

## **ATTACHMENT - REQUIRED STATE AGENCY FINDINGS**

### **FINDINGS**

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: March 23, 2018

Findings Date: March 23, 2018

Project Analyst: Julie M. Faenza

Assistant Chief: Lisa Pittman

Project ID #: B-11431-17

Facility: Arbor Ridge at Asheville

FID #: 170472

County: Buncombe

Applicants: Arbor Ridge at Asheville, LLC  
Ridge Care, Inc.

Project: Develop a new 28-bed adult care home facility, with 28 special care unit beds, by acquiring and relocating 14 existing adult care home beds from The Oaks at Sweeten Creek and 14 existing adult care home beds from Emerald Ridge Rehabilitation and Care Center

### **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**

The applicants, Arbor Ridge at Asheville, LLC, and Ridge Care, Inc., propose to acquire and relocate 14 existing adult care home (ACH) beds from The Oaks at Sweeten Creek (The Oaks) and 14 existing ACH beds from Emerald Ridge Rehabilitation and Care Center (Emerald Ridge) to develop a new facility, Arbor Ridge at Asheville (Arbor Ridge). The applicants propose to develop all 28 of the ACH beds as special care unit (SCU) beds.

Table 11A of Chapter 11 of the 2017 State Medical Facilities Plan (SMFP) lists The Oaks as having 14 ACH beds and Emerald Ridge as having 14 ACH beds in the inventory of Buncombe County ACH beds. Therefore, following completion of the project, The Oaks will no longer

be licensed for any ACH beds, Emerald Ridge will no longer be licensed for any ACH beds, and Arbor Ridge will be licensed for 28 ACH beds.

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

### **Policies**

Policy LTC-2: Relocation of Adult Care Home Beds and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities are both applicable to this review.

**Policy LTC-2: Relocation of Adult Care Home Beds** states:

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

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

The Oaks, Emerald Ridge, and Arbor Ridge are all located in Buncombe County. Therefore, the application is consistent with Policy LTC-2.

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

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

*In 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 are required to submit a plan of energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control."*

The proposed capital expenditure for this project is greater than \$2 million and less than \$5 million. In supplemental information, the applicants describe the project's plan to assure improved energy efficiency and water conservation. The applicants adequately demonstrate that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation. Exhibit 21 contains a letter from an architect stating the project will be developed to comply with Policy GEN-4 and describing the energy efficient and water conservation features the facility will include. Therefore, the application is consistent with Policy GEN-4.

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- All facilities are located in Buncombe County.
- The applicants provide a written statement and a letter from an architect demonstrating conformity with Policy GEN-4.

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

## C

The applicants propose to acquire and relocate 14 existing ACH beds from The Oaks and 14 existing ACH beds from Emerald Ridge to develop a new facility, Arbor Ridge. All 28 of the beds will be SCU beds. The proposed project will be developed as part of a larger community for seniors which will also have 70 independent living apartments.

### **Patient Origin**

On page 219, the 2017 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 project consists of Buncombe County. Facilities may also serve residents of counties not included in their service area.

Arbor Ridge will be a new facility; therefore, it has no historical patient origin to report. The proposed facility location and the two locations where the beds are being relocated from are all in Buncombe County. In supplemental information (Section III.7, page 29), the applicants project that 90 percent of patients at Arbor Ridge will originate from Buncombe County and 10 percent of patients will originate from Henderson County. In supplemental information (page 29), the applicants state:

*“Although the Applicant does not plan to actively promote itself outside of Buncombe County, based on the Applicant’s experience, anticipation of residents originating from contiguous counties is reasonable. Furthermore, the skilled nursing facilities in the area have shown Henderson County to be the second highest county from which their patients originate. Unfortunately, adult care homes do not provide patient origin numbers like skilled nursing facilities do in their license renewal applications, so the Applicant is unable to make precise origin calculations based on existing adult care home residents in Buncombe County.”*

The applicants adequately identify the population to be served.

### **Analysis of Need**

In Sections III.1 and III.2, pages 19-26, and supplemental information, the applicants describe the factors which support the need for the 28 SCU beds, as summarized below:

- Neither The Oaks nor Emerald Ridge, both nursing facilities, are currently utilizing any of the ACH beds (supplemental information, page 19).
- Projected growth in the number of Buncombe County residents who will potentially need SCU services (supplemental information, pages 20-25).
- The low number of existing SCU beds in Buncombe County (supplemental information, page 26).

- The high occupancy rate of existing SCU beds in Buncombe County (supplemental information).

Table 11B of the 2017 SMFP shows that Buncombe County has a deficit of 23 ACH beds. The 2018 License Renewal Applications (LRAs) for both The Oaks and Emerald Ridge confirm that the ACH beds in these facilities are not currently utilized. Leaving these beds unutilized would effectively double the deficit of ACH beds in Buncombe County.

The applicants adequately demonstrate the need to relocate 14 ACH beds from The Oaks and 14 ACH beds from Emerald Ridge to develop Arbor Ridge.

Projected Utilization

Arbor Ridge will be a new facility; therefore, it has no historical patient utilization to report. Additionally, the existing ACH beds are not currently in use, so there is no historical patient origin to report for the individual beds. In supplemental information (Section IV.2, pages 30-31), the applicants provide projected utilization for the first three operating years, as shown in the table below:

| <b>Arbor Ridge Projected Utilization – OYs 1-2</b> |                       |                         |                       |                       |                    |
|--|-----------------------|-------------------------|-----------------------|-----------------------|--------------------|
|  | <b>Q1</b>             | <b>Q2</b>               | <b>Q3</b>             | <b>Q4</b>             | <b>Total – OY1</b> |
|  | <b>7/1/19-9/30/19</b> | <b>10/1/19-12/31/19</b> | <b>1/1/20-3/31/20</b> | <b>4/1/20-6/30/20</b> |                    |
| Patient Days                                       | 730                   | 1,278                   | 1,825                 | 2,312                 | 6,144              |
| Occupancy Rate                                     | 28.57%                | 50.00%                  | 71.43%                | 90.48%                | 60.12%             |
| Number of Beds                                     | 28                    | 28                      | 28                    | 28                    | 28                 |
|  | <b>Q1</b>             | <b>Q2</b>               | <b>Q3</b>             | <b>Q4</b>             | <b>Total – OY2</b> |
|  | <b>7/1/20-9/30/20</b> | <b>10/1/20-12/31/20</b> | <b>1/1/21-3/31/21</b> | <b>4/1/21-6/30/21</b> |                    |
| Patient Days                                       | 2,373                 | 2,373                   | 2,373                 | 2,373                 | 9,490              |
| Occupancy Rate                                     | 92.86%                | 92.86%                  | 92.86%                | 92.86%                | 92.86%             |
| Number of Beds                                     | 28                    | 28                      | 28                    | 28                    | 28                 |

As shown in the table above, the applicants project the 28 SCU beds will operate at 92.86 percent of capacity [(9,490 days / 365 days per year) / 28 beds = 0.9286] in the second year of operation. In supplemental information, the applicants project to have six patients ready to move in at the start of operation, and project to add two patients per month until the facility reaches capacity. The applicants describe their management team’s experience in developing and operating ACH facilities in North Carolina as the basis for the assumptions and projections:

*“The group that is going to manage the proposed facility, Ridge Care, has experience opening new facilities in North Carolina. The three most recent facilities are Mebane Ridge Assisted Living, Chatham Ridge Assisted Living, and Carteret Landing Assisted Living. Mebane Ridge averaged 21.58 residents in the first month, and had an average increase of 3.30 new residents each following month in its first year of operation. Chatham Ridge averaged 10.90 residents in the first month, and had an average increase of 3.69 new residents each following month in its first year of operation.*”

*Carteret Landing averaged 21.35 residents in the first month, and had an average increase of 3.48 new residents each following month in its first year of operation.”*

The applicants provide assumptions and methodology for the projected utilization that are consistent with the recent past experience of its management team. Projected utilization is based on reasonable and adequately supported assumptions.

### **Access**

In Section VI.3, page 34, the applicants state their commitment to provide services to all patients who need the proposed services regardless of their race, color, creed, age, national origin, handicap, sex, or source of payment. Exhibit 11 contains the admissions policy for Mebane Ridge Assisted Living and Memory Care, a recently developed facility with the same operator as the proposed facility. In supplemental information, the applicants project that 84.6 percent of patient days will be provided to Special Assistance – Basic Medicaid patients and 15.4 percent of patient days will be provided to private pay patients in the second operating year (FY 2021). The applicants adequately demonstrate the extent to which all residents of the area, including underserved groups, are likely to have access to the proposed services.

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The population to be served would primarily be from Buncombe County with the remainder coming from an adjacent county. The applicants base their assumptions on their historical experience with similar facilities.
- Projected utilization is based on the applicants' management team's historical experience with similar facilities.
- The applicants project that 86.4 percent of ACH patient days will be reimbursed by Special Assistance – Basic Medicaid at the end of OY2.

- (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 acquire and relocate 14 existing ACH beds from The Oaks and 14 existing ACH beds from Emerald Ridge to develop a new facility, Arbor Ridge. Both existing facilities as well as the proposed new facility are located in Buncombe County. According to Google Maps, The Oaks is 9.3 miles and approximately 17 minutes driving distance from Arbor Ridge, and Emerald Ridge is 8.9 miles and approximately 12 minutes driving distance from Arbor Ridge. Therefore, the beds will be available to the same Buncombe County population following the proposed relocation.

The applicants state in supplemental information (Section III.1, page 19) that the beds to be transferred are not currently in use. The 2018 LRAs for both The Oaks and Emerald Ridge show that none of the ACH beds are currently being utilized at either facility.

In supplemental information (Section VI.5, page 35), the applicants state that low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly will be eligible for admission to Arbor Ridge.

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The existing and proposed facilities are all in the same county and will thus provide the same level of access to patients.
- The beds proposed to be relocated are not currently being utilized.
- The applicants adequately demonstrate they will not discriminate in the admission of patients to the facility.

- (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 supplemental information (Section III.3, pages 26-27), the applicants state that the alternative considered – building a standalone 28-bed ACH facility with 28 SCU beds – was not the most effective alternative because it would lack economies of scale that will be provided by the proposed project. The applicants also state they believe in the concept of aging

in place and providing longer-term accommodations for residents who may later need the services of an ACH facility with SCU beds.

After considering that alternative, the applicants state the alternative represented in the application is the most effective alternative to meet the identified need.

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

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicants provide evidence that they considered alternative methods of development for the proposed project and that the alternative chosen is the most effective alternative to meet the need of the population proposed to be served.

Therefore, the application is approved subject to the following conditions.

- 1. Arbor Ridge at Asheville, LLC, and Ridge Care, Inc. shall materially comply with all representations made in the certificate of need application and any supplemental responses. In the event that representations conflict, Arbor Ridge at Asheville, LLC, and Ridge Care, Inc. shall materially comply with the last made representation.**
- 2. Arbor Ridge at Asheville, LLC, and Ridge Care, Inc. shall relocate 14 ACH beds from The Oaks at Sweeten Creek and 14 ACH beds from Emerald Ridge Rehabilitation and Care Center to develop a 28-bed ACH facility, Arbor Ridge at Asheville, where all 28 beds will be SCU beds.**
- 3. Upon completion of the project, Arbor Ridge at Asheville shall be licensed for no more than 28 SCU beds; The Oaks at Sweeten Creek shall not be licensed for any ACH beds; and Emerald Ridge Rehabilitation and Care Center shall not be licensed for any ACH beds.**
- 4. Arbor Ridge at Asheville, LLC, and Ridge Care, Inc. shall provide care to recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.**
- 5. For the first two years of operation following completion of the project, Arbor Ridge at Asheville, LLC, and Ridge Care, Inc. shall not increase private pay charges more**



than 5% of the projected private pay charges provided in supplemental information 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.

6. Approval by the Healthcare Planning and Certificate of Need Section to develop the proposed special care unit beds means only that the applicants are authorized to construct the proposed special care unit beds. It does not mean that the applicants will be able to obtain a license for the special care unit beds if a moratorium on licensure of special care unit beds is still in effect. In that instance, the applicants would need to demonstrate that they meet the criteria for an exception and it be granted by the Secretary of the Department of Health and Human Services.
  7. 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, Arbor Ridge at Asheville, LLC, and Ridge Care, Inc. 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.
  8. Arbor Ridge at Asheville, LLC, and Ridge Care, Inc. 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 acquire and relocate 14 existing ACH beds from The Oaks and 14 existing ACH beds from Emerald Ridge to develop a new facility, Arbor Ridge. All 28 of the beds will be SCU beds. The proposed project will be developed as part of a larger community for seniors which will also have 70 independent living apartments.

### Capital and Working Capital Costs

In supplemental information, the applicants project the capital cost for the proposed project will be \$3,531,492, as shown in the table below.

| <b>Capital Cost by Line Item – Arbor Ridge</b> |                    |
|--|--------------------|
| <b>Item</b>                                    | <b>Cost</b>        |
| Site Purchase/Prep Costs                       | \$275,816          |
| Construction Contract                          | \$2,805,780        |
| Equipment/Furniture                            | \$82,698           |
| Consultant Fees                                | \$122,780          |
| Financing/Interest/Contingency                 | \$244,418          |
| <b>Total</b>                                   | <b>\$3,531,492</b> |

In supplemental information, the applicants project start-up expenses in the amount of \$72,500 and initial operating expenses in the amount of \$59,704 for a total of \$132,204 in working capital expenses.

**Availability of Funds**

In supplemental information, the applicants state \$3,531,492 in project capital costs will be funded by a commercial loan and \$132,204 will be funded by a line of credit for Ridge Care, Inc. Exhibit 12 contains a letter from a senior vice president of BB&T, dated October 11, 2017, offering to consider lending the applicants adequate funding to develop the facility. Exhibit 12 also contains a letter from KeyBank Real Estate Capital, dated October 13, 2017, verifying the accounting which allows Ridge Care, Inc. to draw down adequate funding for working capital expenditures from an existing term loan. The applicants adequately demonstrate that sufficient funds will be available for the capital and working capital needs of the project.

**Financial Feasibility**

In supplemental information (Section X.3, page 48), the applicants project that the per diem reimbursement rate/charge will be \$203.67 for private pay patients in a private room and \$88.77 for Medicaid patients in a semi-private room during the second operating year (FY 2021).

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

| <b>Projected Revenues and Operating Expenses</b> |                                     |                                     |
|--|-------------------------------------|-------------------------------------|
| <b>Arbor Ridge</b>                               | <b>Operating Year 1<br/>FY 2020</b> | <b>Operating Year 2<br/>FY 2021</b> |
| Total Patient Days                               | 6,144                               | 9,490                               |
| Total Gross Revenues (Charges)                   | \$692,600                           | \$1,010,160                         |
| Total Net Revenue                                | \$692,600                           | \$1,010,160                         |
| Average Net Revenue per Patient Day              | \$113                               | \$106                               |
| Total Operating Expenses (Costs)                 | \$623,276                           | \$737,806                           |
| Average Operating Expense per Patient Day        | \$101                               | \$78                                |
| <b>Net Income/Profit</b>                         | <b>\$69,324</b>                     | <b>\$272,354</b>                    |

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs, and charges. See the supplemental

information 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**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants use reasonable and adequately supported assumptions to project utilization.
  - Documentation of sufficient funding for the capital and working capital needs of the project is provided and is credible.
  - The applicants use reasonable projections of costs and charges in demonstrating it will be financially feasible to operate the proposed facility.
- (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 acquire and relocate 14 existing ACH beds from The Oaks and 14 existing ACH beds from Emerald Ridge to develop a new facility, Arbor Ridge. All 28 of the beds will be SCU beds. The proposed project will be developed as part of a larger community for seniors which will also have 70 independent living apartments.

On page 219, the 2017 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 project consists of Buncombe County. Facilities may also serve residents of counties not included in their service area.

On pages 221-222 of the 2017 SMFP, Table 11A documents that there are a total of 33 existing or approved facilities in Buncombe County that offer or will offer ACH services. The table below is a summary of those 33 facilities in Buncombe County, recreated from the 2017 SMFP, Chapter 11, Table 11A (pages 221-222) and Table 11B (page 247). There is a projected deficit of 23 ACH beds in 2020 for Buncombe County.

| <b>2016 ACH Inventory and 2020 Need Projections<br/>for Buncombe County</b> |       |
|---|-------|
| # ACH Facilities  | 23    |
| # Beds in ACH Facilities  | 885   |
| # Beds in Nursing Facilities  | 290   |
| Total # Licensed Beds   | 1,175 |
| # CON Approved Beds (License Pending)                                       | -25   |
| Total # ACH Beds Available  | 1,150 |
| Total # ACH Beds in Planning Inventory                                      | 1,140 |
| Projected Bed Utilization Summary   | 1,163 |
| Projected Bed Surplus (Deficit)   | (23)  |

The applicants do not propose to develop new ACH beds, but rather to relocate 28 existing ACH beds, 14 currently located at The Oaks, and 14 currently located at Emerald Ridge, to develop a new facility in Buncombe County. There will be no increase in the inventory of ACH beds in Buncombe County. The applicants adequately demonstrate the need to develop a new ACH facility with SCU beds by relocating existing ACH beds based on the number of patients they propose to serve.

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants adequately demonstrate the need for the proposed services.
  - The applicants provide adequate documentation that the proposed services will not result in the unnecessary duplication of existing or approved health service capabilities or facilities.
- (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

In supplemental information (Section VII.2, page 37), the applicants provide the projected staffing in full time equivalents (FTEs) for Arbor Ridge in OY2, as shown in the table below.

| <b>Arbor Ridge – Proposed Facility Staffing</b> |                            |
|---|----------------------------|
| <b>Position</b>                                 | <b>Projected # of FTEs</b> |
| Supervisor                                      | 3.0                        |
| Nurse   | 1.0                        |
| Personal Care Aides                             | 7.0                        |
| Food Service Supervisor                         | 0.5                        |
| Cooks   | 1.4                        |
| Dietary Aides                                   | 3.0                        |
| Activity Director                               | 1.0                        |
| Housekeeping Supervisor                         | 0.5                        |
| Housekeeping Aides                              | 2.0                        |
| Maintenance Supervisor                          | 0.5                        |
| Administrator                                   | 0.5                        |
| Administrative Ass't                            | 0.5                        |
| Admissions Coordinator                          | 1.0                        |
| <b>Total</b>                                    | <b>21.9</b>                |

In supplemental information, the applicants identify Dr. Alan Kronhaus as the prospective Medical Director of the facility and provide a letter dated January 24, 2018 confirming his willingness to serve in that role.

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants provide appropriate documentation of the availability of adequate health manpower and management personnel for the provision of the proposed dialysis services.
- The applicants provide appropriate and credible documentation of support from the prospective Medical Director of Arbor Ridge.

- (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 supplemental information (Section II.2, pages 12-17), the applicants describe the ancillary and support services that will be provided by the facility or made available through agreements

with other providers. Supplemental information provided by the applicants also contains a letter from the medical director of the facility expressing his support for the proposed project. The applicants discuss coordination with the existing health care system in supplemental information. Exhibits 9 and 10 contain copies of correspondence from the applicants attempting to establish agreements with local medical professionals and Mission Hospital.

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants provide appropriate and credible documentation of the availability of necessary ancillary and support services for the provision of the proposed dialysis services.
- The applicants provide credible documentation of attempted coordination with the existing health care system.

- (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

The applicants do not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicants do not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

- (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

The applicants are not an HMO. Therefore, Criterion (10) is not applicable to this review.

- (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

In Exhibit 20, the applicants provide the proposed facility's line drawings, showing a 49,021 square foot building, including independent living apartments. In supplemental information (Section XI.4, page 52), the applicants state that the ACH portion of the facility will be approximately 17,410 square feet of space. The drawings show 12 semi-private rooms and 4 private rooms. In supplemental information (Section XI.9, page 53), the applicants describe their plans for energy efficiency, including water conservation. Exhibit 21 contains a letter from an architect, dated October 13, 2017, stating that the project will be developed to comply with Policy GEN-4 and describes the energy efficient and water conservation features it plans to include.

Costs and charges are described by the applicants in supplemental information and pro forma financial statements. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference.

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants provide credible documentation that the cost, design, and means of construction represent the most reasonable alternative.
- The applicants provide appropriate and credible documentation of the inclusion of energy saving features into the construction plans.
- The applicants provide credible documentation of costs and charges which do not show undue increases related to construction costs.

(13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

NA

Arbor Ridge is not an existing facility, and the beds to be relocated are not currently in use; therefore, there is no current use of existing services by medically underserved populations.

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

NA

Arbor Ridge is not an existing facility, and the beds to be relocated are not currently in use; therefore, there is no past performance to report. The applicants state in supplemental information (Section VI.4, page 35) that to the best of their knowledge there have been no civil rights access complaints filed against The Oaks or Emerald Ridge.

- (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 supplemental information (Section VI.3, page 34), the applicants state:



*“...all persons will be admitted to the facility without regard to their race, color, creed, age, national origin, handicap, sex, or source of payment; and all routine and specialized services are available to persons regardless of their race, color, creed, age, national origin, handicap, sex, or source of payment.”*

In supplemental information (Section VI.2, page 33), the applicants project that 84.6 percent of patients will have some or all of their services paid for by Medicaid during the second operating year, as shown in the table below.

| <b>Arbor Ridge – Projected Patient Days by Payor Category – OY 2</b> |                     |                   |
|--|---------------------|-------------------|
| <b>Payor Category</b>  | <b>Patient Days</b> | <b>Percentage</b> |
| Private Pay  | 1,460               | 15.4%             |
| Medicaid   | 8,030               | 84.6%             |
| <b>Total</b>   | <b>9,490</b>        | <b>100.0%</b>     |

In supplemental information, the applicants state that they project a Medicaid payor mix of around 85 percent due to the facility makeup of semi-private beds versus private beds.

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicants’ projected payor mix adequately demonstrates that medically underserved populations will have adequate access to the proposed services.

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

### C

In supplemental information (Section VI.3, page 34), the applicants state that they will admit patients to the facility if there is a written order from a physician and the health, habilitative, or rehabilitative needs of the patient can be met by the facility.

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicants adequately demonstrate that the facility will provide a range of means by which a person can access the services.

- (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 (Section VI.1, page 32), the applicants state that there are not currently any agreements with health professional training programs in the area, but that they are attempting to establish agreements. In Exhibit 8, the applicants provide a copy of a letter dated October 1, 2017 that was sent to Asheville-Buncombe Technical Community College inviting the nursing assistant students to include Arbor Ridge in their clinical rotations.

### **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicants adequately document that the proposed health services will accommodate the clinical needs of health professional training programs in the area.

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

C

The applicants propose to acquire and relocate 14 existing ACH beds from The Oaks and 14 existing ACH beds from Emerald Ridge to develop a new facility, Arbor Ridge. All 28 of the beds will be SCU beds. The proposed project will be developed as part of a larger community for seniors which will also have 70 independent living apartments.

On page 219, the 2017 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 project consists of Buncombe County. Facilities may also serve residents of counties not included in their service area.

On pages 221-222 of the 2017 SMFP, Table 11A documents that there are a total of 33 existing or approved facilities in Buncombe County that offer or will offer ACH services. The table below is a summary of those 33 facilities in Buncombe County, recreated from the 2017 SMFP, Chapter 11, Table 11A (pages 221-222) and Table 11B (page 247). There is a projected deficit of 23 ACH beds in 2020 for Buncombe County.

| <b>2016 ACH Inventory and 2020 Need Projections<br/>for Buncombe County</b> |       |
|---|-------|
| # ACH Facilities  | 22    |
| # Beds in ACH Facilities  | 885   |
| # Beds in Nursing Facilities  | 290   |
| Total # Licensed Beds   | 1,175 |
| # CON Approved Beds (License Pending)                                       | -25   |
| Total # ACH Beds Available  | 1,150 |
| Total # ACH Beds in Planning Inventory                                      | 1,140 |
| Projected Bed Utilization Summary   | 1,163 |
| Projected Bed Surplus (Deficit)   | (23)  |

In supplemental information (Section VI.5, page 35), the applicants describe the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality, and access to the proposed services. The applicants state:

*“Underserved groups, such as those relying on Medicaid, who qualify for special care unit services, will be served by the new facility in special care unit rooms designed to accommodate dual occupancy without regard to payor source. Potential residents will not be discriminated against with regard to their age, racial background, ethnic background, gender, handicap, sex, or medical diagnosis. This new facility would bring more choice to the residents of Buncombe County.”*

**Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency
- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants adequately demonstrate the need for the proposal and that it is a cost-effective alternative.
  - The applicants adequately demonstrate that they will provide quality services.
  - The applicants adequately demonstrate that they will provide access to medically underserved groups.
- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

## C

In Section II.1, pages 9-12, the applicants describe the methods to be used by Arbor Ridge to ensure and maintain quality care. In Section II.3, page 18, the applicants list all similar health care facilities located in North Carolina that they own or operate. The applicants state on page 18 that during the 18-month lookback period, Chatham Ridge operated out of compliance with Medicare Conditions of Participation:

*“Type A2 violation was issued to Chatham Ridge Assisted Living on 12/8/2016 for the following reason: facility failed to provide supervision for a resident in accordance with current symptoms of respective fall resulting in injury. The violation was not appealed; the facility complied with a plan of correct, and the penalty amount [\$2,000] was paid in full on 12/22/2016.”*

The applicants own or operate nine adult care homes in North Carolina. According to the files in the Adult Care Home Licensure Section, DHSR, during the 18 months immediately preceding the submittal of the application through the date of the decision, only one facility – Chatham Ridge, identified by the applicants and discussed above, was out of compliance. That facility is currently back in compliance.

## **Conclusion**

The Agency reviewed the following:

- the application, including any exhibits
- information provided by the applicants at the request of the Agency

- information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicants provide sufficient evidence that quality care has been provided in the past.

(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.

### C

The application is conforming to all applicable Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100. The specific criteria are discussed below.

#### **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.*

**-NA-** The applicants are not proposing to add nursing facility beds to an existing facility.

- (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.*

**-NA-** The applicants are not proposing to establish a new nursing facility or add nursing facility beds to an existing facility.

- (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.*
- C- In supplemental information (Section IV.2, page 30), the applicants project the proposed 28-bed ACH facility will operate at an average occupancy rate of 92.86 percent in the second operating year. The applicants describes their assumptions and methodology for projecting utilization in supplemental information.