care Home Beds**
- **Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities**

Policy NH-6: Relocation of Nursing Facility Beds

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

- 1. Demonstrate that the facility losing beds or moving to a contiguous county is currently serving residents of that contiguous county; and*
- 2. Demonstrate that the proposal shall not result in a deficit, or increase and existing deficit in the number of licensed nursing facility beds in the county that would be losing nursing facility 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*
- 3. Demonstrate that the proposal shall not result in a surplus, or increase an existing surplus of licensed nursing facility beds in the county that would gain nursing facility beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.*

The proposed project involves the transfer of 64 NF beds from Doshier Nursing Center to a new facility located in the Lockwood Folly Township of Brunswick County. Both the existing Doshier Nursing Center and the proposed new facility are located in Brunswick County. Therefore, the application is consistent with Policy NH-6.

Policy NH-8: Innovations in Nursing Facility Design

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

In Section III.4, page 53, the applicants describe how the proposed project pursues innovative approaches in care practices, creating home-like settings, resident choice, privacy, work place practices and environmental design that address quality of care and quality of life needs of the residents. The information provided by the applicants is reasonable and adequately supports the determination that the proposal is consistent with Policy NH-8.

Policy LTC-2: Relocation of Adult Care Home Beds

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

- 1. Demonstrate that the facility losing beds or moving to a contiguous county is currently serving residents of that contiguous county; and*
- 2. Demonstrate that the proposal shall not result in a deficit, or increase an existing deficit in the number of licensed adult care home beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins; and*
- 3. Demonstrate that the proposal shall not result in a surplus, or increase an existing 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 North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.*

The applicants propose relocating 32 ACH beds from The Commons at Brightmore facility in New Hanover County to a new facility in Brunswick County. New Hanover County is contiguous to Brunswick County. Table 11B: Adult Care Home Need Projections for 2019 of the 2016 SMFP shows a surplus of 213 ACH beds in New Hanover County and a deficit of 32 ACH beds in Brunswick County. (See 2016 SMFP, pages 250-251) The application is consistent with Policy LTC-2 subject to condition #8 in Criterion 4 of this application

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

Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project's plan to assure improved energy efficiency and water conservation.

In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178, Certificate of Need 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 is required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy-GEN 4. The plan shall not adversely affect patient or resident health, safety, or infection control.

In Section III, pages 52-53, the applicants provide 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 subject to condition #7 in Criterion 4 of this application.

Conclusion

In summary, the applicants demonstrate that the proposal is conforming to all applicable policies in the 2016 SMFP. Therefore, the application is conforming to this criterion.

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicants propose to develop a combination nursing facility by transferring 32 licensed but not operational ACH beds from The Commons at Brightmore, located in New Hanover County, and 64 NF beds from Doshier Nursing Center, located in Brunswick County, to a proposed new facility in Brunswick County. Liberty Properties will be the lessor and Southport Nursing will be the lessee. The proposed new combination nursing facility will be known as Liberty Commons.

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 facility consists of Brunswick County. Facilities may also serve residents of counties not included in their service area.

On page 199, the 2016 SMFP defines the service area for nursing facility beds as *“A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”* Thus, the service area for this facility consists of Brunswick County. Facilities may also serve residents of counties not included in their service area.

Patient Origin

In Section III.9, page 56, the applicants provide the projected patient origin at the proposed facility during the first full federal fiscal year of operation following completion of the project as shown in the table below.

County	NF Beds- Percent of Total NF Admissions	ACH Beds- Percent of Total ACH Admissions
Brunswick	93%	93%
New Hanover	5%	5%
Columbus	2%	2%
Total	100%	100%

On page 57 of the application the applicants identify the assumptions and methodology used to determine projected patient origin which include: historical experience of affiliated entities; goal of maximizing beds for the use of Brunswick County residents; factoring in a few residents originating from New Hanover County to increase proximity to family members living in the St. James area; location of the proposed facility in a part of Brunswick County that has a growing population that is aging; analysis of LRA’s from existing facilities in Brunswick County.

The applicants adequately identify the population to be served.

Analysis of Need

In Section III.1, pages 44-45, the applicants describe the need to transfer 32 licensed ACH beds from The Commons at Brightmore, located in New Hanover County, and 64 NF beds from Doshier Nursing Center, located in Brunswick County, to a proposed new facility in Brunswick County, as follows:

- The 2016 SMFP shows an ACH bed deficit of 32 beds in Brunswick County.
- The 2016 SMFP shows a NF bed deficit of 148 beds in Brunswick County.

- Unmet need for ACH and NF beds in home-like environments for the residents of Brunswick County.
- Current overall patient environment at Doshier is “institutional in nature and the existing building cannot be renovated to create a community atmosphere.
- The 32 ACH beds being transferred from The Commons at Brightmore are licensed but not utilized as The Commons at Brightmore, while licensed for 201 ACH beds has a current functional capacity of 120 residents.
- The 2016 SMFP shows an ACH bed surplus of 213 ACH beds in New Hanover County where The Commons at Brightmore is located.
- Transferring the 32 ACH beds from New Hanover County to Brunswick County would increase the diversity of healthcare options available to Brunswick County residents.
- The projected population growth in Lockwood Folly Township of residents over 65 years old and the lack of ACH and NF beds in Lockwood Folly Township.

Based on review of the information provided by the applicants in Section III, the applicants adequately demonstrate the need to develop a combined nursing facility consisting of 32 ACH and 64 NF beds in the Lockwood Folly Township of Brunswick County.

Projected Utilization

In Section IV, pages 60-64, the applicants provide projected utilization for all 32 ACH and 64 NF beds during the first two full federal fiscal years (FFYs). The following table illustrates projected utilization during the first and second full FFY.

**ACH Beds-Projected Utilization
First and Second Operating Years**

	OY1 FFY 2020	OY2 FFY 2021
Patient Days	8,868	10,950
# of bed	32	32
Occupancy Rate	75.9%	93.8%

**NF Bed-Projected Utilization
First and Second Operating Years**

	OY1 FFY 2020	OY2 FFY 2021
Patient Days	18,156	22,265
# of bed	64	64
Occupancy Rate	77.7%	95.3%

As shown in the table above, in the second full FFY of operation, the applicants project the 32 ACH beds will operate at 93.8% of capacity [$10,950/365/32 = 0.9375$, or 93.8%] and that the NF beds will operate at 95.3% of capacity [$22,265/365/64 = .9531$ or 95.3%].

In Section III, pages 45-49, 54-55, and in Section IV, pages 60-64, the applicants provide the assumptions and methodology utilized to project utilization of the 32 ACH and 64 NF beds, summarized as follows:

ACH assumptions and methodology

- Deficit of 32 ACH beds: Brunswick County is identified in the 2016 SMFP as having a deficit of 32 ACH beds.
- Age of the population is the principal determinant of ACH bed use in an area, the higher the age, the higher the use.
- The applicant relies on the ACH bed-to-population ratio's described on page 222 of the 2016 SMFP.
- On page 47 the applicants performed an ACH bed analysis for Brunswick County based on township which was based on Nielson Clarita data, 2016 SMFP methodology and current licensed and approved facilities in Brunswick County which showed the greatest need for ACH beds in the Lockwood Folly Township of Brunswick County. See Table on page 47.
- Operating experience of the applicants and management team.

NF assumptions and methodology

- Deficit of 148 NF beds: Brunswick County is identified in the 2016 SMFP as having a deficit of 148 NF beds.
- Age of the population is the principal determinant of NF bed use in an area, the higher the age, the higher the use.
- The applicant relies on the NF bed-to-population ratio's described on page 198 of the 2016 SMFP.
- Location of proposed new facility in close proximity to the existing location of the 64 NF beds at the current Doshier facility permits existing patients to relocate to the proposed new facility with minimal disruption to their lives.
- Operating experience of the applicants and management team.

Projected utilization is based on reasonable and adequately supported assumptions.

Access

The applicants, page 70, state *“If a private pay resident ‘spends-down’ and become [sic] Medicaid eligible he or she will not be discharged for that reason. Liberty Commons proposes to reserve approximately 56% of its beds for Medicaid residents and therefore it is not anticipated that a transfer would be necessary due to spend down of private funds.”*

On page 69, the applicants state *“Services provided by Liberty Commons will be non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis.”* Exhibit 16 contains a copy of the admissions policy which states, in part, *“Our admission policies apply to all residents admitted to the Facility, without regard to race, color, creed, national origin, age, sex, religion, handicap, ancestry, marital, veteran status, and/or payment source.”*

In Section VI.3, page 69, the applicants project the following payor mix during the second full FFY (2021):

Projected Days as a % of Total Days

Payor Source	Nursing Patients	ACH Patients
Private Pay	24.59%	40.00%
Medicare	19.67%	---
Medicaid	55.74%	0.00%
County Assistance	---	60.00%
Total	100.00%	100.00%

As shown in the table above, the applicants project that Medicare and Medicaid will be the payor source for 75.41% of the nursing patients and County Assistance will be the payor source for 60.00% of the ACH patients. The applicants demonstrate that medically underserved populations would have adequate access to the proposed ACH and NF services. Therefore, the application is conforming to this criterion.

Conclusion

In summary, the applicants identified the population to be served, adequately demonstrated the need that this population has for the proposed project and adequately demonstrated the extent to which all residents, including underserved groups, will have access to the proposed 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.

The applicants propose to develop a combination nursing facility by transferring 32 licensed but unused ACH beds from The Commons at Brightmore, located in New Hanover County, and 64 NF beds from Doshier Nursing Center, located in Brunswick County, to a proposed new facility in Brunswick County. Liberty Properties will be the lessor and Southport Nursing will be the lessee. The proposed new combination nursing facility will be known as Liberty Commons.

The service areas for both ACH beds and NF beds are defined in the 2016 SMFP.

- 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 facility consists of New Hanover County. Facilities may also serve residents of counties not included in their service area.
- On page 199, the 2016 SMFP defines the service area for nursing facility beds as *“the nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”* Thus, the service area for this facility consists of Brunswick County. Facilities may also serve residents of counties not included in their service area.

The applicants propose to relocate 32 existing but unutilized ACH beds from a facility in New Hanover County to the proposed new facility in Brunswick County. Since the 32 ACH beds are not currently serving residents, no residents will be impacted by the relocation of the 32 ACH beds. Furthermore, according to Table 11B in the 2016 SMFP, page 251, there is a projected surplus of 213 ACH beds in New Hanover County as of 2019. Relocating 32 ACH beds to Brunswick County from New Hanover County will only reduce New Hanover County’s projected surplus of ACH beds from 213 to 181.

The applicants also propose to relocate 64 existing NF beds within Brunswick County from the current Doshier facility to the proposed Liberty Commons facility which would only be approximately seven (7) miles from the current Doshier facility. In Section III, page 48, the applicants state that *“Relocating 64 beds to a new facility only a few miles away will allow the current Doshier residents the opportunity to relocate to a new facility while causing minimal disruption to their current lives. ...their family and friends will not have a further distance to travel in order to visit the residents. The proposed site for the new St. James facility will be less than seven miles (as the crow flies) for the current Doshier facility.”* Therefore, the 64 NF beds would be geographically accessible to the same population previously served by the Doshier facility.

The applicants adequately demonstrated that the application is conforming to this criterion.

- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

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The applicants propose to develop a combination nursing facility by transferring 32 licensed ACH beds from The Commons at Brightmore, located in New Hanover County, and 64 NF beds from Doshier Nursing Center, located in Brunswick County, to a proposed new facility in Brunswick County. The proposed new combination nursing facility will be known as Liberty Commons

In Section III, pages 49-50, the applicants describe the alternatives considered prior to submitting the application, which include:

- Maintain the Status Quo- The applicants cite contractual obligations and the condition of the existing Doshier building (old, outdated and inefficient) in determining that maintaining the status quo is not a viable option.
- Propose a new facility in the Shallotte Area- The applicants state that the number of existing and approved facilities with ACH or NF beds (or both) already in the Shallotte area make this not an effective alternative.
- Propose a new facility in the Town Creek/Leland Area- The applicants state that the number of existing and approved facilities with ACH or NF beds (or both), including a new 110 ACH bed facility approved for Liberty-affiliated entities, already in the Shallotte area make this not an effective alternative.
- Propose a new facility in the Southport/St. James Area- The applicants state that this was the most effective alternative given the location of existing and approved facilities in Brunswick County.

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.

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

1. **Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. shall materially comply with all representations made in the certificate of need application.**

- 2. Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. shall relocate no more than 32 ACH beds from The Commons at Brightmore in New Hanover County for a facility total of no more than 32 ACH and 64 NF beds upon completion of the project.**
- 3. Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. shall relocate no more than 64 NF beds from Doshier Nursing Center in Brunswick County for a facility total of no more than 32 ACH and 64 NF beds upon completion of the project.**
- 4. Southport Nursing Center, LLC, shall provide care to ACH recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.**
- 5. Southport Nursing Center, LLC, shall receive the Medicaid per diem reimbursement rates allowed by the Division of Medical Assistance, under the NC State Plan Section .0102.**
- 6. For the first two years of operation following completion of the project, Southport Nursing Center, shall not increase actual private pay charges more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
- 7. Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. shall 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 applicants' representations in the written statement as described in paragraph one of Policy GEN-4.**
- 8. Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. shall document that The Commons at Brightmore is currently serving residents of Brunswick County.**
- 9. Liberty Healthcare Nursing Properties of Brunswick, LLC, Southport Nursing Center, LLC, S&R Properties III, LLC and J.A. McNeill and Sons, Inc. 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 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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The applicants propose to develop a combination nursing facility by transferring 32 licensed but not operational ACH beds from The Commons at Brightmore, located in New Hanover County, and 64 NF beds from Doshier Nursing Center, located in Brunswick County, to a proposed new facility in Brunswick County. Liberty Properties will be the lessor and Southport Nursing will be the lessee. The proposed new combination nursing facility will be known as Liberty Commons.

Capital and Working Capital Costs

In Section VIII, page 86, of this application, the applicants project the total capital cost to construct Liberty Commons will be:

Site costs-	\$ 3,293,029
Construction costs-	\$12,586,860
Equipment-	\$ 960,000
Consultant Fees-	\$ 878,620
Total:	\$17,718,509

In Section IX, page 92, the applicants project the total working capital (start-up and initial operating expenses) costs will be \$694,615 (start-up expenses: \$189,448 and initial operating expenses: \$505,167).

Availability of Funds

In Section VIII., page 87, and Section IX, page 94, the applicants state that the capital and working capital costs will be financed by the owner equity of John A. McNeill, Jr. and Ronald B. McNeill.

In Exhibit 17, the applicants provide a letter dated June 10, 2016 from John A. McNeill, Jr. and Ronald B. McNeill, which demonstrates their control of Liberty Healthcare Nursing Properties of Brunswick County, LLC and Southport Nursing Center LLC and states that they are both committed to personally funding all capital costs and working capital costs for the proposed project from personal equity.

Exhibit 17 also includes a letter dated June 3, 2016 from Joel M. White, CPA of the firm Cherry Bekaert, which states that Mr. White is the CPA for both John A. McNeill, Jr. and Ronald B. McNeill, that he is aware of the proposed project, the projected capital and working capital costs and the financial status of the McNeill's. Mr. White further attests to the fact that the McNeill's each have in excess of \$15,000,000 in cash, stocks, or short term investments to fund the proposed project.

The applicants adequately demonstrated that sufficient funds will be available for the capital and working capital needs of all three projects combined.

Financial Feasibility

In Tables X.4A and X.4B, pages 101-102, the applicants project that the per diem reimbursement rate/charge as follows:

Payment Source by Type of Care	Private Room	Semi-Private Room
NF Beds		
Private Pay	\$208.46	\$190.00
Medicare	\$469.00	\$469.00
Medicaid	\$160.00	\$160.00
ACH Beds		
Private Pay	\$171.00	\$171.00
County Assistance	\$42.68	\$42.68

Note: Please see the assumptions and descriptions of the charges on pages 101-102.

Liberty Commons is projected to have 52 private NF beds, 12 semi-private NF beds, 16 private ACH beds and 16 semi-private beds

In the projected revenue and expense statement (Form B), the applicants project revenues will exceed operating expenses in the both the first and second full FFYs following completion of the proposed project, as illustrated in the table below

	First Full FFY (2020)	Second Full FFY (2021)
Total Revenues	\$5,185,808	\$6,300,474
Total Operating Expenses	\$4,941,628	\$5,266,174
Net Profit	\$244,180	\$1,034,300

The assumptions used by the applicants in preparation of the pro formas are reasonable including projected utilization, 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 proposed 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 develop a combination nursing facility by transferring 32 licensed ACH beds from The Commons at Brightmore, located in New Hanover County, and 64 NF beds from Doshier Nursing Center, located in Brunswick County, to a proposed new facility in Brunswick County. Liberty Properties will be the lessor and Southport Nursing will be the lessee. The proposed new combination nursing facility will be known as Liberty Commons.

The service areas for both ACH beds and NF beds are defined in the 2016 SMFP.

- 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 facility consists of New Hanover County. Facilities may also serve residents of counties not included in their service area.
- On page 199, the 2016 SMFP defines the service area for nursing facility beds as *“the nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”* Thus, the service area for this facility consists of Brunswick County. Facilities may also serve residents of counties not included in their service area.

Table 11A in the 2016 SMFP, page 225, lists a total of 6 ACH facilities in Brunswick County and a total of 321 licensed beds, 67 of which are in a nursing home. In addition, the 2015 Need Determination of 340 ACH beds is also listed. The table below is based on Table 11A, page 225, and Table 11B, page 250, in the 2016 SMFP.

2016 SMFP ACH Inventory & 2019 Need Projections Brunswick County	
# Facilities	6
# Beds in ACH Facilities	254
# Beds in Nursing Homes	67
# Beds in Hospitals	0
Total Licensed Beds	321
2015 SMFP Need Determination	340
Total # Available	661
Total # in Planning Inventory	661
Projected Bed Deficit 2019	32

With respect to ACH beds the applicants do not propose to develop new ACH beds, but rather to transfer 32 licensed but not operational ACH beds from a facility in New Hanover County to a proposed new facility in Brunswick County. The proposed project will increase the inventory of ACH beds in Brunswick County by 32 ACH beds. As shown in the table above, there is a projected deficit of 32 ACH beds in Brunswick County in 2019 (which factors in the 2015 Need Determination of 340 ACH beds).

2016 SMFP NF Inventory & 2019 Need Projections Brunswick County	
# Facilities	6
# Beds in Nursing Homes	494
# Beds in Hospitals	64
Total Licensed Beds	558
Total CON Approved/License Pending	70
Total # Available	628
Total # in Planning Inventory	628
Projected Bed Utilization 2019	776
Projected Bed Deficit 2019	148

With respect to NF beds the applicants do not propose to develop any new NF beds but rather to relocate 64 existing NF beds within Brunswick County. As shown in the table above, there is a projected NF bed deficit even including the 64 NF beds at Doshier to be relocated. 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 the proposed project would not result in the unnecessary duplication of existing or approved ACH or NF beds in Brunswick 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.

The applicants propose to provide personal care staff twenty-four hours per day, seven days per week. In Section VII, page 80, the applicants state that by FFY2021 (the second full fiscal year) Liberty Commons will be staffed by 84.3 full-time equivalent (FTE) positions [62.67 FTEs for the NF beds and 21.37 FTEs for the ACH beds.] Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in the pro forma financial statements. The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the application is conforming to this criterion.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

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In Section II.2, pages 36-37, the applicants describe the ancillary and support services that will be provided by the facility or made available through agreements with other providers including dietary, medical transportation, dentistry, physician, therapy, rehab, laboratory, personal care, housekeeping and laundry services. Exhibit 4 contains copies of proposed and existing agreements with third party providers including, podiatry, nutrition, eye care, x-ray and EKG, primary and psychiatric care and laboratory services. In addition, Exhibit 2 contains a copy of the professional administrative support and treasury management services agreement for Liberty Healthcare Management Company to provide for the proposed project. The applicants adequately demonstrate that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming to this criterion.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
 - (i) would be available under a contract of at least 5 years duration;

- (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
- (iii) would cost no more than if the services were provided by the HMO; and
- (iv) would be available in a manner which is administratively feasible to the HMO.

NA

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

C

The applicants propose to develop a combination nursing facility by transferring 32 licensed ACH beds from The Commons at Brightmore, located in New Hanover County, and 64 NF beds from Doshier Nursing Center, located in Brunswick County, to a proposed new facility in St. James, in the Lockwood Folly Township of Brunswick County. The total square footage of the proposed facility is 76,284 with 52 private NF beds, 12 semi-private NF beds, 16 private ACH beds and 16 semi-private beds. Exhibit 24 contains a letter from an architect that estimates that construction costs will be \$150.00 per square foot or \$11,442,600 ($\$150.00 \times 76,284$ square feet = \$11,442,600), which corresponds to the projected capital costs in Section VIII, line 7, page 86.

In Section II, pages 52-53 and in Section XI, page 114, the applicants provide a written statement describing the proposed project's plan to assure improved energy efficiency and water conservation. 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 project 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;

NA

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

NA

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

C

In Section VI.3, page 69, the applicants project the following payor mix during the second full FFY (2021):

Projected Days as a % of Total Days

Payor Source	Nursing Patients	ACH Patients
Private Pay	24.59%	40.00%
Medicare	19.67%	---
Medicaid	55.74%	0.00%
County Assistance	----	60.00%
Total	100.00%	100.00%

As shown in the table above, the applicants project that Medicare and Medicaid will be the payor source for 75.41% of the nursing patients and County Assistance will be the payor source for 60.00% of the ACH patients. On page 69, the applicants state *“Services provided by Liberty Commons will be non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis.”* Exhibit 16 contains a copy of the admissions policy which states, in part, *“Our admission policies apply to all residents admitted to the Facility, without regard to race, color, creed, national origin, age, sex, religion, handicap, ancestry, marital, veteran status, and/or payment source.”*

The applicants demonstrate that medically underserved populations would have adequate access to the proposed ACH and NF services. Therefore, the application is conforming to this criterion.

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

C

In Section VI.7, pages 70-71, the applicants state patients will have access to the services offered at Liberty Commons through the following referral sources:

- Hospitals
- Department of Social Services
- Home Care/ Home Health Agencies
- Word of mouth/family referrals

The applicants adequately demonstrate they offer a range of means by which residents will have access to the facility. Therefore, the application is conforming to this criterion.

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

C

Exhibit 13 contains copies of letters from the applicants to Southeastern Community College, Cape Fear Community College, School of Nursing at UNC-Wilmington, Coastal CNA training, Brunswick Community College, James Sprunt Community College and Coastal Carolina University offering the proposed new facility as a clinical training site.

The applicants adequately demonstrate that the proposed facility would accommodate the clinical needs of area health professional training programs. Therefore, the application is conforming to this criterion.

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

C

The applicants propose to develop a combination nursing facility by transferring 32 licensed ACH beds from The Commons at Brightmore, located in New Hanover County, and 64 NF beds from Doshier Nursing Center, located in Brunswick County, to a proposed new facility in Brunswick County. Liberty Properties will be the lessor and Southport Nursing will be the lessee. The proposed new combination nursing facility will be known as Liberty Commons.

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 facility consists of Brunswick County. Facilities may also serve residents of counties not included in their service area.

On page 199, the 2016 SMFP defines the service area for nursing facility beds as *“the nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”* Thus, the service area for this facility consists of Brunswick County. Facilities may also serve residents of counties not included in their service area.

Table 11A in the 2016 SMFP, page 225, lists a total of 6 ACH facilities in Brunswick County and a total of 321 licensed beds, 67 of which are in a nursing home. In addition, the 2015 Need Determination of 340 ACH beds is also listed. The table below is based on Table 11A, page 225, and Table 11B, page 250, in the 2016 SMFP.

2016 SMFP ACH Inventory & 2019 Need Projections Brunswick County	
# Facilities	6
# Beds in ACH Facilities	254
# Beds in Nursing Homes	67
# Beds in Hospitals	0
Total Licensed Beds	321
2015 SMFP Need Determination	340
Total # Available	661
Total # in Planning Inventory	661
Projected Bed Deficit 2019	32

With respect to ACH beds the applicants do not propose to develop new ACH beds, but rather to transfer 32 licensed but not operational ACH beds from a facility in New Hanover County to a proposed new facility in Brunswick County. The proposed project will reduce the deficit of ACH beds in Brunswick County by 32 ACH beds. As shown in the table above, there is a projected deficit of 32 ACH beds in Brunswick County in 2019.

2016 SMFP NF Inventory & 2019 Need Projections Brunswick County	
# Facilities	6
# Beds in Nursing Homes	494
# Beds in Hospitals	64
Total Licensed Beds	558
Total CON Approved/License Pending	70
Total # Available	628
Total # in Planning Inventory	628
Projected Bed Utilization Summary 2019	776
Projected Bed Deficit 2019	148

With respect to NF beds the applicants do not propose to develop any new NF beds but rather to relocate 64 existing NF beds within Brunswick County. As shown in the table above, there is a projected NF bed deficit even including the 64 NF beds at Doshier to be relocated. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.

In Section V.6, pages 66-67, the applicants discuss how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed service.

See also Sections II, III, V, VI and VII where the applicants discuss 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 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 they will provide quality services. The discussion regarding quality found in Criterion (20) is incorporated herein by reference.
- The applicants demonstrate that they 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.

C

In Section I.12, pages 10-11, the applicants state that they or their affiliates currently own, lease, or manage 23 nursing facilities in North Carolina. In Section II.6, pages 38-43 and Exhibit 6, the applicants identify three nursing facilities that were found to have provided substandard quality of care as that term is defined in 42 CFR 488.301, during the 18 months immediately preceding the submittal of the application. The applicants also provide Form CMS-2567 for each of the facilities identified in Section II.6 in Exhibit 6.

According to the Nursing Home Licensure and Certification Section, DHSR, during the 18 months immediately preceding November 22, 2016 there were two incidents in two facilities for which certification deficiencies constituting substandard quality of care were found at the facilities listed on pages 10-11 of the application. After reviewing and considering information provided by the applicants and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all 23 facilities, the applicants 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 applicants do not propose to establish either new adult care home beds or new nursing facility beds