

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: October 10, 2019

Findings Date: October 10, 2019

Project Analyst: Mike McKillip

Team Leader: Gloria C. Hale

Project ID #: F-11732-19

Facility: The Stewart Health Center

FID #: 970304

County: Mecklenburg

Applicants: The Cypress of Charlotte Club, Inc.

The Cypress of Charlotte Owner's Association, Inc.

Project: Add nine nursing facility (NF) beds pursuant to Policy NH-2 and ten adult care home (ACH) beds pursuant to Policy LTC-1 for a total of 65 NF and 14 ACH beds upon project completion

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 Cypress of Charlotte Club, Inc. and The Cypress of Charlotte Owner's Association, Inc., collectively referred to as "The Cypress of Charlotte" or "the applicant" proposes to add nine nursing facility (NF) beds pursuant to Policy NH-2 and ten adult care home (ACH) beds pursuant to Policy LTC-1 for a total of 65 NF and 14 ACH beds at its nursing facility, The Stewart Health Center, upon project completion.

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).

Policies

There are three policies in the 2019 SMFP which are applicable to this review: *Policy NH-2: Plan Exemption for Continuing Care Retirement Communities*, *Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities - Adult Care Home Beds* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

Policy NH-2

Policy NH-2, on pages 21-22 of the 2019 SMFP, states:

“Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for nursing care without regard to the nursing care bed need shown in Chapter 10: Nursing Care Facilities. To qualify for such exemption, applications for certificates of need shall show that the proposed nursing care bed capacity:

- 1. Will only be developed concurrently with or subsequent to construction on the same site of facilities for both of the following levels of care:*
 - a. independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages and rooms;*
 - b. licensed adult care home beds for use by people who, because of age or disability, require some personal services, incidental medical services, and room and board to assure their safety and comfort.*
- 2. Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing unit of the continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.*
- 3. Reflects the number of nursing care beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care after making use of all feasible alternatives to institutional nursing care.*
- 4. Will not be certified for participation in the Medicaid program.*

One hundred percent of the nursing care beds developed under this exemption shall be excluded from the inventory and the occupancy rate used to project nursing care bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the 1985 State Medical Facilities Plan are automatically amended to conform to the provisions of this policy at the effective date of this policy. Certificates of need awarded pursuant to the provisions of Chapter 920 Session Laws 1983 or Chapter 445, Session Laws 1985 shall not be amended.”

In Section B.3, pages 11-12, the applicant provides responses that demonstrate compliance with the requirements of Policy NH-2, and provides supporting documentation in Exhibits B-3, C-1.1, C-1.2 and C-1.3. The applicant adequately demonstrates conformance with the requirements of Policy NH-2.

Policy LTC-1

Policy LTC-1, on page 23 of the 2019 SMFP, states:

“Qualified continuing care retirement communities may include from the outset, or add or convert bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes. To qualify for such exemption, applications for certificates of need shall show that the proposed adult care home bed capacity:

- 1. Will only be developed concurrently with, or subsequent to, construction on the same site, of independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages, and rooms.*
- 2. Will provide for the provision of nursing services, medical services, or other health related services as required for licensure by the North Carolina Department of Insurance.*
- 3. Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing or adult care unit of the continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.*
- 4. Reflects the number of adult care home beds required to meet the current or projected needs of residents with whom the facility has an agreement*

to provide continuing care after making use of all feasible alternatives to institutional adult care home care.

5. *Will not participate in the Medicaid program or serve State-County Special Assistance recipients.”*

In Section B.7, pages 15-16, the applicant provides responses that demonstrate compliance with the requirements of Policy LTC-1, and provides supporting documentation in Exhibits B-3, C-1.1, C-1.2 and C-1.3. The applicant adequately demonstrates conformance with the requirements of Policy LTC-1.

Policy GEN-4

Policy GEN-4, on page 31 of the 2019 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 B.11, pages 18-19, the applicant states that the proposed addition will be constructed in compliance with all applicable federal, state, and local requirements for 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, subject to Condition (6) of Criterion (4).

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicant adequately demonstrates that the proposal is consistent with Policy NH-2, Policy LTC-1 and Policy GEN-4 based on the following reasons:

- The applicant adequately documents a plan for developing the proposed nursing facility beds on the same site as the independent living (IL) residences.
- The applicant adequately documents its plan for developing the proposed nursing facility beds to be used exclusively to meet the needs of existing IL residents.
- The applicant adequately documents the number of NF beds required to meet the current and projected needs of residents with whom the facility has an agreement to provide continuing care, after making use of all feasible alternatives to institutional nursing care,
- The applicant adequately documents that the proposed additional NF beds will not be certified for participation in the Medicaid program, and the applicant adequately documents its plan for developing the proposed adult care home beds on the same site as the independent living (IL) beds.
- The applicant adequately documents its plan for developing the proposed adult care home beds to be used exclusively to meet the needs of their IL residents.
- The applicant adequately documents the number of ACH beds required to meet the current and projected needs of residents with whom the facility has an agreement to provide continuing care.
- The applicant adequately documents that the proposed additional ACH beds will not be certified for participation in the Medicaid program or serve State-County Special Assistance recipients.
- The applicant provides a written statement that demonstrates that the project includes a plan for energy efficiency and water conservation.

(2) Repealed effective July 1, 1987.

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

C

The Cypress of Charlotte is a continuing care retirement community (CCRC) comprised of 310 independent living units (ILU) which operates a nursing facility, The Stewart Health

Center, with 56 nursing care beds and four adult care home beds. The applicant proposes to add nine NF beds pursuant to Policy NH-2 and ten ACH beds pursuant to Policy LTC-1 for a total of 65 NF and 14 ACH beds at its nursing facility upon project completion. In Section A.7, page 9, the applicant identifies the manager of the facility as Life Care Services, LLC.

Patient Origin

On page 189, the 2019 SMFP defines the service area for nursing care beds as the county in which the nursing care bed is located. On page 219, the 2019 SMFP defines the service area for adult care home beds as the county in which the adult care home bed is located. Thus, the service area for this proposal is Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

In Section C.3, page 26, the applicant states that all of its projected patients will originate from Mecklenburg County in the third full fiscal year of operation (FY2024). In Section C.3, page 27, 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 C.4, pages 28-32, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services, as summarized below.

- Historical and projected population growth and population aging in the Mecklenburg County service area (pages 28-29).
- The preference of current CCRC residents for private rooms as opposed to semi-private rooms and for higher levels of care (pages 29-30).
- The historical and projected utilization of the applicant's existing NF and ACH beds (pages 31-32).

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

- The applicant provides data from the North Carolina Office of State Budget and Management (NCOSBM) projecting the growth and aging of the Mecklenburg County population.
- The applicant provides documentation of its historical NF and ACH beds utilization which supports its utilization projections for the proposed NF and ACH beds.

Projected Utilization

In Section Q, Form C, page 71, the applicant provides projected utilization, as summarized in the table below.

Projected Utilization of The Stewart Health Center

	CY2018	Interim CY2019	Interim CY2020	Interim Partial 1/1/21- 3/31/21	Year 1 4/1/21- 3/31/22	Year 2 4/1/22- 3/31/23	Year 3 4/1/23- 3/31/24
Nursing Facility Beds							
Total Beds	56	56	56	56	65	65	65
Patient Days	18,819	18,426	18,067	4,454	20,637	20,830	20,838
Occupancy Rate	92.1%	90.1%	88.1%	88.4%	87.0%	87.8%	87.8%
Adult Care Home Beds							
Total Beds	4	4	4	4	14	14	14
Patient Days	1,022	1,235	1,433	353	2,515	4,173	4,165
Occupancy Rate	70.0%	84.6%	84.6%	84.6%	49.2%	81.7%	81.5%

In Section Q, Form C, page 71, the applicant provides the assumptions and methodology used to project utilization. On page 71, the applicant states,

“NF beds are projected to ramp up in Year 1 following the opening of additional beds and the availability of more private rooms. This ramp up is based on the historical demand and the pent up demand evidenced by community input and the aging of the community. There is an approximate census of 6 patients utilizing home health in their ILU [independent living units] that would be more appropriately served in NF beds. The community IL units have remained 100% occupied as the community has aged in place.

ACH beds are projected to ramp up in Year 1 following the opening of additional beds and the availability of more private rooms. This ramp up is based on the historical demand and pent up demand evidenced by community input and the use of home health services allowing patients to stay in their home when they are appropriate for and desire traditional ACH level care.”

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

- Projected utilization is based upon, and supported by, the historical utilization of the NF and ACH beds at The Stewart Health Center.
- Projected utilization is supported by projected population growth and aging of the Mecklenburg County service area and of the CCRC community itself, as well as those receiving home health care in their ILU that could be better served in NF and ACH beds.

Access

In Section C.8, page 34, the applicant states, *“The Community and the Health Center does not discriminate any persons including those of racial and ethnic minorities.”* In Section L.3, page 62, the applicant projects the payor mix for the ACH and NF at The Stewart Health Center in the third year of the project (FY2024), as summarized in the table below.

The Stewart Health Center Projected Payor Mix FY2024		
Payor Source	NF % Patient Days	ACH % Patient Days
Private Pay	95.3%	100.0%
Medicare	4.7%	0.0%
Total	100.0%	100.0%

In Section Q, Form C, page 85, the applicant states project payor mix is based on the historical experience of the health center. The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

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

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

NA

The applicant does not propose the reduction or elimination of a service. Therefore, Criterion (3a) is not applicable to this review.

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

C

The applicant proposes to add nine NF beds pursuant to Policy NH-2 and ten ACH beds pursuant to Policy LTC-1 for a total of 65 NF and 14 ACH beds at its nursing facility upon project completion.

In Section E.2, pages 41-42, 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:

- Maintain the status quo – The applicant states this was not an effective alternative due to the fact that it would not meet the need for additional ACH and NF bed capacity for the residents of the CCRC independent living units.
- Expand the Health Center with Semi-Private Beds – The applicant considered adding capacity by expanding the health center with semi-private beds, but determined that the alternative was less effective because residents have been reluctant to utilize the existing semi-private beds at the health center.

On page 39, the applicant states this proposal construct new private beds and convert some of the existing semi-private beds to private beds is the most effective alternative because it best satisfies the needs and demands of the residents of the CCRC who desire to age in place.

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

- The alternative will address the need for need for additional ACH and NF bed capacity for the residents of the CCRC independent living units.
- The proposed project will increase the number of private beds, which are strongly preferred to semi-private beds by the residents of the CCRC who are in need of ACH and NF care.

Conclusion

The Agency reviewed the:

- Application
- 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. The Cypress of Charlotte Club, Inc. and The Cypress of Charlotte Owner's Association, Inc. shall materially comply with all representations made in the certificate of need application.**

- 2. The Cypress of Charlotte Club, Inc. and The Cypress of Charlotte Owner's Association, Inc. shall develop no more than nine nursing facility beds pursuant to Policy NH-2 for a total of no more than 65 licensed nursing facility beds upon completion of this project.**
- 3. The nine additional Policy NH-2 nursing facility beds shall not be certified for participation in the Medicaid program.**
- 4. The Policy NH-2 nursing facility beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
- 5. The new Policy NH-2 nursing facility beds shall be developed on the same site with the independent living units and licensed adult care home beds.**
- 6. The Cypress of Charlotte Club, Inc. and The Cypress of Charlotte Owner's Association, Inc. shall develop no more than 10 additional adult care home beds pursuant to Policy LTC-1 for a total of no more than 14 adult care home beds upon completion of the project.**
- 7. The 10 Policy LTC-1 adult care home beds shall not participate in the Medicaid program or serve State-County Special Assistance recipients.**
- 8. The 10 Policy LTC-1 adult care home beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing or adult care unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
- 9. The 10 Policy LTC-1 adult care home beds shall be developed on the same site with the independent living units and nursing care beds.**
- 10. The Cypress of Charlotte Club, Inc. and The Cypress of Charlotte Owner's Association, Inc. shall 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.**
- 11. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, The Cypress of Charlotte Club, Inc. and The Cypress of Charlotte Owner's Association, Inc.**

shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:

- a. Payor mix for the services authorized in this certificate of need.**
- b. Utilization of the services authorized in this certificate of need.**
- c. Revenues and operating costs for the services authorized in this certificate of need.**
- d. Average gross revenue per unit of service.**
- e. Average net revenue per unit of service.**
- f. Average operating cost per unit of service.**

12. The Cypress of Charlotte Club, Inc. and The Cypress of Charlotte Owner's Association, Inc. shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.

- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant proposes to add nine NF beds pursuant to Policy NH-2 and ten ACH beds pursuant to Policy LTC-1 for a total of 65 NF and 14 ACH beds at its nursing facility upon project completion.

Capital and Working Capital Costs

In Section Q, Form F.1a, page 74, the applicant projects the total capital cost of the project as shown in the table below.

Site Costs	\$777,880
Construction Costs	\$7,354,070
Architect/Engineering Fees	\$710,000
Landscaping	\$75,000
Furniture	\$610,000
Consultant Fees	\$30,000
Interest during Construction	\$325,000
Miscellaneous/Other	\$115,000
Total	\$9,996,950

In Exhibits F-1.1 and F-1.2, the applicant provides the assumptions used to project the capital cost.

In Section F.3, pages 45-46, the applicant projects no start-up costs or initial operating expenses will be incurred because The Stewart Health Center is an existing nursing facility.

Availability of Funds

In Section F.2, page 43, the applicant states that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	The Cypress of Charlotte Club, Inc.	The Cypress of Charlotte Owner's Association, Inc.	Total
Loans	\$0	\$9,996,950	\$9,996,950
Accumulated reserves or OE *	\$0	\$0	\$0
Bonds	\$0	\$0	\$0
Other	\$0	\$0	\$0
Total Financing	\$0	\$9,996,950	\$9,996,950

* OE = Owner's Equity

Exhibit F-2.1 contains a letter dated June 24, 2019 from a Senior Vice President for the TowneBank of Charlotte documenting their intention to finance a loan to the applicant to finance the capital costs of the proposed project.

Financial Feasibility

The applicant provided pro forma financial statements through the first three full fiscal years of operation following completion of the project. In Form F.5, the applicant projects that net revenues will exceed operating expense in each of the first three full fiscal years of the project, as shown in the table below.

The Stewart Health Center Revenue and Expenses

	Year 1 FY2022	Year 2 FY2023	Year 3 FY2024
Total Patient Days	23,152	25,003	25,003
Total Gross Revenues	\$8,709,595	\$9,569,424	\$9,854,889
Total Net Revenue	\$8,191,995	\$8,994,927	\$9,263,157
Average Net Revenue/Patient Day	\$354	\$360	\$370
Total Operating Expenses (Costs)	\$7,814,660	\$8,228,421	\$8,462,722
Average Operating Expense/Patient Day	\$338	\$329	\$338
Net Income / (Loss)	\$377,335	\$766,506	\$800,435

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

Conclusion

The Agency reviewed the:

- Application

- Exhibits to the application

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 Cypress of Charlotte is a continuing care retirement community (CCRC) comprised of 310 independent living units (ILU) which operates a nursing facility, The Stewart Health Center, with 56 nursing care beds and four adult care home beds. The applicant proposes to add nine NF beds pursuant to Policy NH-2 and ten ACH beds pursuant to Policy LTC-1 for a total of 65 NF and 14 ACH beds at its nursing facility upon project completion.

On page 189, the 2019 SMFP defines the service area for nursing care beds as the county in which the nursing care bed is located. On page 219, the 2019 SMFP defines the service area for adult care home beds as the county in which the adult care home bed is located. 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 199-200 of the 2019 SMFP, Table 10A documents that there are a total of 35 existing or approved facilities in Mecklenburg County that offer or will offer NF services. The table below is a summary of those 35 facilities in Mecklenburg County, recreated from the 2019 SMFP, Chapter 10, Table 10A (pages 199-200) and Table 10C (page 212). There is a projected surplus of 147 NF beds in 2022 for Mecklenburg County.

2018 NF Inventory and 2022 Need Projections for Mecklenburg County	
# Facilities with NF Beds	35
# Beds in Hospitals	16
# Beds in Nursing Facilities	3,369
Total # Licensed Beds	3,385
# CON Approved Beds (License Pending)	249
Total # NF Beds Available	3,634
Total # NF Beds in Planning Inventory	3,276
Projected Bed Utilization with Vacancy Factor*	3,129
Projected Bed Surplus (Deficit)	147

*Calculated by dividing Projected Bed Utilization by 95%.

On pages 234-236 of the 2019 SMFP, Table 11A documents that there are a total of 45 existing or approved facilities in Mecklenburg County that offer or will offer ACH services. The table below is a summary of those 45 facilities in Mecklenburg County, recreated from the 2019 SMFP, Chapter 11, Table 11A (pages 234-236) and Table 11C (page 251). There is a projected surplus of 218 ACH beds in 2022 for Mecklenburg County.

2018 ACH Inventory and 2022 Need Projections for Mecklenburg County	
# ACH Facilities	45
# Beds in ACH Facilities	2,839
# Beds in Nursing Facilities	80
Total # Licensed Beds	2,919
# CON Approved Beds (License Pending)	200
Total # ACH Beds in Planning Inventory	3,119
Projected Bed Utilization Summary	2,901
Projected Bed Surplus (Deficit)	218

In Section G.3 page 49, the applicant explains why it believes the proposal would not result in the unnecessary duplication of existing or approved NF and ACH services in Mecklenburg County. On page 49, the applicant states:

“The Cypress of Charlotte is an existing CCRC in Mecklenburg County that only serves its resident members. Therefore, the proposed project will not duplicate any services within the service area. The proposed beds are requested under SMFP Policy NH-2 and LTC-1, which recognizes that beds developed as part of a CCRC are not considered in the inventory of nursing facility beds and adult care home beds used to generate the need methodology in the SMFP.”

The applicant adequately demonstrates that the nine Policy NH-2 NF beds and the ten Policy LTC-1 ACH beds will not result in an unnecessary duplication of the existing or approved services in Mecklenburg County for the following reasons:

- The applicant adequately demonstrates the need that independent living unit residents at the Cypress of Charlotte will have for the Policy NH-2 NF beds and Policy LTC-1 ACH beds at the CCRC.
- The applicant adequately documents that the nine NF beds and ten ACH beds will be used exclusively by people who already reside at the CCRC.
- The applicant adequately demonstrates that the proposed NF and ACH beds are needed in addition to the existing or approved nursing and adult care home beds in the service area.

Conclusion

The Agency reviewed the:

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

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

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

C

In Section Q, Form H, the applicant provides the current (FY2019) and projected full-time equivalent (FTE) staffing for the proposed services in the third full fiscal year of operation (FY2024), as shown in the following table.

The Stewart Health Center Current and Projected Staffing		
Position	Current FY2019	Projected FY2024
Registered Nurses	6.26	6.26
Licensed Practical Nurses	13.19	13.19
Aides	30.59	40.59
Assistant Director of Nursing	1.00	1.00
MDS Nurse	1.00	1.00
Staff Development Coordinator	1.00	1.00
Clerical	1.97	1.97
Dietary	12.00	15.00
Social Services	1.00	1.00
Activities	2.55	2.55
Laundry and Linen	1.55	2.05
Housekeeping	9.09	10.09
Plant Operation and Maintenance	1.64	2.14
Administration	2.80	2.80
Totals	85.64	101.00

The assumptions and methodology used to project staffing are provided in Section Q, Form H. 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. In Section H, pages 50-51, the applicant describes the methods to be used to recruit or fill new positions and its proposed training and continuing education programs. In Section H.4, page 52, the applicant identifies the medical director for the facility, and Exhibit H-4.2 contains a copy of a letter from the medical director expressing his willingness to serve in that capacity.

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

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.

In Section I.1, pages 53-54, the applicant identifies the ancillary and support services necessary for the proposed services, including therapy services, radiologist services and laboratory services. The applicant adequately explains how each ancillary and support service will be made available and provides supporting documentation in Exhibit C-1.2.

In Section I.2, pages 54-55, the applicant describes its efforts to develop relationships with other local health care and social service providers and provides supporting documentation in Exhibit I-2.

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

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 Sections K.1 and K.2, page 57, the applicant states that the project involves constructing 26,852 square feet of new space and renovating 31,821 square feet of existing space. Line drawings are provided in Exhibit K-1.

In Section K.3, page 57, the applicant adequately explains how the cost, design, and means of construction represent the most reasonable alternative for the proposal.

In Section K.3, pages 57-58, 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 K.3, page 58, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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;

C

In Section L.1, page 61, the applicant provides tables showing the historical (FY2018) payor mix for the ACH and NF at The Stewart Health Center, as summarized in the table below.

The Stewart Health Center Historical Payor Mix FY2018		
Payor Source	NF Patient Days	ACH Patient Days
Private Pay	95.9%	100.0%
Medicare	3.0%	0.0%
Other (Family Pay-ins)	0.1%	0.0%
Totals*	100.0%	100.0%

*Totals may not foot due to rounding.

In Section L.4, page 63, the applicant states, *“The facility is part of a CCRC so individuals making use of the facility are paid members of the community.”*

In Section L, page 60, the applicant provides the following comparison.

	Percentage of Total Patients Served by the Facility or Campus during the Last Full FY2019	Percentage of the Population of the Service Area
Female	60.0%	51.8%
Male	40.0%	48.2%
Unknown	0.0%	0.0%
64 and Younger	0.0%	88.5%
65 and Older	100.0%	11.5%
American Indian	0.0%	0.4%
Asian	2.0%	5.3%
Black or African-American	0.0%	28.3%
Native Hawaiian or Pacific Islander	0.0%	0.1%
White or Caucasian	36.0%	45.6%
Other Race	0.0%	20.3%
Declined / Unavailable	62.0%	0.0%

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately documents the extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved. Therefore, the application is conforming to this criterion.

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

C

Regarding any obligation to provide uncompensated care, community service or access by minorities and persons with disabilities, in Section L.2, page 61, the applicant states it is under no obligation under any applicable federal regulations to provide uncompensated care, community service, or access by minorities and handicapped persons.

In Section L.2(d), page 62, the applicant states that no civil rights access complaints have been filed against The Stewart Health Center, which is the only nursing facility owned or operated by the Cypress of Charlotte.

The Agency reviewed the:

- Application

- Exhibits to the application

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

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

C

In Section L.3, page 62, the applicant projects the payor mix for the ACH and NF patients at The Stewart Health Center in the third year of the project (FY2024), as summarized in the table below.

The Stewart Health Center Projected Payor Mix FY2024		
Payor Source	NF % Patient Days	ACH % Patient Days
Private Pay	95.3%	100.0%
Medicare	4.7%	0.0%
Total	100.0%	100.0%

In Section Q, Form C, page 85, the applicant states project payor mix is based on the historical experience of the health center. Policy NH-2 and Policy LTC-1 require the applicant to use the proposed additional NF and ACH beds exclusively to meet the needs of people with whom the facility has continuing care contracts and who have lived at the CCRC for at least 30 days. The policies also prohibit the applicant from participation in the Medicaid program and serving State-County Special Assistance recipients in the Policy NH-2 and Policy LTC-1 beds.

The projected payor mix is reasonable and adequately supported because the proposed Policy NH-2 NF beds and the Policy LTC-1 ACH beds are prohibited from participation in the Medicaid program or the State-County Special Assistance program.

The Agency reviewed the:

- Application
- Exhibits to the application

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

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

C

In Section L.5, page 63, 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

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 M.1, page 64, 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 M-2.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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 Cypress of Charlotte is a continuing care retirement community (CCRC) comprised of 310 independent living units (ILU) which operates a nursing facility, The Stewart Health Center, with 56 nursing care beds and four adult care home beds. The applicant proposes to add nine NF beds pursuant to Policy NH-2 and ten ACH beds pursuant to Policy LTC-1 for a total of 65 NF and 14 ACH beds at its nursing facility upon project completion.

On page 189, the 2019 SMFP defines the service area for nursing care beds as the county in which the nursing care bed is located. On page 219, the 2019 SMFP defines the service area for adult care home beds as the county in which the adult care home bed is located. 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 199-200 of the 2019 SMFP, Table 10A documents that there are a total of 35 existing or approved facilities in Mecklenburg County that offer or will offer NF services. The table below is a summary of those 35 facilities in Mecklenburg County, recreated from the 2019 SMFP, Chapter 10, Table 10A (pages 199-200) and Table 10C (page 212). There is a projected surplus of 147 NF beds in 2022 for Mecklenburg County.

2018 NF Inventory and 2022 Need Projections for Mecklenburg County	
# Facilities with NF Beds	35
# Beds in Hospitals	16
# Beds in Nursing Facilities	3,369
Total # Licensed Beds	3,385
# CON Approved Beds (License Pending)	249
Total # NF Beds Available	3,634
Total # NF Beds in Planning Inventory	3,276
Projected Bed Utilization with Vacancy Factor*	3,129
Projected Bed Surplus (Deficit)	147

*Calculated by dividing Projected Bed Utilization by 95%.

On pages 234-236 of the 2019 SMFP, Table 11A documents that there are a total of 45 existing or approved facilities in Mecklenburg County that offer or will offer ACH services. The table below is a summary of those 45 facilities in Mecklenburg County, recreated from the 2019 SMFP, Chapter 11, Table 11A (pages 234-236) and Table 11C (page 251). There is a projected surplus of 218 ACH beds in 2022 for Mecklenburg County.

2018 ACH Inventory and 2022 Need Projections for Mecklenburg County	
# ACH Facilities	45
# Beds in ACH Facilities	2,839
# Beds in Nursing Facilities	80
Total # Licensed Beds	2,919
# CON Approved Beds (License Pending)	200
Total # ACH Beds in Planning Inventory	3,119
Projected Bed Utilization Summary	2,901
Projected Bed Surplus (Deficit)	218

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

The applicant 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),
- Quality services will be provided (see Section O of the application and any exhibits), and
- Access will be provided to underserved groups (see Section L of the application and any exhibits).

Conclusion

The Agency reviewed the:

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

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

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

C

In Form A, the applicant identifies The Stewart Health Center as the only nursing facility located in North Carolina owned, operated or managed by the Cypress of Charlotte or a related entity.

In Section O.3, page 67 the applicant states that, during the 18 months immediately preceding the submittal of the application, no incidents related to quality of care occurred at this facility.

According to the files in the Nursing Home Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, no incidents related to quality of care occurred at this facility. 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 the facility, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

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

NA

The applicant proposes to develop NF beds pursuant to Policy NH-2 and ACH beds pursuant to Policy LTC-1. The Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100 are not applicable to this review because beds added pursuant to Policy NH-2 and Policy LTC-1 are used exclusively to meet the needs of people with whom the facility has continuing care contracts who have lived in a non-nursing unit of the center for a period of at least 30 days.