

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: August 25, 2017

Findings Date: August 25, 2017

Project Analyst: Gregory F. Yakaboski

Team Leader: Fatimah Wilson

Project ID #: F-11332-17

Facility: Liberty Commons of Rowan County

FID #: 980260

County: Rowan

Applicant(s): Liberty Healthcare Properties of Rowan County, LLC

Liberty Commons Nursing and Rehabilitation Center of Rowan County, LLC

Liberty Healthcare Properties of Davie County, LLC

Liberty Commons Nursing and Rehabilitation Center of Davie County, LLC

Project: Relocate 20 existing Nursing Facility beds from Bermuda Commons in Davie County to Liberty Commons of Rowan County pursuant to Policy NH-6 for a total of 110 Nursing Facility beds at Liberty Commons of Rowan County

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

N.C. Gen. Stat. §131E-183(a) The Agency 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

Four applicants, Liberty Healthcare Properties of Rowan County, LLC (Liberty Properties), Liberty Commons Nursing and Rehabilitation Center of Rowan County, LLC (Liberty Commons of Rowan County), Liberty Healthcare Properties of Davie County, LLC (Bermuda Commons Properties) and Liberty Commons Nursing and Rehabilitation Center of Davie County, LLC (Bermuda Commons), also known collectively as the applicants, propose to relocate 20 existing, but unutilized, Nursing Facility (NF) beds from Bermuda Commons in Davie County to an existing facility, Liberty Commons of Rowan County, in Rowan County

pursuant to Policy NH-6 for a total of 110 Nursing Facility beds at Liberty Commons of Rowan County upon project completion. Liberty Properties is the lessor and Liberty Commons of Rowan County is the lessee.

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 2017 State Medical Facilities Plan (2017 SMFP).

Policies

The following three policies are applicable to this review:

- **Policy NH-6: Relocation of Nursing Facility Beds**
- **Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities**

Policy NH-6: Relocation of Nursing Facility Beds

Policy NH-6: Relocation of Nursing Facility Beds Relocations of existing licensed nursing facility beds are allowed. Certificate of need applicants proposing to relocate licensed nursing facility beds shall:

- 1. Demonstrate that the proposal shall not result in a deficit, or increase an 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*
- 2. 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 applicants propose relocating 20 NF beds from Bermuda Commons, located in Davie County, to Liberty Commons of Rowan County, located in Rowan County. Rowan County is contiguous to Davie County. Table 10C: Nursing Care Bed Need Projections for 2020 of the 2017 SMFP shows a surplus of 56 NF beds in Davie County and a deficit of 42 NF beds in Rowan County. (See 2017 SMFP, pages 212-214) The proposed project will not result in a deficit in Davie County nor will the proposed project result in surplus in Rowan County. Therefore, the application is consistent with Policy NH-6.

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 47-48, and in Section XI.14, page 108, the applicants provide a written statement describing the proposed project's plan to assure improved energy efficiency and water conservation including solar panels, Energy Star rated appliances, pervious paving and Bio-swales, cold water Ozone laundry, rainwater reclamation for irrigation and "grey water" needs and periodic staff training and in-servicing on techniques to reduce energy and water use. The application is consistent with Policy GEN-4.

Conclusion

In summary, the applicants demonstrate that the proposal is conforming to all applicable policies in the 2017 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 relocate 20 existing but unutilized NF beds from Bermuda Commons in Davie County to an existing facility, Liberty Commons of Rowan County pursuant to Policy NH-6 for a total of 110 Nursing Facility beds at Liberty Commons of Rowan County upon project completion.

On page 191, the 2017 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 is Rowan County. Facilities may also serve residents of counties not included in their service area.

Patient Origin

In Section III.8, page 50, the applicants provide the current patient origin of Liberty Commons of Rowan County at the time the application was submitted as shown in the table below:

County	NF Beds- Percent of Total NF Admissions
Rowan	93.0%
Cabarrus	5.0%
Stanly	2.0%
Total	100.0%

In Section III.9, page 51, the applicants provide the projected patient origin for the facility during the first full federal fiscal year of operation (10/1/2020 to 9/30/2021) following completion of the project as shown in the table below.

County	NF Beds- Percent of Total NF Admissions
Rowan	93.0%
Cabarrus	5.0%
Stanly	2.0%
Total	100.0%

On page 51 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 Rowan County resident utilization of the Liberty Commons of Rowan County facility.

The applicants adequately identify the population to be served.

Analysis of Need

In Section III.1, pages 43-46, and supplemental information, the applicants describe the need to transfer 20 licensed NF beds from Bermuda Commons in Davie County to the existing 90 NF bed facility in Rowan County, Liberty Commons of Rowan County as follows:

- The 2017 SMFP shows a NF bed deficit of 42 beds in Rowan County.
- The 2017 SMFP shows a NF bed surplus of 56 beds in Davie County which is contiguous to Rowan County.
- Unmet need for NF beds in home-like environments for the residents of Rowan County.

- The 20 NF beds being transferred from Bermuda Commons are licensed but not utilized as Bermuda Commons, while licensed for 117 NF beds has a current functional capacity of 97 NF beds. See Exhibit 8-letter from Bermuda Commons administrator.
- Bermuda Commons current census is approximately 95 residents. The facility averaged 85 residents and 83 residents in 2015 and 2016 respectively. See Exhibit 7 and pages 44-45 of the application.
- Bermuda Commons would be able to create additional private rooms for residents, better serve it residents and operate more efficiently.
- Transferring the 20 NF beds from Davie County to Rowan County would increase the diversity of healthcare options available to Rowan County residents.

Based on review of the information provided by the applicants in Section III, the applicants adequately demonstrate the need to relocate 20 NF beds from Bermuda Commons to Liberty Commons of Rowan County.

Projected Utilization

As shown in the table below, Liberty Commons of Rowan County has had an occupancy rate over 93% for the last three calendar years.

Historical utilization of Liberty Commons of Rowan County

	CY 2014	CY 2015	CY 2016	Historical (last 9 mos.) 7/1/2016 – 3/31/2017
Patient Days	30,589	30,476	31,056	23,641
# of bed	90	90	90	90
Occupancy Rate	93.12%*	93.07%*	95.03%*	96.0%

Table Source: Section IV, page 52 and supplemental information.

*Occupancy Rate Calculation: Total Days/ 365 / # of beds

In Section IV, pages 52-58, the applicants provide projected utilization for all 110 NF beds during the first two full federal fiscal years (FFYs). The following table illustrates projected utilization during the first and second full FFY.

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

	OY1 FFY 2021	OY2 FFY 2022
Patient Days	37,604	37,960
# of bed	110	110
Occupancy Rate	94.0%	95.0%

As shown in the table above, in the second full FFY of operation, the applicants project the 110 NF beds will operate at 95.0% of capacity [37,960/365/110 = .9454 or 95.0%].

In Section III, pages 43-47, Section IV, pages 52-58, and in supplemental information, the applicants provide the methodology and assumptions underlying the projected utilization, which are summarized below:

- Applied a net average fill-up rate of four patients per week for the NF beds during the fill up period.
- Based on Nielsen Claritas data estimated total population of Rowan County in 2017 is 139,541 of which 24,292 (or 17.41%) is projected to be age 65 or over as compared to 19,994 age 65 or over in 2010, which is a growth of 21.50% (4,298 people) between 2010 and 2017. Further, this age cohort is projected to grown another 15.54% (3,774 people) from 2017-2022.
- According to the NC Office of State Budget and Management the population of persons age 65 and older is projected to grow almost 66% from 2010 to 2030 (19,990 to 33,087).
- According to the Nursing Home Data Compendium (2015 Edition) in 2014 approximately 84.5% of nursing home residents were 65 years of age and older. Therefore, this population cohort represents the most significant demographic in need of the proposed skilled nursing beds.
- Letter dated July 13, 2017 from the Administrator of Liberty Commons of Rowan County stating that the facility is currently licensed for 90 NF beds, that the current NF bed census is 96% full based on 86 current patients which is the functional capacity of the facility, and that for the past three years he has had to *“turn down residents we otherwise would have been able to care for if we had these 20 additional beds... the area has had an extraordinary growth of senior individuals”*
- The 2017 SMFP shows a NF bed deficit of 42 beds in Rowan County.
- Letter from the Administrator of Bermuda Commons stating that the facility has served Rowan County residents within the last year.
- Geographical location: centrally located in Rowan County located near major traffic corridors.
- Historical experience of entities affiliated with the applicants.

Historical utilization of Liberty Commons of Rowan County

	CY 2014	CY 2015	CY 2016
Patient Days	30,589	30,476	31,056
# of bed	90	90	90
Occupancy Rate	93.12%	93.07%	95.03%

*Occupancy Rate Calculation: Total Days/ 365 / # of beds

As shown in the table above Liberty Commons of Rowan County has had an occupancy rate over 93% for the last three calendar years.

Projected utilization of the NF beds is based on reasonable and adequately supported assumptions.

Access

On page 64, the applicants 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 currently reserves approximately 70% 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 63, the applicants state, *“Services provided by Liberty Commons are non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis.”* Exhibit 14 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 63, the applicants provide the projected payor mix during the second full FFY (2022):

Payor Source	Nursing Patients
Private Pay	5.0%
Commercial Insurance	12.0%
Medicare	13.0%
Medicaid	70.0%
Total	100.00%

As shown in the table above, the applicants project that Medicare and Medicaid will be the payor source for 83.0% of the projected patient days. The applicants demonstrate that medically underserved populations would have adequate access to the proposed NF services.

Conclusion

In summary, the applicants identified the population to be served, 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.

C

The applicants propose to relocate 20 existing but unutilized NF beds from Bermuda Commons in Davie County to an existing facility, Liberty Commons of Rowan County, in Rowan County pursuant to Policy NH-6 for a total of 110 Nursing Facility beds at Liberty Commons of Rowan County upon project completion.

On page 191, the 2017 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 Rowan County. Facilities may also serve residents of counties not included in their service area.

The applicants propose to relocate 20 existing but unutilized NF beds from a facility in Davie County to an existing facility in Rowan County. Rowan County is contiguous to Davie County. Since the 20 NF beds are not currently serving residents, no residents will be impacted by the relocation of the 20 NF beds. Furthermore, according to Table 10C: Nursing Care Bed Need Projections for 2020 of the 2017 SMFP shows a surplus of 56 NF beds in Davie County and a deficit of 42 NF beds in Rowan County (See 2017 SMFP, pages 212-214). Relocating 20 NF beds to Rowan County from Davie County will only reduce Davie County’s projected surplus of NF beds from 56 NF beds to 36 NF beds ($56 - 20 = 36$). Davie County will still have a surplus of 36 NF beds upon completion of the proposed project.

The applicants demonstrate that the needs of the population presently served at Bermuda Commons will continue to be adequately met following the proposed relocation of NF beds and that access for medically underserved groups will not be negatively impacted. 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, pages 46, the applicants describe the alternatives considered prior to submitting the application, which include:

- Maintain the Status Quo- The applicants state that while Bermuda Run in Davie County is licensed for 117 NF beds the functional capacity of the facility is 97 NF beds. The 20 NF beds proposed to be relocated to Liberty Commons of Rowan County are not currently being utilized. Transfer of the 20 NF beds to another facility in Rowan County will reintroduce the 20 NF beds to a market with a need. Davie County has a surplus of 56 NF beds while Rowan County has a deficit of 42 NF beds. Upon completion of the proposed project Davie County will still have a surplus of 36 NF beds. Bermuda Commons average census has been 85 and 83 residents in 2015 and 2016 respectively. See pages 44-45. Maintaining the status quo is not a viable option.

- Propose a new 20 NF bed standalone facility in Rowan or Davie County- The applicants state that when factoring in the capital costs required to build a new, free-standing facility 20 NF beds is too few to achieve operational efficiency. Therefore, a 20 NF bed standalone facility is not an effective alternative.
- Propose a 20 NF bed addition onto Liberty Commons- The applicants that this was the most effective alternative given the location of Liberty Commons, the deficit of 42 NF beds in Rowan County, and the fact that Liberty Commons has consistently operated at a census of 95% and above.

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 Properties of Rowan County, LLC, Liberty Commons Nursing and Rehabilitation Center of Rowan County, LLC, Liberty Healthcare Properties of Davie County, LLC and Liberty Commons Nursing and Rehabilitation Center of Davie County, LLC shall materially comply with all representations made in the certificate of need application and any supplemental responses. In the event that representations conflict, Liberty Healthcare Properties of Rowan County, LLC, Liberty Commons Nursing and Rehabilitation Center of Rowan County, LLC, Liberty Healthcare Properties of Davie County, LLC and Liberty Commons Nursing and Rehabilitation Center of Davie County, LLC shall materially comply with the last made representation.**
- 2. Liberty Healthcare Properties of Rowan County, LLC, Liberty Commons Nursing and Rehabilitation Center of Rowan County, LLC, Liberty Healthcare Properties of Davie County, LLC and Liberty Commons Nursing and Rehabilitation Center of Davie County, LLC shall relocate no more than 20 nursing facility beds from Bermuda Commons to Liberty Commons of Rowan County.**
- 3. Upon completion of the project, Liberty Commons of Rowan County, shall be licensed for no more than 110 nursing facility beds.**
- 4. For the first two years of operation following completion of the project, Liberty Commons of Rowan County shall not increase 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.**

5. **No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Liberty Commons of Rowan County shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
 - a. **Payor mix for the services authorized in this certificate of need.**
 - b. **Utilization of the services authorized in this certificate of need.**
 - c. **Revenues and operating costs for the services authorized in this certificate of need.**
 - d. **Average gross revenue per unit of service.**
 - e. **Average net revenue per unit of service.**
 - f. **Average operating cost per unit of service.**

6. **Liberty Healthcare Properties of Rowan County, LLC, Liberty Commons Nursing and Rehabilitation Center of Rowan County, LLC, Liberty Healthcare Properties of Davie County, LLC and Liberty Commons Nursing and Rehabilitation Center of Davie County, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency 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 applicants propose to relocate 20 existing but unutilized NF beds from Bermuda Commons in Davie County to an existing facility, Liberty Commons of Rowan County, in Rowan County pursuant to Policy NH-6 for a total of 110 Nursing Facility beds at Liberty Commons of Rowan County upon project completion.

Capital and Working Capital Costs

In Section VIII, page 80, of this application, the applicants project the total capital cost of the proposed project will be:

Site costs-	\$ 172,020
Construction costs-	\$2,662,110
Equipment-	\$ 196,150
Consultant Fees-	<u>\$ 154,000</u>
Total:	\$3,184,280

In supplemental information the applicants project there will be no total working capital (start-up and initial operating expenses) as Liberty Commons of Rowan County is an existing facility.

Availability of Funds

In Section VIII., page 81, the applicants state that the capital costs will be financed by the owner equity of John A. McNeill, Jr. and Ronald B. McNeill. In Exhibit 15, the applicants provide a letter dated April 12, 2017 from John A. McNeill, Jr. and Ronald B. McNeill, which demonstrates their control of Liberty Healthcare Nursing Properties of Rowan County, LLC and Liberty Commons Nursing and Rehabilitation Center of Rowan County, LLC and states that they are both committed to personally funding all capital costs for the proposed project from personal equity.

Exhibit 15 also includes a letter dated April 4, 2017 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 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 needs of the proposed project.

Financial Feasibility

The applicants provided pro forma financial statements for the first two full fiscal years of operation following completion of the project. In the pro forma financial statement (Form B), the applicants project that revenues will exceed operating expenses in the first three operating years of the project, as shown in the table below.

	1st Full Fiscal Year (FFY 2021)	2nd Full Fiscal Year (FFY 2022)
Total Patient Days	37,604	37,960
Total Gross Revenues (Charges)	\$11,084,979	\$11,189,927
Total Net Revenue	\$9,859,164	\$9,952,507
Average Net Revenue per patient day	\$262.18	\$262.18
Total Operating Expenses (Costs)	7,529,742	\$7,560,333
Average Operating Expense per patient day	\$200.24	\$199.17
Net Income	\$2,329,422	\$2,392,174

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section XII, pages 112-127, of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicants adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicants adequately demonstrates the financial feasibility of the project is based upon reasonable and adequately supported assumptions regarding projected utilization, revenues (charges) and operating costs. 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 applicants propose to relocate 20 existing but unutilized NF beds from Bermuda Commons in Davie County to an existing facility, Liberty Commons of Rowan County, in Rowan County pursuant to Policy NH-6 for a total of 110 Nursing Facility beds at Liberty Commons of Rowan County upon project completion.

On page 191, the 2017 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 Rowan County. Facilities may also serve residents of counties not included in their service area.

According to Table 10C: Nursing Care Bed Need Projections for 2020 of the 2017 SMFP shows a deficit of 42 NF beds in Rowan County. (See 2017 SMFP, page 214). Relocating 20 NF beds to Rowan County from Davie County will only reduce Rowan County’s projected deficit of NF beds from 42 NF beds to 22 NF beds ($42 - 20 = 22$). In supplemental information the applicants demonstrate that the 2017 License Renewal Application (LRA) documents that the Davie County facility (Bermuda Commons) is currently serving residents of Rowan County.

The applicants do not propose to develop new NF beds, but rather to relocate 20 licensed but not operational NF beds from a facility in Davie County to an existing NF facility in the contiguous county of Rowan. The proposed project will increase the inventory of NF beds in Rowan County by 20 NF beds.

Table 10A *Inventory of Nursing Home and Hospital Nursing Care Beds* in the 2017 SMFP, page 204, lists a total of 10 nursing facilities in Rowan County with a combined total of 984 NF beds, as shown in the table below.

2017 SMFP NF Inventory & 2020 Need Projections Rowan County	
# Facilities	10
# Beds in Nursing Homes	984
# Beds in Hospitals	0
Total Licensed Beds	984
Total CON Approved/License Pending	0
Total # Available	984
Sum of Exclusions	160
Total # in Planning Inventory	824
Projected Bed Utilization with Vacancy Factor in 2020	866
Projected Bed Deficit 2020	42

Upon completion of the proposed project to relocate 20 NF beds from the Bermuda Commons facility in Davie County, Rowan County will still have a projected deficit of 22 NF beds (42 NF bed deficit – 20 NF beds relocated from Davie County = 22 NF bed projected deficit). 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 NF beds in Rowan 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 applicants propose to provide personal care staff twenty-four hours per day, seven days per week. In Section VII, pages 74-76, the applicants state that by FFY2022 (the second full fiscal year) Liberty Commons of Rowan County will be staffed by 89.10 full-time equivalent (FTE) positions. On page 77 of the application the applicants provide Table VII.4-*Direct Care Staff Hours Per Patient Day*. 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.

C

In Section II.4, pages 35-36, 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 existing agreements with third party providers including, dental, podiatry, nutrition, transportation, pharmacy, eye care, hospice, 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

Liberty Commons of Rowan County is an existing 36,976 square foot facility located at 4412 South Main Street, Salisbury. At the existing location the applicants propose to add 13,445 square feet of new construction and renovate 6,626 square feet of the existing square footage.

In Section III, pages 47-48, and in Section XI.14, page 108, the applicants provide a written statement describing the proposed project's plan to assure improved energy efficiency and water conservation including solar panels, Energy Star rated appliances, pervious paving and Bio-swales, cold water Ozone laundry, rainwater reclamation for irrigation and "grey water" needs and periodic staff training and in-servicing on techniques to reduce energy and water use. Exhibit 20 contains a letter from Thomas Kurmaskie, AIA NCARB which provides cost estimates relating to site development, construction and professional fees for the proposed new construction and renovations at Liberty Commons of Rowan County which are consistent with the costs estimates found on page 80 of the application.

The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative for the proposed construction project. Furthermore, the applicants adequately demonstrate that the proposed construction project would not unduly increase the costs and charges of nursing facility services. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicants adequately demonstrate that applicable energy saving features have been incorporated into the construction plans. 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;

C

In Section VI, page 62, the applicants report that in the last FFY (2016) 83.0% of the patients at Liberty Commons of Rowan County had some or all of their services paid for by Medicare or Medicaid, as illustrated in the table below.

Historical Payor Mix in FFY2016: Days as a % of Total Days

Payor Source	Nursing Patients
Private Pay	5.00%
Commercial Insurance	12.0%
Medicare	13.0%
Medicaid	70.0%
Total	100.0%

The United States Census Bureau 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.

Percent of Population						
County	% 65+	% Female	% Racial & Ethnic Minority*	% Persons in Poverty**	% < Age 65 with a Disability	% < Age 65 without Health Insurance**
Rowan	16%	51%	27%	18%	12%	19%
Statewide	15%	51%	36%	17%	10%	15%

Source: <http://www.census.gov/quickfacts/table>, 2014 Estimate as of December 22, 2015.

*Excludes "White alone" who are "not Hispanic or Latino"

**"This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates. Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable... The vintage year (e.g., V2015) refers to the final year of the series (2010 thru 2015). Different vintage years of estimates are not comparable."

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 applicants demonstrate that they currently provide 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;

C

In Section VI.6, page 64, the applicants state that there have been no civil rights access complaints filed against any entities related to the applicants. 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

C

In Section VI.3, page 63, the applicants project the following payor mix during the second full FFY (2022):

Projected Days as a % of Total Days

Payor Source	Nursing Patients
Private Pay	5.00%
Commercial Insurance	12.0%
Medicare	13.0%
Medicaid	70.0%
Total	100.0%

As shown in the table above, the applicants project that Medicare and Medicaid will be the payor source for 83.0% of the patients. The projected payor mix is based on the historical payor mix found on page 62 of the application. On page 63, the applicants state *“Services provided by Liberty Commons are non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis.”* Exhibit 14 contains a copy of the admissions policy which states, in part, *“Our admissions 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 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.

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In Section VI.7, pages 64-65, 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
- Physician Groups and Specialties
- 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 11 contains copies of agreements between Liberty Commons of Rowan and Jesse Carson High School and the American Red Cross for nurse aide and nurse assistant training.

The applicants adequately demonstrate that the proposed health services 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.

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The applicants propose to relocate 20 existing but unutilized NF beds from Bermuda Commons in Davie County to an existing facility, Liberty Commons of Rowan County, in Rowan County pursuant to Policy NH-6 for a total of 110 Nursing Facility beds at Liberty Commons of Rowan County upon project completion.

On page 191, the 2017 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 Rowan County. Facilities may also serve residents of counties not included in their service area.

According to Table 10C: Nursing Care Bed Need Projections for 2020 of the 2017 SMFP shows a deficit of 42 NF beds in Rowan County. (See 2017 SMFP, page 214). Relocating 20 NF beds to Rowan County from Davie County will only reduce Rowan County’s projected deficit of NF beds from 42 NF beds to 22 NF beds (42 - 20 = 22). In supplemental documentation the applicants demonstrate that the 2017 License Renewal Application (LRA) documents that the Davie County facility (Bermuda Commons) is currently serving residents of Rowan County.

The applicants do not propose to develop new NF beds, but rather to relocate 20 licensed but not operational NF beds from a facility in Davie County to an existing NF facility in the contiguous county of Rowan. The proposed project will increase the inventory of NF beds in Rowan County by 20 NF beds.

Table 10A *Inventory of Nursing Home and Hospital Nursing Care Beds* in the 2017 SMFP, page 204, lists a total of 10 nursing facilities in Rowan County with a combined total of 984 NF beds, as shown in the table below.

2017 SMFP NF Inventory & 2020 Need Projections Rowan County	
# Facilities	10
# Beds in Nursing Homes	984
# Beds in Hospitals	0
Total Licensed Beds	984
Total CON Approved/License Pending	0
Total # Available	984
Sum of Exclusions	160
Total # in Planning Inventory	824
Projected Bed Utilization with Vacancy Factor in 2020	866
Projected Bed Deficit 2020	42

Upon completion of the proposed project to relocate 20 NF beds from the Bermuda Commons facility in Davie County Rowan County will still have a projected deficit of 22 NF beds (42 NF bed deficit – 20 NF beds relocated from Davie County = 22 NF bed projected deficit). The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.

In Section III.V.6, pages 60-61, the applicants discuss how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services.

See also Sections II, III, V, VI and VII where the applicants 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 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 adequately demonstrate that they will provide access to medically underserved populations. The discussions regarding access found in Criterion (3), (3a) 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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In Section II, pages 36-42, the applicants state that they currently own, lease, or manage 25 facilities in North Carolina. According to the files in the Nursing Home Licensure and Certification Section, DHSR, a total of four incidents occurred at four different facilities within the eighteen months immediately preceding submission of the application through the date of this decision related to quality of care. As of the date of this decision, the problems had been corrected. 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 25 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.

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The Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100 are applicable because the applicants propose to establish add nursing facility beds at an existing facility.

SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- (a) An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.

- C- The applicants propose to add nursing facility beds to the existing Liberty Commons of Rowan County facility. In Section IV.1, page 52, the applicants document that the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the Liberty Commons of Rowan facility in which the new beds are to be operated was at least 90 percent as summarized in the table below.

Liberty Commons of Rowan County- Historical Utilization for 7/1/2016 to 3/31/2017

	Totals for 7/1/16 – 3/31/17
# of NF beds	90
Patient Days (last 9 months or 274 days)	23,641
Occupancy Rate*	96%

Table Source: Section IV.1, page 52.

*Occupancy Rate Calculation: Total Days/ 274 / # of beds.

- (b) An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.

- C- The applicants propose to add nursing facility beds to the existing Liberty Commons of Rowan County facility. In Section IV.2, pages 54-55, the applicants project occupancy is to be at least 90 percent for the total number of nursing facility beds proposed to be operated, for the first two years following the completion of the proposed project as shown in the table below.

Liberty Commons of Rowan County- Projected Utilization for OY1 and OY2

	OY1 10/1/2020 – 9/30/2021	OY2 10/1/2021 – 9/30/2022
# of NF beds	110	110
Patient Days	37,604	37,960
Occupancy Rate	94%	95%

Table Source: Section IV, pages 54-55.

*Occupancy Rate Calculation: Total Days/365/# of beds.

In Section III, pages 43-47, Section IV, pages 52-58, and in supplemental information, the applicants provide the methodology and assumptions underlying the projected utilization

- (c) An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.

- NA- The applicants are not proposing to add adult care home beds to an existing facility.

- (d) An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for

the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.

-NA- The applicants are not proposing to establish a new adult care home facility or add adult care home beds to an existing facility.