

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: January 27, 2017

Findings Date: January 27, 2017

Project Analyst: Gregory F. Yakaboski

Team Leader: Lisa Pittman

Project ID #: J-11214-16

Facility: Brittany Place

FID #: 070130

County: Wake

Applicants: Samaritan Housing Foundation, Inc. d/b/a SearStone Retirement Community

Project: Add 9 Nursing Facility Beds and 6 Adult Care Home Beds at an existing Continuing Care Retirement Community pursuant to Policy NH-2 and Policy LTC-1

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

C

Samaritan Housing Foundation, Inc. d/b/a SearStone Retirement Community (SearStone) proposes to develop 9 Nursing Facility (NF) beds and 6 Adult Care Home (ACH) Beds at SearStone Retirement Community-Brittany Place (Brittany Place), an existing Continuing Care Retirement Community located in Wake County, pursuant to Policy NH-2 and Policy LTC-1. Brittany Place is managed by Searstone-RLA, Inc. Upon completion of the proposed project, Brittany Place, would have 25 NF and 14 ACH beds along with 169 independent living units.

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-2: Plan Exemption for Continuing Care Retirement Communities
- Policy NH-8: Innovations in Nursing Facility Design Policy
- Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds
- Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities

Policy NH-2: Plan Exemption for Continuing Care Retirement Communities

“Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for nursing care without regard to the nursing care bed need shown in Chapter 10: Nursing Care Facilities. To qualify for such exemption, applications for certificates of need shall show that the proposed nursing care bed capacity:

- 1. Will only be developed concurrently with or subsequent to construction on the same site of facilities for both of the following levels of care:*
 - a. independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages and rooms;*
 - b. licensed adult care home beds for use by people who, because of age or disability, require some personal services, incidental medical services and room and board to assure their safety and comfort.*
- 2. Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing unit of the continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.*

3. *Reflects the number of nursing care beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care after making use of all feasible alternatives to institutional nursing care.*
4. *Will not be certified for participation in the Medicaid program.*

One half of the nursing care beds developed under this exemption shall be excluded from the inventory used to project nursing care bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the 1985 State Medical Facilities Plan are automatically amended to conform to the provisions of this policy at the effective date of this policy. Certificates of need awarded pursuant to the provisions of Chapter 920, Session Laws 1983 or Chapter 445, Session Laws 1985 shall not be amended.”

In Section III.4, page 20, the applicant states that the 9 proposed Policy NH-2 NF beds:

- Will be developed on the same site as both the independent living units and the licensed adult care home beds.
- Will be used exclusively to meet the needs of the people with whom SearStone has a continuing care contract and who have lived in a non-nursing unit of Brittany Place for a period of at least 30 days, unless as excepted by Policy NH-2.
- Are required to meet the projected needs of the SearStone community and its residents.
- Will not be certified for participation in the Medicaid program.

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 supplemental information the applicant describes 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 applicant is reasonable and adequately supports the determination that the proposal is consistent with Policy NH-8.

Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds

“Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes. To qualify for such exemption, applications for certificates of need shall show that the proposed adult care home bed capacity:

- 1. Will only be developed concurrently with, or subsequent to, construction on the same site of independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages, and rooms.*
- 2. Will provide for the provision of nursing services, medical services or other health related services as required for licensure by the North Carolina Department of Insurance.*
- 3. Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing or adult care unit of the continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.*
- 4. Reflects the number of adult care home beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care after making use of all feasible alternatives to institutional adult care home care.*
- 5. Will not participate in the Medicaid program or serve State-County Special Assistance recipients.*

One half of the adult care home beds developed under this exemption shall be excluded from the inventory used to project adult care home bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the North Carolina 2002 State Medical Facilities Plan are automatically amended to conform with the provisions of this policy at the effective date of this policy.”

In Section III.4, page 20, the applicant states that the 6 proposed Policy LTC-1 ACH beds:

- Will be developed on the same site as both the independent living units and the licensed adult care home beds.
- Will provide for the provision of nursing services, medical services or other health related services as required for licensure by the North Carolina Department of Insurance.

- Will be used exclusively to meet the needs of the people with whom SearStone has a continuing care contract and who have lived in a non-nursing unit of Brittany Place for a period of at least 30 days, unless as excepted by Policy LTC-1.
- Are required to meet the projected needs of the SearStone community and its residents.
- Will not be certified for participation in the Medicaid program.

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

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

In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178, the Certificate of Need Section shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN 4.

Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 are required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy-GEN 4. The plan shall not adversely affect patient or resident health, safety, or infection control.”

In Section XI, pages 81-82, and in supplemental information, the applicant provides a written statement describing the proposed project’s plan to assure improved energy efficiency and water conservation.

Conclusion

In summary, the applicant demonstrates 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

SearStone proposes to develop 9 NF beds and 6 ACH beds at Brittany Place, an existing Continuing Care Retirement Community located in Wake County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project Brittany Place would have 25 NF and 14 ACH beds along with 169 independent living units.

On page 199, the 2016 SMFP defines the service area for NF 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 Wake County. Facilities may also serve residents of counties not included in their service area.

On page 223, the 2016 SMFP defines the service area for ACH 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 Wake County. Facilities may also serve residents of counties not included in their service area.

Patient Origin

In Section III.9, page 23, the applicant provides the proposed 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
Wake	100%	100%
Total	100%	100%

The applicant states that 100 percent of admissions to Brittany Place will be from Wake County because all of the beds will be reserved for existing independent living residents who by definition reside in Wake County. (See application page 22.)

The applicant adequately identifies the population to be served.

Analysis of Need

In Section III.1, pages 18-19, the applicant describes the need to develop 9 NF beds and 6 ACH beds at Brittany Place, an existing Continuing Care Retirement Community located in Wake County, pursuant to Policy NH-2 and Policy LTC-1, as follows:

- SearStone Retirement Community is an existing CCRC in which demand for all levels of care has reached capacity much sooner than anticipated.
- Utilization of ACH beds and NF beds has exceeded demand due to the higher level of acuity of residents initially signing Life Care contracts at SearStone.
- As of the date of the application, ACH beds at Brittany Place were at 100% utilization with a waiting list. To compensate, SearStone is utilizing home care services to care for residents when the Brittany Place ACH beds are full. The applicant states that 16 independent living residents were utilizing home care services with 2 projected to move into Brittany Place as soon as an ACH bed is available.
- Utilization of the NF beds at Brittany Place was at 94% as of the application. The applicant states that recently two residents had to be admitted to offsite nursing facilities to meet their care needs.

Based on review of the information provided by the applicant in Section III, the applicant adequately demonstrates the need to develop 9 Policy NH-2 NF beds and 6 Policy LTC-1 ACH beds at Brittany Place.

Projected Utilization

In Section IV, pages 27-28, the applicant provides projected utilization for 25 NF beds and 14 ACH 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-Projected Utilization
 First and Second Operating Years**

	OY1 FFY 2018	OY2 FFY 2019
Patient Days	8,029	8,943
# of bed	25	25
Occupancy Rate	87.9%	99.0% [98.0%]

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

	OY1 FFY 2020	OY2 FFY 2021
Patient Days	3,833	4,563
# of bed	14	14
Occupancy Rate	75.0%	89.0% [89.3%]

In the table above, in the second full FFY of operation, the applicant states the 25 NF beds will operate at 99.0%. However, as shown, there was a miscalculation and the 25 NF beds

will operate at 98.0% of capacity [$8,943/365/25 = 0.9800$, or 98.0%] and the 14 ACH beds will operate at 89.3% of capacity [$4,563/365/14 = .8929$ or 89.3%].

In Section III, pages 18-23, and in Section IV, pages 24-31, the applicant provides the assumptions and methodology utilized to project utilization of the 25 Policy NH-2 NF beds and the 14 Policy LTC-1 ACH beds, summarized as follows:

- Historical Utilization: On page 24, the applicants provide the historical utilization for the existing NF and ACH beds at Brittany Place as follows

NF Bed-Historical Utilization

	September 1, 2015 – May 31, 2016
Patient Days	4,135
# of beds	16
Occupancy Rate	94.3%

$4,135/16/274 \text{ days} = 0.943$

ACH Beds-Historical Utilization

	September 1, 2015 – May 31, 2016
Patient Days	2,040
# of beds	8
Occupancy Rate	94.9%

$2,040/8/274 \text{ days} = 0.9489$

- Greater Demand: Brittany Place has reached its capacity for serving the resident population of SearStone because of greater demand for SearStone than anticipated combined with residents signing Life Care contracts who have higher than anticipated acuity levels.
- As of the date of the application, ACH beds at Brittany Place were at 100% utilization with a waiting list. To compensate, SearStone is utilizing home care services to care for residents when the Brittany Place ACH beds are full. The applicant states that 16 independent living residents were utilizing home care services with 2 projected to move into Brittany Place as soon as an ACH bed is available.
- Residents receiving home care: There are 14 independent living residents who are receiving home care but are not yet in need of greater services. However, the applicant states that according to actuarial formulas and industry norms those 14 residents have a significantly higher likelihood of needing ACH or NF care over the next 12 months. (See application pages 18-19)
- Utilization of the NF beds at Brittany Place was at 94% as of the application.

- Insufficient NF bed capacity: The applicant states that recently two residents had to be admitted to offsite nursing facilities to meet their care needs.
- The applicant states *“the projected additional bed complement of 9 SN and 6 ACH proposed in this application is anticipated to be sufficient to meet the needs of the SearStone community for a period of three years at which time an additional expansion will be proposed as part of a larger Phase 2 expansion of the community which will involve the addition of independent living units.”* (See application page 18)

Projected utilization is based on reasonable and adequately supported assumptions.

Access

In Section III.1, pages 20-21, the applicant states that the proposed Policy NH-2 beds and Policy LTC-1 beds will be used exclusively to meet the needs of people with whom the facility has continuing care contracts with. Additionally, in Section VI.2, page 35, the applicant states that the proposed Policy NH-2 beds and Policy LTC-1 beds will be private pay only.

Conclusion

In summary, the applicant identified the population to be served, adequately demonstrates the need the population projected to be served has for the proposed project, and adequately demonstrates the extent to which all residents of the service area will have access to the services. Therefore, the application is conforming to this criterion.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

NA

- (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

SearStone proposes to develop 9 NF beds and 6 ACH beds at Brittany Place, an existing Continuing Care Retirement Community located in Wake County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project Brittany Place would have 25 NF and 14 ACH beds along with 169 independent living units.

In Section III, page 19, the applicant describes the alternatives considered prior to submitting the application, which include:

- Maintain the Status Quo- Phase II of the original development plan calls for the expansion of Brittany Place to a total of 48 NF and ACH beds. However, the applicant is proposing to increase the number of NF and ACH beds immediately to a total of 39 beds (25 NF beds and 14 ACH beds), prior to Phase II, because of the immediate need of Brittany Place residents for the additional beds. Therefore, maintaining the status quo in terms of development plans is not an effective alternative.
- Continue to Rely on Outside Placement of Brittany Place residents- The applicant states that due to the inability to control quality of care, failure to fulfill its commitment to its residents, the uncertainty of bed availability at other facilities and the increase cost of over one hundred fifty percent of the cost of residents staying at Brittany Place this not an effective alternative.

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

The applicant adequately demonstrates 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. **Samaritan Housing Foundation, Inc. d/b/a SearStone Retirement Community shall materially comply with all representations made in the certificate of need application and supplemental information. In those instances where representations conflict, Samaritan Housing Foundation, Inc. d/b/a SearStone Retirement Community shall materially comply with the last made representation.**
2. **Samaritan Housing Foundation, Inc. d/b/a SearStone Retirement Community shall develop no more than 9 Policy NH-2 nursing facility beds and 6 Policy LTC-1 adult care home beds for a facility total of no more than 25 NF and 14 ACH beds upon completion of the project.**
3. **The 9 Policy NH-2 nursing facility beds shall not be certified for participation in the Medicaid program.**
4. **The 9 Policy NH-2 nursing facility beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing**

unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring the nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.

- 5. The 6 Policy LTC-1 adult care home beds shall not participate in the Medicaid program or serve State-County Special Assistance recipients.**
 - 6. The 6 Policy LTC-1 adult care home beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing or adult care unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
 - 7. The 9 new Policy NH-2 nursing facility beds and the 6 new Policy LTC-1 adult care home beds shall be developed on the same site with the independent living units.**
 - 8. Samaritan Housing Foundation, Inc., dba SearStone Retirement Community 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.

C

SearStone proposes to develop 9 NF beds and 6 ACH beds at Brittany Place, an existing Continuing Care Retirement Community located in Wake County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project Brittany Place would have 25 NF and 14 ACH beds along with 169 independent living units.

Capital and Working Capital Costs

In Section VIII, page 54, of this application, the applicant projects the total capital cost to expand Brittany Place will be:

Site costs-	\$ 75,000
Construction costs-	\$ 1,627,455

Equipment-	\$ 128,000
Consultant Fees-	\$ 437,869
Financing Costs	\$ 45,000
Interest during Construction	\$ 99,745
Other- Insurance, Title and Recording	\$ 37,500
Total:	\$ 2,450,569

In Section IX, page 58, the applicant projects the total working capital (start-up and initial operating expenses) costs will be \$83,440 (start-up expenses: \$0 and initial operating expenses: \$83,440).

Availability of Funds

In Section VIII., page 55, and Section IX, page 94, the applicant states that the capital costs of \$2,450,569 will be financed by a bond issue of \$2,340,859.48 and owner's equity of \$109,709.52. In Section IX, page 62, the applicant states that the working capital costs will be financed by unrestricted cash from on-going operations of the SearStone Retirement Community.

In Exhibit H, the applicant provides a letter dated July 28, 2017 [2016] from the managing principal of Herbert J. Sims & Co., Inc. ("HJS") which states that the firm has been appointed to serve as the underwriter for the proposed bond, that they were the senior underwriter for the original bond issue of \$117,450,000 for SearStone and that they are confident that based on their experience and SearStone's performance financing for the Brittany Place expansion will be obtained without difficulty.

In Exhibit I, the applicant provides a copy of the financial statements of Samaritan Housing, Inc. d/b/a SearStone Retirement Community which shows unrestricted cash of \$1,892,557 as of December 31, 2015 which is sufficient to cover the owners' equity portion (\$109,709.52) of the capital costs.

In Exhibit J, the applicant provides a letter dated August 10, 2016 from the Chief Financial Officer of Samaritan Housing, Inc. d/b/a SearStone Retirement Community, which confirms unrestricted cash of \$1,892,557 as of December 31, 2015 and that the unrestricted cash is available to cover the working capital of the proposed project.

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

Financial Feasibility

In Table X.4B, page 70, the applicant projects that the per diem reimbursement rate/charge for the second full federal fiscal year as follows:

Payment Source by Type of Care	Private Room
NF Beds	
Private Pay	\$170.21
Medicare	NA
Medicaid	NA
ACH Beds	
Private Pay	\$150.29
Fee for Service	\$384.77

The applicant provided pro forma financial statements for the first two full fiscal years of operation following completion of the project for both the nursing facility beds and the adult care home beds as shown in the tables below.

Brittany Place- Nursing Facility Beds

	First Full FFY (2018)	Second Full FFY (2019)
Total Patient Days	8,121	9,033
Total Gross Revenues	\$1,610,928	\$1,681,378
Average Net Revenue per Patient Days	\$198.37	\$186.14
Total Operating Expenses	\$1,162,282	\$1,195,789
Average Operating Expense per Patient Days	\$143.12	\$132.38
Net Income	\$448,646	\$485,589

Brittany Place- Adult Care Home Beds

	First Full FFY (2018)	Second Full FFY (2019)
Total Patient Days	4,198	5,018
Total Gross Revenues	\$633,817	\$661,784
Average Net Revenue per Patient Days	\$150.98	\$131.88
Total Operating Expenses	\$647,253	\$665,937
Average Operating Expense per Patient Days	\$154.18	\$132.71
Net Income	(\$13,436)	(\$4,153)

In the pro forma financial statement (Form B), the applicant projects total revenue for the overall facility will exceed total operating expenses for the overall facility in the first two operating years of the project, as show in the table below.

	First Full FFY (2018)	Second Full FFY (2019)
Total Revenues	\$12,239,203	\$12,785,286
Total Operating Expenses	\$9,552,420	\$9,808,625
Net Profit	\$2,686,783	\$2,976,661

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. The discussion regarding

projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicant adequately demonstrates that sufficient funds will be available for the capital, working capital and operational needs of the proposed project. Furthermore, the applicant adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and charges. Therefore, the application is conforming to this criterion.

- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

SearStone proposes to develop 9 NF beds and 6 ACH beds at Brittany Place, an existing Continuing Care Retirement Community located in Wake County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project Brittany Place would have 25 NF and 14 ACH beds along with 169 independent living units.

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

On page 199, the 2016 SMFP defines the service area for NF 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 Wake County. Facilities may also serve residents of counties not included in their service area.

On page 223, the 2016 SMFP defines the service area for ACH 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 Wake County. Facilities may also serve residents of counties not included in their service area.

The beds which are the subject of this application, are proposed to be “closed” beds, and will only be available to existing residents of Brittany Place. The 2016 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities require the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Brittany Place for at least 30 days. Furthermore, the applicants adequately demonstrate the need the population to be served has for 9 additional Policy NH-2 beds and 6 additional Policy LTC-1 beds. The discussion regarding the need for the proposed beds found in Criterion (3) is incorporated herein by reference.

The applicant adequately demonstrates that the proposed project would not result in the unnecessary duplication of existing or approved ACH or NF beds in Wake County. Consequently, the application is conforming to this criterion.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

C

The applicant proposes to provide personal care staff twenty-four hours per day, seven days per week. In supplemental information the applicant provides the proposed staffing for both the NF and ACH beds for the second operating year, as shown in the table below.

Position	Number of Full-Time Equivalent (FTE) Positions	
	Current	Operating Year 2
Director of Nursing	1.00	1.00
Assistant Director of Nursing	1.00	1.00
RN's	6.50	9.10
Certified Nursing Assistants	9.2	18.20
Medical Records	0.00	1.00
Cooks	1.40	1.40
Dietary Aides	1.40	1.40
Social Services Director	1.00	1.00
Activity Director	1.00	1.40
Housekeeping Aides	0.20	2.00
Administrator	1.00	1.00
Receptionist	1.40	0.00
Total	26.50	38.50

In supplemental information, the applicant states that by Operating Year 2 Brittany Place will be staffed by 38.5 full-time equivalent (FTE) positions. In Section VII, pages 59, and supplemental information, the applicant describes its experience and process for recruiting and retaining staff. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements. The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the application is conforming to this criterion.

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

C

Brittany Place is an existing CCRC with 16 licensed NF beds, 8 licensed ACH beds and 169 independent living units. In Section II.2, pages 13-15, the applicant describes the ancillary and support services that will be provided by the facility or made available through agreements with other providers including dietary, medical transportation, dentistry, physician, therapy, rehab, laboratory, personal care, housekeeping and laundry services. Exhibit C contains copies of proposed and existing agreements with third party providers including, laboratory, nutrition, eye care, and diagnostic services. In addition, Exhibit A contains a copy of the professional administrative and management services agreement for Searstone-RLA, Inc. to provide for the proposed project. The applicant adequately demonstrates that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming to this criterion.

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

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
- (i) would be available under a contract of at least 5 years duration;
 - (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
 - (iii) would cost no more than if the services were provided by the HMO; and
 - (iv) would be available in a manner which is administratively feasible to the HMO.

NA

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

services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

C

SearStone proposes to develop 9 NF beds and 6 ACH beds at Brittany Place, an existing Continuing Care Retirement Community located in Wake County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project Brittany Place would have 25 NF and 14 ACH beds along with 169 independent living units.

The applicant proposes to expand Brittany Place by adding 8,956.5 square feet of new construction to accommodate the 9 new NF beds and 6 new ACH beds. After project completion Brittany Place will have 32,385.5 in total square footage.

In supplemental information the applicant provides an architect's letter wherein the architect estimates that construction costs will be \$181.70 per square foot or \$1,627,455 ($\$181.70 \times 8,956.5 \text{ square feet} = \$1,627,455$), which corresponds to the projected capital costs in Section VIII, line 9, page 86.

In Section XI, pages 81-82, and supplemental information, 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 applicant adequately demonstrates 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;

C

The 2016 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who

have lived at Brittany Place for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

- (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

The 2016 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Brittany Place for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

- 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

The 2016 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Brittany Place for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

- (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

The 2016 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Brittany Place for at least 30 days. The policies also prohibit

participation in the Medicaid program and serving State-County Special Assistance recipients.

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

C

In supplemental information the applicant provides a copy of an email sent from the firm that provides management services at Brittany Place to the Dean of Health Services for Wake Technical Community College which, in part, states “*We have a long history of welcoming students in from local health professional training programs into our facilities for experiential learning. ... If you or your staff would like to discuss opportunities for clinical training at Brittany Place please contact...*”

The applicant adequately demonstrates 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.

NA

The 2016 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities require the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Brittany Place for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

- (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 supplemental information the applicant states that the applicant and the management company own or manage three facilities in North Carolina. According to the Nursing Home Licensure and Certification Section, DHSR, during the 18 months immediately preceding the submittal of the application through the date of the decision there were no incidents in any of these three facilities affecting licensure of the facilities. After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

NA

The Criteria and Standards for Nursing Facility or Adult Care Home Facility Services, promulgated in 10A NCAN 14C .1100 are not applicable to a Continuing Care Retirement Community developing either new Policy NH-2 nursing facility beds and/or new Policy LTC-1 adult care home beds.