

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: September 27, 2019

Findings Date: September 27, 2019

Project Analyst: Celia C. Inman

Team Leader: Fatimah Wilson

Project ID #: F-11730-19

Facility: The Barclay at SouthPark

FID #: 170065

County: Mecklenburg

Applicants: Charlotte SP Senior Housing OPCO, LLC
Charlotte SP Senior Housing PROPCO, LLC

Project: Relocate no more than 8 ACH beds from Radbourne Manor to The Barclay at SouthPark for a total of no more than 22 NF beds and 108 ACH beds, including a 24-bed special care unit, upon completion of this project and Project ID# F-11296-17 (develop a new combination nursing facility with 22 NF and 100 ACH beds). This is also a change of scope for Project ID #F-11607-18 (relocate 12 ACH beds from Radbourne Manor to a facility in Mint Hill).

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.

NA

Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, LLC, collectively referred to as “Charlotte SP” or “the applicant”, proposes to relocate eight adult care home (ACH) beds from Radbourne Manor Village to The Barclay at SouthPark (The Barclay) for a total of 22 nursing facility (NF) and 108 ACH beds. This

is also a change of scope application for Project ID #F-11607-18 (relocate 12 ACH beds from Radbourne Manor to a facility in Mint Hill).

Project ID# F-11296-17 (develop a new combination NF with 22 NF beds and 100 ACH beds, including a 24-bed special care unit) was denied and settled upon the submission of supplemental information; thereafter, 22 NF beds and 100 ACH beds, including a 24-bed special care unit, were approved to be developed at The Barclay.

This application seeks to relocate eight existing, but unutilized ACH beds (eight of the 12 ACH beds originally located at Radbourne Manor, approved for relocation and development at Liberty Commons Nursing & Rehabilitation Center of Mint Hill in Project ID #F-11607-18) to The Barclay for a total of no more than 22 NF beds and 108 ACH beds.

Need Determination

The proposed project does not involve the addition of any new health service facility beds, services, or equipment for which there is a need determination in the 2019 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations in the 2019 SMFP which are applicable to this review.

Policies

The relocation of beds is within Mecklenburg County and the capital expenditure for this project is less than \$2 million; therefore, there are no policies in the 2019 SMFP which are applicable to this review.

Conclusion

The Agency reviewed the:

- application, and
- exhibits to the application.

Based on that review, the Agency concludes that Criterion (1) is not applicable to this review.

- (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

Charlotte SP, the applicant, proposes to relocate eight ACH beds from Radbourne Manor to The Barclay for a total of no more than 22 NF beds and 108 ACH beds, including a 24-bed special care unit, upon completion of this project and Project ID# F-11296-17 (develop a new combination NF with 22 NF beds and 100 ACH beds, including a 24-bed special care unit). This is also a change of scope application for Project ID #F-11607-18 (relocate 12 ACH beds from Radbourne Manor to a facility in Mint Hill).

Project ID #F-11296-17 was denied and settled upon the submission of supplemental information; thereafter, 22 NF beds and 100 ACH beds, including a 24-bed special care unit, were approved to be developed at The Barclay.

Companion Project ID #F-11729-19 seeks to relocate the other four ACH beds in Project ID #F-11607-18 to The Terrace at Brightmore of South Charlotte (The Terrace). All of the aforementioned facilities are located in Mecklenburg County.

The approval of this project and companion Project ID #F-11729-19 would have the effect of nullifying Project ID #F-11607-18 which sought to relocate the twelve ACH beds of Project ID #F-11052-15 to the undeveloped 83-bed NF in Project ID #F-11461-18, Liberty Commons Nursing & Rehabilitation Center of Mint Hill. In Section E, page 31, the applicant states that it will relinquish the certificate of need (CON) for Project ID #F-11607-18, which as a change of scope project, added 12 ACH beds to the 83 NF beds approved in Project ID #F-11461-18.

Upon approval and completion of the proposed projects, Project ID #F-11730-19, F-11729-19, and F-11296-17, The Barclay would be licensed for a total of 22 NF beds and 108 ACH beds, The Terrace would be licensed for 34 ACH beds, Radbourne Manor would be licensed for 0 ACH beds, and Liberty Commons Nursing & Rehabilitation Center of Mint Hill would be licensed for 83 nursing facility beds and 0 ACH beds.

In Section C.4, page 19, the applicant states that The Barclay at SouthPark will be a new continuing care retirement community (CCRC) offering different levels of living, ranging from independent living through assisted living and skilled nursing care. Project ID #F-11296-17 was previously approved for 22 NF and 100 ACH beds at the Barclay. Therefore, the campus has been approved to consist of:

- 165 independent living residences,
- 100 ACH beds (20 open¹), and
- 22 skilled nursing beds (22 open).

If this Change of Scope application under review is approved, the campus will consist of:

¹ Open refers to the fact that the beds are not restricted for exclusive use by residents of the retirement community as in Policy LTC-1 beds, but instead are available to persons not previously living in the retirement community. These beds are not restricted from participation in Medicaid and State/County Assistance programs.

- 165 independent living residences,
- 108 ACH beds (28 open), and
- 22 skilled nursing beds (22 open).

Patient Origin

On page 219, the 2019 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The Barclay is located in Mecklenburg County, thus, the service area for this project is Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

In Section C.2, page 17, the applicant states that the SouthPark retirement community is not yet developed and therefore has no historical patient origin. Additionally, Radbourne Manor Village is currently closed; therefore, there is no historical patient origin of the ACH beds to be relocated.

In Section C.3, page 18, the applicant provides the projected patient origin at The Barclay in the third full fiscal year following project development, as summarized in the following tables.

**The Barclay at SouthPark
 Projected Nursing Facility Patient Origin
 Third Full Fiscal Year
 10/1/23-9/1/24**

County/States	General NF Beds Number of Patients	General NF Beds Percent of Patients
Mecklenburg	21	100%
Total	21	100%

Source: Section C, page 18
 Totals may not sum due to rounding

**The Barclay at SouthPark
 Projected ACH Patient Origin
 Third Full Fiscal Year
 10/1/23-9/1/24**

County/States	General ACH Beds Number of Patients	General ACH Beds Percent of Patients
Mecklenburg	101	100%
Total	101	100%

Source: Section C, page 18
 Totals may not sum due to rounding

In Section C, page 18, the applicant provides the assumptions and methodology used to project its patient origin, stating that the applicant identified neighboring existing facilities and utilized each individual License Renewal Application (LRA) to compare

and project similar patient origin for The Barclay, with the desire to maximize the beds available to residents of Mecklenburg County. The applicant's assumptions are reasonable and adequately supported. The assumptions and methodology related to patient origin are also consistent with those made in Project ID #F-11296-17.

Analysis of Need

In Section C, pages 19-22, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services. On page 19, the applicant states that the following factors support the need for the relocation of the eight ACH beds:

- Projected growth in the service area population (pages 19-21),
- Need to create semi-private rooms for couples (page 21),
- No current regulation of multiunit assisted housing with services (MUHS) beds (pages 21-22), and
- Serve Mecklenburg residents needing ACH services during CCRC fill up (page 22).

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

- The North Carolina Office of State Budget and Management (NCOSBM) shows the total Mecklenburg County population increased more than 20% between 2010 and 2019. The total Mecklenburg County population is projected to increase 8% between 2019 and 2024.
- The NCOSBM projects that the population age 65 and older in Mecklenburg County is projected to grow by more than 150% between 2010 and 2030.
- According to The National Center for Assisted Living (NCAL), approximately 93% of assisted living residents are 65 years of age or older.
- The applicant maintains that based on the experience of existing retirement communities, couples living at The Barclay would benefit from the addition of semi-private rooms.
- The applicant states that the North Carolina Department of Insurance (NC DOI) regulates CCRCs, however, the NC DOI does not regulate any medical/healthcare services of the assisted living component of CCRCs and because of the CCRC exemption from the regulatory requirements for MUHS programs as outlined in state statute, the Adult Care Home Licensure Section appears not to have any authority to regulate medical/healthcare services. The applicant states that relocating the eight ACH beds and placing them in the MUHS area will allow the whole healthcare building to be licensed care with minimal additional capital impact.
- The "closed" beds (LTC-1 beds that are restricted to prior residents of the CCRC) cannot be utilized until a resident has lived at the CCRC for at least 30 days; therefore, the 80 closed beds cannot be utilized upon initial opening. Adding the eight relocated ACH beds to the 20 open beds will allow SouthPark to accept additional residents from the general public during fill up while CCRC residents

matriculate from independent living, better serving the elderly residents of Mecklenburg County.

The assumptions and methodology related to demonstrating need are also consistent with those made in Project ID #F-11296-17.

Projected Utilization

The Barclay is not an existing facility; therefore, there is no historical utilization. In Section Q, Form C, page 67, the applicant provides the projected utilization (FY2022-FY2024), as shown in the table below.

The Barclay Projected Bed Utilization

	Projected		
	FY2022	FY2023	FY2024
# General NF Beds	22	22	22
Days of Care	7,572	7,665	7,665
Occupancy Rate	94.30%	95.45%	95.45%
Total # NF Beds	22	22	22
Days of Care	7,572	7,665	7,665
Occupancy Rate	94.30%	95.45%	95.45%
# General ACH Beds	108	108	108
Days of Care	17,152	35,330	36,865
Occupancy Rate	43.51%	89.62%	93.52%
Total # ACH Beds	108	108	108
Days of Care	17,152	35,330	36,865
Occupancy Rate	43.51%	89.62%	93.52%

In Section Q, page 66, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

- Fiscal years run from October 1 through September 30.
- NF and ACH services will be offered beginning October 1, 2021.
- The independent living portion of the facility will open several months prior to the ACH and NF beds.
- Fill-up rate is based on the applicant’s historical fill-up experience with other facilities
 - 80 Policy LTC-1 ACH beds - one resident per month (0.25 per week) during the second month and two residents per month during the third month and five residents per month (1.25 per week) until fully utilized
 - 28 “open” ACH beds – two residents per week during the first month and three residents per week thereafter until the open beds are fully utilized
 - 22 “open” NF beds – four residents per week until fully utilized

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

- Projected utilization is based on the applicant's experience with occupancy at other ACH facilities.
- The applicant's utilization projections are supported by the historical and projected growth and aging of the Mecklenburg County population, particularly for older patient populations.
- The project seeks to develop ACH beds which are included in the Mecklenburg ACH inventory, but are not being developed as approved; therefore, are currently unutilized.

The assumptions and methodology related to demonstrating need are consistent with those made in Project ID #F-11296-17.

Access

This is a change of scope application for Project ID #F-11296-17, which was approved for 22 NF beds and 100 ACH beds, including a 24-bed special care unit. This application simply relocates eight existing ACH beds to the proposed facility for a total of 22 NF beds and 108 ACH beds. The applicant states that it uses the same assumptions and methodology for projecting payor source for the additional eight ACH beds as was used in Project ID #F-11296-17. In Section L, page 52, the applicant projects that 97.03% of total ACH bed days will be private pay and 2.97% will be County Assistance. The applicant states that this is consistent with CCRCs in Mecklenburg County and the applicant's other CCRCs. The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the 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 support their 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.

C

The applicant proposes to relocate eight of 12 ACH beds that were approved to be developed at Liberty Commons Nursing & Rehabilitation Center of Mint Hill (Project ID #F-11607-18) to the Barclay. The remaining four of the 12 ACH beds are proposed to be relocated to The Terrace in companion project, Project ID #F-11729-19.

The applicant discusses the relocation of the eight ACH beds in section D, pages 29-30. The 12 beds have not been developed as previously approved; therefore, the needs of the population that was to be served are not being adequately met at this time. The relocation of the proposed eight beds within Mecklenburg County will help to meet the needs of the population to be served and will not negatively impact 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. Thus, the proposed project to relocate unutilized beds will not reduce or eliminate existing services.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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

The applicant proposes to relocate eight ACH beds from Radbourne Manor to The Barclay.

In Section E, page 31, the applicant discusses the alternatives considered for the 12 ACH beds and explains why each alternative is either more costly or less effective than the alternative proposed in this application. The alternatives considered were:

- Maintain the Status Quo, Developing the 12 ACH Beds at Liberty Commons of Mint Hill (Project ID #F-11607-18) – The applicant states that the addition of the 12 ACH beds at Mint Hill, adding a million dollars to the capital cost of developing the 83-bed nursing facility, is no longer financially feasible; therefore, this alternative is not the least costly or most effective alternative.
- Move all 12 Beds to The Terrace – the applicant states that this alternative would require significantly more capital because additional new space would have to be constructed at The Terrace, making this alternative more costly and not the most effective alternative.
- Move all 12 Beds to The Barclay – the applicant states that while this alternative would be financially feasible, it would be denying the residents of The Terrace access to additional ACH beds; therefore, this alternative was not considered the most effective alternative.

On page 31, the applicant states:

“After considering the available alternatives, the applicants decided the addition of 4 adult care home beds at The Terrance and the remaining 8 ACH beds at Barclay at SouthPark best serves the needs of its current and future Mecklenburg County residents. This alternative is clearly the least costly and most effective alternative.”

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

- The application is conforming to all statutory and regulatory review criteria.
- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.

Conclusion

The Agency reviewed the:

- application, and
- exhibits to the application.

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. Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, LLC shall materially comply with all representations made in this application and the representations in Project ID #F-11296-17.**
- 2. Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, LLC shall relocate no more than eight adult care home beds from Radbourne Manor for a total of no more than 22 nursing facility beds and 108 adult care home beds at The Barclay at SouthPark upon completion of this project and Project ID #F-11296-17.**
- 3. Prior to issuance of the CON, Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC shall take appropriate steps to relinquish the CON for Project ID #F-11607-19 (relocate 12 ACH beds from Radbourne Manor to a facility in Mint Hill).**
- 4. The total combined capital expenditure of both projects is \$42,606,498, an increase of \$802,641 over the capital expenditure of \$41,803,857 previously approved in Project ID #F-11296-17.**
- 5. For the first two years of operation following completion of the project, Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q 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. No later than three months after the last day of each of the first three full fiscal years of operation following initiation of the services authorized by this certificate of need, Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, 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.**
- 7. Charlotte SP Senior Housing OPCO, LLC and Charlotte SP Senior Housing PROPCO, 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 applicant proposes to relocate eight ACH beds from Radbourne Manor Village to The Barclay for a total of no more than 22 NF beds and 108 ACH beds. This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds, including a 24-bed special care unit.

Capital and Working Capital Costs

In Section Q, Form F.1b Capital Cost, page 69, the applicant projects the total capital cost of this change of scope project, as shown in the table below.

	Column B Previously Approved Capital Cost Project ID #F-11296-17	Column C New Total Capital Cost	Column D Difference Project ID #F-11730-19
Land /Closing Costs/ Site Prep	\$5,055,532	\$5,055,532	\$0
Construction Contract	\$32,585,573	\$33,207,130	\$621,557
Architect/Engineering Fees	\$1,333,948	\$1,421,420	\$87,472
Furniture	\$1,220,000	\$1,300,000	\$80,000
Consultant Fees	\$372,920	\$379,670	\$6,750
Financing Costs	\$283,976	\$285,833	\$1,857
Interest During Construction	\$951,908	\$956,913	\$5,005
Total	\$41,803,857	\$42,606,498	\$802,641

Totals may not sum due to rounding

In Section F, pages 34-35, the applicant projects there will be no additional start-up costs or additional initial operating expenses above the working capital approved in Project ID #F-11296-17, for which this application is a change of scope.

Availability of Funds

In Section F.2, page 33, the applicant states that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	The Barclay at SouthPark	Total
Loans	\$	\$
Accumulated reserves or OE *	\$802,641	\$802,641
Bonds	\$	\$
Other (Specify)	\$	\$
Total Financing	\$802,641	\$802,641

* OE = Owner's Equity

Exhibit F.2 contains a letter from the owners of The Barclay, John A. McNeill Jr. and Ronald B. McNeill, committing to personally fund the project. Exhibit F.2 of Companion Project ID #F-11729-19 contains a letter from the McNeills' CPA attesting to their personal financial status in excess of \$15,000,000 in cash, stocks or short-term investments and the availability of funds for the proposed project. The applicant adequately demonstrates that sufficient funds will be available for the capital needs of the proposed project.

Financial Feasibility

In Section Q, the applicant provides pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.5, pages 81-82, the applicant projects that revenues will exceed operating expenses in the second and third full fiscal year following completion of the project, as summarized in the table below.

	PY1 FY2022	PY2 FY2023	PY3 FY2024
NF Beds			
Projected # of Patient Days	7,572	7,665	7,665
Gross Patient Revenue	\$ 3,609,278	\$ 3,655,081	\$ 3,674,061
Deductions from Gross Pt Rev	\$ 187,274	\$ 189,576	\$ 189,614
Net Patient Revenue	\$ 3,422,004	\$ 3,465,505	\$ 3,484,447
Projected Average Net Revenue Per Patient Day	\$ 452	\$ 452	\$ 455
Other Revenue	\$ 1,590	\$ 1,610	\$ 1,610
Total Revenue	\$ 3,423,594	\$ 3,467,115	\$ 3,486,057
Total Operating Expenses	\$ 2,946,784	\$ 2,837,424	\$ 2,876,926
Avg Operating Expense / Pt Day	\$ 389	\$ 370	\$ 375
NF Net Income	\$ 476,810	\$ 629,691	\$ 609,131
ACH Beds			
Projected # of Patient Days	17,152	35,330	36,865
Gross Patient Revenue	\$ 4,073,843	\$ 8,947,840	\$ 9,740,410
Deductions from Gross Pt Rev	\$ 8,148	\$ 17,896	\$ 19,481
Net Revenue	\$ 4,065,695	\$ 8,929,944	\$ 9,720,929
Projected Average Net Revenue Per Patient Day	\$ 237	\$ 253	\$ 264
Other Revenue	\$ 36,877	\$ 75,960	\$ 79,260
Total Revenue	\$ 4,102,572	\$ 9,005,904	\$ 9,800,189
Total Operating Expenses	\$ 5,379,194	\$ 6,319,645	\$ 6,470,239
Avg Operating Expense / Pt Day	\$ 314	\$ 179	\$ 176
ACH Net Income	\$ (1,276,622)	\$ 2,686,259	\$ 3,329,950
Total Licensed Beds (NF and ACH)			
Projected # of Patient Days	24,724	42,995	44,530
Gross Patient Revenue	\$ 7,683,121	\$12,602,921	\$13,414,471
Deductions from Gross Pt Rev	\$ 195,422	\$ 207,472	\$ 209,095
Net Revenue	\$ 7,487,699	\$ 12,395,449	\$13,205,376
Projected Average Net Revenue Per Patient Day	\$ 689	\$ 705	\$ 718
Other Revenue	\$ 38,467	\$ 77,570	\$ 80,870
Total Revenue	\$ 7,526,166	\$ 12,473,019	\$ 13,286,246
Total Operating Expenses	\$ 8,325,978	\$ 9,157,069	\$ 9,347,165
Avg Operating Expense / Pt Day	\$ 703	\$ 549	\$ 551
Facility Net Income	\$ (799,812)	\$ 3,315,950	\$ 3,939,081

In Section Q, pages 70-72 and 74-75, the applicant provides the assumptions used regarding charges/revenues and costs, respectively. The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs, and charges. The assumptions are also consistent with those

used in Project ID #F-11296-17. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

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

- The applicant adequately demonstrates that the capital costs are based on reasonable and adequately supported assumptions.
 - The applicant adequately demonstrates availability of sufficient funds for the capital needs of the proposal.
 - The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.
- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

The applicant proposes to relocate eight ACH beds from Radbourne Manor Village to The Barclay for a total of no more than 22 NF beds and 108 ACH beds. This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds.

On page 219, the 2019 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The Barclay is located in Mecklenburg County. Thus, the service area for this project is Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

Based on the data reported in Table 11A: Inventory of Adult Care Homes, pages 234-236 of the 2019 SMFP, Mecklenburg County currently has 45 facilities with ACH beds with a total planning inventory of 3,119 ACH beds, including beds with Agency approval or license pending minus exclusions. Also, based on data in Table 11C: Adult Care Home Need Projections for 2022, page 251 in the 2019 SMFP, Mecklenburg County has an adjusted occupancy rate of 75.99% and is projected to have an adult care home bed surplus of 218 beds in 2022.

In Section G, pages 38-40, the applicant provides a listing of the information provided in Table 11A of the 2019 SMFP and the 2017 days of care and occupancy rates, as provided in the individual 2018 License Renewal Applications (LRAs).

In Section G, page 40, the applicant explains why it believes the proposal would not result in the unnecessary duplication of existing or approved ACH bed services in Mecklenburg County. The applicant states that the proposed project does not seek to increase the number of ACH beds in Mecklenburg County. Rather, the applicant proposes to relocate existing ACH beds which are currently undeveloped; therefore, the project will not result in unnecessary duplication of existing or approved ACH beds.

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

- The proposal does not increase the inventory of ACH beds in Mecklenburg County.
- The ACH beds exist in the Mecklenburg ACH inventory, but are undeveloped and thus unutilized.
- The applicant adequately demonstrates the need for the eight relocated beds in addition to the existing 100 ACH beds at The Barclay.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

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

C

The applicant proposes to relocate eight ACH beds from Radbourne Manor Village to The Barclay for a total of no more than 22 NF beds and 108 ACH beds. This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds.

The Barclay is not an existing facility. In Section Q, Form H, page 84, the applicant provides the projected staffing for the proposed services in full-time equivalent (FTE) positions, as summarized in the following table.

FTE Position	1 st Full FY FY2022	2 nd Full FY FY2023	3 rd Full FY FY2024
RNs	4.00	4.00	4.00
LPNs	4.00	4.00	4.00
Personal Care Aides	45.00	45.00	45.00
DON	1.00	1.00	1.00
Assistant DON	1.00	1.00	1.00
MDS Nurse	1.00	1.00	1.00
Staff Development Coordinator	0.50	0.50	0.50
Clerical (Ward Secretary)	2.00	2.00	2.00
Medical Records	1.00	1.00	1.00
Physical Therapy	3.00	3.00	3.00
Speech Therapy	1.00	1.00	1.00
Occupational Therapy	2.00	2.00	2.00
Social Services	1.00	1.00	1.00
Activities	1.50	1.50	1.50
Transportation	1.00	1.00	1.00
Laundry and Linen	4.00	4.00	4.00
Housekeeping	8.00	8.00	8.00
Plant Operation & Maintenance	2.00	2.00	2.00
Administration	1.00	1.00	1.00
Other (Business Office)	2.00	2.00	2.00
Other (Med Tech)	13.00	13.00	13.00
Other (Marketing)	1.00	1.00	1.00
TOTAL	99.00[100.00]	99.00[100.00]	99.00[100.00]

Source: Form H in Section Q of the application
 Totals may not sum due to rounding

The assumptions used to project staffing are provided in Section Q, page 83. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.4, which is found in Section Q. The staffing assumptions are consistent with those provided in Project ID #F-11296-17. As a Change of Scope application, the applicant states that there were no changes for responses in Section H other than in Form F.4 Staffing, as provided in Section Q, page 84.

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, and

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

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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

The applicant proposes to relocate eight ACH beds from Radbourne Manor Village to The Barclay for a total of no more than 22 NF beds and 108 ACH beds. This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds. Project ID #F-11296-17 was found conforming to Criterion (8). There are no changes in this application relative to the provision of services that would change that outcome.

The applicant adequately demonstrates that necessary ancillary and support services will be made available and that the proposed services will be coordinated with the existing health care system.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion.

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

NA

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

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

NA

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

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

NA

The applicant proposes to relocate eight ACH beds from Radbourne Manor Village to The Barclay for a total of no more than 22 NF beds and 108 ACH beds. This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds.

Project ID #F-11296-17 was found conforming with this Criterion. In Section K.5, pages 48-49, the applicant states that the information provided in Project ID #F-11296-17 remains unchanged, except for the addition of eight ACH beds to the overall plan. The applicant further states the original design of the building includes designated MUHS

space which will house the additional ACH beds. Therefore, there will be no new construction of space and only minimal costs to update the space.

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

C

The applicant proposes to relocate eight ACH beds from Radbourne Manor Village to The Barclay for a total of no more than 22 NF beds and 108 ACH beds. This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds. Project ID #F-11296-17 was found conforming to Criterion (13a) and there are no changes in the application under review that would change that outcome.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion.

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

C

This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds. Project ID #F-11296-17 was found conforming to Criterion (13b) and the applicant states that nothing has changed in reference to this Criterion.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion.

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

C

The applicant proposes to relocate eight ACH beds from Radbourne Manor Village to The Barclay for a total of no more than 22 NF beds and 108 ACH beds. This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds as part of a CCRC in Mecklenburg County. Of the 108 ACH beds to be developed at the Barclay, 80 beds are Policy LTC-1 beds and therefore are not eligible for participation in the Medicaid or State/County Assistance programs.

In Section L.3, page 52, the applicant provides the following payor mix for the proposed services in the third full fiscal year.

**The Barclay Projected Payor Mix
FY2024**

Payor Category	NF Beds	ACH Beds
Private Pay	76.19%	97.03%
Medicare*	19.05%	0.00%
Medicaid*	4.76%	0.00%
County Special Assistance	0.00%	2.97%
Total	100.00%	100.00%

*Including managed care plans

The applicant projects that 76% of the NF services will be provided to self-pay patients, 19% to Medicare patients and 5% to Medicaid patients during the third full fiscal year following completion of the project. 97% of the ACH services will be provided to self-pay patients and 3% will be provided to County Assistance patients. This is consistent with the payor mix provided in Project ID #F-11296-17.

In Section L.3, page 52, the applicant provides the assumptions and methodology used to project payor mix, stating that they are the same as approved in Project ID #F-11296-17. Policy LTC-1 covers 80 of the 108 ACH beds, meaning that those beds are not eligible for Medicaid, or County Assistance programs.

The projected payor mix is reasonable and adequately supported for the following reasons:

- The projected payor mix is based on the payor mix of the The Barclay, as approved in Project ID #F-11296-17.
- A large percentage of the ACH beds in the facility are not certified for participation in Medicaid or County Assistance programs.
- The projected payor mix is consistent with other Mecklenburg County CCRC facilities.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion.

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

C

This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds. Project ID #F-11296-17 was found conforming to Criterion (13d) and the applicant states that nothing has changed in reference to this Criterion.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion.

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

C

This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds. Project ID #F-11296-17 was found conforming to Criterion (14) and the applicant states that nothing has changed in reference to this Criterion.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the applicant adequately demonstrates that the proposed services will accommodate the 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 applicant proposes to relocate eight ACH beds from Radbourne Manor Village to The Barclay for a total of no more than 22 NF beds and 108 ACH beds. This is a Change of Scope application for Project ID #F-11296-17 which approved the development of The Barclay with 22 NF beds and 100 ACH beds.

On page 219, the 2019 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The Barclay is located in Mecklenburg County. Thus, the service area for this project is Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

Based on the data reported in Table 11A: Inventory of Adult Care Homes, pages 234-236 of the 2019 SMFP, Mecklenburg County currently has 45 facilities with ACH beds with a total planning inventory of 3,119 ACH beds including ACH beds with Agency approval or license pending minus exclusions. Also, based on data in Table 11C: Adult Care Home Need Projections for 2022, page 251 in the 2019 SMFP, Mecklenburg County has an adjusted occupancy rate of 75.99% and is projected to have an adult care home bed surplus of 218 beds in 2022.

In Section N, pages 55-56, 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 cost-effectiveness, quality, and access to the proposed services. On page 55, in reference to the ACH beds, the applicant states:

“This project will increase the availability of one bedroom apartments in an adult care setting, resulting in a less institutional and more home-like setting for residents. . . . SouthPark will be a state of the art, homelike healthcare center that will focus on the dignity and quality of life of its residents. It will set the gold standard for a care facility in Mecklenburg County and we anticipate this facility may lead other existing facilities to renovate, upgrade, or replace old and outdated buildings in order to remain competitive and to provide comparable care facilities for the residents of Mecklenburg County.

Access will also be positively impacted by relocating existing unutilized beds to an area that is currently growing significantly, especially among senior adults.

...

Liberty works continually to optimize value and outcomes through the quality, efficiency, and effectiveness of everything we do. Our foremost obligation is to achieve the goals of our customers by devising and delivering high quality health care to each individual served.”

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

- The cost-effectiveness of the proposal (see Sections F and Q of the application and any referenced exhibits).
- Quality services will be provided (see Section O of the application and any referenced exhibits).
- Access will be provided to underserved groups (see Section L of the application and any referenced exhibits).

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

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

C

Liberty Long Term Care, LLC and Liberty Senior Living, LLC are affiliates of the applicant. Liberty Long Term Care, LLC owns and operates nursing facilities in North Carolina as identified on Form A.7(a), pages 63-64. Liberty Senior Living, LLC owns and operates ACH facilities in North Carolina as identified on Form A.7(b), page 65.

The Barclay will be a combination facility, with both NF and ACH beds licensed on its nursing facility license. In Section O, page 58, the applicant states that all Liberty facilities identified in Form A.7(a) have had annual surveys conducted by the North Carolina Department of Health and Human Services, resulting in deficiencies being cited at seven of the 27 nursing facilities. Of the facilities cited for deficiencies, one is back in compliance and the applicant states it intends to dispute one. The other five deficiencies appear to be pending.

After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all 27 NF facilities, the applicant provides 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 Services promulgated in 10A NCAC 14C .1100 are applicable to this review. The specific criteria are discussed below.

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 applicant does not propose to establish a new nursing facility or add nursing facility beds to an existing facility.

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

- NA- The applicant does not propose to establish a new nursing facility or add nursing facility beds to an existing facility.

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

- NA- The Barclay at SouthPark is not an existing facility. Project ID #F-11296-17 approved the development of the facility, but it has not been developed yet.

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

- C- In Section Q, Form C, page 67, the applicant projects that The Barclay will have an occupancy rate of 95.45% for the 22 NF beds and 89.62% for the 108 ACH beds by the end of the second full fiscal year following project completion, which exceeds the performance standard requirement of at least 85% occupancy. The applicant provides the assumptions and methodology to project utilization in Section Q. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.