

Comments Submitted by NHI Matthews, LLC

In Opposition to:

- **Project ID # F-012117-21 Carolinas Medical Center**

Pursuant to N. C. Gen. Stat. § 131E-185, NHI Matthews, LLC (“NHI Matthews”) submits these comments in opposition to the application filed by Carolinas Medical Center (“CMC” or “the applicant”) to acquire a Magnetic Resonance Imaging (“MRI”) scanner in Mecklenburg County, in response to the need determination in the *2021 SMFP*, Table 17E-3, page 366. As discussed below, the applicant’s project is non-conforming with several applicable CON criteria and the performance standard. The NHI Matthews’ application, by contrast, is conforming with all applicable CON criteria and the performance standard. A comparative analysis also shows that the NHI Matthews project is the superior alternative to the applicants’ project.

Overview

On August 16, 2021, CMC filed an application to acquire a fixed MRI scanner that will not scan its first patient until April 1, 2027. The MRI scanner is proposed to be located in a new patient tower under development at CMC Main.¹ If approved, this proposed MRI scanner would be CMC’s fifth fixed MRI scanner. By the time April 2027 arrives, just about everything CMC stated in its 2021 application will be outdated: projections made in 2021 will be irrelevant; the pro forma will be meaningless; costs will have increased; and technology will have advanced beyond what is described in the application. In the meantime, patient needs, as demonstrated by the continuous fixed MRI scanner needs generated in Mecklenburg County in almost every SMFP for the last several years², will go unmet, because CMC will not use its MRI scanner for almost six years after it filed its application. These patient needs exist today, not six years from now. When CMC is finally ready to treat patients with its MRI scanner, it proposes to place it in a new hospital tower in center city Charlotte, a more expensive and less accessible location than a freestanding outpatient setting. The NHI Matthews application, by contrast, proposes to bring its MRI scanner online three years earlier, at far less cost, and in an outpatient setting in a suburban community with a demonstrated need for greater access. Currently, the Matthews community only has one fixed MRI scanner, compared to Charlotte, where there are nineteen existing or approved fixed MRI scanners. The table below illustrates the stark contrasts between the two proposals:

Applicant	Services Offered	Capital Cost	Projected Average Charge Year 3	Number of existing or approved fixed MRI scanners in city
CMC	4/1/27	\$5,825,814	\$5,675	19

¹ As CMC explains in the application, the tower was the subject of an exemption notice submitted in 2020. See application, p. 33. Since there is no CON for the tower, there are no CON progress reports or CON timetable for the tower, so the timetable for development of the tower is left to CMC’s sole discretion. The Agency has no way to objectively monitor progress with respect to the tower. Accordingly, the April 1, 2027 date included in the application may be purely speculative.

² Since 2011, there have been MRI need determinations in Mecklenburg County in each of the following SMFPs: 2011, 2014, 2016, 2017, 2019, 2020, and 2021. The Draft 2022 SMFP also shows a need for a fixed MRI scanner in Mecklenburg County.

NHI Matthews	4/1/24	\$4,640,451	\$2,759	1
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Source: CON applications for Project I.D. No. F-012117-21 and Project I.D. No. F-012113-21

CMC’s claims that it has an urgent need for this MRI scanner are belied by the excessive delay it proposes in its application. Although the proposed MRI scanner itself is not a “health service facility” regulated by the newly enacted CON “shot clock” in S.L. 2021-129, this legislation is nevertheless an unmistakable expression of the General Assembly’s demand that providers move swiftly to implement CON projects, consistent with the purpose of CON to bring needed health services to the people of North Carolina in a timely, cost-effective manner to treat illness and injury. That is not what CMC proposes; rather, CMC proposes to warehouse an asset for several years and then place it in a more expensive and less accessible location. In so doing, CMC seeks to prevent its competitor, Novant Health, from doing exactly what the CON Law seeks to promote. The Agency should not countenance this tactic. If CMC believes an MRI scanner is needed for its new tower, it should file an application closer to the 2027 opening date or relocate an existing MRI scanner, not warehouse an MRI scanner for several years.

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

- (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.**

The CMC application literally conforms to the need determination in the *2021 SMFP* for one additional fixed MRI scanner in Mecklenburg County but it fails to conform to Policy GEN-3, which requires the applicant to demonstrate:

... how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the service area.

The CMC application is non-conforming to Policy GEN-3 for at least two reasons. First, the application does not demonstrate the need for the project it proposes, as discussed in further detail below with respect to Criterion (3). Second, the applicant does not propose to begin offering the service until April 1, 2027, almost six years after the application was filed. The lengthy delay in implementation is discussed in greater detail below. Ostensibly, the delay is

attributable to CMC's choice to install the MRI scanner in a new tower, the opening date of which is unknown. Application, p. 33. The needs of Mecklenburg County residents, which exist today, should not be subject to CMC's unilaterally determined and non-public construction timetable. The need determinations in the SMFP exist to meet actual patient needs, not a provider's perceived needs and preferred timetable. Keeping an MRI scanner out of commission for such a long time, when the need for the service is now, is directly contrary to the principles of the SMFP and Policy GEN-3. By warehousing an asset for several years, the CMC application does not promote quality, access, and value.

For these reasons, in addition to any other reasons the Agency may discern, the CMC application is nonconforming with Criterion (1) and should be disapproved.

- (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.**

As the *2021 SMFP* indicates, there is a need for another fixed MRI scanner now. As the *2022 SMFP* indicates, there is a need for another fixed MRI scanner now. However, CMC proposes to make its proposed MRI scanner operational in April 2027. April 2027 is 5 ½ years from when the CON application was submitted and a full 5 years from when the certificate may be issued. An MRI scanner that was need determined in the *2021 SMFP* for Mecklenburg County will not become operational until the *2027 SMFP* is in effect. Mecklenburg County residents will have to wait over five years to gain access to the MRI scanner they need now, and CMC will have to wait more than five years before it can "expand its MRI capacity." CMC's lengthy timetable and its so-called urgent need for additional capacity cannot be reconciled.

CMC made the following statement in its Demonstration of Need in Section C.

CON Application, Page 45:

In recent years, the capacity of freestanding MRI facilities has increased in Mecklenburg County. CMHA, in fact, through its partnership with Charlotte Radiology, has made great strides in developing freestanding MRI capacity, specifically the three freestanding CIS facilities previously discussed, and has just recently operationalized a freestanding fixed MRI at its CPN diagnostic center on the Atrium Health Kenilworth campus. From 2002 to 2020, there were a total of 11 CON reviews for an additional fixed MRI scanner in Mecklenburg County. Of those 11, two were non-competitive and the single applicant was denied, seven were awarded to freestanding providers and two were awarded to a hospital provider. Of note, one of the two reviews in which the fixed MRI scanner was awarded to a hospital provider involved only hospital applicants. In 18 years, only two fixed MRI scanners have been approved for hospital applicants.

The last sentence would have the Agency believe that CMC has submitted CON applications for hospital-based MRI scanners but has been continually denied. This is not the case. Since 1998 or over the past 22 years, only one CON application submitted by CMHA, a related hospital, or a related entity has been denied a fixed MRI scanner CON application and that denial was in 2002. Every other fixed MRI CON application, a total of 10, have been approved for CMHA, a related hospital, or a related entity, as the following table shows:

Year	Project Number	Applicant or Related Entity	Description	Decision
1998	F-5918-98	Charlotte-Mecklenburg Hospital Authority	Fixed MRI scanner	CA
1998	F-5919-98	University Hospital	Fixed MRI scanner	CA
2001	F-6493-01	Charlotte-Mecklenburg Hospital Authority	Fixed MRI scanner	CA
2002	F-6680-02	Mercy Hospital and Mercy Hospital South	Fixed MRI scanner	Denied
2003	F-6830-03	Mercy Hospital and Mercy Hospital South	Fixed MRI scanner	CA
2004	F-7167-04	Carolinas Imaging Services	Fixed MRI scanner	CA
2005	F-7219-05	Charlotte-Mecklenburg Hospital Authority	Fixed MRI scanner (Dedicated Pediatric)	CA
2016	F-11182-16	Carolinas Imaging Services - Huntersville	Fixed MRI scanner	CA
2016	F-11210-16	Carolinas Medical Center	Fixed MRI scanner (Dedicated Interoperative)	CA
2017	F-11425-17	Carolinas HealthCare System - Pineville	Fixed MRI scanner	CA
2019	F-11760-19	Carolinas Physicians Network	Fixed MRI scanner	CA

Source: Internal Records

CMC further states:

CON Application, Page 41:

Based on the above tiering, Mecklenburg County’s weighted threshold is 4,805 procedures per fixed equivalent scanner. As shown in the previous table, Mecklenburg County has exceeded this threshold since FFY 2017. As a result, the SMFP identified the need for additional fixed MRI capacity to be located in Mecklenburg County in the 2019, 2020, 2021, and Proposed 2022 SMFPs.

Form C Assumptions and Methodology, Page 4:

As demonstrated below, with its four existing MRI scanners, 24,745 total weighted MRI scans in CY 2030 would result in a deficit of one fixed MRI scanner at CMC, which is reasonable and conservative given that CMC has demonstrated the need for an additional fixed scanner for the last four years, when considering the impact of COVID on CY 2020. This analysis clearly supports the need for the fifth fixed MRI scanner proposed in this application.

The 2019, 2020, 2021, and 2022 SMFPs determined a need for fixed MRI scanners in Mecklenburg County and according to CMC, the hospital has demonstrated a need for “an additional fixed scanner for the last four years.” However, CMC’s actions directly contradict its assertion of need for additional hospital-based MRI capacity. In 2019, CMC filed for a freestanding MRI; it did not file an MRI application in 2020; and then, in 2021, it submitted a CON application for a project that will not open until April 2027. CMC waited three years before submitting a CON application for a hospital-based fixed MRI scanner and then proposes to wait an additional five years before

making the hospital-based fixed MRI scanner operational. This does not demonstrate a need for the project CMC proposes.

Based on the aging and growth of the Mecklenburg County population and the expected growth of MRI utilization in Mecklenburg County, Mecklenburg County will experience fixed MRI scanner need determinations for many years in future *SMFPs*. It is not reasonable for CMC to be approved a fixed MRI scanner need determined in the *2021 SMFP* and not made operational until 2027. This does a disservice to patients and undermines the planning principles of the *SMFP*.

Given the excessively long timetable associated with the applicant's project (opening almost six years after filing and ending Project Year 3 more than nine years after filing), the Agency is right to wonder how valid the utilization projections in the application are. While projections are not intended to be guarantees, they are required to be reasonable and adequately supported. The longer the timetable, the less reasonable and less adequately supported the projections become. As CMC itself states, "[w]hile CMHA expects payor mix shifts in the coming years, there remains considerable uncertainty given healthcare reform, Medicaid expansion, and other policy initiatives as to how much shift will occur (in NC) and from what payor categories to others." Application, p. 101. Shifts are not limited to payor mix; they can occur in many other ways, including demand for a service. This raises the very real possibility that if the CMC application is approved, the project will not be developed in the manner in which it is currently proposed. The more time that passes, the more likely it becomes that the applicant's plans will change.

The Agency cannot force an applicant to change the location of its project or accelerate the timetable for the project. At the same time, however, the Agency is not required to approve an application whose central premise is built on an unreasonably lengthy delay simply because the applicant prefers it. The CON Law exists to protect the interests of the people of North Carolina, not the interests of individual providers.

For these reasons, in addition to any other reasons the Agency may discern, CMC's application is non-conforming with Criterion (3) and should be disapproved.

- (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.**

CMC makes the following statements in relation to the alternatives that it considered.

CON Application, Page 72:

CMHA considered developing the MRI scanner in existing space, which would allow for earlier implementation and more immediate relief of the capacity constraints on the two existing adult scanners in CMC's main hospital building. However, the current infrastructure makes it logistically challenging and cost-prohibitive to add a third fixed MRI scanner in the existing hospital building.

CON Application, Page 72:

Of note, given the existing need for additional MRI capacity to meet the increasing need for MRI scans that must be performed in the hospital, CMHA also considered implementing a temporary solution by supplementing with mobile MRI services in the interim prior to opening of the new tower in April 2027. However, a mobile MRI scanner would not address CMC's need for additional inpatient, emergency, and complex outpatient MRI capacity. In addition, the mobile pad on

CON Application, Page 73:

CMHA continuously monitors needs at each of its hospitals, and while other facilities may have the greatest need in the future, CMHA believes that CMC maintains the greatest need for additional fixed MRI services at present. Therefore, developing an MRI scanner at another location was deemed a less effective alternative.

CMC indicates that it cannot increase MRI capacity at its existing hospital building, cannot use mobile MRI scanners to increase capacity, and cannot locate the proposed MRI scanner anywhere else in its health system. With the need for a fixed MRI scanner present in 2021, it is unreasonable to propose an alternative that does not make the fixed MRI scanner operational until 2027, six years after the need determination.

For CMC, the least costly or most effective alternative would be to maintain the status quo. It can apply again for a fixed MRI scanner in 2022 or in a subsequent year, or it can seek to relocate one of its scanners to the new tower closer to the opening date, if it still believes there is a need for three fixed MRI scanners in the tower.

For these reasons, in addition to any other reasons the Agency may discern, CMC's application is non-conforming with Criterion (4) and should be disapproved.

- (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.**

Since the application is non-conforming with Criteria (1), (3), and (4), it should also be found non-conforming with Criterion (5). As CMC itself states, "[w]hile CMHA expects payor mix shifts in the coming years, there remains considerable uncertainty given healthcare reform, Medicaid expansion, and other policy initiatives as to how much shift will occur (in NC) and from what payor categories to others." Application, p. 101. It is highly unlikely that capital costs determined in the summer of 2021 or a pro forma developed in the summer of 2021 will be reliable in April 2027, or in December of 2030, which is Project Year 3. For one thing, it is probable that equipment and construction costs will continue to increase as time progresses. Thus, the funding letter and the pro forma are built on speculation. For example, there is no way Siemens can guarantee its pricing on the scanner until 2025 or 2026, when CMC would most likely place the

order.³ As is the case with the projections, the more time that passes, the more likely it is that if the CON is awarded to CMC, the project will not be developed in the way proposed in the application. Quite possibly, a cost overrun application will need to be filed, thereby leading to even greater delays in project development.

The inherently speculative nature of CMC's capital costs and pro forma render the application non-conforming with Criterion (5). For the reasons stated in these comments as well as any other reasons the Agency may discern, the CMC application is non-conforming with Criterion (5) and must be disapproved.

(6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

CMC fails to adequately demonstrate the need for its proposed project. See Criterion (3) for discussion. Consequently, the applicant did not adequately demonstrate that its proposal will not result in unnecessary duplication of existing or approved health service capabilities or facilities. Please refer to the discussion under Criteria (1), (3) and (4).

For the reasons stated in these comments as well as any other reasons the Agency may discern, the CMC application is non-conforming with Criterion (6) and must be disapproved.

(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.

An applicant that intentionally chooses to delay a project for almost six years in order to meet its own timetable and needs is not promoting competition or having a favorable impact on cost-effectiveness, quality, and access. Rather, the applicant is hindering cost-effectiveness, quality, and access, and simply warehousing an important asset that is needed much sooner than 2027.

³ Even assuming CMC is approved and there is no appeal, it would be highly unusual for CMC to buy the scanner in 2022 when the project would not be open for another five years. Most health systems strive to conserve capital and CMC is presumably no exception. It would not make sense to spend millions of dollars on an MRI scanner in 2022 and not take delivery until 2027; the applicant would have no way to recoup its investment while the MRI scanner is not serving patients and generating revenue. In essence, the applicant would be giving the vendor, a for-profit business, an interest free loan for several years.

Approving CMC's proposal is fundamentally anti-competitive because NHI Matthews would be precluded from developing its project in a timely manner to serve patient needs. For the reasons stated in these comments as well as any other reasons the Agency may discern, the CMC application is non-conforming with Criterion (18a) and must be disapproved.

Performance Standards

For the reasons stated above with respect to Criterion (3), CMC's application is non-conforming with 10A NCAC 14C. 2703 and should be disapproved.

COMPARATIVE ANALYSIS

Pursuant to G.S. 131E-183(a)(1) and the 2021 SMFP, no more than one MRI scanner may be approved for Mecklenburg County in this review. Because each application proposes to acquire a fixed MRI scanner in Mecklenburg County, both applications cannot be approved. For the reasons set forth below, the application submitted by NHI Matthews should be approved and the other application should be disapproved.

Conformity with Review Criteria and Rules

As discussed above, the CMC application is nonconforming with multiple CON criteria and the performance standard. The NHI application is conforming with all applicable CON criteria and the performance standard. The NHI application is the more effective alternative with respect to conformity with review criteria and rules.

Geographic Access

According to Table 17E-1 of the 2021 SMFP, there are 25 fixed MRI scanners in Mecklenburg County, with another fixed MRI scanner approved but not yet operational from the need determination in the 2020 SMFP. Including the scanner awarded in the 2020 review, 19 (73%) of the 26 existing and approved fixed MRI scanners in Mecklenburg County are located in the City of Charlotte. Matthews, a growing suburb of Charlotte, has only one fixed MRI scanner, and no MRI scanners in an outpatient setting. NHI Matthews' location in Matthews improves geographic access and accordingly, the NHI Matthews application is the more effective alternative with respect to geographic access.

Operation of Fixed MRI Scanner

The following table compares a) the projected month and year of operation; and b) the number of months prior to operation after the earliest date of certificate issuance. The application projecting the earliest operation should be found to be more effective.

Rank	Applicant	Project Year 3	
		Date of Operation	Months
1	NHI Matthews	April 2024	25
2	CMC	April 2027	61

The NHI Matthews application is the more effective alternative with respect to operation of the MRI scanner.

Competition

Of the 26 existing or approved fixed MRI scanners in Mecklenburg County, CMC and its affiliates currently own 12 of the fixed MRI scanners, while Novant Health and its affiliates own 11 of the fixed MRI scanners. Approval of NHI Matthews application means that both systems would have an equal number of fixed MRI scanners in Mecklenburg County. Equally important is the fact that the MRI scanner proposed in the NHI Matthews application would be implemented sooner and at a significantly lower cost than the scanner proposed in the CMC application. Accordingly, the NHI application is the more effective alternative with respect to competition.

Projected Access by Medicare Patients

The following table compares a) the number of Medicare patients in Project Year 3; and b) Medicare patients as a percentage of total patients. Generally, the application projecting the highest number or percentage is the most effective alternative regarding these comparative factors.

Rank	Applicant	Project Year 3	
		Medicare Patients	% of Medicare Patients
1	NHI Matthews	1,717	39.3%
2	CMC	5,633	31.5%

As shown in the table, in Project Year 3, NHI Matthews projects to serve the highest percentage of Medicare patients and CMC the highest number of Medicare patients. However, CMC will not open its project until April 2027, with Year 3 occurring in 2030, which does not improve access for Medicare patients. Accordingly, the NHI Matthews application is the more effective alternative with respect to projected access by Medicare patients.

Projected Access by Medicaid Patients

The following table compares a) the number of Medicaid patients in Project Year 3; and b) Medicaid patients as a percentage of total patients. Generally, the application projecting the highest number or percentage is the most effective alternative regarding these comparative factors.

Rank	Applicant	Project Year 3	
		Medicaid Patients	% of Medicaid Patients
1	CMC	3,594	20.1%
2	NHI Matthews	245	5.6%

As shown in the table, in Project Year 3, CMC projects to serve the highest number of Medicaid patients and the highest percentage of Medicaid patients. However, CMC will not open its project until April 2027, with Year 3 occurring in 2030, which does not improve access for Medicaid patients. Accordingly, the NHI Matthews application is the more effective alternative with respect to projected access by Medicaid patients.

Average Net Revenue per Weighted MRI Scan

The following table compares the Year 3 average net revenue per weighted MRI scan. Generally, the application projecting the lowest average net revenue per weighted MRI scan is the most effective alternative regarding this comparative factor.

Rank	Applicant	Project Year 3		
		Net Revenues	Weighted MRI Scans	Average Gross Revenue Per Weighted MRI Scan
1	NHI Matthews	\$2,268,554	4,828	\$469.87
2	CMC	\$27,467,745	24,745	\$1,110.03

As shown in the table, in Project Year 3, NHI Matthews projects the lowest average net revenue per weighted MRI scan. Additionally, due to the higher hospital-based MRI scanner charges, patient will incur higher out-of-pocket costs including copayments and deductible payments and insurers will also incur higher hospital-based MRI scanner reimbursements.

Average Net Income per Weighted MRI Scan

The following table compares the Year 3 average net income per weighted MRI scan. Generally, the application projecting the lowest average net income per weighted MRI scan is the most effective alternative regarding this comparative factor.

Rank	Applicant	Project Year 3		
		Net Income	Weighted MRI Scans	Average Net Income Per Weighted MRI Scan
1	NHI Matthews	\$609,818	4,828	\$126.31
2	CMC	\$19,878,299	24,745	\$803.33

As shown in the table, in Project Year 3, NHI Matthews projects the lowest average net income per weighted MRI scan due to NHI Matthews outpatient setting.

Average Operating Expense per Weighted MRI Scan

The following table compares the Year 3 average operating expense per weighted MRI scan. Generally, the application projecting the lowest average operating expense per weighted MRI scan is the most effective alternative regarding this comparative factor.

Rank	Applicant	Project Year 3		
		Operating Expense	Weighted MRI Scans	Average Operating Expense Per Weighted MRI Scan
1	CMC	\$7,589,545	24,745	\$306.71
2	NHI Matthews	\$1,658,726	4,828	\$343.56

As shown in the table, in Project Year 3, CMC projects the lowest average operating expense per weighted MRI scan which is only slightly lower than NHI Matthews' projected average operating expense per weighted scan

SUMMARY

The following is a summary of the reasons the application submitted by NHI Matthews should be determined to be the most effective alternative in this review:

- NHI Matthews is conforming with respect to all applicable review criteria and rules.
- NHI Matthews' location in Matthews enhances geographic access for MRI services in Mecklenburg County, where most of the fixed MRI scanners are concentrated in Charlotte.
- NHI Matthews projects to make the fixed MRI scanner operational in April 2024, three years before CMC's proposed operational date.
- The NHI Matthews application is the more effective alternative with respect to competition.
- NHI Matthews projects the highest percentage of Medicare patients in Project Year 3 and will make its scanner available to Medicare patients three years before CMC's project becomes operational.
- NHI Matthews will make its scanner available to Medicaid patients three years before CMC's project becomes operational.
- NHI Matthews projects the lowest average net revenue per weighted MRI scan in Project Year 3.
- NHI Matthews projects the lowest average net income per weighted MRI scan in Project Year 3.

CONCLUSION

The NHI Matthews application is conforming with all applicable review criteria and rules. The CMC application is non-conforming with multiple CON criteria and rules and must be disapproved. A comparative analysis shows that the NHI Matthews' application is comparatively superior due to its outpatient setting, lower costs, charges, and reimbursements, as well as operating three years sooner than CMC. The NHI Matthews project will bring needed services to Mecklenburg County residents three years sooner than CMC's project, and it will do so in a lower cost outpatient setting. Accordingly, the Agency should approve the NHI Matthews application and deny the CMC application.