

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: May 22, 2018

Findings Date: May 22, 2018

Project Analyst: Mike McKillip

Assistant Chief: Lisa Pittman

Project ID #: F-11461-18

Facility: Liberty Commons of Mint Hill

FID #: 180101

County: Mecklenburg

Applicants: Liberty Commons of Mecklenburg, LLC

Mecklenburg County Healthcare Properties, LLC

Project: Construct a new 83-bed nursing facility in Mint Hill by relocating five nursing facility beds from Warren Hills (Warren County), ten beds from Cross Creek (Hyde County), 20 beds from Bermuda Commons (Davie County), 22 beds from Mary Gran (Sampson County), seven beds from Liberty Commons of Columbus (Columbus County), nine beds from Shoreland (Columbus County), and ten beds from Legion Road Healthcare (Orange County).

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

C

The applicants, Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC [**Liberty Commons of Mint Hill**] propose to construct a new 83-bed nursing facility at 7712 Wilson Grove Road in Mint Hill by relocating nursing facility beds from existing Liberty Healthcare facilities. Specifically, the applicants propose to relocate five nursing facility beds from Warren Hills (Warren County), ten beds from Cross Creek (Hyde County), 20 beds from Bermuda Commons (Davie County), 22 beds from Mary Gran

(Sampson County), seven beds from Liberty Commons of Columbus (Columbus County), nine beds from Shoreland (Columbus County), and ten beds from Legion Road Healthcare (Orange County).

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 2018 State Medical Facilities Plan (2018 SMFP). Therefore, there are no need determinations applicable to this review.

Policies

Policy NH-6: Relocation of Nursing Facility Beds, Policy NH-8: Innovations in Nursing Facility Design, and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities are applicable to this review.

Policy NH-6

Policy NH-6 states:

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

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

The applicants propose to relocate a total of 83 nursing care beds from seven different existing nursing facilities located in six counties. The following table shows the projected 2021 nursing care beds surpluses for each of the counties from the 2018 SMFP, Table 10C: Nursing Care Bed Need Projections, and the projected surpluses after the proposed relocation of nursing care beds.

2018 SMFP Nursing Care Beds Surpluses

County	Projected Nursing Care Bed Surplus*	Nursing Care Beds to be Relocated in the Proposed Project	Nursing Care Bed Surplus After Proposed Relocations
Columbus	+48	-16	+32
Davie	+64	-20	+44
Hyde	+34	-10	+24
Orange	+101	-10	+91
Sampson	+112	-22	+90
Warren	+25	-5	+20

*From the 2018 SMFP, Table 10C: Nursing Care Bed Need Projections for 2021.

As shown in the table above, the six counties from which the applicants propose to relocate nursing care beds will continue to have a projected surplus of nursing care beds following the proposed relocations.

Also, the 2018 SMFP, Table 10C: Nursing Care Bed Need Projections for 2021 indicates that Mecklenburg County has a projected deficit of 395 nursing care beds. However, the number of nursing care beds was underreported by 102 beds for one existing Mecklenburg County facility, Huntersville Oaks. Due to the reporting error, the projected deficit of nursing care beds in 2021 is 293 beds, rather than 395. Therefore, Mecklenburg County would continue to have a deficit of 210 nursing care beds [$293 - 83 = 210$] following the proposed relocation of nursing care beds in this project. Therefore, the application is consistent with Policy NH-6.

Policy NH-8

Policy NH-8 states:

“Certificate of need applicants proposing new nursing facilities and replacement nursing facilities shall pursue innovative approaches in environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.”

In Section III.4, pages 55-57, the applicants describe the plans for the facility to be more home-like and less institutional, including patient care practices, workplace practices, and facility design elements to increase privacy, resident choice, autonomy, satisfaction, and convenience. The applicants adequately demonstrate conformance with the requirements of Policy NH-8.

Policy GEN-4

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

The proposed capital expenditure for this project is greater than \$5 million. In Section III.4, page 54, the applicants state that they will implement several techniques and policies to address energy efficiency and water conservation, including energy efficient appliances, lighting, heating, ventilation and air conditioning, thermal pane windows, landscaping, and rainwater reclamation systems. The applicants adequately demonstrate conformance with the requirements of Policy GEN-4.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information provided by the applicants during the public hearing
- 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 applicants adequately demonstrate that the proposal is consistent with Policy NH-6, Policy NH-8 and Policy GEN-4 for the following reasons:
 - The applicants demonstrate that the proposal will not result in a deficit, or increase an existing deficit in the number of licensed nursing facility beds in any county; and
 - The applicants demonstrate that the proposal will not result in a surplus, or increase an existing surplus in the number of licensed nursing facility beds in Mecklenburg County.

- The applicants demonstrate that the proposed facility will include design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice.
 - The applicants demonstrate that the application includes a written statement describing the project’s plan to assure improved energy efficiency and water conservation.
- (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, Liberty Commons of Mint Hill, propose to construct a new 83-bed nursing facility in Mint Hill by relocating five nursing facility beds from Warren Hills (Warren County), ten beds from Cross Creek (Hyde County), 20 beds from Bermuda Commons (Davie County), 22 beds from Mary Gran (Sampson County), seven beds from Liberty Commons of Columbus (Columbus County), nine beds from Shoreland (Columbus County), and ten beds from Legion Road Healthcare (Orange County).

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

In Section III.9, page 59 the applicants provide the projected patient origin for the proposed facility, as shown in the table below:

County	% of Total Nursing Care Admissions
Mecklenburg	90.0%
Union	5.0%
Cabarrus	2.5%
Stanly	2.5%
Total	100.0%

In Section III.9, page 60 the applicants provide the assumptions and methodology used to project patient origin. The applicants’ assumptions regarding patient origin are reasonable and adequately supported.

Analysis of Need

In Section III.1, pages 45-47, the applicants describe why they believe the population projected to utilize the 83 licensed nursing care beds in Mecklenburg County need those beds, as summarized below:

- The applicants state there is a need for a nursing facility in a “*new, efficient, home-like environment*” in Mecklenburg County, which is supported by the projected nursing care bed deficit for Mecklenburg County identified in the 2018 State Medical Facilities Plan (page 45).
- The applicants cite historical growth of the Mecklenburg County population of 16 percent from 2010 to 2017, and projected Mecklenburg County population growth of 8.36 percent from 2017 to 2022 (page 45).
- The applicants cite the growth in the Mecklenburg County population age 65 and over, which grew by 44 percent from 2010 to 2017, and which is projected to continue growing faster than the total population in Mecklenburg County, based on data from the North Carolina Office of State Budget and Management (page 46).
- The applicants state the population age 65 and over in the Clear Creek Township of Mecklenburg County, where the proposed facility will be located, is projected to experience a growth rate of 31 percent from 2017 to 2022, which is an increase of 1,050 persons in that age category.

The information is reasonable and adequately supported for the following reasons:

- The applicants provided data to support the historical growth of the Mecklenburg County population of 16 percent from 2010 to 2017, and projected Mecklenburg County population growth of 8.36 percent from 2017 to 2022 (page 45).
- The applicants provided data to support their assumptions regarding the growth in the Mecklenburg County population age 65 and over, which grew by 44 percent from 2010 to 2017, and which is projected to continue growing faster than the total population in Mecklenburg County, based on data from the North Carolina Office of State Budget and Management (page 46).
- The applicants provide data to support their assumption that the population age 65 and over in the Clear Creek Township of Mecklenburg County, where the proposed facility will be located, is projected to experience a growth rate of 31 percent from 2017 to 2022, which is an increase of 1,050 persons in that age category.

Projected Utilization

In Section IV.2, pages 63-65, the applicants provided projected utilization for the 83 nursing care beds during the first two full federal fiscal years (FFY2024-FFY2025) of operation, as shown in the following table:

	OPERATING YEAR 1 FFY2024	OPERATING YEAR 2 FFY2025
Patient Days	22,865	28,105
Number of beds	83	83
Occupancy Rate*	75%	93%

As shown in the table above, in the second full fiscal year of operation, the applicants project the 83 nursing care beds will operate at an average annual occupancy rate of 93% [$28,105 / 365 / 83 = .93$ or 93%].

In Section IV.2, page 62, the applicants describe the assumptions and methodology used to project utilization of the 83 nursing care beds as follows:

“Liberty Healthcare and Rehabilitation Services provide management and support to 27 facilities in North Carolina. Liberty utilized the census data from its most recently opened facility to project utilization for this project. Summerstone Health and Rehab recently opened in Kernersville, NC in late August of 2017, and is currently licensed for 100 SNF beds. ... As the table [shown on page 62 of the application] display, Summerstone has an average fill-up of 13 residents per month. The Applicants also utilized census data from other facilities currently operated by Liberty. Based on this information, the Applicants utilized a net average fill-up rate of four patients per week for the nursing facility beds during the fill up period. This is consistent with the displayed data [in the table shown on page 62 of the application] as well as the CON application instruction (See Section IV.2(c)). ... Please also refer to the discussion under Section III (Need/Demand), in which the Applicants demonstrate current and future population and demographic data for Mecklenburg County, which was also used to project future utilization of the facility. ... To conclude, the Applicants’ utilized their past experience, specifically of a recently opened facility of similar size, along with its future demographic demand to project future utilization of the facility.”

Additionally, Exhibit 14 contains copies of letters from healthcare providers in the area which indicate support for the project and an intent to refer patients to the facility.

Projected utilization is reasonable and adequately supported for the following reasons:

- The applicants project admissions to the proposed nursing care facility based on their most recent fill-up experience at a comparable nursing facility.
- The applicants’ utilization projections are supported by the historical and projected growth and aging of the Mecklenburg County population, particularly for older patient populations.

Access

In Section VI.5, page 73, the applicants state Liberty Commons of Mint Hill will provide services to all persons without discriminating on the basis of “*social, racial, ethnic, or gender related issues.*” In Section VI.3, page 73, the applicants project the following payor mix during the second full fiscal year (FFY2025) of operation following completion of the project, as illustrated in the following table.

Payor Source	Nursing Care Patient Days as a Percent of Total Patient Days
Private Pay	25%
Medicare	15%
Medicaid	60%
Total	100.0%

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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.

The applicants, Liberty Commons of Mint Hill, propose to construct a new 83-bed nursing facility in Mint Hill by relocating five nursing facility beds from Warren Hills (Warren County), ten beds from Cross Creek (Hyde County), 20 beds from Bermuda Commons (Davie County), 22 beds from Mary Gran (Sampson County), seven beds from Liberty Commons of Columbus (Columbus County), nine beds from Shoreland (Columbus County), and ten beds from Legion Road Healthcare (Orange County).

In Section III.7, page 58, the applicants explain why they believe the needs of the population presently utilizing the nursing care beds to be relocated will be adequately met following completion of the project. On pages 58-59, the applicant states:

“The beds being relocated are currently unutilized and not in service. Therefore, no person or resident will need to be relocated due to the transfer. This transfer will bring back unutilized beds to a county that is showing a severe deficit (Mecklenburg County). ... Additionally, the 2018 SMFP shows a surplus of SNF beds in Warren, Hyde, Davie, Sampson, Columbus, and Orange Counties and a deficit in Mecklenburg County. Transferring these 83 SNF beds to Mecklenburg County is functionally and statistically practical. The bed transfer would also expand the diversity of healthcare options available to Mecklenburg county residents, while also reducing an excess of beds in Warren, Hyde, Davie, Sampson, Columbus, and Orange Counties.”

Warren Hills (Warren County)

Warren Hills is currently licensed for 140 nursing care beds. However, the applicants state the facility currently operates only 115 of those beds. In Section III.1, page 48, the applicants provide a table showing that the facility operated at an average occupancy rate of 77 percent in CY2017, with an average daily census of 108 residents. Exhibit 9 of the application contains a copy of a letter from the Administrator of Warren Hills stating that the proposed relocation of five nursing care beds to Mecklenburg County will not have any negative impact on residents because the five nursing care beds are not in service, and no residents will be affected.

Cross Creek (Hyde County)

Cross Creek is currently licensed for 80 nursing care beds. However, the applicants state the facility currently operates only 50 of those beds. In Section III.1, page 48, the applicants provide a table showing that the facility operated at an average occupancy rate of 53 percent in CY2017, with an average daily census of 42 residents. Exhibit 9 of the application contains a copy of a letter from the Administrator of Cross Creek stating that the proposed relocation of ten nursing care beds to Mecklenburg County will not have any negative impact on residents because the ten nursing care beds are not in service, and no residents will be affected.

Bermuda Commons (Davie County)

Bermuda Commons is currently licensed for 117 nursing care beds. However, the applicants state the facility currently operates only 95 of those beds. In Section III.1, page 49, the applicants provide a table showing that the facility operated at an average occupancy rate of 71 percent in CY2017, with an average daily census of 83 residents. Exhibit 9 of the

application contains a copy of a letter from the Administrator of Bermuda Commons stating that the proposed relocation of 20 nursing care beds to Mecklenburg County will not have any negative impact on residents because the 20 nursing care beds are not in service, and no residents will be affected.

Mary Gran (Sampson County)

Mary Gran is currently licensed for 212 nursing care beds. However, the applicants state the facility currently operates only 145 of those beds. In Section III.1, page 49, the applicants provide a table showing that the facility operated at an average occupancy rate of 57 percent in CY2017, with an average daily census of 122 residents. Exhibit 9 of the application contains a copy of a letter from the Administrator of Mary Gran stating that the proposed relocation of 22 nursing care beds to Mecklenburg County will not have any negative impact on residents because the 22 nursing care beds are not in service, and no residents will be affected.

Liberty Commons of Columbus (Columbus County)

Liberty Commons of Columbus is currently licensed for 107 nursing care beds. However, the applicants state the facility currently operates only 100 of those beds. In Section III.1, page 50, the applicants provide a table showing that the facility operated at an average occupancy rate of 89 percent in CY2017, with an average daily census of 95 residents. Exhibit 9 of the application contains a copy of a letter from the Administrator of Liberty Commons of Columbus stating that the proposed relocation of seven nursing care beds to Mecklenburg County will not have any negative impact on residents because the seven nursing care beds are not in service, and no residents will be affected.

Shoreland (Columbus County)

Shoreland is currently licensed for 89 nursing care beds. However, the applicants state the facility currently operates only 80 of those beds. In Section III.1, page 50, the applicants provide a table showing that the facility operated at an average occupancy rate of 79 percent in CY2017, with an average daily census of 70 residents. Exhibit 9 of the application contains a copy of a letter from the Administrator of Shoreland stating that the proposed relocation of nine nursing care beds to Mecklenburg County will not have any negative impact on residents because the nine nursing care beds are not in service, and no residents will be affected.

Legion Road Healthcare (Orange County)

Legion Road Healthcare is currently licensed for 133 nursing care beds. However, the applicants state the facility is currently being renovated and is not operational. Also, the applicants state that they have determined the existing semi-private rooms are too small to be used in that manner, and should be converted to private rooms. On page 51, the applicants state, *“Therefore, the transfer of these 10 beds will allow Legion Road Healthcare to have the majority of the rooms run as private rooms.”* Because the Legion Road Healthcare facility is not currently operational, the proposed relocation of ten nursing care beds to Mecklenburg County will not have any negative impact on residents.

Projected utilization is reasonable and adequately supported based on the following:

- Historical utilization data reported by the applicants indicate that the number of nursing care beds that will remain at each of the affected facilities after the proposed relocation will be adequate to meet the needs of the population presently served.
- None of the nursing care beds that the applicants propose to relocate is currently in service, therefore no residents will be negatively affected by the proposed relocation.

In Section VI.5, page 73, the applicants state Liberty Commons of Mint Hill will provide services to all persons without discriminating on the basis of “*social, racial, ethnic, or gender related issues.*”

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the applicant adequately demonstrates that:

- The needs of the population currently using the services to be reduced, eliminated or relocated will be adequately met following project completion.
- The project will not adversely impact the ability of underserved groups to access these services following project completion.

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

CA

In Section III.2, pages 52-53, the applicants describe the alternatives they considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- Maintain the Status Quo – The applicants state that all of the existing facilities from which the beds will be relocated are currently licensed for more beds than are needed by the community. Therefore, the applicants determined maintaining the status quo was not an effective alternative.
- Propose new separate nursing facilities with the excess nursing care beds - The applicants state that when factoring in the capital costs required to build a new, stand-alone facility, the amount of nursing care beds available in each of the counties is too small to achieve operational efficiency. Therefore, developing small freestanding nursing facilities in these counties is not an effective alternative.

In Section III.2, page 52, the applicants state that relocating the beds to the newly constructed 83-bed Liberty Commons of Mint Hill facility would be the most effective alternative to meet the needs of Mecklenburg County residents because it would result in beds that are not currently being utilized in counties with a surplus of nursing care beds becoming utilized in a new facility in a county with a nursing care bed deficit, according to the nursing care bed need methodology in the 2018 SMFP.

The applicants adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need because it will relocate unutilized nursing care beds from existing facilities to a new facility in the location with a need for additional nursing care beds, according to the nursing care bed need methodology in the 2018 SMFP.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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. Therefore, the application is approved subject to the following conditions:

- 1. Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC shall develop a new nursing care facility with no more than 83 nursing care beds in Mecklenburg County by relocating five nursing facility beds from Warren Hills (Warren County), ten beds from Cross Creek (Hyde County), 20 beds from Bermuda Commons (Davie County), 22 beds from Mary Gran (Sampson County), seven beds from Liberty Commons of Columbus (Columbus County), nine beds from Shoreland (Columbus County), and ten beds from Legion Road Healthcare (Orange County).**
- 3. Upon completion of the project, Warren Hills shall be licensed for no more than 135 nursing care beds, Cross Creek shall be licensed for no more than 70 nursing care beds, Bermuda Commons shall be licensed for no more than 97 nursing care beds, Mary Gran shall be licensed for no more than 190 nursing care beds, Liberty Commons of Columbus shall be licensed for no more than 100 nursing care beds, Shoreland shall be licensed for no more than 80 nursing care beds, and Legion Road Healthcare shall be licensed for no more than 123 nursing care beds and seven adult care home beds.**

4. **No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, 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.**
 5. **For the first two years of operation following completion of the project, Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section X.4 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.**
 6. **Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicants, Liberty Commons of Mint Hill, propose to construct a new 83-bed nursing facility in Mint Hill by relocating nursing care beds from seven existing Liberty Healthcare facilities located in six different counties.

Capital and Working Capital Costs

In Section VIII.1, page 88, the applicants project the total capital cost of the project as shown in the table below.

Site Preparation Costs	\$2,005,166
Construction Costs	\$11,838,750
Miscellaneous Costs	\$1,463,500
Total	\$15,307,416

In Section VIII.1, page 88, the applicants provide the assumptions used to project the capital cost. In Sections IX.1 and IX.2, pages 93-94, the applicants project start-up costs will be \$202,533 and initial operating expenses will be \$536,091 for a total working capital of \$738,624. On page 93, the applicants provide the assumptions and methodology used to project the working capital needs of the project.

Availability of Funds

In Section VIII.2, page 89, the applicants state that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	Liberty Commons of Mint Hill	Total
Loans	\$	\$
Accumulated reserves or OE *	\$15,307,416	\$15,307,416
Bonds	\$	\$
Other (Specify)	\$	\$
Total Financing	\$15,307,416	\$15,307,416

* OE = Owner's Equity

In Section IX.5, page 95, the applicants state that the working capital needs of the project will be funded as shown in the table below.

Sources of Financing for Working Capital		Amount
(a)	Loans	\$
(b)	Cash or Cash Equivalents, Accumulated Reserves or Owner's Equity	\$738,624
(c)	Lines of credit	\$
(d)	Bonds	\$
(e)	Total	\$738,624

In Section VIII.2, page 89, the applicants state that the capital costs will be financed by the owner equity of John A. McNeill, Jr. and Ronald B. McNeill, owners of the applicants. In Exhibit 17, the applicants provide a letter dated February 9, 2018 from John A. McNeill, Jr. and Ronald B. McNeill expressing their intention to fund the capital and working capital costs for the proposed project. Exhibit 17 also includes a letter dated January 29, 2018 from Joel M. White, CPA of the accounting firm Cherry Bekaert, which states that John A. McNeill, Jr. and Ronald B. McNeill have adequate funds to meet the capital and working capital requirements of the proposed project. The applicants adequately demonstrate that sufficient funds will be available for the capital needs of the proposed project.

Financial Feasibility

The applicants provided pro forma financial statements for the first two full fiscal years of operation following completion of the project. In the pro forma financial statement (Form B),

the applicants project that revenues will exceed operating expenses in the first three operating years of the project, as shown in the table below.

	1ST FULL FISCAL YEAR (FFY2024)	2ND FULL FISCAL YEAR (FFY2025)
Total Patient Days	22,865	28,105
Total Gross Revenues (Charges)	\$6,521,076	\$8,015,286
Total Net Revenue	\$5,775,723	\$7,099,119
Average Net Revenue per patient day	\$252.60	\$252.59
Total Operating Expenses (Costs)	\$5,412,846	\$5,678,364
Average Operating Expense per patient day	\$236.73	\$202.04
Net Income	\$362,877	\$1,420,754

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

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 applicants adequately demonstrate that the capital and working capital costs are based on reasonable and adequately supported assumptions.
- The applicants adequately demonstrate sufficient funds for the operating needs of the proposed project.
- The applicants adequately demonstrate 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 applicants, Liberty Commons of Mint Hill, propose to construct a new 83-bed nursing facility in Mint Hill by relocating five nursing facility beds from Warren Hills (Warren County), ten beds from Cross Creek (Hyde County), 20 beds from Bermuda Commons (Davie County), 22 beds from Mary Gran (Sampson County), seven beds from Liberty Commons of

Columbus (Columbus County), nine beds from Shoreland (Columbus County), and ten beds from Legion Road Healthcare (Orange County).

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

Based on data reported in Table 10A: Inventory of Nursing Home and Hospital Nursing Care Beds in the 2018 SMFP, Mecklenburg County currently has 31 nursing facilities with a total of 3,280 licensed nursing care beds. Also, based on data reported in Table 10C: Nursing Care Bed Need Projections for 2021 in the 2018 SMFP, Mecklenburg County is projected to have a nursing care bed deficit of 395 beds in 2021. However, the number of nursing care beds was underreported by 102 beds for one existing Mecklenburg County facility, Huntersville Oaks. Due to the reporting error, the projected deficit of nursing care beds in 2021 is 293 beds, rather than 395.

In Section III.1, pages 45-51, the applicants explain why they believe their proposal would not result in the unnecessary duplication of existing or approved nursing care services in Mecklenburg County. The applicants state:

“The Applicants feel there is an unmet need for skilled nursing (‘SNF’) beds in new, efficient, home-like environments for the residents of Mecklenburg County. ... Liberty has analyzed the local demographics and feels that the Mecklenburg County market is strong enough to support this project.”

The applicants adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area for the following reasons:

- Mecklenburg County is projected to have a deficit of nursing care beds, therefore the proposal would not result in an increase in a surplus of nursing care beds in the county.
- The applicants adequately demonstrate that the proposed nursing facility is needed in addition to the existing or approved nursing care beds in Mecklenburg County.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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.

- (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 Section VII.2, pages 82-84, the applicants provide projected full-time equivalent (FTE) staffing for the proposed services in the second operating year (FFY2025) as illustrated in the following table.

POSITION	PROJECTED STAFFING (FTE) YEAR 2 FFY2025
Director of Nursing	1.00
MDS Nurse	1.00
Registered Nurse	5.60
Licensed Practical Nurse	12.60
Certified Nursing Assistant	30.80
Ward Secretary	0.50
Medical Records Consultant	1.00
Social Services Director	1.00
Activity Services Director	1.00
Housekeeping Supervisor	1.00
Housekeeping Aides	5.60
Laundry Aides	2.80
Physical Therapist	2.00
Physical Therapist Assistant	2.40
Physical Therapist Aides	1.00
Occupational Therapist	1.00
Speech Therapist	0.50
Certified Occupational Therapist Assistant	1.60
Maintenance Supervisor	1.00
Janitors	1.00
Transportation	1.00
Administrator	1.00
Business Office Manager	1.00
Business Office Staff	1.00
Total	78.40

Source: Table VII.3, pages 82-84 of the application.

The assumptions and methodology used to project staffing are provided in Section VII. Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in Form B, which is found in Section XII. In Section VII.6, page 86, the applicants describe the methods to be used to recruit or fill new positions and their training and continuing education programs. In Exhibit 15, the applicants identify the proposed medical

director. In Exhibit 15, the applicants provide a letter from the proposed medical director indicating an interest in serving as medical director for the proposed services.

The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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.

- (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 37-38, the applicants state the following ancillary and support services are necessary for the proposed services:

Service	Facility Staff	Facility Paid Consultant	Contract Billed to Patient	Staff Position or Proposed Provider
Administration	X			Facility Administrator
Inpatient Nursing Care	X			Facility Nursing Staff
Physician Services		X	X	Personal Physician/ Medical Director
Podiatry			X	Dr. Reginald Richardson
Dentistry			X	DaVita South Charlotte
Pharmacy			X	McNeill's LTC Pharmacy
Laboratory			X	Solstas Lab Partners
Non-emergency	X			Facility Transport Staff
Medical Transport	X			First Med
Audiology			X	Hearing Solution Center
Dietary Services			X	LTC Management
Respiratory Care	X			Facility Nursing Staff
Dietitian		X		LTC Management
Facility Van	X			Facility Transportation
Medical Director		X		Thad A. Clements, M.D.
Speech Therapy	X			Facility Staff
Optometry			X	To be determined
Rehab Services	X			Facility Staff
Therapeutic Activities	X			Facility Staff
Social Services	X			Facility Staff
Medical Records	X			Facility Staff
Housekeeping	X			Facility Staff
Barber/Beauty	X			To be determined
Hospice/Respite	X			Facility Staff/Liberty Home Care & Hospice
Wound Care Program	X			Facility Staff
Aids/HIV+	X			Facility Staff
Mental Health	X		X	Facility Staff/Elderly Psychiatric Services
Pastoral/Chaplaincy	X			Volunteer
Personal Laundry	X			Facility Staff
Continence Care			X	Liberty Medical Specialties
X-ray/Radiology			X	Quality Mobile X-ray and Mobile Visions
Dialysis			X	DaVita Wilmington [sic] Dialysis

*Source: Tables on pages 37-38 of the application.

On page 38, the applicant adequately explains how each ancillary and support service will be made available and provides supporting documentation in Exhibit 5.

In Section V.4, page 70, the applicants describe its existing and proposed relationships with other local health care and social service providers and provides supporting documentation in Exhibits 13 and 14.

The applicants adequately demonstrate that the proposed services will be coordinated with the existing health care system.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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.

- (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 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 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 Section XI.9, page 111, the applicants state that the project involves the construction of a 61,500 square foot facility to be located at 7712 Wilson Grove Road in Mint Hill. Line drawings are provided in Exhibit 23.

On page 112, the applicants adequately explain how the cost, design and means of construction represent the most reasonable alternative for the proposal and provide supporting documentation in Exhibit 23.

On pages 112-113, the applicants identify any applicable energy saving features that will be incorporated into the construction plans.

On pages 106-108, the applicants identify the proposed site and provide information about the current owner, zoning and special use permits for the site, and the availability of water, sewer and waste disposal and power at the site.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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.

- (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

Liberty Commons of Mint Hill is not an existing facility.

- (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

Liberty Commons of Mint Hill is not an existing facility

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

C

In Section VI.3, page 73, the applicants project the following payor mix during the second full fiscal year (FFY2025) of operation following completion of the project, as illustrated in the following table.

Payor Source	Nursing Care Patient Days as a Percent of Total Patient Days
Private Pay	25%
Medicare	15%
Medicaid	60%
Total	100.0%

As shown in the table above, during the second full fiscal year of operation (FFY2025), the applicants project that 25% of total services will be provided to private-pay patients, 15% to Medicare patients and 60% to Medicaid patients. The projected payor mix is reasonable and adequately supported.

The Agency reviewed the:

- Application
- Exhibits to the application
- 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, pages 74-75, the applicants describe the range of means by which patients will have access to the proposed services.

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 69, the applicants describe the extent to which health professional training programs in the area will have access to the facility for training purposes and provides supporting documentation in Exhibit 12.

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency.

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

- (15) Repealed effective July 1, 1987.
(16) Repealed effective July 1, 1987.
(17) Repealed effective July 1, 1987.
(18) Repealed effective July 1, 1987.

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

C

The applicants, Liberty Commons of Mint Hill, propose to construct a new 83-bed nursing facility in Mint Hill by relocating five nursing facility beds from Warren Hills (Warren County), ten beds from Cross Creek (Hyde County), 20 beds from Bermuda Commons (Davie County), 22 beds from Mary Gran (Sampson County), seven beds from Liberty Commons of Columbus (Columbus County), nine beds from Shoreland (Columbus County), and ten beds from Legion Road Healthcare (Orange County).

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

Based on data reported in Table 10A: Inventory of Nursing Home and Hospital Nursing Care Beds in the 2018 SMFP, Mecklenburg County currently has 31 nursing facilities with a total of 3,280 licensed nursing care beds. Also, based on data reported in Table 10C: Nursing Care Bed Need Projections for 2021 in the 2018 SMFP, Mecklenburg County is projected to have a nursing care bed deficit of 395 beds in 2021. However, the number of nursing care beds was underreported by 102 beds for one existing Mecklenburg County facility, Huntersville Oaks. Due to the reporting error, the projected deficit of nursing care beds in 2021 is 293 beds, rather than 395.

In Section V.6, pages 70-71, the applicants describe the expected effects of the proposed services on competition in the service area and discuss how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services. On page 70, the applicants state:

“This project will have a positive impact on cost effectiveness, quality of care, and access of underserved groups in several ways. Liberty Commons of Mint Hill has proposed SNF charges that are in line with the marketplace, therefore citizens of Mecklenburg County will not see an increase in their cost of care but the quality of care will be increased and should continue to do so. Liberty Commons of Mint Hill will be a brand new, state-of-the-art highly rated and operationally efficient facility that we project to become a quick choice for county residents. This will encourage operators of other county facilities to evaluate the care and quality of their facilities and to improve and up fit where possible to remain competitive in the marketplace.”

The applicants adequately describe 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, IX, X and XII of the application and any exhibits)
- Quality services will be provided (see Section II of the application and any exhibits)
- Access will be provided to underserved groups (see Section VI of the application and any exhibits)

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

In Section I.12, pages 11-12, the applicants list the 34 nursing facilities that they currently own, lease, manage or are developing in North Carolina. According to the files in the Nursing Home Licensure and Certification Section, DHSR, a total of four incidents occurred at four facilities within the eighteen months immediately preceding submission of the application through the date of this decision related to quality of care. After reviewing and considering information provided by the applicants and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all existing facilities, the applicants provided sufficient evidence that quality care has been provided in the past. Therefore the application is conforming to this criterion.

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

order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C

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

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

10A NCAC 14C .1102 PERFORMANCE STANDARDS

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

-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.

-C- The applicants propose to develop a new 83-bed nursing facility. In Section IV.2, pages 63-65, the applicants provided projected utilization for the 83 nursing care beds during the first two full federal fiscal years (FFY2024-FFY2025) of operation, as shown in the following table:

Liberty Commons of Mint Hill Projected Utilization

	OPERATING YEAR 1 FFY2024	OPERATING YEAR 2 FFY2025
Patient Days	22,865	28,105
Number of beds	83	83
Occupancy Rate*	75%	93%

As shown in the table above, in the second full fiscal year of operation, the applicants project the 83 nursing care beds will operate at an average annual occupancy rate of 93% [$28,105 / 305 / 83 = .93$ or 93%].

In Section IV.2, page 62, the applicants describe the assumptions and methodology used to project utilization of the 83 nursing care beds. See the discussion in Criterion (3) which is incorporated herein by reference.

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

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

(d) An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.

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