

## REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: February 25, 2021

Findings Date: February 25, 2021

Project Analyst: Tanya M. Saporito

Team Leader: Fatimah Wilson

Project ID #: O-11964-20

Facility: New Hanover Senior Living

FID #: 160565

County: Moore

Applicants: New Hanover Opco, LLC

New Hanover Propco, LLC

Project: Relocate no more than 40 undeveloped ACH beds from New Hanover House which is a change of scope for Project ID# O-11279-16 (relocate 40 ACH beds) to create a new 40 -bed adult care home

### 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 for the proposed project, New Hanover Opco, LLC and New Hanover Propco, LLC (hereinafter referred to as “the applicants”) are limited liability companies whose manager is Charles E Trefzger, Jr. Mr. Trefzger is also manager of ALG Senior, LLC (“ALG”), formerly known as Affinity Living Group, LLC, which manages/operates approximately 89 adult care homes (ACH) in North Carolina. In Project ID #O-11279-16, Wilmington Propco Holdings, LLC and Wilmington Opco Holdings, LLC, limited liability companies also managed by Mr. Trefzger, proposed to relocate 40 ACH beds from Sherwood Manor Rest Home, a 40-bed ACH facility in New Hanover County to New Hanover House, a 61-bed ACH facility also in New Hanover County. That project was never developed. In this application the applicants propose to relocate the 40 previously approved but

undeveloped ACH beds and develop a new 40-bed ACH facility, New Hanover Senior Living, in Wilmington.

### **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 2020 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

### **Policies**

There is one policy in the 2020 SMFP that is applicable to this review: ***Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities.***

*Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*, on page 31 of the 2020 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 are 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; therefore, Policy GEN-4 is applicable to this review. In Section B, pages 18-19, the applicants explain why it believes its application is consistent with Policy GEN-4. On page 19, the applicants state the facility will be constructed “...to utilize the latest technologies to assure maximum energy efficiency. ...to allow for fulfillment of the 2020 SMFP’s Policy GEN-4....”

## **Conclusion**

The Agency reviewed the:

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

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

- The applicants do not propose the addition of any new health service facility beds, services, or equipment for which there is a need determination in the 2020 SMFP.
- The applicants adequately demonstrate that the proposal is consistent with Policy GEN-4 based on the following:
  - The applicants adequately demonstrate that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation.

(2) Repealed effective July 1, 1987.

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

## C

The applicants propose to relocate no more than 40 undeveloped ACH beds from New Hanover House which is a change of scope for Project ID #O-11279-16 (relocate 40 ACH beds) to create a new 40-bed ACH facility, New Hanover Senior Living, in Wilmington.

## **Patient Origin**

On page 205, the 2020 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” New Hanover Senior Living is proposed to be located in New Hanover County, thus, the service area for this project is New Hanover County. Facilities may also serve residents of counties not included in their service area.

The applicants state in Section A.7, page 11 that neither applicant owns or operates adult care homes in North Carolina. Additionally, New Hanover Senior Living is a proposed facility and the beds proposed to be relocated are currently undeveloped. Therefore, there is no historical patient origin to report. However, the applicants provide the historical patient origin from New Hanover House, the facility from which ACH beds are proposed to be relocated, as shown in the following table:

**New Hanover House - Historical Patient Origin FY 2019**

COUNTY	LAST FULL FFY 08/01/2018 TO 07/31/2019	
	# OF PATIENTS	% OF TOTAL
<b>New Hanover</b>	51	53.68%
Pender	17	17.89%
Brunswick	8	8.42%
<i>Other/Unknown</i>	7	7.37%
Columbus	5	5.26%
Wilson	2	2.11%
Sampson	2	2.11%
Davie	2	2.11%
Duplin	1	1.05%
<b>Totals</b>	<b>95</b>	<b>100.00%</b>

The following table from Section C page 23 illustrates projected patient origin for the facility for the third full federal fiscal (FFY) year of operation, at which point the applicants state the facility will have reached 95% occupancy:

**New Hanover Senior Living Projected Patient Origin**

COUNTY	THIRD FULL FFY (10/01/2028 – 09/30/2029)	
	# PTS.	% OF TOTAL
New Hanover	26	68%
Pender	4	11%
Brunswick	2	5%
Columbus	1	3%
Other	5	13%
<b>Total*</b>	<b>38</b>	<b>100%</b>

\*The applicants project 95% utilization based on 38 of 40 beds occupied [38/40=0.95].

In Section C, pages 23-30, the applicants provide the assumptions and methodology used to project patient origin. The applicants' assumptions are reasonable and adequately supported based on the following:

- The applicants analyzed existing patient origin data from existing New Hanover County ACH facilities in preparing their assumptions.
- The applicants accounted for different patient origins for those New Hanover County ACH facilities that serve primarily memory care patients in preparing their assumptions.
- The applicants analyzed the impact of access and location in determining where to locate the proposed facility and the potential impact that location would have on patients projected to be served.

- The applicants considered the possible reasons for outmigration from New Hanover County for ACH residents in determining where to locate the facility to best serve New Hanover County residents and their family members who desire to remain in their home county for ACH services.

### **Analysis of Need**

In Section C, pages 30-46, the applicants explain why they believe the population projected to utilize the proposed services needs the proposed services, summarized below:

- In Section C, pages 46-48, the applicants explain that the facility to which ACH beds were originally proposed to be relocated (New Hanover House) proved to be an unworkable location for the project as approved in Project ID #O-11279-16. The facility itself would have needed physical expansion, which was not possible due to encumbrances on the parcel of land on which the facility is located. Similarly, the applicants determined they could not add a second floor to an ACH facility to best serve their residents.
- Growing senior population in New Hanover County and ACH bed utilization – the applicants cite data from the North Carolina Office of State Budget and Management (NCOSBM) that shows the historical and projected population of those people aged 65 and over in New Hanover County is higher than the general population. This is the population group most likely to utilize adult care home services. In addition, the applicants show that over the past three years, 89% of the available ACH beds in the county have been occupied by residents who are 65 and over, and 72% of the available ACH beds in the county have been occupied by residents over the age of 75. (See pages 32-33).
- ACH bed availability in the county - The applicants state that ACH bed utilization in the entire state and in New Hanover County specifically is a function of bed availability, affordability and appealability. The applicants state that, while the population group most likely to utilize ACH services has increased in New Hanover County, actual ACH bed utilization has decreased. The applicants state the decrease reflects the reality that most of the ACH beds in the county are outdated and unappealing to residents seeking adult care services (See pages 34-36).
- Quality, appealability and affordability of existing ACH beds in the county – the applicants examined existing ACH beds in the county and stated that the utilization information reported in the SMFP does not adequately reflect the actual availability and affordability of ACH beds in the state and in New Hanover County in particular. The “available” beds (those that are reported as unoccupied) are, according to the applicants, outdated and in poor condition in aging facilities. The applicants state the ACH beds reported as available are not beds that a potential ACH resident would want to be in. The applicants offer an example of Castle Creek Memory Care, a facility that was constructed in 1983. During that time, ACH beds were typically double occupancy, which is not the current standard. As a result, the semi-private

rooms are utilized as private rooms, thereby indicating that the utilization is low. In addition, the facility itself is 37 years old and in need of updating to current ACH standards. The applicants state that to bring outdated facilities up to current standards, including converting semi-private rooms to private rooms, is costly (See pages 37-40).

- Need for Affordable ACH beds – the applicants state that the available ACH beds in the county are largely private pay beds, which makes affordable ACH beds unattainable for a large percentage of ACH residents. The applicants state there is a need in the county for additional Medicaid/Special Assistance ACH beds (See pages 41-45).
- Local Support – the applicants state there is local support from New Hanover County residents, clinicians and physicians for the proposed 40-bed ACH facility and provides letters of support in Exhibit C.4. (See pages 39-41.)

The information is reasonable and adequately supported based on the following:

- The applicants demonstrate that the beds previously approved for development at a different New Hanover County facility will serve a population in Wilmington in need of those beds.
- The applicants demonstrate that the ACH beds proposed to be developed in this application are needed in the area of Wilmington where they are proposed.
- The applicants demonstrate that the ACH beds proposed to be developed in this application will offer available, appealing ACH options to New Hanover County residents.
- The applicants provide documentation of community support for the proposed project.

Projected Utilization

In Section Q, Form C the applicants provide projected utilization for the first three fiscal years (FY) of operation for the proposed facility, as shown in the table below:

<b>New Hanover Senior Living Projected Utilization</b>			
	<b>PROJECTED</b>		
	<b>FY 2027 (10/1/26-9/30/27)</b>	<b>FY 2028 (10/1/27-9/30/28)</b>	<b>FY 2029 (10/1/28-9/30/29)</b>
# General ACH Beds	40	40	40
Days of Care	9,855	14,244	14,235
Occupancy Rate	67.5%	97.6%	97.5%

In Section Q, the applicants provide the assumptions and methodology used to project utilization, as summarized below:

- The applicants documented the utilization of new construction ACH facilities managed by the same management company as this facility will be, focusing on those facilities with a similar bed capacity.
- The applicants calculated a “fill rate” by subtracting average occupancy for one month from average occupancy from the prior month. This “fill rate”, based on actual experience, was used to project occupancy.
- The applicants explained historical growth rate patterns they used in the data collected from existing New Hanover County ACH facilities and how those historical patterns could project utilization at the proposed facility.

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

- The applicants rely on and explain their own historical experience with similarly sized ACH facilities managed by the same management company that will manage this facility.
- The applicants explain how the historical data and the management company’s experience could project utilization at the proposed facility.

### **Access to Medically Underserved Groups**

In Section C, page 51, the applicants state the facility will admit all persons without regard to race, color, creed, age, national origin, handicap, sex or payment source. In supplemental information requested by the Agency, the applicants provide the estimated percentage for each medically underserved group for the third full federal fiscal year of operation following project completion, as shown in the following table:

<b>MEDICALLY UNDERSERVED GROUPS</b>	<b>PERCENTAGE OF TOTAL PATIENTS</b>
Low income persons*	25.0%
Racial and ethnic minorities	18.0%
Women	52.4%
Persons with Disabilities	100.0%
The elderly	89.0%
Medicare beneficiaries	--%
Medicaid recipients*	--%

\*The applicants state this group includes Medicaid and State/County Special Assistance.

The applicants state the estimates for “Persons with disabilities” is based on the definition of “*Disability Status*” in the U.S. Census QuickFacts, which includes those in need of assisted living services. Therefore, the applicants state, they expect 100% of the residents of the community to be “*persons with disabilities.*”

The applicants adequately describe the extent to which all residents of the service area, including underserved groups, are likely to have access to the proposed services.

## **Conclusion**

The Agency reviewed the:

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

- (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 40 undeveloped ACH beds that were approved to be developed pursuant to Project ID #O-11297-16. That project was never developed, and the applicants propose in this application to develop a new 40-bed ACH facility in in the northeastern corner of New Hanover County.

The applicants were found conforming to this Criterion with regard to the 40 beds approved to be relocated from New Hanover House, and do not propose any changes in this application that would affect that determination. Since Project ID #O-11297-16 was never developed, the 40 ACH beds that were the subject of that application are undeveloped, unlicensed ACH beds which are not serving residents and have not been available for the public to utilize. Thus, the applicants do not propose to reduce a service, eliminate a service or relocate a facility or service.

- (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 no more than 40 undeveloped ACH beds from New Hanover House which is a change of scope for Project ID #O-11279-16 (relocate 40 ACH beds) to create a new 40-bed ACH facility, New Hanover Senior Living, in Wilmington.



In Section E, pages 58-61, the applicants describe the alternatives they 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:

- Develop the ACH beds as previously approved in Project ID #O-11297-16 – the applicants state site issues prevented development of the project as originally proposed in 2016. Therefore, developing the 40 ACH beds as previously approved is no longer a viable or cost-effective alternative.
- Develop less than 40 beds as approved in Project ID #O-11297-16 – the applicants state disruption to existing residents at New Hanover House in terms of noise and construction, combined with cost to the applicants render this option unfeasible and not cost effective.
- Add the 40 ACH beds previously approved in Project ID #O-11297-16 to another New Hanover County ACH facility –ALG Senior, LLC is the management company that manages New Hanover House and manages one other facility in New Hanover County: Castle Creek Memory Care (Castle Creek). The applicants state Castle Creek exclusively serves memory care patients, has inadequate space for its existing beds, would require substantial changes to existing operational models and is already a large facility with 84 beds. Therefore, the applicants state adding 40 ACH beds to that facility is not a reasonable or cost-effective alternative.
- Relocate the 40 ACH beds previously approved in Project ID #O-11297-16 to another county pursuant to Policy LTC-2 in the 2020 SMFP – the applicants concluded that the ACH beds were originally approved for development in New Hanover County and relocating them to a different county would not help to serve the needs of New Hanover County residents.

On page 61, the applicants state that this proposal is the most effective alternative because it would:

- Create a brand new, state of the art facility in Wilmington;
- Relocate previously approved but undeveloped and unused ACH beds to a new facility rather than add them to an existing, outdated facility;
- Provide high quality care to New Hanover County ACH residents; and
- Provide appealing, available ACH options to residents of Wilmington and New Hanover County.

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

- 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

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. New Hanover Opco, LLC and New Hanover Propco, LLC (hereinafter certificate holder) shall materially comply with all representations made in the certificate of need application.**
- 2. The certificate holder shall relocate no more than 40 undeveloped ACH beds from New Hanover House which is a change of scope for Project ID# O-11279-16 (relocate 40 ACH beds) to create a new 40 -bed adult care home, New Hanover Senior Living.**
- 3. Upon completion of the project, the certificate holder shall be licensed for no more than 40 adult care home beds.**
- 4. The certificate holder shall certify at least 25% of the total number of licensed ACH beds in the facility for recipients of State/County Special Assistance with Medicaid and provide care to those recipients commensurate with representations made in the application.**
- 5. Prior to the issuance of the certificate of need for this project, Wilmington Propco Holdings, LLC shall relinquish the Certificate of Need issued for Project ID #O-11279-16.**
- 6. For the first two years of operation following completion of the project, the certificate holders shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
- 7. The certificate holders 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.**
- 8. Progress Reports:**

- a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.
  - b. The certificate holder shall complete all sections of the Progress Report form.
  - c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.
  - d. Progress reports shall be due on the first day of every sixth month. The first progress report shall be due on September 1, 2022. The second progress report shall be due on March 1, 2023 and so forth.
9. 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 certificate holders 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.
10. The certificate holders shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section 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 no more than 40 undeveloped ACH beds from New Hanover House which is a change of scope for Project ID #O-11279-16 (relocate 40 ACH beds) to create a new 40-bed ACH facility, New Hanover Senior Living, in Wilmington.

**Capital and Working Capital Costs**

In Section Q, page 105, the applicants project the total capital cost of the project as shown in the table below:

Site Costs	\$550,000
Construction Costs	\$3,542,875
Miscellaneous Costs	\$1,925,000
<b>Total</b>	<b>\$6,017,875</b>

In Section F.1(b), page 62, the applicants provide the assumptions they used to project the capital cost of the project.

In Section F, page 63, the applicants state that start-up costs are included in the initial operating expenses. On page 64, the applicants project initial operating expenses of \$432,867.96. On page 64, the applicants provide the assumptions and methodology used to project the working capital needs of the project.

**Availability of Funds**

In Section F, page 62, the applicants state the project capital cost will be funded as shown in the table below:

**SOURCES OF CAPITAL COST FINANCING**

TYPE	NEW HANOVER OPCO, LLC	NEW HANOVER PROPCO, LLC	TOTAL
Loans	\$	\$6,017,875	\$6,017,875
Accumulated reserves or OE*	\$	\$	\$
Bonds	\$	\$	\$
Other (Specify)	\$	\$	\$
<b>Total Financing</b>	<b>\$</b>	<b>\$6,017,875</b>	<b>\$6,017,875</b>

\*OE = Owner's Equity

In Section F, page 64, the applicants state the working capital needs of the project will be funded as shown in the table below:

**SOURCES OF WORKING CAPITAL FINANCING**

TYPE	TOTAL
Loans	\$432,867.96
Accumulated reserves or OE*	\$
Bonds	\$
Other (Specify)	\$
<b>Total Financing</b>	<b>\$432,867.96</b>

\*OE = Owner's Equity

Exhibit F.3 indicates that New Hanover Opco, LLC will provide the funding for the working capital needs of the project

Documentation of the availability of funding is provided in Exhibits F.1 and F.3, which include letters dated August 31, 2020 from the Managing Director of Locust Point Capital attesting to its on-going relationship with related entities of the applicants and its comfort in funding the capital and working capital cost to New Hanover Propco, LLC for the proposed project and the amortization schedules associated with the proposed loans. The applicants adequately demonstrate that sufficient funds will be available for the capital and working capital needs of the proposed project.

### **Financial Feasibility**

The applicants provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In 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:

	<b>1<sup>st</sup> Full Fiscal Year</b>	<b>2<sup>nd</sup> Full Fiscal Year</b>	<b>3<sup>rd</sup> Full Fiscal Year</b>
Total Patient Days*	9,855	14,244	14,235
Total Gross Revenues (Charges)	\$1,344,838	\$1,984,922	\$1,989,672
Total Net Revenue	\$1,321,490	\$1,965,073	\$1,969,775
Average Net Revenue per Patient Day	\$134.09	\$137.96	\$138.38
Total Operating Expenses (Costs)	\$1,601,589	\$1,697,124	\$1,694,882
Average Operating Expense per Patient Day	\$162.52	\$119.15	\$119.06
Net Income/(Loss)	(\$280,099)	\$267,949	\$274,893

\*From Form C, Utilization, in Section Q.

The assumptions used by the applicants in preparation of the pro forma financial statements are provided in Section Q. The applicants adequately demonstrate that the financial feasibility of the proposal is reasonable and adequately supported based on the following:

- The applicants account for projected operating expenses, such as salaries, consistent with projections elsewhere in the application.
- Projected utilization is based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization in Criterion (3) which 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 applicants adequately demonstrate that the capital and working capital costs are based on reasonable and adequately supported assumptions.
  - The applicants adequately demonstrate availability of sufficient funds for the capital and working 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 no more than 40 undeveloped ACH beds from New Hanover House which is a change of scope for Project ID #O-11279-16 (relocate 40 ACH beds) to create a new 40-bed ACH facility, New Hanover Senior Living, in Wilmington.

On page 205, the 2020 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” Thus, the service area for this project is New Hanover County. Facilities may also serve residents of counties not included in their service area.

Table 11A on pages 225-226 of the 2020 SMFP lists 17 ACH facilities and two nursing facilities with ACH beds, for a total of 1,035 ACH beds in New Hanover County. See the following table prepared by the Project Analyst:

**NEW HANOVER COUNTY 2020 SMFP ACH BED INVENTORY**

FACILITY	# OF ACH BEDS	COUNTY OCCUPANCY RATE
Autumn Care of Myrtle Grove	20	
Brookdale Wilmington	38	
Castle Creek Memory Care	84	
Cedar Cove Assisted Living	64	
Champions Assisted Living	148	
Fannie Norwood Memorial Home <sup>1</sup>	16	
Liberty Commons Rehabilitation Center	40	
Morningside of Wilmington	101	
New Hanover House	61	
Port South Village/Carmen D. Villa <sup>2</sup>	12	
Port South Village/Catherine S. Villa <sup>2</sup>	12	
Port South Village/Crystal L. Villa <sup>2</sup>	12	
Port South Village/Lorraine B. Villa <sup>2</sup>	12	
Port South Village/Tara L. Villa <sup>2</sup>	12	
Port South Village/Teresa C. Villa <sup>2</sup>	12	
Sherwood Manor Rest Home <sup>3</sup>	40	
Spring Arbor of Wilmington	66	
The Commons at Brightmore <sup>4</sup>	201	
The Kempton at Brightmore	84	
Tidewater at Carolina Bay <sup>5</sup>	0	
<b>Total</b>	<b>1,035</b>	<b>60.69%</b>

**Source: Tables 11A and 11C, pages 225-226 and 240, respectively of the 2020 SMFP**

<sup>1</sup>This facility is closed. The 16 ACH beds are approved to relocate to Tidewater at Carolina Bay.

<sup>2</sup>All of the Port South Village Villas are closed and the beds are approved to relocate to Liberty Commons Rehabilitation Center.

<sup>3</sup>All of the beds are approved to relocate to New Hanover House.

<sup>4</sup>32 of the beds are approved to relocate to Brunswick County.

<sup>5</sup>the 16 beds from Fannie Norwood Memorial Home and 72 beds from Liberty Commons Rehabilitation Center will be relocated to this facility.

In Section G, page 68, the applicants explain why they believe their proposal would not result in the unnecessary duplication of existing or approved ACH bed services in New Hanover County. The applicants state that the beds proposed to be relocated are existing ACH beds and are accounted for in the New Hanover County ACH bed inventory in the 2020 SMFP, despite the fact that the beds are not yet developed. Developing these previously approved ACH beds will result in actual availability of the beds for New Hanover County residents; therefore, the project will not result in unnecessary duplication of existing or approved ACH beds in the county.

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

- The proposal would not result in a surplus of ACH beds in New Hanover County.

- The applicants propose to develop ACH beds that were previously approved for development in the county; the beds would now be actually available to New Hanover County residents.

**Conclusion**

The Agency reviewed the:

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

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

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

C

In Section Q, Form H, page 127, the applicants provide projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

POSITION	PY 1	PY 2	PY 3
	10/1/26-9/30/27	10/1/27-9/30/28	10/1/28-9/30/29
Registered Nurse	0.5	0.5	0.5
Aides	10.4	11.3	11.2
Staff Development Coordinator	1.0	1.0	1.0
Clerical	1.3	1.4	1.4
Dietary	4.7	4.8	4.7
Activities	0.8	0.8	0.8
Transportation	0.6	0.6	0.6
Laundry and Linen	0.6	0.6	0.6
Housekeeping	1.6	106	1.6
Plant Operation and Maintenance	0.8	0.9	0.9
Administration	1.0	1.0	1.0
<b>TOTAL</b>	<b>23.3</b>	<b>24.4</b>	<b>24.3</b>

The assumptions and methodology used to project staffing are provided in Section Q. Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in Form F.3, which is found in Section Q. In Section H, page 69, the applicants describe the methods to be used to recruit or fill new positions and its proposed training and continuing education programs.



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

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

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

C

In Section I, pages 71-72, the applicants explain that the facility is proposed and thus has no existing relationships. The applicants describe the efforts undertaken to establish relationships with local ancillary and support service providers and provide letters of support from providers in Exhibits C.1 and C.4. Exhibit C.1 documents support from providers of food services and pharmacy services. Exhibit C.4 documents support from providers of the following ancillary and support services are necessary for the proposed services:

- Primary and urgent care
- Rehabilitation services
- Home and home care

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

**Conclusion**

The Agency reviewed the:

- application, and
- exhibits to the application.

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

- (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.

C

The applicants propose to relocate no more than 40 undeveloped ACH beds from New Hanover House which is a change of scope for Project ID #O-11279-16 (relocate 40 ACH beds) to create a new 40-bed ACH facility, New Hanover Senior Living, in Wilmington.

In Section K, page 76, the applicants state that the project involves constructing 21,582 square feet of new space. Line drawings and a location map are provided in Exhibit K.1.

On pages 76-77, the applicants adequately explain how the cost, design and means of construction represent the most reasonable alternative for the proposal. The applicants provide an architect's cost estimate in Exhibit K.3.

On pages 77-78, the applicants adequately explain why the proposal will not unduly increase the costs to the applicants of providing the proposed services or the costs and charges to the public for the proposed services.

On page 78, the applicants identify any applicable energy saving features that will be incorporated into the construction plans.

On pages 78-79, the applicants identify the proposed site and provide information about the current owner, zoning and special use permits for the site, and the availability of water, sewer and waste disposal and power at the site. The applicants provide supporting documentation in Exhibit K.4.

### **Conclusion**

The Agency reviewed the:

- application, and
- exhibits to the application.

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

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

### C

The applicants propose to relocate no more than 40 undeveloped ACH beds from New Hanover House which is a change of scope for Project ID #O-11279-16 (relocate 40 ACH beds) to create a new 40-bed ACH facility, New Hanover Senior Living, in Wilmington.

In Section L, page 81, the applicants state that the proposed facility has not been developed, and provides historical payor information from New Hanover House, as shown in the following table from page 82:

**New Hanover House Payor Source 8/1/18 – 9/30/19**

PAYOR SOURCE	# PT. DAYS	% OF TOTAL
Private Pay	9,673	50.44%
County Assistance	9,541	49.75%
<b>Total</b>	<b>19,178</b>	<b>100.00%</b>

In Section L, page 82, the applicants provide the following comparison from New Hanover House:

	Percentage of Total Patients Served by New Hanover House during the Last Full FY	Percentage of the Population of the Service Area
Female	17.5%	52.4%
Male	82.5%	47.6%
Unknown	0.0%	0.0%
64 and Younger	2.5%	81.6%
65 and Older	97.5%	18.4%
American Indian	0.0%	0.6%
Asian	0.0%	1.6%
Black or African-American	13.8%	13.4%
Native Hawaiian or Pacific Islander	0.0%	0.1%
White or Caucasian	78.8%	82.2%
Other Race	0.0%	7.9%
Declined / Unavailable	13.6%	0.0%

**Conclusion**

The Agency reviewed the:

- application, and
- exhibits to the application.

Based on that review, the Agency concludes that the application documents 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 Section L, page 83, the applicants state that they are not obligated to provide uncompensated care, community service, or access by minorities and persons with disabilities.

In Section L, page 83, the applicants state that during the last five years, there have been no patient civil rights access complaints filed against New Hanover House or any similar facilities owned by the applicants or a related entity and located in North Carolina.

**Conclusion**

The Agency reviewed the:

- application, and
- exhibits to the application.

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

- (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, page 84, the applicants project the following payor mix for the proposed services during the third full fiscal year of operation following completion of the project, as shown in the table below:

**New Hanover Senior Living Projected Payor Source 10/1/26-9/30/27**

PAYOR SOURCE	# PT. DAYS	% OF TOTAL
Private Pay	10,676	75%
County Assistance	3,559	25%
<b>Total</b>	<b>14,234</b>	<b>100%</b>

As shown in the table above, during the third full fiscal year of operation, the applicants project that 75% of total services will be provided to private pay patients, and 25% to County Assistance patients.

In Section L, page 83 the applicants provide the assumptions and methodology used to project payor mix during the first three full fiscal years of operation following

completion of the project. The projected payor mix is reasonable and adequately supported based on the following:

- The projected payor mix is based on the historical payor mix adjusted for future expectations.
- The applicants incorporate the experience of its management group, Affinity Living Group in its projections.

### **Conclusion**

The Agency reviewed the:

- application, and
- exhibits to the application.

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

- (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, page 84, 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

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, page 85, the applicants describe the extent to which area health professional training programs will have access to the facility for training purposes.

## **Conclusion**

The Agency reviewed the:

- application, and
- exhibits to the application.

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 no more than 40 undeveloped ACH beds from New Hanover House which is a change of scope for Project ID #O-11279-16 (relocate 40 ACH beds) to create a new 40-bed ACH facility, New Hanover Senior Living, in Wilmington.

On page 205, the 2020 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” Thus, the service area for this project is New Hanover County. Facilities may also serve residents of counties not included in their service area.

Table 11A on pages 225-226 of the 2020 SMFP lists 17 ACH facilities and two nursing facilities with ACH beds, for a total of 1,035 ACH beds in New Hanover County. See the following table prepared by the Project Analyst:

**NEW HANOVER COUNTY 2020 SMFP ACH BED INVENTORY**

FACILITY	# OF ACH BEDS	COUNTY OCCUPANCY RATE
Autumn Care of Myrtle Grove	20	
Brookdale Wilmington	38	
Castle Creek Memory Care	84	
Cedar Cove Assisted Living	64	
Champions Assisted Living	148	
Fannie Norwood Memorial Home <sup>1</sup>	16	
Liberty Commons Rehabilitation Center	40	
Morningside of Wilmington	101	
New Hanover House	61	
Port South Village/Carmen D. Villa <sup>2</sup>	12	
Port South Village/Catherine S. Villa <sup>2</sup>	12	
Port South Village/Crystal L. Villa <sup>2</sup>	12	
Port South Village/Lorraine B. Villa <sup>2</sup>	12	
Port South Village/Tara L. Villa <sup>2</sup>	12	
Port South Village/Teresa C. Villa <sup>2</sup>	12	
Sherwood Manor Rest Home <sup>3</sup>	40	
Spring Arbor of Wilmington	66	
The Commons at Brightmore <sup>4</sup>	201	
The Kempton at Brightmore	84	
Tidewater at Carolina Bay <sup>5</sup>	0	
<b>Total</b>	<b>1,035</b>	<b>60.69%</b>

**Source: Tables 11A and 11C, pages 225-226 and 240, respectively of the 2020 SMFP**

<sup>1</sup>This facility is closed. The 16 ACH beds are approved to relocate to Tidewater at Carolina Bay.

<sup>2</sup>All of the Port South Village Villas are closed and the beds are approved to relocate to Liberty Commons Rehabilitation Center.

<sup>3</sup>All of the beds are approved to relocate to New Hanover House.

<sup>4</sup>32 of the beds are approved to relocate to Brunswick County.

<sup>5</sup>the 16 beds from Fannie Norwood Memorial Home and 72 beds from Liberty Commons Rehabilitation Center will be relocated to this facility.

Regarding the expected effects of the proposal on competition in the service area, in Section N, page 86, the applicants state:

*“The proposed project will have a positive effect on competition in the area, as the demand for these 40 ACH Beds may encourage other facilities with poor utilization in New Hanover County to improve their current situations in order to compete with the proposed Project [sic], thereby encouraging greater efficiencies and better quality. It will also allow for additional ACH placement options within New Hanover County, especially for Medicaid/Special Assistance recipients.”*

Regarding the impact of the proposal on cost effectiveness, in Section N, page 87, the applicants state:



*“The Applicants [sic] and ALG Senior LLC share a commitment to providing affordable housing options for seniors in need of assisted living services while maintaining a high degree of care and quality offerings.”*

The applicants provide a table that compares existing rates of New Hanover County ACH facilities located within 20 miles of the proposed facility location with the proposed rates for New Hanover Senior Living, to illustrate the proposed effect on competition. See the following table, from pages 86-87 of the application:

FACILITY NAME	NEW HANOVER SENIOR LIVING	COMPETITOR 1	COMPETITOR 2	COMPETITOR 3	COMPETITOR AVERAGE
		THE COMMONS AT BRIGHTMORE	CHAMPIONS ASSISTED LIVING	BROOKDALE WILMINGTON	
Base Rate – AL Minimum	\$4,750	\$4,492	\$4,427	\$4,938	\$4,619
Base Rate – AL Maximum	\$4,750	\$4,821	\$6,050	\$5,925	\$5,599

\*LRA = License Renewal Application

Regarding the impact of the proposal on quality, in Section N, page 87, the applicants state:

*“The [a]pplicants propose to build the proposed project to the highest standards. ...the proposed project will be established with the intent to provide a home-like setting in a community of care.”*

Regarding the impact of the proposal on access by medically underserved groups, in Section N, pages 87-88, the applicants state:

*“...all persons will be admitted to the facility without regard to their race, color, creed, age, national origin, handicap, sex, or source of payment. The [a]pplicants propose to provide Medicaid/Special Assistance to approximately 10 of the 40 ACH beds proposed in the project, reflecting the well-established practice of making beds available to Medicaid recipients at facilities managed by ALG Senior LLC.”*

Considering all the information in the application, the applicants adequately describe the expected effects of the proposed services on competition in the service area and adequately demonstrate the proposal would have a positive impact on:

- Cost-effectiveness (see Sections C, F, N and Q of the application and any exhibits)
- Quality (see Sections C, N and O of the application and any exhibits)
- Access to medically underserved groups (see Sections C, L and N of the application and any exhibits)

**Conclusion**

The Agency reviewed the:

- application,
- exhibits to the application, and

Based on that review, the Agency concludes that the application is conforming to this criterion based on 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 O.3 the applicants identify the adult care homes and nursing facilities located in North Carolina owned, operated or managed by the applicants or a related entity. The applicants identify a total of 88 facilities located in North Carolina.

In Exhibit O.3, the applicants state that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in 21 of these facilities. In Section L, page 91, the applicants state that all of the problems have been corrected. According to the files in the Adult Care Licensure Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in 21 of these facilities. After reviewing and considering information provided by the applicants and by the Adult Care Licensure and Nursing Home Licensure and Certification Sections and considering the quality of care provided at all of the applicants' facilities, the applicants provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion

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

C

The Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100 are applicable to this review. The specific criteria are discussed below.

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

**10A NCAC 14C .1102          PERFORMANCE STANDARDS**

- (a) *An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.*
- NA- The applicants do not propose to add nursing facility beds to an existing facility.
- (b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*
- NA- The applicants do not propose to establish a new nursing facility or add nursing facility beds to an existing facility.
- (c) *An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*
- NA- The applicants do not propose to add adult care home beds to an existing facility.
- (d) *An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*
- C- In Section Q, on Form C, the applicants project that the proposed facility will have an occupancy rate of at least 85 percent by the end of the second operating year following project completion. The applicants provide the assumptions and methodology to project utilization in Sections C and Q. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.