

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: May 18, 2018

Findings Date: May 18, 2018

Project Analyst: Julie M. Faenza

Team Leader: Gloria C. Hale

Assistant Chief: Lisa Pittman

Project ID #: F-11464-18

Facility: Windsor Run Care Center

FID #: 180105

County: Mecklenburg

Applicant: Windsor Run, LLC

Project: Develop a new combination NF as part of a new CCRC with 36 NF beds developed pursuant to Policy NH-6 and 10 ACH beds developed pursuant to Policy LTC-2

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 applicant, Windsor Run, LLC (Windsor Run), proposes to develop a new combination nursing facility (NF), Windsor Run Care Center (WRCC), as part of a new continuing care retirement community (CCRC). WRCC will be located at 2010 McKee Road in Matthews, Mecklenburg County, and will have approximately 900 independent living (IL) units, 36 NF beds, and 10 adult care home (ACH) beds. All 10 ACH beds will be part of a special care unit (SCU).

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 (SMFP).

Policies

There are four policies in the 2018 SMFP applicable to this review: Policy NH-6: Relocation of Nursing Facility Beds; Policy LTC-2: Relocation of Adult Care Home Beds; Policy NH-8: Innovations in Nursing Facility Design; and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities.

Policy NH-6: Relocation of Nursing Facility Beds, on page 25 of the 2018 SMFP, states:

“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.”*

In Section III.1, page 26, the applicant states that it proposes to relocate 22 NF beds from Ridgewood Living and Rehabilitation Center (Ridgewood) in Beaufort County and 14 NF beds from Willow Ridge Rehabilitation and Living Center (Willow Ridge) in Rutherford County to WRCC in Mecklenburg County. According to Table 10C: Nursing Care Bed Need Projections for 2021, on pages 204-207 of the 2018 SMFP, Beaufort County has a surplus of 22 NF beds; Rutherford County has a surplus of 14 NF beds; and Mecklenburg County has a deficit of 395 NF beds. Following project completion, Beaufort and Rutherford counties will have neither a surplus nor a deficit of NF beds, and Mecklenburg County will have a deficit of 359 NF beds. Therefore, the application is consistent with Policy NH-6.

Policy LTC-2: Relocation of Adult Care Home Beds, on page 26 of the 2018 SMFP, states:

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

- 1. Demonstrate that the facility losing beds or moving to a contiguous county is currently serving residents of that contiguous county; and*

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

In Section III.1, page 26, the applicant states that it proposes to relocate 10 ACH beds from Hunter Woods Nursing and Rehabilitation Center (Hunter Woods) in Mecklenburg County to WRCC in Mecklenburg County. Therefore, the application is consistent with Policy LTC-2.

Policy NH-8: Innovations in Nursing Facility Design, on page 25 of the 2018 SMFP, 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 44-46, the applicant discusses the innovative approaches in environmental design that it plans to incorporate, including neighborhood community areas versus medical units as well as a more residential design. The applicant adequately demonstrates conformity with the requirements of Policy NH-8.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities, on page 33 of the 2018 SMFP, 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 is required to submit a plan of energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant's representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control."

The proposed capital expenditure for this project is greater than \$5 million. In Section III.4, page 42, and Section XI.14, pages 116-117, the applicant describes the project's plan to assure improved energy efficiency and water conservation. The applicant adequately demonstrates that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at 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 applicant adequately demonstrates that the proposal is consistent with Policy NH-6 because it will neither create a deficit or increase an existing deficit in the number of licensed NF beds in Beaufort and Rutherford counties nor create a surplus or increase an existing surplus in the number of licensed NF beds in Mecklenburg County.
- The applicant adequately demonstrates that the proposal is consistent with Policy LTC-2 because both the facility where the licensed ACH beds originate from and the facility to which the licensed ACH beds will be relocated are in Mecklenburg County; therefore, there will be no change in the number of licensed ACH beds in Mecklenburg County.
- The applicant adequately demonstrates that the proposal is consistent with Policy NH-8 because it describes the various innovative approaches in environmental design that it plans to incorporate in the development of the project.
- The applicant adequately demonstrates that the proposal is consistent with Policy GEN-4 because it 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.

NC

Windsor Run proposes to develop a new combination NF, WRCC, as part of a new CCRC. WRCC will be located at 2010 McKee Road in Matthews, Mecklenburg County, and will have approximately 900 IL units, 36 NF beds, and 10 ACH beds. All 10 ACH beds will be part of a SCU. The 36 NF beds and the 10 ACH beds will be relocated from other facilities, and thus will be “open” beds available to patients who are not residents of the IL units being developed. Concurrently with the development of this project, the applicant is developing approximately 900 IL units, and the applicant states that as of the date the application was submitted, it had already developed 318 IL units as part of the first phase of development.

Patient Origin

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.*” On page 211, the 2018 SMFP defines the service area for adult care home beds as “...*the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrrell, are considered a combined service area.*” Thus, the service area for this proposal is Mecklenburg County. Facilities may also serve residents of counties not include in their service area.

According to the 2017 License Renewal Applications (LRAs) for Ridgewood and Willow Ridge, many of their NF beds were unoccupied. According to the 2017 LRA for Hunter Woods, all of its ACH beds were unoccupied. Additionally, the applicant provides letters in Exhibit 15 from the facility operators of all three facilities, each of which states that the beds to be relocated are unoccupied and will remain unoccupied prior to their relocation. Thus, there is no historical patient origin for the beds to be relocated available for the applicant to report.

In Section III.9, page 50, the applicant states that all of its projected patients will originate from Mecklenburg County at the end of its first full fiscal year of operation (FY 2021).

In Section III.9, page 51, the applicant provides the assumptions and methodology used to project its patient origin. The applicant’s assumptions are reasonable and adequately supported.

Analysis of Need

In Section III, pages 27-36, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services, as summarized below.

Actuarial Analysis (pages 27-29)

On pages 27-29, the applicant states that it commissioned a financial and facility planning analysis from a well-established industry firm to do a market and project feasibility analysis. The firm's report, including an actuarial analysis, is included in Exhibit 2. The report states that based on the methodology employed, the proposed bed complement of 36 NF beds and 24 ACH beds is sufficient to provide care for the number of residents who will need it.

The applicant states that it plans to make up the difference between the actuarial analysis showing 24 ACH beds and its proposal to develop 10 ACH beds by offering Multi-Unit Assisted Housing with Services (MUAS). The applicant states that facilities with MUAS are registered with the Adult Care Home Licensure Section, DHSR, but are not licensed. According to the applicant, MUAS provides an independent living setting where residents do not require the level of care required in an ACH setting, but may need some personal care or nursing care from an outside agency.

Population Growth and Aging (pages 29-32)

On page 29, the applicant states that Mecklenburg County has the largest population out of all counties in North Carolina, and provides data from the North Carolina Office of State Budget and Management (NC OSBM) which shows the overall population of Mecklenburg County is projected to increase from 2018 through 2023 at a compound annual growth rate (CAGR) of 1.9 percent. On page 30, the applicant provides data from NC OSBM showing that the Mecklenburg County population growth for ages 65-74 and ages 75 and older will increase, from 2018 through 2023, 4.2 percent and 5.9 percent, respectively. The applicant also provides data from NC OSBM showing that Mecklenburg County is projected to have the state's second highest population ages 65 and over by 2023. On page 31, the applicant provides data showing that nationally, 84.9 percent of patients in nursing homes are age 65 and older, and in North Carolina, utilization of ACH services increases significantly for people age 65 and older.

Incidence of Alzheimer's Disease (pages 32-36)

On pages 32-36, the applicant discusses the effects of Alzheimer's disease, its prevalence, and the growing number of people diagnosed with the disease. On page 35, the applicant provides data from the Alzheimer's Association showing that the number of North Carolina residents with the disease is expected to increase by more than 31 percent from 2015 through 2025. The applicant also provides data on page 35 stating that in 2014 the mortality rate for North Carolinians with Alzheimer's disease was higher than the average rate for the United States.

The information in the pages referenced above is reasonable and adequately supported for the following reasons:

- The need for NF and ACH beds is supported by actuarial analysis.
- The overall population of Mecklenburg County, as well as the Mecklenburg County population over age 65, is increasing.

- The prevalence of Alzheimer’s disease is increasing and the mortality rate from Alzheimer’s disease is higher in North Carolina than the national average.

Projected Utilization

In Section IV, pages 53-56, the applicant provides projected utilization, as illustrated in the tables below.

WRCC Projected Utilization – 1st Partial FFY (FFY 2020)				
	March 2020	Q3 4/1-6/30	Q4 7/1-9/30	Total
NF Beds				
Patient Days	109	944	1,675	2,727
Occupancy Rate	10%	29%	51%	35%
# Beds	36	36	36	36
ACH/SCU Beds				
Patient Days	59	355	634	1,048
Occupancy Rate	19%	39%	69%	49%
# Beds	10	10	10	10
Facility Total				
Patient Days	167	1,298	2,309	3,775
Occupancy Rate	12%	31%	55%	38%
# Beds	46	46	46	46

WRCC Projected Utilization – 1st Full FFY (FFY 2021)					
	Q1 10/1-12/31	Q2 1/1-3/31	Q3 4/1-6/30	Q4 7/1-9/30	Total
NF Beds					
Patient Days	2,236	2,721	2,948	2,981	10,886
Occupancy Rate	68%	84%	90%	90%	83%
# Beds	36	36	36	36	36
ACH/SCU Beds					
Patient Days	825	810	819	828	3,282
Occupancy Rate	90%	90%	90%	90%	90%
# Beds	10	10	10	10	10
Facility Total					
Patient Days	3,061	3,531	3,767	3,809	14,168
Occupancy Rate	72%	85%	90%	90%	84%
# Beds	46	46	46	46	46

WRCC Projected Utilization – 2nd & 3rd Full FFYs (FFYs 2022-2023)*					
	Q1 10/1-12/31	Q2 1/1-3/31	Q3 4/1-6/30	Q4 7/1-9/30	Total
NF Beds					
Patient Days	2,981	2,916	2,948	2,981	11,826
Occupancy Rate	90%	90%	90%	90%	90%
# Beds	36	36	36	36	36
ACH/SCU Beds					
Patient Days	828	810	819	828	3,285
Occupancy Rate	90%	90%	90%	90%	90%
# Beds	10	10	10	10	10
Facility Total					
Patient Days	3,809	3,726	3,767	3,809	15,111
Occupancy Rate	90%	90%	90%	90%	90%
# Beds	46	46	46	46	46

*The applicant’s projected utilization for both the second and third full federal fiscal years is identical.

In Section IV, page 52, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

- On page 52, the applicant states:

“Utilization for the SNF and ACH beds is based on a net average fill-up rate of four patients per week during the fill up period until the beds each achieve 90% occupancy. Projected utilization is consistent with actuarial assumptions and the experience of the manager/operator in other similar CCRCs.”

- Exhibit 2 contains the actuarial analysis referenced by the applicant.

However, projected utilization is not reasonable and adequately supported for the following reasons:

- The assumption of a net average fill-up rate of four patients per week is not supported by the utilization projections provided.
- The applicant does not adequately explain how the actuarial analysis supports the project’s projected utilization.
- The applicant does not demonstrate how the manager/operator’s relevant experience supports the projected utilization.

Access

In Section VI, page 67, the applicant states:

“...WR’s projected Medicaid payor mix of 19.4% in the second project year far exceeds the Medicaid average of 0% for SNF beds associated with a CCRC in Mecklenburg County.”

In Section VI.3, page 68, the applicant projects the following payor mix during the second full fiscal year of operation following completion of the project, as illustrated in the following table.

WRCC – Projected Payor Mix – FFY 2022		
Payor Source	NF Patients	ACH/SCU Patients
Private Pay	69.4%	90.0%
Commercial Insurance	0.0%	0.0%
Medicare	11.1%	0.0%
Medicaid	19.4%	0.0%
VA/CHAMPUS	0.0%	0.0%
State/County Special Assistance	0.0%	10.0%
Total	100.0%	100.0%

Totals may not foot due to rounding.

However, the applicant does not adequately demonstrate the extent to which all residents of the service area, including underserved groups, will have access to the proposed services because the applicant does not provide the assumptions and methodology used to project its payor mix; thus, the Agency cannot determine if the applicant's projections are reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at 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 not conforming to this criterion for the following reasons:

- Projected utilization is not reasonable and is not adequately supported.
- The applicant projects the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) but does not adequately support its assumptions regarding its projected payor mix.

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

C

Windsor Run proposes to develop a new combination NF, WRCC, as part of a new CCRC, with 36 NF beds and 10 ACH beds.

To develop the new CCRC, the applicant proposes to relocate 22 NF beds from Ridgewood in Beaufort County; 14 NF beds from Willow Ridge in Rutherford County; and 10 ACH beds from Hunter Woods Mecklenburg County.

In Section III, page 47, the applicant explains why it believes the needs of the population presently utilizing the ACH bed services to be relocated will be adequately met following completion of the project:

- The ACH beds are existing licensed ACH beds that will be open to the public.

According to its two most recent License Renewal Applications (LRAs), Hunter Woods has not been serving ACH patients since before September 30, 2016.

In Section III, page 49, the applicant explains why it believes the needs of the population presently utilizing the services to be relocated will be adequately met following completion of the project:

- The applicant provides utilization at both Ridgewood and Willow Ridge as of September 30, 2017, as shown in the table below.

Utilization as of September 30, 2017 (Source: 2018 LRAs)				
Facility	Licensed NF Beds	FY 2017 NF Days of Care	ADC*	Occupancy Rate
Ridgewood	150	41,421	113	75.7%
Willow Ridge	150	42,238	116	77.1%

*Average Daily Census

- The applicant states on page 49 that each of the facilities where NF beds will be relocated from have available capacity and that no residents are currently being served in the NF beds proposed to be relocated.
- The applicant further states that Beaufort County and Rutherford County each have a surplus of 22 and 14 NF beds, respectively, which will be eliminated once the NF beds proposed to be relocated are added to WRCC.

In Exhibit 15, the applicant provides the following supporting documentation:

- A letter dated February 13, 2018 from Jacob Stern, representing Willow Ridge Healthcare, LLC, and Willow Ridge Propco, LLC, which states:

“As licensee [sic] of Willow Ridge we are familiar with Willow Ridge’s operations. Willow Ridge is currently licensed to operate 150 SNF beds. Willow Ridge currently

has 114 residents. Since we took over operations of the facility, the census at Willow Ridge has not exceeded 130 residents. Based on this, we have determined that Willow Ridge can serve its current and prospective residents even if it transfers fourteen (14) SNF beds to the Windsor Run Community.”

- A letter dated February 13, 2018 from Jacob Stern, representing Ridgewood Healthcare, LLC, and Ridgewood Propco, LLC, which states:

“As licensee [sic] of Ridgewood Manor we are familiar with Ridgewood Manor’s operations. Ridgewood Manor is currently licensed to operate 150 SNF beds. Ridgewood Manor currently has 112 residents. Since we took over operations of the facility, the census at Ridgewood Manor has not exceeded 123 residents. Based on this, Ridgewood Manor believes it can serve its current and prospective residents even if it transfers twenty-two (22) SNF beds to the Windsor Run Community.”

In Section III, page 49, the applicant states:

“The proposed project will effectively reduce excess bed capacity at both Ridgewood Living and Rehabilitation Center and Willow Ridge Rehabilitation and Living Center and eliminate the surplus of SNF beds in Beaufort and Rutherford counties. Therefore, the proposed project will have no negative impact on the ability of Beaufort or Rutherford County residents to obtain the skilled nursing services in the future.”

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 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.

NC

Windsor Run proposes to develop a new combination NF, WRCC, as part of a new CCRC, with 36 NF beds and 10 ACH beds.

In Section III.2, pages 39-41, the applicant describes the alternatives it 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:

- No Project Development
- Development of MUAS instead of ACH Beds
- Develop a Different Complement of Beds
- Develop Beds Pursuant to Policies NH-2 and LTC-1

On pages 39-41, the applicant states that its proposal is the most effective alternative because it meets the needs of its residents in independent living units; will allow for the provision of memory care services for its residents; and will allow prospective CCRC residents to enter the CCRC directly via use of NF or ACH beds.

However, the applicant does not adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need for the following reasons:

- Projected utilization is not reasonable and is not adequately supported. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.
- The application is not conforming to all statutory and regulatory review criteria. An application that cannot be approved cannot be the most effective alternative.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at 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 not conforming to this criterion for the reasons stated above. Therefore, the application is denied.

- (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.

NC

Windsor Run proposes to develop a new combination NF, WRCC, as part of a new CCRC, with 36 NF beds and 10 ACH beds.

Capital and Working Capital Costs

In Section VIII, page 84, the applicant projects the total capital cost of the project as shown in the table below.

WRCC Proposed Capital Expenditures	
Item	Cost
Site Costs (including purchase)	\$1,321,000
Construction Contracts/Contingency	\$5,658,000
Furniture & Equipment	\$800,000
Consultant Fees	\$708,500
Acquisition of beds	\$2,000,000
Total	\$10,487,500

In Section IX, page 89, the applicant projects that start-up costs will be \$245,332 and initial operating expenses will be \$643,671 for a total working capital of \$889,003. On page 89, the applicant provides the assumptions and methodology used to project the working capital needs of the project.

Availability of Funds

In Section VIII, page 85, the applicant states that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing	
Type	Windsor Run, LLC
Loans	\$0
Accumulated Reserves*	\$10,487,500
Bonds	\$0
Other (Specify)	\$0
Total Financing	\$10,487,500

*By Erickson Living Holdings, LLC, via Erickson Living Properties II, LLC, which is the sole member of Windsor Run, LLC. See Section VIII, page 86.

In Section IX, page 93, the applicant states that the working capital needs of the project will be funded as shown in the table below.

Sources of Financing for Working Capital	
Type	Windsor Run, LLC
Loans	\$0
Accumulated Reserves*	\$889,003
Bonds	\$0
Other (Specify)	\$0
Total Financing	\$889,003

*By Erickson Living Holdings, LLC, via Erickson Living Properties II, LLC, which is the sole member of Windsor Run, LLC. See Section IX, page 93.

Financial Feasibility

The applicant provides pro forma financial statements for the first partial fiscal year and two full fiscal years of operation following completion of the project. In Section XIII, Form B, the applicant projects that operating expenses will exceed revenues in the first partial fiscal year and each of the first two full fiscal years of the project, as shown in the table below.

	1st Partial FY	1st Full FY	2nd Full FY
Total Patient Days	3,775	14,168	15,111
Total Net Revenue	\$993,256	\$3,587,000	\$3,830,922
Average Net Revenue per Patient Day	\$263	\$253	\$254
Total Operating Expenses (Costs)	\$1,971,887	\$3,929,818	\$4,066,532
Average Operating Expense per Patient Day	\$522	\$277	\$269
Net Income/(Loss)	(\$978,631)	(\$342,818)	(\$235,610)

The applicant projects that it will incur a net loss each of the first three operating years, though the loss will decrease each subsequent year. In Exhibit 10, the applicant provides the audited financial statements of Erickson Living Holdings, LLC, its parent company. According to those statements, Erickson Living Holdings, LLC had \$100,142,000 in cash and cash equivalents on hand as of December 31, 2016.

However, the assumptions used by the applicant in preparation of the pro forma financial statements are not reasonable and adequately supported because projected utilization is questionable. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. Therefore, since projected revenues and expenses are based at least in part on projected utilization, projected revenues and expenses are also questionable.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at 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 not conforming to this criterion for the following reasons:

- The applicant does not adequately demonstrate that projected revenues and expenses are reasonable and adequately supported because projected utilization is questionable.
 - The applicant does not 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.

NC

Windsor Run proposes to develop a new combination NF, WRCC, as part of a new CCRC. WRCC will be located at 2010 McKee Road in Matthews, Mecklenburg County, and will have approximately 900 IL units, 36 NF beds, and 10 ACH beds. All 10 ACH beds will be part of a SCU. The 36 NF beds and the 10 ACH beds will be relocated from other facilities, and thus will be “open” beds available to patients who are not residents of the IL units being developed.

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.*” On page 211, the 2018 SMFP defines the service area for adult care home beds as “...*the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrrell, are considered a combined service area.*” Thus, the service area for this proposal is Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

On pages 192-193 of the 2018 SMFP, Table 10A documents that there are a total of 31 existing or approved facilities in Mecklenburg County that offer or will offer NF services. The table below is a summary of those 31 facilities in Mecklenburg County, recreated from the 2018 SMFP, Chapter 10, Table 10A (pages 192-193) and Table 10C (page 205). There is a projected deficit of 395 ACH beds in 2021 for Mecklenburg County.

2017 NF Inventory and 2021 Need Projections for Mecklenburg County	
# Facilities with NF Beds	31
# Beds in Hospitals	16
# Beds in Nursing Facilities	3,264
Total # Licensed Beds	3,280
# CON Approved Beds (License Pending)	30
Total # NF Beds Available	3,310
Total # NF Beds in Planning Inventory	2,957
Projected Bed Utilization with Vacancy Factor*	3,352
Projected Bed Surplus (Deficit)	(395)

*Calculated by dividing Projected Bed Utilization by 95%.

The applicants do not propose to develop new NF beds, but rather to relocate 36 existing licensed NF beds, 22 currently located at Ridgewood in Beaufort County, and 14 currently located at Willow Ridge in Rutherford County, to develop a new CCRC in Mecklenburg County. There will still be a deficit of NF beds in Mecklenburg County upon completion of the proposed project.

On pages 226-228 of the 2018 SMFP, Table 11A documents that there are a total of 51 existing or approved facilities in Mecklenburg County that offer or will offer ACH services. The table below is a summary of those 51 facilities in Mecklenburg County, recreated from the 2018 SMFP, Chapter 11, Table 11A (pages 226-228) and Table 11B (page 239). There is a projected surplus of 360 ACH beds in 2021 for Mecklenburg County.

2017 ACH Inventory and 2021 Need Projections for Mecklenburg County	
# ACH Facilities	51
# Beds in ACH Facilities	3,015
# Beds in Nursing Facilities	235
Total # Licensed Beds	3,250
# CON Approved Beds (License Pending)	144
Total # ACH Beds Available	3,394
Total # ACH Beds in Planning Inventory	3,305
Projected Bed Utilization Summary	2,945
Projected Bed Surplus (Deficit)	360

The applicants do not propose to develop new ACH beds, but rather to relocate 10 existing licensed ACH beds currently located at Hunter Ridge to develop a new facility in Mecklenburg County. There will be no increase in the inventory of ACH beds in Mecklenburg County.

However, the applicant does not adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area because the applicant does not demonstrate that projected utilization is reasonable and adequately supported. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at 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 not 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, pages 75-78, the applicant provides projected staffing for the proposed services as illustrated in the following table.

WRCC Proposed Staffing – 2nd Project Year (FFY 2022)			
Position	NH	ACH	Total
Director of Nursing	1.00	0.00	1.00
Staff Development Coordinator	1.00	0.00	1.00
MDS Nurse	1.00	0.00	1.00
Registered Nurses	8.42	0.35	8.77
Certified Nursing Assistants	14.04	2.81	16.85
Ward Secretary	1.00	0.00	1.00
Scheduler	0.75	0.25	1.00
Memory Care Manager	0.00	0.50	0.50
Food Service Supervisor	0.75	0.25	1.00
Cooks	1.40	0.47	1.87
Dietary Aides	2.10	0.53	2.63
Utility Worker	1.40	0.00	1.40
Social Services Director	0.75	0.00	0.75
Activity Director/Manager	0.75	0.25	1.00
Activity Assistant	1.05	0.20	1.25
Housekeeping Aides	2.10	0.70	2.80
Maintenance Mechanic	0.75	0.25	1.00
Administrator	0.75	0.25	1.00
Admissions Coordinator	1.00	0.00	1.00
Receptionist	0.88	0.29	1.17
Health Care Associate	0.00	0.25	0.25
Business Office Manager	0.75	0.25	1.00
Totals	41.64	7.59	49.23

The assumptions and methodology used to project staffing are provided in Section VII, pages 73-74. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Forms B and C, which are found in Section XIII. In Section VII, pages 81-82, and Exhibit 9, the applicant describes the methods to be used to recruit or fill new positions and its proposed training and continuing education programs. In Exhibit 6, the applicant provides a letter from the Chief Medical Officer of Erickson Living, stating that the company is actively recruiting for the position of Medical Director.

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

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at 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 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.2, pages 12-18, the applicant states that the following ancillary and support services are necessary for the proposed services:

- Resident Care Assessment and Planning
- Nursing Services
- Restorative Programs
- Social Services
- Mental Health Services
- Recreation and Community Activities
- Transportation Services
- Physician Services
- Rehabilitation Services
- Dietary and Nutritional Services
- Pharmaceutical Services
- Hospice/Palliative Care

On pages 12-18, the applicant adequately explains how each ancillary and support service will be made available and provides supporting documentation in Exhibits 6 and 14.

In Section V, pages 62-63, the applicant describes its efforts to develop relationships with other local health care and social service providers and provides supporting documentation in Exhibits 6, 8, and 11.

The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system.

Conclusion

The Agency reviewed the:

- Application

- Exhibits to the application
- Remarks made at 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.

- (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.

C

In Section XI, page 112, the applicant states that the project involves constructing 34,153 square feet of new space. Line drawings are provided in Exhibit 13.

On pages 116-117, the applicant adequately explains how the cost, design, and means of construction represent the most reasonable alternative for the proposal and provides supporting documentation in Exhibit 13.

On pages 116-117, the applicant adequately explains why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services.

In Section III.4, page 42, and Section XI, pages 116-117, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

On pages 105-111, the applicant identifies the proposed site and provides information about the current owner, zoning and special use permits for the site, and the availability of water, sewer, and waste disposal at the site, and provides supporting documentation in Exhibit 12.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at 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.

- (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

Neither the applicant nor any related entities owns, operates, or manages an existing facility located in the service area. Therefore, Criterion (13a) is not applicable to this review.

- (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

Neither the applicant nor any related entities owns, operates, or manages an existing facility located in the service area. Therefore, Criterion (13b) is not applicable to this review.

- (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

NC

In Section VI.3, page 68, the applicant projects the following payor mix for the proposed services during the second full fiscal year of operation following completion of the project, as shown in the table below.

WRCC – Projected Payor Mix – FFY 2022		
Payor Source	NF Patients	ACH/SCU Patients
Private Pay	69.4%	90.0%
Commercial Insurance	0.0%	0.0%
Medicare	11.1%	0.0%
Medicaid	19.4%	0.0%
VA/CHAMPUS	0.0%	0.0%
State/County Special Assistance	0.0%	10.0%
Total	100.0%	100.0%

Totals may not foot due to rounding.

As shown in the table above, during the second full fiscal year of operation, the applicant projects that 11.1 percent of nursing care services will be provided to Medicare patients, 19.4 percent of nursing care services will be provided to Medicaid patients, and 10 percent of ACH services will be provided to recipients of State/County

Special Assistance. However, the applicant does not provide the assumptions and methodology used to project payor mix during the second full fiscal year of operation following completion of the project. Therefore, the projected payor mix is not reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at 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 not conforming to this criterion for the reason stated above.

- (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, pages 69-70, the applicant adequately describes the range of means by which patients will have access to the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at 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.

- (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 62, the applicant describes 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 8.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 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.

NC

Windsor Run proposes to develop a new combination NF, WRCC, as part of a new CCRC. WRCC will be located at 2010 McKee Road in Matthews, Mecklenburg County, and will have approximately 900 IL units, 36 NF beds, and 10 ACH beds. All 10 ACH beds will be part of a SCU. The 36 NF beds and the 10 ACH beds will be relocated from other facilities, and thus will be “open” beds available to patients who are not residents of the IL units being developed.

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.*” On page 211, the 2018 SMFP defines the service area for adult care home beds as “...*the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrrell, are considered a combined service area.*” Thus, the service area for this proposal is Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

On pages 192-193 of the 2018 SMFP, Table 10A documents that there are a total of 31 existing or approved facilities in Mecklenburg County that offer or will offer NF services. The table below is a summary of those 31 facilities in Mecklenburg County, recreated from the 2018

SMFP, Chapter 10, Table 10A (pages 192-193) and Table 10C (page 205). There is a projected deficit of 395 ACH beds in 2021 for Mecklenburg County.

2017 NF Inventory and 2021 Need Projections for Mecklenburg County	
# Facilities with NF Beds	31
# Beds in Hospitals	16
# Beds in Nursing Facilities	3,264
Total # Licensed Beds	3,280
# CON Approved Beds (License Pending)	30
Total # NF Beds Available	3,310
Total # NF Beds in Planning Inventory	2,957
Projected Bed Utilization with Vacancy Factor*	3,352
Projected Bed Surplus (Deficit)	(395)

*Calculated by dividing Projected Bed Utilization by 95%.

The applicants do not propose to develop new NF beds, but rather to relocate 36 existing licensed NF beds, 22 currently located at Ridgewood in Beaufort County, and 14 currently located at Willow Ridge in Rutherford County, to develop a new CCRC in Mecklenburg County. There will still be a deficit of NF beds in Mecklenburg County upon completion of the proposed project.

On pages 226-228 of the 2018 SMFP, Table 11A documents that there are a total of 51 existing or approved facilities in Mecklenburg County that offer or will offer ACH services. The table below is a summary of those 51 facilities in Mecklenburg County, recreated from the 2018 SMFP, Chapter 11, Table 11A (pages 226-228) and Table 11B (page 239). There is a projected surplus of 360 ACH beds in 2021 for Mecklenburg County.

2017 ACH Inventory and 2021 Need Projections for Mecklenburg County	
# ACH Facilities	51
# Beds in ACH Facilities	3,015
# Beds in Nursing Facilities	235
Total # Licensed Beds	3,250
# CON Approved Beds (License Pending)	144
Total # ACH Beds Available	3,394
Total # ACH Beds in Planning Inventory	3,305
Projected Bed Utilization Summary	2,945
Projected Bed Surplus (Deficit)	360

The applicants do not propose to develop new ACH beds, but rather to relocate 10 existing licensed ACH beds currently located at Hunter Ridge to develop a new facility in Mecklenburg County. There will be no increase in the inventory of ACH beds in Mecklenburg County.

In Section V.6, pages 64-65, the applicant describes the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality, and access to the proposed services. On page 64, the applicant states:

“The proposed project promotes a cost-effective approach to the provision of long-term care, it provides access to health care services to future WR residents and members of the general public in need of skilled nursing care or assisted living, and it encourages quality health care services.”

The applicant adequately demonstrates how any enhanced competition will have a positive impact upon quality; however, the applicant does not adequately demonstrate:

- The cost-effectiveness of the proposal (see Sections III, VIII, IX, and XIII 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
- Remarks made at 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 not 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.

NA

Neither the applicant nor any related entities is involved in the provision of health services in North Carolina. Therefore, Criterion (20) is not applicable to this review.

- (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.

NC

The Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100 are applicable to this review. The application is not conforming to all applicable criteria. The specific criteria are discussed below.

10A NCAC 14C .1102 PERFORMANCE STANDARDS

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

-NA- The applicant is 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.*

-NC- In Section IV, pages 53-56, the applicant projects that the occupancy for the total number of NF beds will be at 90 percent by the end of the second operating year following completion of the project. However, the applicant's projected utilization is not reasonable and adequately supported. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. Therefore, the application is not conforming to this Rule.

(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 is 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.*

-NC- In Section IV, pages 53-56, the applicant projects that the occupancy for the total number of ACH beds will be at 90 percent by the end of the second operating year following completion of the project. However, the applicant's projected utilization is not reasonable and adequately supported. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. Therefore, the application is not conforming to this Rule.