

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: May 1, 2018

Findings Date: May 1, 2018

Project Analyst: Celia C. Inman

Team Leader: Gloria C. Hale

Assistant Chief: Lisa Pittman

Project ID #: G-11465-18

Facility: Bermuda Village Retirement Center

FID #: 932966

County: Davie

Applicant: Batangas Consulting, LLC

Project: Add 21 additional NF beds to Bermuda Village Retirement Center for a total of 36 NF beds and 21 ACH beds pursuant to Need Determination in 2018 SMFP

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 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

In response to the 2018 State Medical Facilities Plan (SMFP) adjusted need determination for 21 additional nursing care beds for Davie County, the applicant, Batangas Consulting, LLC (Batangas) proposes to develop 21 new nursing facility (NF) beds at its existing Bermuda Village Retirement Center in Davie County for a total of 36 NF beds and 21 adult care home (ACH) beds at project completion.

Need Determination

Table 10D of the 2018 State Medical Facilities Plan (SMFP) includes an adjusted need determination for 21 NF beds for Davie County. On page 208, the 2018 SMFP states:

“Application of the standard methodology for the North Carolina 2018 State Medical Facilities Plan determined there is no need for additional nursing home beds anywhere in the state. However, in response to a petition from Bermuda Village Retirement Community, an adjusted need determination for 21 nursing home beds in Davie County was approved by the State Health Coordinating Council, as shown in Table 10D.”

The applicant does not propose to develop more new nursing facility beds than are determined to be needed in Davie County in the 2018 SMFP. Therefore, the application is consistent with the adjusted need determination in the 2018 SMFP for 21 NF beds for Davie County.

Policies

Policy GEN-3: Basic Principles, on page 33 of the 2018 SMFP, is applicable to this review:

Policy GEN-3 states:

“A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area.”

In Section III.4, pages 67-71, the applicant addresses Policy GEN-3 as follows:

Promote Safety and Quality – On page 68 of Section III.4, the applicant describes how it believes Bermuda Village currently promotes safety and quality. In Section II.5, pages 36-38, and referenced exhibits, the applicant describes how it will maintain future quality and safety. The information provided by the applicant is reasonable and adequately supports the determination that the applicant’s proposal would promote safety and quality.

Promote Equitable Access – The applicant describes how it believes the proposed project would promote equitable access in Section III.4, page 70, Section V.6, page 90, Section VI, pages 91-92, and referenced exhibits. On page 70, the applicant also addresses its available capacity to provide access to the proposed services. The information provided by the applicant is reasonable and adequately supports the determination that the applicant’s proposal would promote equitable access.

Maximize Healthcare Value – The applicant describes how it believes the proposed project would maximize healthcare value in Section III.4, pages 69-70, and Section V.6, page 94. The information provided by the applicant is reasonable and adequately supports the determination that the applicant’s proposal would maximize healthcare value.

The applicant adequately demonstrates how its projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the facility need as identified by the applicant. The application is consistent with Policy GEN-3.

Conclusion

In summary, the applicant adequately demonstrates that the proposal is consistent with the adjusted need determination in the 2018 SMFP, and with Policy GEN-3. Therefore, the application is conforming to this criterion.

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental information requested during the expedited review, and
- information 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 applicant adequately demonstrates that its proposed project is consistent with the adjusted need determination in the 2018 SMFP,
- the applicant adequately documents its plan for providing access to patients with limited financial resources and demonstrates the availability of capacity to provide the services,
- the applicant adequately documents how its projected volumes incorporate the concepts of safety and quality, equitable access and maximization of healthcare value, and
- the applicant adequately demonstrates its proposed project addresses the needs of all residents in the proposed service area.

- (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

In response to the 2018 SMFP adjusted need determination for 21 additional NF beds for Davie County, the applicant proposes to develop 21 additional NF beds at the existing Bermuda Village Retirement Center (Retirement Center) in Davie County for a total of 36 NF beds and 21 ACH beds at project completion. The Retirement Center currently has 235 independent living (IL) residents (page 89 of application) housed in various IL neighborhoods throughout its campus. In addition, the Retirement Center also currently operates 15 licensed NF beds and

21 licensed ACH beds in the Bermuda Village Health Center (Health Center), located in the middle of the Retirement Center campus.

In several places throughout the application, including Section XI.2, page 136, the applicant states, *“The proposed project involves conversion of existing licensed and operational adult care beds to skilled care licensure.”* That is not an accurate statement: this project does not convert licensed ACH beds to licensed NF beds; this project proposes to add 21 new NF beds to its existing 15 NF beds and 21 ACH beds currently housed in the Bermuda Village Health Center. The proposed additional 21 NF beds will be placed in existing space in the Health Center, which will be vacated by the 21 ACH beds, pursuant to a February 6, 2018 Exemption. The Agency approved a request from the applicant for exemption from CON review for the relocation of the 21 ACH beds from the Health Center to a proposed addition adjacent and adjoining the Health Center on the main campus. In Section III.4, page 66, the applicant states:

“All rooms in Bermuda Village are currently built and staffed to nursing care standards. Upon approval, the 21 nursing care beds will occupy 21 rooms currently licensed for adult care.”

Patient Origin

On page 183, the 2018 SMFP defines the service area for nursing facility beds as:

“A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”

Thus, the service area for this project consists of Davie County. Facilities may serve residents of counties not included in their service area.

In Section III.8, page 74, the applicant provides the current patient origin for the nursing facility beds at Bermuda Village, as of FY2017.

Bermuda Village NF Beds FY2017

County	Projected Percent of Total Admissions
Davie	79.0%
Forsyth	16.0%
Davidson	1.7%
Stokes	1.7%
Lincoln	0.8%
Yadkin	0.8%
TOTAL	100.0%

Source: 2018 LRA

In Section III.9, page 74, the applicant provides a table showing the projected patient origin for the proposed nursing care beds in the first full federal fiscal year (FFY) of operation. The

applicant identifies the year as FY2018, however the first year of operation following project completion is FFY2019. In Section XII, page 146, the applicant lists the date for the Milestone of “Services Offered” as October 1, 2018. Therefore, *“the first full federal fiscal year of operation (10/1-9/30) following completion of the project”* is FFY2019 (10/1/18-9/30/19). In supplemental information requested during the expedited review of this application, the applicant confirms the information in the table is for FFY2019. The applicant also identifies “Other” to include Stokes, Yadkin, and Lincoln counties.

The information provided by the applicant is summarized below:

**Bermuda Village NF Beds
FFY2019**

County	Projected Percent of Total Admissions
Davie	88.0%
Forsyth	9.0%
Other*	3.0%
TOTAL	100.0%

* Other includes Stokes, Yadkin, and Lincoln counties, as stated in supplemental information provided by the applicant.

In Section III, the applicant provides the assumptions and methodology used to project its patient origin. In Section III.9(b), page 75, the applicant states that it expects most NF residents will originate from within Bermuda Village and elsewhere in Davie County. The applicant further states:

“While Bermuda Village will not turn away individuals from outside Davie County, it will actively seek to fill its beds with Davie County residents.”

In Section III.7, page 73, the applicant states:

“. . . current residents of the 21 adult care beds have clinical conditions that would qualify them for admission to a nursing home. Hence, those patients will be the first occupants of the proposed 21 new nursing home beds. No residents will be displaced by this project.”

The applicant’s assumptions are reasonable and adequately supported.

Analysis of Need

In Section III.1(a) and (b), pages 40-61, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services. On page 40, the applicant describes the components which it states necessitated the proposed project, as listed below and discussed thereafter:

- need for 21 nursing care beds in Davie County, as identified in the 2018 SMFP (page 40);
- issues addressed in the Agency report on the Bermuda Village Retirement Center petition (pages 41-42);
- need for adequate Davie County beds to provide for patient choice and operating efficiency (page 42);
- need from within the Bermuda Village Retirement Center (page 43);
- Davie County nursing care bed need by payor (pages 43-44);
- need identified by the community at large (page 44);
- need based on sustained aging of Davie County's population (page 45);
- need for additional private beds in Davie County (page 46); and
- need for careful management of healthcare system transitions and reduction of hospital readmissions (page 47).

Need Identified in the 2018 SMFP

In response to a petition filed on behalf of Bermuda Village, page 208 of the 2018 SMFP includes an adjusted need determination for 21 nursing care beds. The 2018 SMFP states:

“Application of the standard methodology for the north Carolina 2018 State Medical Facilities Plan determined there is no need for additional nursing home beds anywhere in the state. However, in response to a petition from Bermuda Village Retirement Community, an adjusted need determination for 21 nursing home beds in Davie County was approved by the state Health Coordinating Council, as shown in Table 10D.”

Issues in Agency Report on the Bermuda Village Petition

The Long-Term Behavioral Health Committee Agency Report (Exhibit 10) focuses on three issues concerning Davie County's need for additional nursing care beds:

1. Privacy preferences and occupancy rates – the Agency determined that only 82% of licensed nursing care beds in Davie County are operational; 71% of those beds are in semi-private rooms, which effectively reduces the number of beds available to the public and which the applicant states fosters the use of a semi-private room as a private room to accommodate resident needs.
2. Out migration of Davie County nursing care patients - 36% of the total Davie County residents admitted for nursing care, received care outside of Davie County in 2017.
3. Quality of care – room-sharing may increase risk of influenza and gastroenteritis, impact family visitation, disrupt patient's sleep, increase rates of distressed behaviors, and increase the risk of medical errors among nursing care staff.

In its conclusion, the Agency report recommends the inclusion of 21 additional nursing care beds based on Davie County's high percentage of semi-private rooms, out-migration for care, and the growth and size of the aging Davie County population.

Adequate Bed Capacity for Patient Choice and Operating Efficiency

The applicant discusses the need for a certain level of bed availability to accommodate patient need, patient choices and operating efficiency. The applicant makes the following points regarding the need for adequate bed capacity:

- The SMFP methodology does not take into account the number of beds that should be available at any given time to allow patient choice and provide time for admission processing, which can take up to two days.
- Facilities need minimum capacity to absorb resident turnover.
- Available beds minimize residents' waiting time to get in the nursing facility, which in turn, permits acute care hospitals to discharge patients in need of nursing care quicker, reducing total health care system costs.
- Available beds increase health care system efficiency.
- Available beds foster competition.
- Available beds offer patient choice.

Bermuda Village Retirement Center Need

Bermuda Village Health Center has 21 adult care home beds and 15 nursing care beds. The 15 NF beds maintain an average occupancy of 90% or higher. The applicant states that although Bermuda Village will continue to accept residents from outside the retirement community, the Bermuda Village Health Center itself represents a unique concentration of persons in need of nursing care. The average age at the retirement community was 85, as of March 2017; and the residents expect to receive long-term care at the Health Center. The applicant further states that residential contracts obligate the center to provide residents with access to the health center and 15 annual days of facility care, free of per diem charge, subject to availability. Exhibit 12 includes support letters from 16 Bermuda Village Retirement Center residents stating that they want to stay in Bermuda Village as they age and need nursing services.

In fact, it is the intent of the applicant to fill the proposed 21 NF beds with existing ACH patients already living in the Health Center, as of project completion. In Section III.7, page 73, the applicant states:

“ . . . current residents of the 21 adult care beds have clinical conditions that would qualify them for admission to a nursing home. Hence, those patients will be the first occupants of the proposed 21 new nursing home beds. No residents will be displaced by this project.”

Davie County Nursing Bed Need by Payor

The applicant states that Bermuda Village is a small facility relative to others in the state and it serves both the Bermuda Village community and patients from the general population. The average length of stay (ALOS) is the lowest in the county at 32.9 days (Table III.16 on page 55 of the application) and below the state average of 114 days (Exhibit 28). Some Bermuda Village residents are considered a “short-stay” patient (15-day Health Center benefit) when in need of NF care. Others represent what the applicant states is the true unmet need in Davie County; specifically the need for access to nursing care bed days for Medicare beneficiaries and private pay patients in Davie County. The applicant maintains that Davie County has a surplus of bed days accessible to Medicaid beneficiaries and a deficit of available bed days for Medicare and private pay patients.

The applicant states that it is Bermuda Village’s goal to provide access to those who need it most. The applicant further states that Davie County per capita income is slightly higher than the state average, but Davie County has substantially fewer persons in poverty than the state, with many of the older persons having fixed incomes but failing to qualify for Medicaid. Therefore, the applicant states that Davie County needs more availability of affordable private pay beds.

The applicant further discusses the need by payor groups on pages 53-61, focusing on an increased need for services by Medicare beneficiaries and private pay persons and a decreased need for services by Medicaid beneficiaries, resulting in a summary table on page 60, as summarized below.

**Estimated Davie County Resident Days of Nursing Care
 Needed by Payor in 2021**

Notes		Medicare	Medicaid	Private/Other(e)
(a)	2021 Days Needed	16,208	17,027	26,625
(b)	2017 Days Provided	7,882	31,794	20,090
(c)	(Surplus) / Deficit	8,326	(14,726)	6,535
(d)	New Beds Needed	23	(40)	18

Notes:

- (a) Medicare – Table III.19, page 59; Medicaid - Table III.17, page 56;
- (b) Table III.14, page 53
- (c) a – b
- (d) c /365
- (e) Private/Other includes self-pay, commercial, VA and other payers (164 beds needed in county per SMFP x 365 days) – (Medicare + Medicaid days)

The applicant states that the calculations indicate that with regard to new capacity, Davie County will need more additional Medicare and Private/Other beneficiary days than Medicaid beneficiary days in 2021. The applicant provides supporting data on pages 57-59. In supplemental data requested during the expedited review of this project, the applicant provides clarifying information confirming a typographical error on page 58; where it should have read that the R² value for the trendline in Figure III.1 was 0.909.

Need Identified by the Community

Exhibit 12 includes support letters for the petition filed by the applicant to adjust the 2018 SMFP Need Determination to include 21 nursing beds in Davie County. Bermuda Run community leaders, specifically the Mayor and two County Commissioners, submitted support letters for the petition, stating there is a need in Davie County for additional nursing beds, as well as for the current assisted living residents at Bermuda Village Retirement Community to be able to continue to receive care at Bermuda Village as their needs change.

Need Based on Sustained Aging of Davie County Population

The applicant provides data supporting the premise that the median age of Davie County's population is much older (5.4 years or 14% older) than the State average. According to the NC Office of State Budget and Management (NC OSBM), Davie County's 65 and older population will grow by 15% between 2018 and 2023. On page 45, the applicant states that the aging population is important because:

“Nursing home bed user rates [rates] of persons 75-84 were three times more than 65-74 and 12 times greater for persons over 85.”

Need for Additional Private Beds in Davie County

On page 46, the applicant discusses private rooms as a central theme in the national movement to improve quality of nursing home care and infection control in a facility. Private rooms address the culture change goal to support resident choice related to their daily living activities and when to: rise and retire, eat, nap, bathe and participate in preferred recreation. The applicant currently provides 13 private beds. Upon completion of the proposed project, Bermuda Village will offer 34 private nursing beds, increasing their percentage of private nursing beds to 94% and increasing Davie County's percentage of private nursing beds from 14% to 21%.

Need for Management of Healthcare System Transitions and Reduction of Hospital Readmissions

The applicant discusses the need for sturdy transitions at each point along the residents' care continuums, including communication, coordination, medication and discharge planning to decrease inappropriate and costly hospital readmissions. The applicant further states that unnecessary readmissions may result from poor quality care or from poor transitions between different providers and care settings.

On page 47, the applicant states:

“Bermuda Village has demonstrated a commitment to integrate care with hospitals and physicians by coordinating medical records, organizing a rigorous admission process and providing space for a Wake Forest University School of Medicine geriatric clinic in its health center complex.”

Need Methodology and Assumptions

A summary of the applicant’s methodology and assumptions for calculating need follows.

In Section III.1(b), pages 48-61, the applicant describes the assumptions and methodology that substantiate the unmet need for the project, which the applicant states is based on a five-year historical utilization of beds in Davie County, the NC OSBM projection of the Davie County population by age, and the 2018 SMFP’s projected 2021 bed rate per 1,000 (3.5944) for nursing beds in Davie County.

Step 1 (page 49): Calculate nursing bed utilization: multiply the 2018 SMFP bed rate by the 2021 projected NC OSBM Davie County population and divide by 1,000.

Projected 2021 Nursing Bed Need in Davie County

FY	Population	Bed Rate per 1,000	2021 Projected Bed Utilization
2021	44,799	3.5944	161

Step 2 (page 49): Adjust the utilization in Step 1 by a 95% vacancy factor ($161 / .095 = 169.47$, rounded to 170). Calculate the Davie County bed surplus using the 2018 SMFP total 2021 planning inventory and this methodology’s projected bed utilization with vacancy factor (170).

Projected 2021 Davie County Bed Surplus at 95% Occupancy

FY	SMFP 2021 Planning Inventory	Total Projected Utilization	2021 Bed Surplus
2021	228	170	58

The applicant states that the above 58 bed surplus makes no capacity allowance to provide for resident choice or delayed admissions, the 20 beds being relocated out of the county (pursuant to Project ID #F-11332-17 / Relocate 20 existing NF beds from Bermuda Commons in Davie County to Liberty Commons of Rowan County pursuant to Policy NH-6 for a total of 110 NF beds at Liberty Commons of Rowan County upon completion), the Davie County nursing beds that are not in use, or the unavailable beds in semi-private rooms being used as private rooms. To adjust for these issues, the applicant uses what it calls a reasonable occupancy factor of 90% from the 10A NCAC 14C .1102(a) and (b) Performance Standards, rather than the 95% SMFP vacancy factor as shown in Step 2 (Step 3), an 85% private bed ratio (Step 4), and adjusts for non-operational beds and the 20 beds leaving Davie County (Step 5).

Step 3 (page 50): Adjust the Davie County bed need by dividing 2021 projected bed utilization calculated in Step 1 by 90%, the occupancy factor used for calculating the performance standards in the Criteria and Standards for Nursing Facility or Adult Care Home Services, 10A NCAC 14C .1102(a) and (b).

**Projected 2021 Davie County Bed
 Need at 90% Occupancy**

FY	2021 Projected Bed Utilization	2021 Beds Needed at 90% Occupancy
2021	161	179

Step 4 (page 51): Calculate private room need and surplus/(deficit): Apply an 85% private room ratio to the 179 bed need calculated in Step 3 to reach a need for 152 private rooms, which results in a 120 private room deficit.

Projected 2021 Davie County Private NF Bed Surplus / (Deficit)

2021 Beds Needed at 90% Occupancy	Ideal Private Room Proportion	Private Rooms Needed	Private Room Inventory	Private Bed Surplus/(Deficit)
a	b	c	d	e
179	85%	152	32	(120)

Notes

- a. Step 1
- b. Ideal private bed proportion (85%)
- c. a x b
- d. Private bed inventory for Davie County existing licensed nursing beds, page 46 of application
- e. c - d

The applicant does not provide support for the assumption that 85% private bed proportion is a reasonable assumption. In fact, on page 51, the applicant states that 95% private beds is a reasonable proportion of private rooms to improve resident quality of care. However, in supplemental information provided during the expedited review of this project, the applicant states:

“There is a typo in the title for Table III.10. It should read, “Table III. 10 Projected Private Nursing Home Bed Surplus/Deficit Using Updated Davie County Methodology and 85 Percent Private Room Proportion.” The data in Table III.10 are correct; and the application incorporates a 120-private room deficit in Davie County in subsequent need calculations. Note (b) below Table III.10 is correct to read 85 percent. The assumption should read, “Eighty-five percent private rooms is a reasonable proportion of private room to improve resident quality of care.” Correcting these typos clarifies the tables and is consistent with the need methodology actually presented in the application.

The assumption of 85 percent for an “ideal” private room ratio is conservative and based on Davie County reality. Bermuda Village finds that private rooms are preferred for patient privacy, for improving infection control, and for ease of patient management. The literature overwhelmingly supports private rooms for nursing homes. Though, like Bermuda Village, most facilities will benefit from having at least one semi-private room, it will take time for Davie County to transition to majority private room status.

In this application, we considered the reality of Davie County’s current nursing home room inventory, and the low probability that the county would achieve even 95 percent private rooms during the first three years of this project. The factor of 85 percent means that 15 percent of Davie County nursing beds would be semi-private by 2023. This would represent a

major improvement from the situation reported for 2017. Then, 71 percent were semi-private (see application p 41). The “ideal” in this instance refers to the specific circumstances of Davie County. We made a value judgement [sic] that an “ideal” of 15 percent semi-private would represent a marked improvement and might be achievable in five years.”

Step 5 (pages 51-52): Adjust inventory for the 41 non-operational beds and the 20 NF beds to be relocated out of Davie County through the approved Project ID #F-11332-17.

Projected 2021 Davie County Beds Available to Residents

Total Semi-private Beds	Non-operational Beds	Beds Relocated out of County	Remaining Semi-private Beds after Adjustment
a	b	c	d
196	41	20	135

Notes

- a. 2016 Inventory of Davie County NF beds, page 46 of application
- b. Non-operational beds per Agency Report, Exhibit 10
- c. Beds to be relocated out of Davie County per Project ID #F-11332-17.
- d. $a - b - c$ ($196 - 41 - 20 = 135$)

Step 6 (page 52): Calculate semi-private bed need and surplus/(deficit) using the 179-bed need calculated in Step 3 and adjust for 15% semi-private beds to allow for patient choice. This results in a need for 28 semi-private beds. As shown in Step 5, there are 135 adjusted semi-private beds in the inventory, or a surplus of 108 semi-private beds. The applicant divides the surplus semi-private beds by two to treat them as private beds.

Projected Number of Semi-Private Beds Treated as Private Beds using the Ideal 85% Private / 15% Semi-Private Bed Proportion

2021 Beds Needed at 90% Occupancy	Ideal Semi-private Bed Proportion	Semi-private Beds Needed	Semi-private Bed Inventory	Semi-private Bed Surplus/(Deficit)	Treat Surplus Semi-private Beds as Private Beds
a	b	c	d	e	f
179	15%	28	135	108	54

Notes

- a. Step 3, page 50
- b. Ideal private bed proportion (85%), leaves 15% for semi-private ideal proportion
- c. $a \times b$
- d. Semi-private bed inventory calculated in Step 5
- e. $e / 2$

Step 7 (page 53): Calculate Davie County NF Bed Surplus/(Deficit)

Projected 2021 Davie County Beds Available to Residents

Private Bed Surplus/(Deficit)	Treat Surplus Semi-private Beds as Private Bed	Actual Surplus / (Deficit) Beds Needed
a	b	c
(120)	54	(67)

Notes

- a. Private bed deficit (Step 4)
- b. Surplus semi-private beds treated as private beds (Step 6)
- c. a – b

The applicant states that the development of the 21 additional NF beds at Bermuda Village in Davie County will reduce the above applicant-calculated 2021 deficit to 46 beds (67 - 21 = 46).

The applicant’s demonstration of need, its methodology, and assumptions are reasonable and support the issues noted in the Agency Report (Exhibit 10) in response to Bermuda Village’s petition for an adjusted need determination for nursing beds in Davie County. However, the Project Analyst believes the most compelling argument demonstrating the need for the additional 21 NF beds at Bermuda Village is the simple fact that Bermuda Village already has 21 ACH residents currently living at the Health Center who qualify for nursing care and can occupy the NF beds when they become available. In Section III.7, page 73, the applicant states:

“As noted elsewhere in this application, current residents of the 21 adult care beds have clinical conditions that would qualify them for admission to a nursing home. Hence, those patients will be the first occupants of the proposed 21 new nursing home beds.”

The information provided by the applicant in the pages referenced above is reasonable and adequately supported.

Projected Utilization

In Section IV.2, pages 79-80, the applicant provides projected utilization for Bermuda Village’s NF and ACH beds in the first two full federal fiscal years of operation following completion of the project (FFY2019-FFY2020), which is summarized below.

**Bermuda Village
 Projected Utilization, FFY2019 – FFY2020**

	Project Year 1 FFY2019	Project Year 2 FFY2020
Nursing Care Unit*		
Patient Days	11,953	12,078
Occupancy Rate	91%	92%
# of Beds	36	36
Adult Care Home Unit		
Patient Days	0	0
Occupancy Rate	0%	0%
# of Beds	21	21
Total Facility		
Patient Days	11,953	12,078
Occupancy Rate	57%	58%
Total # of Beds	57	57

*Bermuda Village currently has no SCU beds and does not propose any SCU beds.

As shown in the table above, the applicant projects the occupancy rate in the proposed nursing care beds will be 92% in the second year of operation, which exceeds the utilization rate required in 10A NCAC 14C .1102(b). Month by month projected utilization is provided in Exhibit 17.

Based on the approved Exemption from CON Review for the relocation of the 21 ACH beds from the Health Center to a proposed addition adjoining the Health Center on the main campus, the ACH beds in the existing Bermuda Village Health Center will close when this project begins in October 2018. The 21 ACH beds will re-open when the Exempt project to relocate those beds is complete (2022), therefore the utilization for the ACH beds is 0% in this project's first two operating years.

The applicant provides its assumptions for the above projections on pages 81-83 and as summarized below:

- The proposed project begins October 1, 2018.
- ACH beds will close upon project completion.
- Current ACH residents qualify for NF admission; thus, the applicant assumes upon project completion, the patients in beds licensed as ACH beds will simply become patients in beds licensed as NF beds, which will result in the following:
 - 19 ACH patients will become patients in licensed NF beds, as of October 1, 2018.
 - All 19 patients will be private pay patients, as they are currently private pay residents in the ACH beds.
- During the previous nine months, May 1, 2017 – January 31, 2018, on average, 83% of the Health Center beds (ACH and NF) were occupied monthly. This is equivalent to 30 residents (0.83 x 36 beds = 30). Thus projected utilization assumes there will be 30 NF beds occupied on October 1, 2018.

- NF patients will increase at a rate of one patient per month, beginning in October for a total of 33 patients by the end of December 2018. The applicant states that the increase is reasonable based on historical utilization and the need for additional NF beds at Bermuda Village.
- The applicant expects relatively short average length-of-stays (ALOS). 2018 License Renewal Applications (LRA) indicate the ALOS in Davie County nursing facilities is 54 days (page 55 of application).
- Bermuda Village expects beds will fill as soon as they become available.

The applicant states that the three-bed average vacancy rate provides transition time for processing new admissions and cleaning up after patient discharges.

The information provided by the applicant in the pages referenced above is reasonable and adequately supported.

Access

In Section VI.5(a), page 93, the applicant states a commitment to provide services to all patients on a first-come, first-serve basis. The applicant further states:

“Bermuda Village does not discriminate [sic] the basis of income, racial ethnic, minority, gender, handicap conditions, or on any other circumstance or physical condition, which classify an individual, as underserved. Please see Exhibit 4 for a copy of the admissions and non-discrimination policy.”

In Section VI.5(c), page 94, the applicant states:

“Bermuda Village will not discharge a resident based upon Medicaid eligibility. Private Pay charges and Medicaid rates will be close in amount. Bermuda Village will not, for any reason, financial or otherwise, discharge residents that become eligible for Medicaid while in the facility.”

In Section VI.3, page 92, the applicant projects that 42.42% of patient days will be provided to Private Pay residents, 53.05% will be provided to Medicare recipients, 3.03% will be provided to Medicaid recipients, and 1.49% will be provided to charity care residents during the second year of operation following completion of the project.

In Section III.1, page 61, the applicant states that payor calculations involve primary payors. The applicant further states:

“Medicaid is often the secondary payer for Medicare nursing home patients. This information is not captured on the nursing home license renewal forms. Today, at Bermuda village, for example, 4 of 12 Medicare residents, or 25 percent have Medicaid secondary coverage. Thus, though patients are classified as Medicare, Bermuda Village is serving the Medicaid population.”

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental information requested during the expedited review, and
- information 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 applicant adequately identifies the population to be served.
- The applicant adequately explains why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicant projects the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports its assumptions.

- (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

The applicant is not proposing a reduction or elimination of a service, or the relocation of a facility or a service. The ACH beds are being relocated to an adjacent building on campus under a previously approved exemption request. In Section III.7, page 73, the applicant states that the 21 adult care patients have clinical conditions that would qualify them for admission to a nursing home. Hence, those patients will be the first occupants of the proposed 21 new nursing home beds. No residents will be displaced by this project. Therefore, Criterion (3a) is not applicable to this review.

- (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 response to the 2018 SMFP adjusted need determination for 21 additional NF beds for Davie County, the applicant proposes to develop 21 new NF beds at the existing Bermuda Village

Retirement Center in Davie County for a total of 36 NF beds and 21 ACH beds at project completion.

In Section III.2, pages 61-63, the applicant describes the alternatives considered and explains why each alternative is either more costly or less effective than the alternative proposed in the application. The alternatives considered were:

- Maintain the Status Quo – In Section III.4, page 65, the applicant states:

“Bermuda Village is a retirement community, but its residents have more asset control than residents of a CCRC. Thus, it is not licensed as a CCRC. Otherwise, its residents have similar needs.”

On page 61, the applicant states that when a Bermuda Village Retirement Center resident of the Independent Living quarters requires nursing care and no nursing bed is available in the Health Center, Bermuda Village provides a mix of home care and assisted living for private pay patients. Because it cannot offer this benefit to persons who qualify for Medicare nursing home care, it refers Medicare beneficiaries to other facilities, sometimes outside Davie County. Thus, the desired retirement community option of “aging in place” is not available to these residents. By maintaining status quo, Bermuda Village will be forced to continue shuffling residents around in the Health Center and cobbling together home-based programs. It will be forced to continue to turn away patients who need care. Without any changes, Bermuda Village will be forced to use ACH beds and home care services to meet needs of non-Medicare residents, leaving fewer ACH beds available. Therefore, the applicant states that maintaining the status quo is not an effective alternative.

- Develop the Nursing Care Beds in Another Location – The applicant states that the proposed bed space is already built and meets current NF regulations of private rooms. The applicant states that it can immediately fill most of the 21 proposed NF beds with existing Bermuda Village residents who qualify for skilled nursing level care. The facility is currently staffed to nursing care levels, which means there will be very little disruption to the patients and they can continue to age in place.

The applicant states that an entirely new facility in another location would be less than desirable financially. A stand-alone 21-bed nursing care unit would have limited efficiency which would drive up costs and, as a result, would increase costs for patients. Similarly, renovating a facility at another location would increase capital needs and increase the time it would take to get the beds online. For these reasons, the applicant states that the alternative of a different location was rejected.

After considering the available alternatives, the applicant states that the alternative proposed in the application, the addition of 21 nursing care beds in existing space in the Bermuda Village Health Center, best serves the needs of its current residents and Davie County residents. The applicant further states that this alternative will result in no patient displacement and is clearly the least costly and most effective solution.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the need for the following reasons:

- the applicant adequately demonstrates the need for the project, as proposed, and provides adequate documentation regarding the development of the proposed project, including all related costs,
- the applicant uses reasonable and adequately supported assumptions to project utilization, and
- the data cited is reasonable to support the assumptions made with regard to the most effective alternative for development of the proposed project.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application,
- supplement information requested during the expedited review, and
- information 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 reasons stated above. Therefore, the application is conforming to this criterion and approved subject to the following conditions:

- 1. Batangas Consulting, LLC shall materially comply with all representations made in the certificate of need application and any supplemental responses. In the event that representations conflict, Batangas Consulting, LLC shall materially comply with the last-made representation.**
- 2. Batangas Consulting, LLC shall develop no more than 21 nursing facility beds for a total of 36 licensed nursing facility beds and 21 licensed adult care home beds upon project completion.**
- 3. The Medicaid per diem reimbursement rates for the new nursing facility beds shall be equal to the rates for the facility's existing beds as of the date on which the additional beds are certified.**
- 4. Batangas Consulting, LLC shall file the proposed budget for the facility with the Division of Medical Assistance no later than thirty days prior to the prospective certification date of the new beds.**
- 5. The 21 additional nursing facility beds shall not be certified for participation in the Medicaid program prior to July 1, 2019 unless the Division of Medical Assistance determines that state funds are available in the current Medicaid budget to pay for the care and authorizes an earlier certification date.**

- 6. For the first two years of operation following completion of the project, Batangas Consulting, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section IX of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
 - 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, Batangas Consulting, LLC 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. Batangas Consulting, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

In response to the 2018 SMFP adjusted need determination for 21 additional NF beds for Davie County, the applicant proposes to develop 21 new NF beds at the existing Bermuda Village Retirement Center in Davie County for a total of 36 NF beds and 21 ACH beds at project completion.

Capital and Working Capital Costs

In Section VIII.1, pages 113-114, the applicant states that because the vacated ACH bed space (Exempt relocation of ACH beds) in the Health Center facility meets all current codes for licensed NF beds, the project will require no construction, and minimal capital investment to convert the space from ACH to NF space. The total capital cost is projected to be as follows:

Projected Capital Cost

Contingency Project Costs	\$100,000
TOTAL CAPITAL COST	\$100,000

In Section IX.1, page 119, the applicant states that Bermuda Village Health Center is an existing facility; therefore, there will be no start-up expenses or initial operating expenses associated with the project.

Availability of Funds

In Section VIII.2, page 115, the applicant states that the total project capital costs will be funded with accumulated reserves of Batangas Consulting, LLC, d/b/a Bermuda Village Retirement Center (Bermuda Village). In Exhibit 22, the applicant provides a letter dated February 15, 2017, from the majority owner of Batangas Consulting, LLC, documenting its intention to fund \$100,000 in capital costs for the proposed project from Bermuda Village operations. Exhibit 22 also contains a copy of the 2015/2016 audited Financial Statements for Batangas Consulting, LLC and the 2017 unaudited balance sheet and income statement that shows it had \$435,162 in cash and cash equivalents, \$1.2 million in current assets, and \$2.4 million in total capital, as of December 31, 2017. The applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the project.

Financial Feasibility

In the pro forma financial statements for Bermuda Village Retirement Center NF beds (Form B), the applicant projects that revenues will exceed operating expenses in the first two full federal fiscal years of operation, as shown in the table below.

Projected NF Bed Revenue and Expenses

	PY1 FFY2019	PY2 FFY2020
Total Patient Days	11,953	12,078
Total Patient Revenue (charges)	\$4,439,418	\$4,739,580
Average Patient Revenue per Patient Day	\$371	\$392
Total Operating Expenses (costs)	\$4,272,525	\$4,296,414
Average Operating Expense per Patient Day	\$357	\$356
Net Patient Revenue	\$166,893	\$443,166
Other Revenues	\$872,955	\$776,705
Net Income	\$1,039,848	\$1,219,871

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See the financial section of the application for the assumptions used regarding costs and charges. The discussion regarding utilization projections found in Criterion (3) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental information requested during the expedited review, and
- information 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 applicant adequately demonstrates that the capital costs are based on reasonable and adequately supported assumptions,
 - the applicant adequately demonstrates availability of sufficient funds for the capital needs of the proposal, and
 - the applicant adequately demonstrates 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.
- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

The applicant proposes to develop 21 additional NF beds at the existing Bermuda Village Retirement Center in Davie County for a total of 36 NF beds and 21 ACH beds at project completion.

On page 183, the 2018 SMFP defines the service area for nursing care beds as 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 consists of Davie County. Facilities may serve residents of counties not included in their service area.

The following table identifies the existing nursing facilities located in Davie County.

Davie County Nursing Facilities

	Total Licensed Nursing Care Beds
Autumn Care of Mocksville	96
Bermuda Commons Nursing and Rehabilitation Center	117
Bermuda Village Retirement Center	15
Total	228

Source: 2018 SMFP, Table 10A

As shown in the table above, there are three nursing facilities with a total of 228 licensed nursing care beds in Davie County. However, the Long-Term Behavioral Health Committee Agency Report regarding the Petition for an Adjusted Need Determination for nursing beds in Davie County (Exhibit 10) acknowledges there are a number of licensed Davie County nursing beds that are not operational. The following table summarizes the Agency Report on the number of operational beds in Davie County.

Davie County Nursing Facilities

	# Licensed NF Beds	# Operational NF Beds	% Occupancy
Autumn Care of Mocksville	96	79	82.3%
Bermuda Commons Nursing and Rehabilitation Center	117	93	79.5%
Bermuda Village Retirement Center	15	15	100.0%
Total	228	187	82.0%

Source: Long-Term Behavioral Health Committee Agency Report (Exhibit 10)

The applicant adequately demonstrates its proposal would not result in an unnecessary duplication of existing or approved nursing care services in Davie County for the following reasons:

- the 2018 SMFP includes an adjusted need determination for 21 additional NF beds in Davie County, and
- the applicant adequately demonstrates that the proposed 21 beds are needed in addition to the existing or approved beds.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental information requested during the expedited review, and
- information 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 reasons stated above.

- (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

As previously discussed, the proposed 21 NF beds will be housed in the existing Health Center which currently houses 15 licensed NF beds and 21 licensed ACH beds. The 21 ACH beds will be relocated to a new adjacent building pursuant to an approved exemption request, but will not be operational during the first two years following completion of the proposed project.

However, the residents in the ACH beds are eligible for skilled nursing care and will remain at the Health Center in the new NF beds. The Health Center staff will continue to care for the same patients under different licensure.

In Section VII.2, page 103, the applicant states a full-time equivalent (FTE) position conversion factor of 2,080 and 365 days per year is used for all staffing calculations in this application. On pages 98-100 and 106-108, respectively, the applicant provides a table showing current and projected FTE positions by type, as summarized below.

Current and Projected FTE Positions

Staff Position	Current FTEs FFY2017	Projected PY2 FTEs
Director of Nursing	1.00	1.00
Assistant Director of Nursing	1.00	1.00
RNs	0.40	0.40
LPNs	7.90	7.90
CNAs	18.43	18.43
Food Service Supervisor	0.26	0.26
Cooks	1.32	1.32
Dishwasher	1.32	1.32
Social Services Director	1.00	1.00
Activity Director	1.40	1.40
Housekeeping Supervisor	0.10	0.10
Housekeeping Aides	2.63	2.63
Laundry Aides	1.00	1.00
Maintenance Supervisor	0.53	0.53
Janitors	0.70	0.70
Administrator	1.00	1.00
Admissions Coordinator	1.00	1.00
Bookkeeper	1.05	1.05
Total	42.04	42.04

Notes: The Medical Director and Pharmacy Consultant are not salaried FTEs.
 The current staffing at the Health Center provides care for 15 NF patients and 21 ACH patients. The projected staffing will provide care for 36 NF Patients.

The assumptions and methodology used to project staffing are provided on pages 96-97. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements.

The applicant discusses its recruiting methods and the availability of staff on page 111. The applicant states that it does not anticipate difficulty securing staff due to its quality and caring facility, flexible scheduling, benefits and continuous on-site training. See Exhibit 5 for a letter from the current Medical Director confirming his support for the project and his intent to continue to serve in that capacity. The applicant demonstrates the availability of other resources, including methods of recruitment and documentation of staff training, necessary for the provision of the proposed services.

The applicant adequately demonstrates the availability of adequate health manpower and management personnel, including the Medical Director, for the provision of the proposed services.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental information requested during the expedited review, and
- information 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 reasons stated above.

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

C

In Section II.4, pages 22-36, the applicant lists the ancillary and support services which are necessary for the proposed services and adequately describes the manner in which it will provide the necessary ancillary and support services. Exhibit 8 contains copies of letters from providers of ancillary services, including laboratory, radiology, therapy services, hospice services, and others.

In Section V, pages 86-88, the applicant discusses its transfer agreements with Wake Forest Baptist Medical Center and Davie Medical Center, and its relationship with area medical practices. Exhibits 5 and 20 contain letters of support from area physicians and Exhibit 19 documents a transfer agreement for acute inpatient care.

Bermuda Village includes an on-site geriatric clinic with physician coverage. The applicant adequately demonstrates that necessary ancillary and support services are available and that the proposed services will be coordinated with the existing healthcare system.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental information requested during the expedited review, and

- information 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.

- (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 applicant does 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 applicant does 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 applicant is 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.

NA

The proposed project requires no construction or renovation. Therefore, Criterion (12) is not applicable to this review.

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

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

C

In Section VI.2, page 91, the applicant provides the historical payor mix at the Health Center for the nine months prior to the submission of the application, as summarized in the table below.

Bermuda Village Current Days as Percent of Total Days by Payor
May 1, 2017-January 30, 2017[2018]

Payor Category	NF Patients	ACH Patients
Private Pay	42%	100%
Medicare	58%	
Total	100%	100.0%

In response to a request for clarifying information during the expedited review, the applicant confirmed that the date on Table VI.2 should have been May 1, 2017 through January 30, 2018. The applicant also explains why that number of months of data was used, stating:

“Per the narrative above Table VI.2, Bermuda Village has not been required to complete a Medicaid cost report and could have answered “Not Applicable” to this question. It has no a Medicaid cost report from which to complete Table VI.2. In its place, we completed Table VI.2 using internal data for the same previous nine months. This is the same period used in the performance standard 10A NCAC 14C.1100 and provides internal consistency in the application and responds to the spirit of the question.”

In explanation of Bermuda Villages' payor mix, on page 92, the applicant states:

“Although it has had Medicaid certification for eight months Bermuda Village was only recently given a Medicaid provider number. Without a provider number, it cannot bill for Medicaid services. Moreover, residents who have Medicaid as a secondary payer are classified by their primary payer. Approximately 25 percent of current Medicare residents have Medicaid as a secondary payer. Also, the Private Pay category includes persons who have Commercial Insurance, and persons who benefit from the Bermuda Village contract. Charity care includes persons for whom Bermuda Village holds a bed during a hospital admission. This guarantees the patient a place to go upon discharge, but the bed held is not covered by most payers.”

In Section VI.4, page 93, the applicant discusses its accommodations for persons with disabilities.

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

Percent of Population						
County	% 65+	% Female	% Racial and Ethnic Minority*	% Persons in Poverty**	% < Age 65 with a Disability	% < Age 65 without Health Insurance**
2016 Estimate	2016 Estimate	2016 Estimate	2016 Estimate	2015 Estimate	2011-2015	2015 Estimate
Davie	20%	51%	15%	12%	10%	13%
Statewide	16%	51%	37%	16%	10%	13%

Source: <http://www.census.gov/quickfacts/table> Latest Data 7/1/16 as of 8/22/17

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

***This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates. Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable... The vintage year (e.g., V2016) refers to the final year of the series (2010 thru 2016). Different vintage years of estimates are not comparable."

As the tables and explanations above show, the applicant is delivering services to a patient population representative of all payer types in need of those services in the service area.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental responses to requests for clarifying information, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the applicant adequately documents 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. Therefore, the application is conforming to this criterion.

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

C

Regarding any obligation to provide uncompensated care, community service or access by minorities and persons with disabilities, in Section VI.5, page 93, the applicant states:

“Routine services are provided on a first-come first-serve basis. Bermuda Village does not discriminate [on] the basis of income, racial, ethnic, minority, gender, handicap conditions, or on any other circumstance or physical condition, which classify an individual, as underserved.”

In Section VI.6, page 94, the applicant states that no civil rights access complaints have been filed against Bermuda Village in the last five years. The applicant owns no other nursing facilities in North Carolina.

- application,
- exhibits to the application,
- supplemental responses to requests for clarifying information, and
- 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.

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

C

In Section VI.3, 92, the applicant projects the following payor mix for the proposed nursing care beds in the second operating year (FFY2020) of the project.

Payor Category	NF Patient Days as Percent of Total
Private Pay	42.42%
Medicare	53.05%
Medicaid	3.03%
Other (Charity)	1.49%
Total	100.0%

As shown in the table above, during the second full fiscal year of operation, the applicant projects that 42.42% of total services will be provided to private pay patients, 1.49% to charity care patients, 53.05% to Medicare patients, 3.03% to Medicaid patients and 1.49% to charity care patients.

On page 92, the applicant provides the assumptions used to project payor mix during the second full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported for the following reasons:

- The projected payor mix is reasonably comparable with the current payor mix:
 - the recent receipt of Medicaid certification allows the projection of the small percentage of Medicaid for residents who become eligible for Medicaid.
 - Charity Care includes persons for whom Bermuda Village holds a bed during a hospital admission.
- 25% of current Medicare residents have Medicaid as a secondary payor, but are only classified by their primary payor.
- Medicare regulations require a minimum number of days of hospitalization prior to Medicare coverage in a nursing facility.
- The IL residents' private-pay contracts guarantee them 15 annual days of Health Center care at no charge, without regard to level of care.

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental responses to requests for clarifying information, and
- 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.

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

C

In Section VI.7, page 95, the applicant adequately describes the range of means by which patients will have access to Bermuda Village nursing care beds.

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental responses to requests for clarifying information, and
- 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.

- (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 Section V.1, page 86, the applicant describes the extent to which area health professional training programs will have access to the facility for training purposes. Supporting documentation is provided in Exhibit 18, which contains copies of correspondence to area programs including Forsyth Tech, Davidson County Community College, Winston-Salem State University, and Caduceus Nightingale Academy.

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental responses to requests for clarifying information, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the applicant adequately demonstrates that the proposed services will accommodate the needs of health professional training programs in the area; therefore, the application is conforming to this criterion.

- (15) Repealed effective July 1, 1987.
(16) Repealed effective July 1, 1987.
(17) Repealed effective July 1, 1987.
(18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case

of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

C

The applicant proposes to develop 21 additional NF beds at its existing Bermuda Village Retirement Center in Davie County for a total of 36 NF beds and 21 ACH beds at project completion.

On page 183, the 2018 SMFP defines the service area for nursing care beds as 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 consists of Davie County. Facilities may serve residents of counties not included in their service area.

The following table identifies the existing nursing facilities located in Davie County.

Davie County Nursing Facilities

	Total Licensed Nursing Care Beds
Autumn Care of Mocksville	96
Bermuda Commons Nursing and Rehabilitation Center	117
Bermuda Village Retirement Center	15
Total	228

Source: 2018 SMFP, Table 10A

As shown in the table above, there are three nursing care facilities with a total of 228 licensed nursing care beds in Davie County. However, the Long-Term Behavioral Health Committee Agency Report regarding the Petition for an Adjusted Need Determination for nursing beds in Davie County (Exhibit 10) acknowledges there are a number of licensed beds that are not operational. The following table summarizes the Agency Report on the number of operational beds in Davie County.

Davie County Nursing Facilities

	# Licensed NF Beds	# Operational NF Beds	% Occupancy
Autumn Care of Mocksville	96	79	82.3%
Bermuda Commons Nursing and Rehabilitation Center	117	93	79.5%
Bermuda Village Retirement Center	15	15	100.0%
Total	228	187	82.0%

Source: Long-Term Behavioral Health Committee Agency Report (Exhibit 10)

In Section V.6, pages 89-90, the applicant describes the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition will promote the cost-effectiveness, quality and access to the proposed services. The applicant states:

“The proposed project is cost effective for its patients, residents of Davie County, and surrounding counties. As noted in Section III.4, Bermuda Village plans to expand its already high quality services in an efficient manner to minimize cost increases to the patient while maintaining quality. Private pay rates will remain low - \$224 per day. Bermuda Village has the lowest Private Pay nursing home rates in the county and lower than the state median as reported on NC License Renewal forms. . . . Adding beds in Davie County will improve access for residents of Davie County at all payer levels and have the added cost value of reducing travel related expenditures for nursing home residents and their families.

...

As noted in Section III.4, Bermuda Village has demonstrated quality in its nursing home care, providing care consistent with a four-star or five-star Medicare Compare facility.

...

As discussed in Section III.4, room charges and payer mix will provide services to residents with limited resources and the medically underserved.”

The applicant adequately describes the expected effects of the proposed services on competition in the service area and adequately demonstrates:

- the cost-effectiveness of the proposal (see Sections VIII and XIII),
- quality services will be provided (see Sections II and III of the application and any exhibits, and
- access will be provided to underserved groups (see Sections III and VI of the application and any exhibits).

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application,
- supplemental responses to requests for clarifying information, and
- 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 reasons stated above.

- (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

The applicant is Batangas Consulting, LLC. D. Gray Angell, Jr. is the manager member and majority interest owner of Batangas. In Section I.12, page 15, the applicant states that neither Batangas, nor Mr. Angell owns any other nursing facilities in North Carolina.

In Section II.6.e., page 39, the applicant states:

“Bermuda Village had none of the referenced incidents or events occur during the 18-months immediately preceding the submission date of this certificate of need application.

D. Gray Angell, Jr., majority owner of Bermuda Village, has common ownership in five adult care homes in North Carolina; see 1.12(a). Each adult care home facility is in good standing with the NC DHSR Adult Care Licensure and has at least a 3-star rating at the time of this application.”

According to the files in the Nursing Home Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, no incidents related to quality of care occurred at Bermuda Village. 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 Bermuda Village, 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.

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

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- .1102(a) *An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the*

application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.

- C- In Section IV.1, page 77, the applicant provides its previous nine months of utilization. The occupancy rate for the existing 15 NF beds over that period of time was 91%, exceeding the required occupancy of at least 90 percent.

- .1102(b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*

- C- In Section IV.2, page 80, the applicant projects occupancy of the proposed 36 total NF beds will be 92% in the second year of operation%, exceeding the required occupancy of at least 90 percent. In Section IV.2, pages 81-83, the applicant clearly states the methodology and assumptions used to project occupancy. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

- .1102(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 applicant does not proposes to add adult care home beds to an existing facility. Therefore, this Rule is not applicable to this review.

- .1102(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 clearly stated.*

- NA- The applicant does not propose to develop a new adult care home facility or to add adult care home beds to an existing facility. Therefore, this Rule is not applicable to this review.