

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: February 28, 2020

Findings Date: February 28, 2020

Project Analyst: Gregory F. Yakaboski

Assistant Chief: Lisa Pittman

Project ID #: G-11809-19

Facility: The Oaks

FID #: 923497

County: Forsyth

Applicants: Liberty Commons Nursing and Rehabilitation Center of the Oaks, LLC
Liberty Healthcare Properties of the Oaks, LLC

Project: Relocate no more than 33 NF beds from Liberty Commons of Silas Creek to The Oaks, pursuant to Policy NH-6, which is a change of scope for Project ID# G-10216-13 (relocate 100 NF beds from Liberty Commons Springwood to Silas Creek) for a total of 151 NF beds upon completion of this project and Project ID# F-11462-18 (relocate 13 NF beds from The Oaks to Liberty Commons of Mecklenburg)

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

C

The applicants, Liberty Commons Nursing and Rehabilitation Center of the Oaks, LLC and Liberty Healthcare Properties of the Oaks, LLC, collectively referred to hereinafter as the “applicants”, propose to relocate 33 existing but undeveloped nursing facility (NF) beds within Forsyth County from the approved but undeveloped Liberty Commons of Silas Creek (Silas Creek) facility to an existing nursing facility in Forsyth County known as The Oaks. The 33 NF beds are proposed to be relocated pursuant to Policy NH-6 in the 2019 State Medical

Facilities Plan (SMFP). This would be a change of scope for Project ID #G-10216-13 (relocate 100 NF beds from Liberty Commons Springwood to Silas Creek.)

Background:

- All Liberty applicants are ultimately controlled by John A. McNeill, Jr. and Ronald McNeill.
- Liberty controlled the 200 NF bed facility known as Liberty Commons Nursing and Rehabilitation Center (Springwood Care Center) in Forsyth County.
- In 2013 Liberty filed two applications to relocate all 200 NF beds from the Springwood Care Center by developing two new 100 bed facilities in Forsyth County:
 - Liberty Commons of Silas Creek (Project ID #G-10216-13); and
 - Summerstone Health and Rehabilitation Center (Project ID #G-10220-13).
- Both applications were conditionally approved in February 2014.
- Silas Creek has not yet been developed.
- Summerstone was developed and is operational.
- In the November 2019 application review cycle Liberty simultaneously filed three applications, including this application, to relocate all the 100 existing but undeveloped NF beds from Silas Creek as follows:
 - Relocate 33 NF beds from Silas Creek to The Oaks (this application);
 - Relocate 18 NF beds from Silas Creek to Summerstone (Project ID #G-11802-19). Summerstone, like The Oaks, is in Forsyth County; and
 - Relocate 49 NF bed from Silas Creek to a proposed new nursing facility in Durham County to be know as Liberty Commons of Durham County (Project ID #G-11803-19).

Summary

	Current # of NF Beds	Proposed in 3 Filed Applications	# of NF beds upon projects being completed
Springwood Care Center	Closed in 2017	0	0
Silas Creek	100 NF Beds*	-100	0
Summerstone	120	+18	138
The Oaks	131**	+33	151***
Liberty Commons of Durham County	0	+49	49

*Undeveloped relocated NF beds from Springwood Care Center.

**In a separate application, Project ID#F-11462-18, 13 NF beds will be relocated from The Oaks to Mecklenburg County as of 10/1/2023. The applicants state that while these 13 NF beds are still licensed to The Oaks these beds are deliberately not utilized, pending their relocation to Mecklenburg County.

***The Oaks will be licensed for 164 beds upon completion of this project. However, the applicants plan to incorporate the 33 NF beds being relocated as part of this project in two phases: 20 NF beds will be incorporated and licensed as of 10/1/2020 and the remaining 13 NF beds from this project will be incorporated and licensed as of 10/1/2023 at the same time as the 13 NF beds going to Mecklenburg as part of Project ID#F-11462-18 will be de-licensed from The Oaks keeping the maximum number of licensed NF beds at The Oaks at 151 at any one time.

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 (2019 SMFP). Therefore, there are no need determinations applicable to this review.

Policies

Policy NH-6: *Relocation of Nursing Facility Beds* from the 2019 SMFP, page 23, is applicable to this review.

Policy NH-6 states:

“Policy NH-6: Relocation of Nursing Facility Beds

Relocations of existing licensed nursing facility beds are allowed. Certificate of need applicants proposing to relocate licensed nursing facility beds shall:

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

In supplemental information, Section B, pages 12-13, the applicants explain why they believe the application is conforming to Policy NH-6. The applicants state the proposed relocation is within Forsyth County and thus will not affect the current surplus.

Conclusion

The Agency reviewed the:

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

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicants adequately demonstrate that the proposal will not affect the current surplus of NF beds in Forsyth County and thus is consistent with Policy NH-6.

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicants propose to relocate 33 existing but undeveloped NF beds within Forsyth County from the approved but undeveloped Silas Creek facility to The Oaks facility. This would be a change of scope for Project ID #G-10216-13 (relocate 100 NF beds from Liberty Commons Springwood to Silas Creek.)

Patient Origin

On page 189, the 2019 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” The Oaks is in Forsyth County. Thus, the service area for this facility is Forsyth County. Facilities may also serve residents of counties not included in their service area.

The following table illustrates current and projected patient origin.

County	Current (10/1/2017 to 9/30/2018)	
	Patients	% of Total
Forsyth	379	85.36%
Davidson	20	4.50%
Davie	11	2.48%
Yadkin	10	2.25%
Stokes	6	1.35%
Surry	5	1.13%
Guilford	2	0.45%
Wilkes	2	0.45%
Other/Unknown*	9	2.03%
Total	444	100.00%

Source: Supplemental Information, Table on page 18.

*Other/Unknown may include: Avery (1), Moore (1), Orange (1), Other/Unknown(6)

The applicants intend to develop this proposed project in two distinct phases. Projected patient origin for each phase is based on the current FFY patient origin shown above. Projected patient origin for Phase 1: 20 additional NF beds to the Oaks is based on a functional capacity equivalent of 138 beds as illustrated in the table below.

County	Third Full FY of Operation following Project Completion (10/1/2022 to 9/30/2023)	
	Patients (Projected Daily Average)	% of Total
Forsyth	110	85.9%
Davidson	6	4.5%
Davie	3	2.5%
Yadkin	3	2.5%
Stokes	2	1.4%
Surry	1	1.1%
Other/Unknown*	3	2.3%
Total	128	100.0%

Source: Supplemental Information.

*Other/Unknown may include: Guilford, Wilkes or Unknown

Projected patient origin for Phase 2: 13 additional NF beds to the Oaks is based on a functional capacity equivalent of 151 beds as illustrated in the table below.

County	Sixth Full FY of Operation following Project Completion (10/1/2025 to 9/30/2026)	
	Patients (Projected Daily Average)	% of Total
Forsyth	117	85.45
Davidson	6	4.5%
Davie	3	2.5%
Yadkin	3	2.5%
Stokes	2	1.4%
Surry	2	1.4%
Other/Unknown**	4	2.9%
Total	137	100.0%

Source: Supplemental Information.

*Projected daily average.

**Other/Unknown may include: Guilford, Wilkes or Unknown

In supplemental information, page 19, the applicants provide the assumptions and methodology used to project patient origin. The applicants assumptions are reasonable and adequately supported.

Analysis of Need

In supplemental information, Section C, pages 20-23, the applicants explain why they believe the population projected to utilize the proposed services needs the proposed services. The applicants state:

- The Oaks current utilization is over 90% (Supplemental information).
- A large projected population growth in Forsyth County of the 65+ cohort. (Supplemental information pages 20-21).
- Lower capital cost for the proposed project in comparison to the original project. (Supplemental information pages 22-23).
- NF beds relocated from The Oaks at time of lower utilization, however, utilization at The Oaks now supports the need for additional NF beds. (Supplemental information, pages 21-22).

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

- The existing facility has sufficient space to accommodate the additional 33 NF beds without new construction in contrast to the new construction which would have been required in Project ID # G-10216-13 where the 33 NF beds were going to be developed.
- North Carolina State Office of Budget and Management (NCSOBM) projects the Forsyth County population age 65+ to grow by 73,767 people, or 21%, between the 2010 Census and 2030.
- The Oaks has averaged 90% occupancy based on a functional capacity of 118 NF beds for the first nine months of 2019.

- In supplemental information the administrator of The Oaks provided a letter which confirmed the functional capacity of The Oaks to be 118 NF beds.

Projected Utilization

In supplemental information, the applicants provide projected utilization, as illustrated in the following tables.

The proposed project is being divided into two phases. In the first phase 20 of the 33 NF beds being relocated from Silas Creek are developed and operational as of the beginning of the 1st Full FFY. In the second phase the remaining 13 of the 33 NF beds are developed and operational as of the beginning of the 4th Full FFY. The Oaks is not currently using the 13 NF beds being relocated from The Oaks to Liberty Commons of Mecklenburg (Project ID# F-11462-19), therefore, the applicants provide two projected utilization tables below; one based on the number of licensed beds and the other based on the functional capacity of The Oaks given that 13 NF beds are not being utilized.

The Oaks: Based on the # of licensed beds

	1 st Full FFY*	2 nd Full FFY	3 rd Full FFY	4 th Full FFY	5 th Full FFY	6 th Full FFY
# of NF Beds	151	151	151	151	151	151
Days of Care	45,073	46,903	46,903	49,782	49,914	49,914
Occupancy Rate	82.92%	85.01%	85.10%	90.32%	90.56%	90.56%

Source: Supplemental Information.

*The 1st Full FFY is 10/1/2020 to 9/30/2021.

The Oaks: Based on Functional Capacity

	1 st Full FFY*	2 nd Full FFY	3 rd Full FFY	4 th Full FFY	5 th Full FFY	6 th Full FFY
# of NF Beds	138	138	138	151	151	151
Days of Care	45,073	46,903	46,903	49,782	49,914	49,914
Occupancy Rate	90.73%	93.12%	93.12%	90.32%	90.56%	90.56%

Source: Supplemental Information.

*The 1st Full FFY is 10/1/2020 to 9/30/2021.

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

- Projected utilization is based on the applicants experience with occupancy at the existing facility, and
- The Oaks was at 90.19% occupancy based on its functional capacity of 118 NF beds for the last full fiscal year of 10/1/2018 to 9/30/2019, and
- The administrator of The Oaks provided a letter in supplemental information which confirmed the functional capacity of The Oaks to be 118 NF beds.

- Projected utilization is based on the applicants experience with occupancy and relocation of beds through its affiliation of 27 NF's throughout the state, and
- Projected utilization is based on projected population and demographic data for Forsyth County.

Access

In Section C.8 of supplemental information, page 24, the applicants describe the access low-income persons, racial and ethnic minorities, women, disabled people, the elderly, and underserved groups will have to the proposed services, stating that services will be non-restrictive and available on a first-come, first-served basis. In supplemental information the applicants state, “*Services provided by The Oaks are non-restrictive with respect to social, racial, ethnic, or gender related issues and are provided on a first come, first served basis.*”

In supplemental information, Section L, page 52, the applicants project the following payor mix during the third full fiscal year of operation following completion of the project, as illustrated in the following table.

Payor Category	Services as Percent of Total
Medicaid*	72.38%
Medicare*	20.23%
Private Pay	7.00%
Insurance*	0.39%
Total	100.00%

Source: Supplemental Information page 52.

*Including managed care plans.

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information publicly available during the review and used by the Agency.

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

- The applicants adequately identify the population to be served.
- The applicants adequately explain why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.

- The applicants project the extent to which all residents, including underserved groups, will have access to the proposed services (payer 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.

C

The applicants propose to relocate 33 existing but undeveloped NF beds within Forsyth County from the approved but undeveloped Silas Creek facility to The Oaks facility. This would be a change of scope for Project ID #G-10216-13 (relocate 100 NF beds from Liberty Commons Springwood to Silas Creek.)

In supplemental information, Section D, page 28, the applicants explain why they believe the needs of the population presently utilizing the services to be reduced, eliminated or relocated will be adequately met following completion of the project. In supplemental information, page 28, the applicants state:

“The 33 NF beds being relocated from previously approved Liberty Commons of Silas Creek (Project ID G-10216-13) to The Oaks are not currently being utilized. The beds associated with Liberty Commons of Silas Creek (Project ID G-10216-13) were part of Springwood Care Center, which has been closed since 2017. The beds at Springwood were split between Summerstone (100 NF beds) and Silas Creek (100 NF beds).”

The 33 NF beds proposed to be relocated are not currently being utilized and thus not currently serving a patient population, therefore relocation of the service will have no impact 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.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency

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

- The applicants adequately demonstrate that the needs of the population currently using the services to be reduced, eliminated or relocated will be adequately met following project completion.
 - The applicants adequately demonstrate that the project will not adversely impact the ability of underserved groups to access these services following project completion.
- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

CA

The applicants propose to relocate 33 existing but undeveloped NF beds within Forsyth County from the approved but undeveloped Silas Creek facility to The Oaks facility. This would be a change of scope for Project ID #G-10216-13 (relocate 100 NF beds from Liberty Commons Springwood to Silas Creek.)

In supplemental information, Section E, page 31, the applicants describe the alternatives considered and explain why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

Maintain the Status Quo – the applicants state that this alternative would not address the current need for nursing facility services in Forsyth County and that the proposed project is less costly. Therefore, this alternative is not the most effective alternative or least costly.

Move all 100 beds from Silas Creek between The Oaks and Summerstone – the applicants state that this alternative would have necessitated the construction of additional square footage thus adding significant capital costs, which, in turn, would have led increased patient costs. Further, this alternative the applicants state that this alternative would have necessitated converting all the rooms from private rooms into semi-private rooms. Therefore, this is not the least costly or most effective alternative.

In supplemental information, page 31, the applicants state that its proposal is the most effective alternative because it addresses the current and future need for NF beds in Forsyth County, is less costly, and keeps more rooms as private rooms as opposed to semi-private rooms.

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

- The application is conforming to all statutory and regulatory review criteria.
- The applicants provide credible information to explain why they believe the proposed project is the most effective alternative.

Conclusion

The Agency reviewed the:

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

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is approved subject to the following conditions:

- 1. Liberty Commons Nursing and Rehabilitation Center of the Oaks, LLC and Liberty Healthcare Properties of the Oaks, LLC shall materially comply with all representations made in the certificate of need application and any supplemental responses. In the event that representations conflict, Liberty Commons Nursing and Rehabilitation Center of the Oaks, LLC and Liberty Healthcare Properties of the Oaks, LLC shall materially comply with the last made representation.**
- 2. Liberty Commons Nursing and Rehabilitation Center of the Oaks, LLC and Liberty Healthcare Properties of the Oaks, LLC shall relocate no more than 33 NF beds from Liberty Commons of Silas Creek which is a change of scope for Project ID #G-10216-13 (Relocate 100 NF beds from Liberty Commons Springwood to Silas Creek).**
- 3. Upon completion of the project and Project ID# F-11462-18 (relocate 13 NF beds from The Oaks to Liberty Commons of Mecklenburg), The Oaks shall be licensed for no more than 151 nursing facility beds. Liberty Commons of Silas Creek (Project ID#G-10216-13) will be licensed for no nursing facility beds upon completion of this project, Project ID# G-11802 (relocate 18 NF beds from Liberty Commons of Silas Creek to Summerstone Health and Rehabilitation Center) and Project ID# G-11803-19 (relocate 49 NF beds from Liberty Commons of Silas Creek to Liberty Commons of Durham County).**
- 4. 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, Liberty Commons Nursing and Rehabilitation Center of the Oaks, LLC and Liberty Healthcare Properties of the Oaks, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
 - a. Payor mix for the services authorized in this certificate of need.**
 - b. Utilization of the services authorized in this certificate of need.**
 - c. Revenues and operating costs for the services authorized in this certificate of need.**
 - d. Average gross revenue per unit of service.**
 - e. Average net revenue per unit of service.**
 - f. Average operating cost per unit of service.**

5. Liberty Commons Nursing and Rehabilitation Center of the Oaks, LLC and Liberty Healthcare Properties of the Oaks, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.

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

C

The applicants propose to relocate 33 existing but undeveloped NF beds within Forsyth County from the approved but undeveloped Silas Creek facility to The Oaks facility. This would be a change of scope for Project ID #G-10216-13 (relocate 100 NF beds from Liberty Commons Springwood to Silas Creek.)

Capital and Working Capital Costs

In supplemental information, Form F.1a, the applicants project the total capital cost of the project as shown in the table below.

Site Costs	\$0
Construction Costs	\$50,600
Miscellaneous Costs	\$86,500
Total	\$136,660

In supplemental information, Section Q, the applicants provide the assumptions used to project the capital cost.

In supplemental information, Section F, pages 34-35, the applicants projects that there will be no working capital costs as The Oaks is an existing facility.

Availability of Funds

In supplemental information, page 33, the applicants state that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	Liberty Healthcare Properties of the Oaks, LLC	Total
Loans	\$	\$
Accumulated reserves or OE *	\$136,660	\$136,660
Bonds	\$	\$
Other (Specify)	\$	\$
Total Financing	\$136,660	\$136,660

* OE = Owner's Equity

In supplemental information, Section F, page 33, the applicants state that the capital costs for the project will be funded with accumulated reserves or owner's equity. Exhibit F.2 (Tab 7) contains letters from the Certified Public Accountant of the owners, John A. McNeill Jr. and Ronald McNeill, and the owners themselves, dated October 7, 2019 and October 4, 2019, respectively, attesting to the availability of funds for the proposed project.

Financial Feasibility

In the supplemental information the applicants provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In supplemental information, Form F.5, the applicants project that revenues will exceed operating expenses in the first three operating years of the project, as shown in the table below.

	1st Full Fiscal Year	2nd Full Fiscal Year	3rd Full Fiscal Year
Total Patient Days	45,703	46,903	46,903
Total Gross Revenues (Charges)	\$11,327,878	\$11,695,470	\$11,718,465
Total Net Revenue	\$11,129,640	\$11,490,799	\$11,513,392
Average Net Revenue per Patient Days	\$244	\$245	\$245
Total Operating Expenses (Costs)	\$9,285,589	\$9,434,791	\$9,491,924
Average Operating Expense per Patient Days	\$203	\$201	\$202
Net Income	\$1,844,051	\$2,056,008	\$2,021,468

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

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

- Supplemental information requested by the Agency

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

- The applicants adequately demonstrate that the capital costs are based on reasonable and adequately supported assumptions.
 - The applicants adequately demonstrate availability of sufficient funds for the capital needs of the proposal.
 - The applicants adequately demonstrate 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 applicants propose to relocate 33 existing but undeveloped NF beds within Forsyth County from the approved but undeveloped Silas Creek facility to The Oaks facility. This would be a change of scope for Project ID #G-10216-13 (relocate 100 NF beds from Liberty Commons Springwood to Silas Creek.)

On page 189, the 2019 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” The Oaks is in Forsyth County. Thus, the service area for this facility is Forsyth County. Facilities may also serve residents of counties not included in their service area.

Based on data reported in Table 10A: Inventory of Nursing Home and Hospital Nursing Care Beds in the 2019 SMFP, page 195, Forsyth County currently has 15 nursing facilities with a total of 1,710 licensed nursing care beds.

Forsyth County Nursing Facilities, 2019 SMFP

FACILITY	# LICENSED NURSING CARE BEDS
Accordious Health at Winston Salem	40
Accordius Health at Clemmons	120
Arbor Acres United Methodist Retirement Community Inc	83
Brookridge Retirement Community	77
Homestead Hills	40
Liberty Commons Nsg and Rehab Center of Silas Creek (Transferred 100 from Summerstone Health and Rehab Center)*	0
Oak Forest Health and Rehabilitation	170
Pine Grove Nursing and Rehabilitation Center	92
PruittHealth-High Point	100
Salemtowne	100
Silas Creek Rehabilitation Center	90
Summerstone Health and Rehab Center (Transferred 100 beds to Liberty Commons Nsg and Rehab Center of Silas Creek)*	200
The Oaks (Transferred 13 to Liberty Commons of Mecklenburg Health and Rehabilitation Center)	151
Trinity Elms	100
Trinity Glenn	117
Winston Salem Nursing & Rehabilitation Center	230
Total Nursing Care Beds	1,710

*The project analyst notes that Liberty Commons Nursing and Rehabilitation Center of Silas Creek is an approved but undeveloped 100 bed nursing facility pursuant to Project ID #G-10216-13 (relocate 100 NF beds from Springwood to Silas Creek) and that Summerstone Health and Rehabilitation Center is an operating facility developed pursuant to Project ID #G-10220-13 (relocate 100 NF beds from Springwood to Summerstone). The total number of approved NF beds in Forsyth County between Summerstone and Silas Creek is correct.

In supplemental information, pages 40-41, the applicants explain why they believe the proposal would not result in the unnecessary duplication of existing or approved NF bed services in Forsyth County. The applicants state: *“The Applicants recognize that there is a surplus of 133 SNF beds in the 2019 SMFP for Forsyth County. However, the Applicants’ proposed project does not seek to increase the number of SNF bds in the Forsyth Counties[sic] SMFP inventory. Rather, the Applicants propose to relocate already existing SNF beds in the SMFP inventory that are currently not being utilized and maximize their utilization. Therefore, no new beds will be added to the skilled nursing bed inventory in the SMFP, and the current surplus of beds will not increase.”*

The applicants adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area because the beds proposed to be relocated are currently licensed but unutilized, and the applicants propose to relocate them to a nursing facility that will utilize the beds.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- 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 supplemental information, Section Q, Form H, page 101, the applicants provide projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

Position	1 st FFY (FY2021) FTEs	2 nd FFY (FY2022) FTEs	3 rd FFY (FY2023) FTEs
RNs	4.6	4.6	4.6
Licensed Practical Nurses	21.2	21.2	21.2
Aides	41.1	41.1	41.1
Director of Nursing	1.0	1.0	1.0
MDS Nurse	1.5	1.5	1.5
Staff Development Coordinator	0.5	0.5	0.5
Clerical (Nurse Secretary)	1.4	1.4	1.4
Medical Records	1.0	1.0	1.0
Physical Therapy	3.0	3.0	3.0
Speech Therapy*	1.0	1.0	1.0
Occupational Therapy	3.0	3.0	3.0
Social Services	2.0	2.0	2.0
Activities	1.0	1.0	1.0
Transportation	1.0	1.0	1.0
Laundry and Linen	3.0	3.0	3.0
Housekeeping	5.2	5.2	5.2
Plant Operation & Maintenance	1.0	1.0	1.0
Administration	1.0	1.0	1.0
Other (Business Office)	3.0	3.0	3.0
Other (PCT)	2.0	2.0	2.0
Other (Marketing)	1.6	1.6	1.6
TOTAL	100	100	100

Source: Form H in Section Q of the supplemental information.

The assumptions and methodology used to project staffing are provided in supplemental information, Sections H and Section Q. Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in supplemental information, Form F.4, which is found in Section Q. In supplemental information, Section H.2 and H.3, pages 42-43, the applicants describe the methods to be used to recruit or fill new positions and its proposed training and continuing education programs. In Exhibit H.4 (Tab 9), the applicants identify the current medical director which includes a letter from the medical director indicating an interest in serving as medical director for the proposed services.

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

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency

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

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

C

In supplemental information, Section I.1, page 45, the applicants identify the necessary ancillary and support services for the proposed services: Podiatry, Pharmacy, Laboratory, Dietary Services, Speech Therapy, Optometry, Rehab Services, Occupational Therapy, Barber/Beauty Services, Hospice/Respite Services, X-Ray/Radiology, Dialysis, Facility Van Service, Social Services, Housekeeping, Pastoral/Chaplaincy, and Personal Laundry.

In supplemental information on page 45, the applicants adequately explain how each ancillary and support service is or will be made available.

In supplemental information, Section I, page 46, the applicants describe the existing relationships with other local health care and social service providers and provides supporting documentation in Exhibit I.2.

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

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency

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

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

NA

The applicants do not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicants do not project to provide the proposed

services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

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

NA

The applicants are not HMOs. 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 applicants do not propose to make more than minor renovations to existing space. Therefore, Criterion (12) is not applicable to this review.

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

C

In supplemental information, Section L, page 51, the applicants provide the historical payor mix during the last full federal fiscal year (FFY) [10/1/2017 to 9/30/2018] for the proposed services, as shown in the table below.

Payor Category	Services as Percent of Total
Medicaid*	68.11%
Medicare*	7.43%
Private Pay	5.11%
Other (Mgd Care)	19.35%
Total	100.00%

Source: Supplemental Information page 51.

*Including managed care plans.

In supplemental information, Section L, page 50, the applicants provide the following comparison.

	Percentage of Total Patients Served by the Facility or Campus during the Last Full FY	Percentage of the Population of the Service Area
Female	72.90%	52.46%
Male	27.10%	47.54%
Unknown		
64 and Younger	10.28%	83.89%
65 and Older	89.72%	16.11%
American Indian		
Asian		
Black or African-American		
Native Hawaiian or Pacific Islander		
White or Caucasian		
Other Race		
Declined / Unavailable		

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency

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

Based on that review, the Agency concludes that the applicants adequately document the extent to which medically underserved populations currently use the applicants existing services in comparison to the percentage of the population in the applicants 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 supplemental information, Section L, page 51, the applicants state they are not obligated under federal regulations to provide uncompensated care, community service, or access by minorities and persons with disabilities.

In supplemental information, Section L, page 52, the applicants state that during the last five years no patient civil rights access complaints have been filed against the facility or any similar facilities owned by the applicants or a related entity and located in North Carolina.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency

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

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

C

In supplemental information, Section L, page 52, the applicants project the following payor mix for the proposed services during the third full fiscal year (10/1/2022 to

9/30/2023) of operation following completion of the project, as shown in the table below.

Payor Category	Services as Percent of Total
Medicaid*	72.38%
Medicare*	20.23%
Private Pay	7.00%
Insurance*	0.39%
Total	100.00%

Source: Supplemental Information page 52.

*Including managed care plans.

As shown in the table above, during the third full fiscal year of operation, the applicants project that 20.23% of total services will be provided to Medicare patients and 72.38% to Medicaid patients.

In supplemental information, pages 52-53, the applicants provide the assumptions and methodology used to project payor mix during the third full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported based on the applicants knowledge of the local area and market, extensive experience and payor mix at existing NF facilities.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency

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

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

C

In supplemental information, Section L, page 53, the applicants adequately describe the range of means by which patients will have access to the proposed services.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency

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

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

C

In supplemental information, Section M, page 54, the applicants describe the extent to which health professional training programs in the area 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
- Supplemental information requested by the Agency

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

- (15) Repealed effective July 1, 1987.
(16) Repealed effective July 1, 1987.
(17) Repealed effective July 1, 1987.
(18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

C

The applicants propose to relocate 33 existing but undeveloped NF beds within Forsyth County from the approved but undeveloped Silas Creek facility to The Oaks facility. This would be a

change of scope for Project ID #G-10216-13 (relocate 100 NF beds from Liberty Commons Springwood to Silas Creek.)

On page 189, the 2019 SMFP defines the service area for nursing facility beds as “A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.” The Oaks is in Forsyth County. Thus, the service area for this facility is Forsyth County. Facilities may also serve residents of counties not included in their service area.

Based on data reported in Table 10A: Inventory of Nursing Home and Hospital Nursing Care Beds in the 2019 SMFP, page 195, Forsyth County currently has 15 nursing facilities with a total of 1,710 licensed nursing care beds.

Forsyth County Nursing Facilities, 2019 SMFP

FACILITY	# LICENSED NURSING CARE BEDS
Accordious Health at Winston Salem	40
Accordius Health at Clemmons	120
Arbor Acres United Methodist Retirement Community Inc	83
Brookridge Retirement Community	77
Homestead Hills	40
Liberty Commons Nsg and Rehab Center of Silas Creek (Transferred 100 from Summerstone Health and Rehab Center)*	0
Oak Forest Health and Rehabilitation	170
Pine Grove Nursing and Rehabilitation Center	92
PruittHealth-High Point	100

Salemtowne	100
Silas Creek Rehabilitation Center	90
Summerstone Health and Rehab Center (Transferred 100 beds to Liberty Commons Nsg and Rehab Center of Silas Creek)*	200
The Oaks (Transferred 13 to Liberty Commons of Mecklenburg Health and Rehabilitation Center)	151
Trinity Elms	100
Trinity Glen	117
Winston Salem Nursing & Rehabilitation Center	230
Total Nursing Care Beds	1,710

*The project analyst notes that Liberty Commons Nursing and Rehabilitation Center of Silas Creek is an approved but undeveloped 100 bed nursing facility pursuant to Project ID #G-10216-13 (relocate 100 NF beds from Springwood to Silas Creek) and that Summerstone Health and Rehabilitation Center is an operating facility developed pursuant to Project ID #G-10220-13 (relocate 100 NF beds from Springwood to Summerstone). The total number of approved NF beds in Forsyth County between Summerstone and Silas Creek is correct.

In supplemental information, page 55, the applicants describe the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services. In supplemental information, the applicants state, *“The proposed project will have a positive effect on competition in the area, as the demand for these 33 NF beds may encourage other facilities with poor utilization in Forsyth County to improve their current situations in order to compete.”*

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

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

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- 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 Exhibit A.9 (Tab 5), pages 160-161, the applicants identify the skilled nursing and adult care home facilities located in North Carolina owned, operated or managed by the applicants or a related entity. The applicants identify a total of 27 nursing facilities and 4 adult care home facilities located in North Carolina.

In supplemental information, the applicants identify seven nursing facilities that had received immediate jeopardy citations during the 18 months immediately preceding submission of this application. The applicants state, in supplemental information, that all these facilities are back in compliance. After reviewing and considering information provided by the applicants, the Nursing Home Licensure and Certification Section, the Adult Care Licensure Section and considering the quality of care provided at all 27 NF facilities and four ACH facilities, the applicants provide 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 applicants propose to relocate existing licensed nursing care beds from one approved, but undeveloped facility, to an existing facility in the same county. The Criteria and Standards for Nursing Facility or Adult Care Home Services, which are promulgated in 10A NCAC 14C .1100, are not applicable to this review because the rules do not apply to a proposal to relocate existing licensed nursing care beds.