

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DECISION DATE: March 31, 2014  
PROJECT ANALYST: Gloria C. Hale  
TEAM LEADER: Lisa Pittman

PROJECT I.D. NUMBER: Project I.D. #F-10235-14/ The Heritage of Union County/  
Cost overrun for Project I.D. #F-8071-08 (Develop a new  
90-bed nursing facility)/ Union County

### REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

NA

On October 1, 2008, The Heritage Properties of Union County, LLC (Lessor) and The Heritage of Union County, LLC (Lessee) received a certificate of need (CON) to construct a 90-bed nursing facility in Union County (The Heritage). The original site for the nursing facility was adjacent to Sikes Mill Road and Tom Helm Road in Unionville. Due to a lack of water and a sewer moratorium, the applicants proposed an alternative site on Highway 84/Weddington Road, Wesley Chapel. The Division of Health Service Regulation (DHSR) issued a Declaratory Ruling approving the site change on April 29, 2010. Due to issues with sewer capacity and an unfavorable sub-surface assessment at the Wesley Chapel site, the applicants proposed another alternative site at Highway 74/West Roosevelt Boulevard Tract 2 in Monroe. The DHSR issued a Declaratory Ruling on February 15, 2012 approving the site change. The original project was approved for a capital cost of \$9,272,749 and was scheduled to offer services by October 1, 2010. Based on its most recently-approved timetable, however, it was scheduled to offer services by December 16, 2013. The current CON application is for a “cost overrun” of the initial approval, and proposes to offer services on October 1, 2014. There is no material change in scope from the originally approved project in this application.

The applicants do not propose to increase the number of licensed beds in any category, add any new health services or acquire equipment for which there is a need determination in the 2014 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations in the 2014 SMFP that are applicable to this review. However, there is one policy in the 2014 SMFP that is applicable to this review. *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities* 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, the Certificate of Need Section 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 \$2 million but less than \$5 million. In Section II, pages 40-42, the applicants describe several principles used in the design of the facility and state, *“The building will be in compliance with all Energy Standards as required by the International Building Code and the North Carolina Building Code.”* These principles, and how they are being met, are summarized as follows:

- ◆ *“Integrated Design Principles”* which include performance goals for maximizing energy efficiency such as indoor air quality, energy, and water;
- ◆ *“Optimizing Energy Performance”* by installing energy efficient mechanical equipment that is compliant with International and North Carolina Building Codes;

- ◆ *“Protect and Conserve Water”* through the use of low flow toilets and efficient landscaping and irrigation systems;
- ◆ *“Enhance Indoor Environmental Quality”* through mechanisms and materials that control humidity, control moisture, and allow for fresh air; and
- ◆ *“Reduce Environmental Impact of Materials”* by using materials that are renewable and by recycling and salvaging construction waste.

The applicants adequately describe their plans to assure improved energy efficiency and water conservation. In summary, the application is consistent with Policy GEN-4. Consequently, the application is conforming to this criterion.

- (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

On October 1, 2008, The Heritage Properties of Union County, LLC (Lessor) and The Heritage of Union County, LLC (Lessee) received a certificate of need (CON) to construct a 90-bed nursing facility in Union County (The Heritage). Due to site issues such as a lack of water, a sewer moratorium, and geography problems, the applicants had to locate an alternative site for the proposed nursing facility twice. Declaratory Rulings approving two consecutive site changes were issued from the Division of Health Service Regulation on April 29, 2010 and February 15, 2012, respectively. The Heritage site is now located at Highway 74/West Roosevelt Boulevard Tract 2 in Monroe.

In addition, the original application proposed 22 private beds and 68 semi-private beds. On May 24, 2012, the applicants requested, and were subsequently approved for, a material compliance determination to increase the number of private beds to 62, decreasing the number of semi-private beds to 28. On January 13, 2014, the applicants requested another material compliance determination to decrease the number of private beds to 58 while increasing the number of semi-private beds to 32 which was also subsequently approved by the Certificate of Need Section. The original project was approved for a capital cost of \$9,272,749 and was scheduled to offer services by October 1, 2010. Based on its most recently-approved timetable, however, it was scheduled to offer services by December 16, 2013.

The current CON application is for a “cost overrun” of the initial approval and proposes to offer services on October 1, 2014. There is no material change in scope from the originally approved project in this application; rather, the applicants state in Section II.1, page 13, that delays in the project caused by a lack of water and a sewer moratorium in Union County, in addition to changes in “*the long term care industry and in the health care delivery system as a whole*” that have taken place since the CON was issued, necessitated the need to further address “*privacy, security, service and life safety elements...*” The applicants state, in Section II, page 14, “*Many of these amenities were not anticipated or even developed when the project was initially conceptualized and approved, because industry standards have evolved since that time.*” In Section VI, page 75, the applicants indicate that the previously approved capital cost of \$9,272,748 is now projected to be \$13,274,920, an increase of 43.2% [ $(\$13,274,920/\$9,272,748) - 1 = 0.432$ ].

#### Population to be Served

In Section II, page 28, the applicants state, “*Patient origin for Union County is the same as originally forecast in F-8071-88 [sic].*” Therefore, the applicants project that 90% of its patient origin will be from Union County and 10% will be from Mecklenburg County. The applicants adequately identify the population to be served.

#### Demonstration of Need

The applicants discuss the reasons for the additional capital costs in Section II, pages 13-22, and Section VI.2, page 71, as follows:

- Construction cost

The development of the project has been delayed due to two changes in the site location. Copies of the applicants’ Declaratory Rulings pertaining to these site changes are provided in Exhibit 5. In Section II, page 15, the applicants state that construction costs have increased and according to the McGraw Hill Construction Index, “*commercial health care construction costs increased 15 percent between 2008 and 2014*”. Based on an analysis done by the Project Analyst using information provided by the applicants on pages 71-75, the construction cost increase is \$630,031. The applicants provide a copy of the McGraw Hill Construction Index from the website ENR.com (Engineering News-Record) in Exhibit 14. The applicants state, on pages 15-16, that the increase in construction costs is due to changes in Life Safety Standards, an increase in private rooms versus semi-private rooms, and higher financing costs. As stated in Section II, page 13, the nursing facility will have 58 private beds and 32 semi-private beds. This represents an increase in private beds and a commensurate decrease in semi-private beds from the applicants’ original application which proposed 22 private beds and 68 semi-private beds.

- “Low Voltage IT”

The applicants state, on page 20, that low voltage information technology will account for a significant part of the overrun costs. In supplemental information, the applicants summarize the higher costs for low voltage technology as follows:

*“Cost increases are attributable to higher technical requirements for cabling, more complex software for point of care charting, the amphitheater, library, and sports bar additions, use of automated time clocks, more distance in the corridors associated with more private rooms, and the decision to go wireless in the facility. Wireless increases flexibility, and increases the costs for secure routing.”*

As stated by the applicants on page 20, low voltage technology includes: *“electronic medical records for point of care charting, a common patient registry, care paths, and quality of care reporting; an electronic roam alert system to prevent elopement by disoriented or confused residents; and a security system with nurse call system, surveillance cameras, and wander alerts.”* The applicants state that electronic patient medical records will save nursing staff time on administrative tasks and allow them to spend more time with patients. The patient registry will reduce medical errors *“and prevent unauthorized persons from accessing sensitive patient records.”* Further, the applicants state, on page 20, that security systems, including the electronic roam alert system, will *“address, improve, and maintain important safety standards”* for those patients with memory care needs such as those with Alzheimer’s and dementia. In addition, the applicants state on page 21 that an interactive software program, *“Never2Late Adaptive software”* is a new cost. This software will enable the residents to connect with family and friends.

- Furnishings, Equipment and Amenities

The applicants state, in Section II, page 16, *“Furnishings and equipment increased, by almost \$1.5 million, about four-fold from the original budget.”* As discussed in Section II, pages 16, 19, and 21, and in supplemental information, these items include: rehabilitation equipment, a therapy pool, wide Tempur-Pedic beds, additional carpet, patient lifts, 55-inch T.V.’s, a cable and satellite TV system, computers for the library, a chapel, an amphitheater system, a coffee bar, a sports bar, and playground equipment to facilitate *“multi-generation contact”* for *“healthy social behavior.”* The library and computers, amphitheater system, sports bar, chapel, and playground equipment are new to the project.

In supplemental information, the applicants state that the costs related to rehabilitation services increased due to the higher costs of therapy equipment, the addition of an indoor walking path *“designed to replicate changes in grade and type of walking surfaces”*, and the addition of a covered, outdoor therapy space for discharged patients in need of continuing therapy. The gait training in particular, according to supplemental information, *“...gives patients a more*

*realistic experience and provides better coaching opportunity for the physical and occupational therapists.*” In addition, the applicants state in supplemental information that they received feedback from patient satisfaction surveys indicating a desire for more areas for socialization and recreation. Therefore, the applicants added the library, sports bar and amphitheater in “*space that does not compete with religious services, arts programs or other social activities.*” In addition, as stated in supplemental information, the beauty/barber salon was expanded to provide residents with more services such as spa services and massage therapy to “*support resident comfort and self-esteem.*” The applicants state, on page 21, “*These amenities demonstrate the applicants’ commitment to making the nursing home stay comfortable, sociable, safe, therapeutic and personalized. These amenities will provide the feel of a quality residence and will optimize resident comfort and care quality.*” In addition, the applicants state in supplemental information that they propose to add a more robust security system to address increasing concerns for security, especially for residents with dementia. This will include security cameras, door alarms and locking systems which are more complex than the roam alert system that was originally planned.

Further, the applicants state, in supplemental information, that the original layout of the facility has changed to accommodate five living room areas instead of four combination dining and living areas, and to accommodate a higher number of private rooms than originally planned. These changes necessitate “*...additional wiring and cabling, more square feet and furnishings.*”

▪ Road Access, Landscaping, and A&E

The applicants state, in Section II, page 16, that in order to meet local zoning requirements and environmental regulations, the nursing facility had to be located in the center of the 41-acre parcel. This necessitated the addition of an access road to connect to Highway 74 and the need to address storm-water retention at the site. In addition, the applicant states, in Section II, page 14, and in Section VI, page 71, that fountains and “*additional investment in low-maintenance, low-water use plantings*” will add to the costs.

In Section VI, page 71, the applicants state that additional costs for A&E will be incurred for sewer, water, and road access studies and for site engineering.

This application for a cost overrun seeks approval only for the increased capital cost of the project, as a result of an increase in the aforementioned costs. The original project scope will not be changed.

The following table from Section VI, pages 74-75, lists the originally approved capital costs, the proposed costs, and the difference between the two that are associated with this cost overrun application.

**Project Capital Costs\***

CATEGORY	PREVIOUSLY APPROVED	PROPOSED IN CURRENT APPLICATION	DIFFERENCE
A. Site Costs	\$2,576,000	\$642,626**	(\$1,933,374)
B. Construction Contract	\$5,631,651	\$8,195,056	\$2,563,405
C. Miscellaneous			
Equipment & Furniture	\$559,890	\$2,107,975	\$1,548,085
Van	\$40,000	\$40,000	\$0
Low Voltage IT		\$980,637	\$980,637
Landscaping		\$282,000	\$282,000
A&E Fees	\$150,000	\$280,493	\$130,493
Legal Fees		\$20,000	\$20,000
Construction Interest	\$240,218	\$238,985	(\$1,233)
Contingency	\$74,989	\$231,541	\$156,552
Subtotal miscellaneous costs	\$1,065,097	\$4,437,238	\$3,372,141
<b>D. Total Capital Cost</b>	<b>\$9,272,748</b>	<b>\$13,274,920</b>	<b>\$4,002,172</b>

\*Costs for specific sub-items are not necessarily included in the same line item category for the current application as they were in the original application, i.e. construction contract for current application includes contingency for construction costs budgeted for in the original application and other site preparation costs which had been listed separately in the original application.

\*\*Includes land acquisition cost only.

As shown in the capital costs table provided in Section VI, pages 74-75, the cost overrun is largely due to increased construction costs, equipment and furniture costs, and information technology costs.

Projected Utilization

The applicants provide the projected utilization of The Heritage for the first and second full federal fiscal years following completion of the project in Section III, pages 54-55, illustrated as follows:

**The Heritage  
 Projected Utilization  
 October 1, 2014 – September 30, 2015**

Nursing	1 <sup>st</sup> Qtr. 10/01/14 – 12/31/14	2 <sup>nd</sup> Qtr. 1/01/15 – 3/31/15	3 <sup>rd</sup> Qtr. 4/01/15 – 6/30/15	4 <sup>th</sup> Qtr. 7/01/15 – 9/30/15	Total
Patient Days	153	1,005	3,894	6,774	11,826
Occupancy Rate	2%	12%	48%	82%	36%
# of Beds	90	90	90	90	90

**October 1, 2015 – September 30, 2016**

<b>Nursing</b>	<b>1<sup>st</sup> Qtr. 10/01/15 – 12/31/15</b>	<b>2<sup>nd</sup> Qtr. 1/01/16 – 3/31/16</b>	<b>3<sup>rd</sup> Qtr. 4/01/16 – 6/30/16</b>	<b>4<sup>th</sup> Qtr. 7/01/16 – 9/30/16</b>	<b>Total</b>
<b>Patient Days</b>	7,912	7,740	7,826	7,912	31,390
<b>Occupancy Rate</b>	96%	96%	96%	96%	96%
<b># of Beds</b>	90	90	90	90	90

The applicants discuss the methodology used to project utilization in Section III, page 56, and in Exhibit 39. Assumptions are provided on page 56 and in supplemental information. The applicants adequately demonstrate that the utilization projections are based on reasonable, credible, and supported assumptions.

The applicants adequately demonstrate the need for the proposed cost overrun. Consequently, the application is conforming to this criterion.

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

NA

- (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

In Section II.5, pages 34-35, the applicants discuss three alternatives that were considered prior to submitting this application. The first of these was to maintain the status quo. The applicants state that construction of the facility is more than 50% complete and that *“Abandoning the project would serve no value.”* Further, the cost overrun would provide for *“a comprehensive therapy suite, IT systems important to the operation of the facility, and additional amenities that will improve patient care quality and safety.”* Therefore, maintaining the status quo was not an effective alternative.

The second alternative was to re-bid the project. The applicants state that the project had already been competitively bid and that market pricing was used. Re-bidding was considered infeasible and this alternative was rejected.

The last alternative considered by the applicants was to reduce costs by providing less comprehensive services, having fewer staff or paying staff less, and by not offering as

many amenities. However, this was rejected because *“Union County nursing facility residents deserve better and the applicants are willing to forego excess financial gains to provide the extras that enhance quality of care and contribute to a high quality of life for the residents.”*

The applicants conclude that the proposed capital cost is reasonable based on the alternatives considered. In addition, in Project I.D. #F-8071-08, the application was conforming to all other applicable statutory review criteria. An application that cannot be approved cannot be an effective alternative. The applicants adequately demonstrate that the proposal is the least costly or most effective alternative. The application is conforming to this criterion and approved subject to the following conditions:

- 1. The Heritage Properties of Union County, Inc. (Lessor) and The Heritage of Union County, LLC (Lessee) shall materially comply with the representations made in Project I.D. #F-8071-08 and this certificate of need application, Project I.D. #F-10235-14, and supplemental information provided. In those instances where representations conflict, The Heritage Properties of Union County, Inc. (Lessor) and The Heritage of Union County, LLC (Lessee) shall materially comply with the last made representation.**
  - 2. The Heritage Properties of Union County, Inc. (Lessor) and The Heritage of Union County, LLC (Lessee) shall comply with all conditions of approval on the certificate of need for Project I.D. #F-8071-08, except as specifically modified by the conditions of approval for this application, Project I.D. #F-10235-14.**
  - 3. The Heritage Properties of Union County, Inc. (Lessor) and The Heritage of Union County, LLC (Lessee) 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. The plan must be consistent with the applicants’ representations in the written statement as described in paragraph one of Policy GEN-4.**
  - 4. The total capital expenditure for both projects shall be \$13,274,920.**
  - 5. The Heritage Properties of Union County, Inc. (Lessor) and The Heritage of Union County, LLC (Lessee) shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to the 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

With the addition of the cost overrun proposed in this application, the applicants project the total project capital cost to be \$13,274,920. See Criterion (3) for a listing and description of specific changes in the costs by category which is incorporated hereby as if fully set forth herein. In Section VI.5, page 79, the applicants state the capital cost of the project will be funded through a conventional loan and owner's equity from United Health Services, Inc., the parent company of The Heritage Properties of Union County, Inc. and The Heritage of Union County, LLC. In supplemental information, the applicants provide documentation from Synovus Bank and from United Health Services, Inc. indicating a commitment of funds for the project. In supplemental information, the applicants provide a copy of a loan agreement between The Heritage Properties of Union County, Inc. and Synovus Bank, and a copy of a promissory note from The Heritage Properties of Union County, Inc. for a \$9,100,000 loan for the project. On page 79 of the application, the applicants indicate that owner's equity in the amount of \$4,174,920 will also be used to finance the project. In Exhibit 11, the applicants provide a letter from the Vice President of Treasury Management and Treasurer, United Health Services, Inc., which states,

*“United Health Services, Inc. has committed to provide all funds to successfully develop and operate the proposed project through commercial loan and owner equity. The owner equity portion has been committed and expended to date.”*

In addition, the applicants indicate, in Section VII, on page 83, that the estimated start-up expenses are \$286,038, an increase from the previously approved amount of \$211,954. The estimated initial operating expenses have also increased, from \$751,487 in the original application, to \$1,137,716. The combined amount for start-up and initial operating expenses for the current application is \$1,423,753. The applicants indicate, on page 84, that the proposed combined start-up and initial operating expenses will be financed through a General Electric Capital Asset Based Loan. The applicants provide a copy of the loan documentation in Exhibit 11.

Exhibit 12 contains United Health Services, Inc. and subsidiaries' audited financial statements as of June 30, 2013 and 2012. As of June 30, 2013, the corporation had cash and cash equivalents of \$4,023,207, and in 2012 had \$3,410,681 in cash and cash equivalents. In addition, as of June 30, 2013, United Health Services, Inc. and subsidiaries had \$848,974,314 in total operating revenues and \$28,034,180 in net income. The applicants adequately demonstrate the availability of sufficient funds for the capital needs of the project.

The applicants provide pro forma financial statements for the first two full operating years of the project. The applicants project a net loss in the first full operating year, October 1, 2014

through September 30, 2015, of \$1,137,716, and a net profit of \$93,911 in the second full operating year, October 1, 2015 – September 30, 2016. The assumptions used by the applicants in preparation of the pro formas, provided in the pro formas tab of the application and in supplemental information, are reasonable, including projected utilization, costs and charges.

The applicants project higher patient charges and rates for private pay, Medicaid, and Medicare than those in the original project submitted in 2008, and provide commercial insurance and hospice patient charges that had not been provided in the original application. The applicants state, in supplemental information, that hospice charges represent the Medicaid payment for hospice care provided to residents at the nursing facility and that they had not been separated out in the original application. Further, the applicants state, *“Medicaid pays the hospice agency for the routine nursing home care independent of hospice services; and the hospice, in turn, pays the nursing home.”* In addition, the applicants state in supplemental information that PruittHealth, Inc., the applicants’ management services company, has seen an increase in residents with commercial insurance than it had seen previously.

The applicants provide the original application’s previously approved charges for FFY 2012 and the proposed charges for the current application for FFY 2015 in Section VIII, page 86, summarized as follows:

<b>Nursing Unit Source of Payment</b>	<b>Original Application FFY 2012 Private Room</b>	<b>Cost Overrun FFY 2015 Private Room</b>	<b>Original Application FFY 2012 Semi-Private Room</b>	<b>Cost Overrun FFY 2015 Semi-Private Room</b>
Private Pay	\$149.50	\$173.30	\$140.00	\$168.30
Medicare	\$352.44	\$440.79	\$352.44	\$440.79
Medicaid	\$137.38	\$163.30	\$137.38	\$163.30
Commercial Insurance	\$0	\$440.79	\$0	\$440.79
Hospice*		\$163.30		\$163.30

\*Hospice charges were not reported separately in the applicants' original application, according to supplemental information provided.

Exhibit 33 provides a comparison of 2013 nursing facility Medicare rates in Union County. The applicants state, in Section VIII, page 86, that its proposed Medicare rates are below the average Medicare rates for Union County nursing facilities. In addition, its proposed commercial insurance rates “...will follow Medicare reimbursement RUG rate schedules.” The applicants’ private pay rate for the proposed project is based on the Medicaid rate for a new nursing facility in Union County, as provided by the Department of Health and Human Services, Division of Medical Assistance. The applicants adequately demonstrate that the financial feasibility of the proposal is based on reasonable projections of costs and charges. Therefore, the application is conforming to this criterion.

- (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 were previously approved to develop a new 90-bed nursing facility in Union County, North Carolina (Project I.D. #F-8071-08). In Project I.D. #F-8071-08, the application was conforming to this criterion, and the applicants propose no changes in the current application that would affect that determination. Consequently, the application is conforming to this criterion.

- (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 V.1, pages 63-65, the applicants provide a table listing proposed staffing in the second full fiscal year of operation. There are several changes in staffing as compared to the original application (Project I.D. #F-8071-08), as illustrated in the table below. However, the applicants state, in supplemental information,

*“The discrepancies in the staffing totals are all related to either different staff titles or a shift in responsibilities to other staff at the facility.”*

In addition, the applicants state, in supplemental information, that a higher number of annual hours (2,080) per FTE are used for the Certified Nursing Assistants (CNAs) than in the original application (1,950), and that the Restorative Aides and the Medical Records Consultant are also trained and certified as CNAs, and are therefore also included in the total FTEs for CNAs. Further, staff development duties will become the responsibility of the *“Clinical Care Coordinator”* reflected in the FTEs for Registered Nurses, according to supplemental information provided.

Overall, the applicants propose to increase staffing by 1.88 FTEs.

**The Heritage**

	<b>Original app.</b>	<b>Cost overrun</b>
<b>Position</b>	<b>FTEs</b>	<b>FTEs</b>
Director of Nursing	1.00	1.00
Staff Development Coordinator	0.50	0.00
MDS Nurse (RN)	1.44	1.00
Registered Nurse	4.33	5.20
Licensed Practical Nurse	14.95	15.40
Certified Nursing Assistant	37.52	31.81
Medical Records Consultant (Nursing Assistant)	1.00	1.00
Restorative Aide	0.00	2.63
Food Service Supervisor	1.03	1.00
Cooks	2.88	2.00
Dietary Aides	4.34	5.20
Social Services Director	1.00	1.00
Activity Director	1.00	1.00
Housekeeping Aides	5.39	9.80
Laundry Aides	2.58	2.80
Maintenance Supervisor	1.00	1.00
Administrator	1.00	1.00
Bookkeeper	2.00	0.00
Financial Counselor	0.00	1.00
<b>Total Positions</b>	<b>82.96</b>	<b>83.84</b>

In Section V.1, page 66, the applicants provide a table comparing direct care nursing staff hours per patient day for the original and cost overrun applications. The number of direct care nursing hours per patient day for the cost overrun application is expected to be 3.78 for the second full Federal fiscal year of the project, October 1, 2015 – September 30,

2016. The original application indicated that there would be 3.70 direct care nursing hours per patient day for October 1, 2011 – September 30, 2012.

All other necessary staff are listed as contractual services as indicated in a table on pages 63-65 of the application.

The applicants adequately demonstrate the availability of sufficient resources for health manpower and management personnel to provide the services proposed. Therefore, the application is conforming to this criterion.

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

C

The applicants identify services that will be provided by employees or arranged for through contracts that are listed in a table provided in Section V.1, pages 63-65. In addition, the applicants state they had communicated with area healthcare providers and others during the preparation of the original CON application for the project, and provide a listing of these providers in Section V.4, pages 67-68. The information provided is conforming to this criterion, and the applicants propose no changes in the current application that would affect that determination. Consequently, 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

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicants 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 applicants 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

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

C

In Section II.1, page 13, and Section IX, page 102, the applicants state that delays in the project were caused by site changes due to a lack of water available, a sewer moratorium, and geography. These delays coincided with changes in “*the long term care industry and in the health care delivery system as a whole*”. The latter has resulted in the applicants’ need to further address “*privacy, security, service and life safety elements...*” as stated on page 13. Further, the applicants state, on page 14, that many amenities were not accounted for when the original project was being planned because “*...industry standards have evolved since that time.*”

This application for a cost overrun seeks only approval for increased capital cost of the project, resulting from increases in costs in several categories listed in the following table from Section VI, pages 74-75. The original project scope will not be changed.

**The Heritage  
 Project Capital Costs\***

<b>CATEGORY</b>	<b>PREVIOUSLY APPROVED</b>	<b>PROPOSED IN CURRENT APPLICATION</b>	<b>DIFFERENCE</b>
A. Site Costs	\$2,576,000	\$642,626	(\$1,933,374)
B. Construction Contract	\$5,631,651	\$8,195,056	\$2,563,405
C. Miscellaneous			
Equipment & Furniture	\$559,890	\$2,107,975	\$1,548,085
Van	\$40,000	\$40,000	\$0
Low Voltage IT		\$980,637	\$980,637
Landscaping		\$282,000	\$282,000
A&E Fees	\$150,000	\$280,493	\$130,493
Legal Fees		\$20,000	\$20,000
Construction Interest	\$240,218	\$238,985	(\$1,233)
Contingency	\$74,989	\$231,541	\$156,552
Subtotal miscellaneous costs	\$1,065,097	\$4,437,238	\$3,372,141
<b>D. Total Capital Cost</b>	<b>\$9,272,748</b>	<b>\$13,274,920</b>	<b>\$4,002,172</b>

\*Costs for specific sub-items are not necessarily included in the same line item category for previously approved capital costs and currently proposed capital costs, i.e. construction contract for current application includes contingency for construction costs budgeted for in the original application and site preparation costs which had been listed separately in the original application. The applicants describe the costs included in line item categories in Section VI, page 71.

The applicants propose an increase in square footage of the nursing facility mainly to accommodate adequate space for ancillary areas, including physical therapy, patient dining, recreation/social or common use areas, and corridors. Additional square footage is also proposed for patient rooms and patient baths. In its original application (Project I.D. #F-8071-08), the applicants were approved for 22 private beds and 68 semi-private beds. On May 24, 2012, the applicants requested, and were subsequently approved for, a material compliance determination to increase the number of private beds to 62, decreasing the number of semi-private beds to 28. On January 13, 2014, the applicants requested another material compliance determination to decrease the number of private beds to 58 while increasing the number of semi-private beds to 32 which was also subsequently approved by the Certificate of Need Section. The applicants provide a table in Section IX.3, page 99, identifying the proposed square footage for each area in the proposed nursing facility. A table comparing the previously approved square footage and the proposed square footage by area is provided as follows:

**The Heritage**

<b>Ancillary Areas</b>	<b>Previously Approved Sq. Ft.</b>	<b>Proposed Sq. Ft.</b>
Administration	1,840	2,323
Public Lobby	726	1,080
Mechanical Equipment	513	470
Housekeeping	230	168
General Storage	450	490
Laundry	725	780
Physical Therapy	2,032	5,214
Beauty Shop	216	548
Kitchen	1,806	2,430
Patient Dining	1,600	2,424
Recreation, Activities & Other Common Use Areas	2,972	6,230
Staff Dining	360	364
Circulation/Corridors	9,906	15,498
<b>Sub-total Ancillary Areas</b>	<b>23,376</b>	<b>38,019</b>
<b>Nursing Units</b>		
Nurses Station	612	352
Utility, Linen & Equipment Storage	2,290	1,364
Patient Rooms	13,360	16,596
Patient Baths	4,078	5,691
<b>Sub-total Nursing Units</b>	<b>20,348</b>	<b>24,003</b>
<b>Total Square Feet</b>	<b>43,724 [43,716]</b>	<b>62,022</b>

\*The number in brackets represents the correct number of square feet as calculated by the Project Analyst.

The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative and that the construction costs will not unduly increase the costs and charges of the proposed services. See Criterion (5) for discussion regarding costs and charges which is incorporated hereby as if fully set forth herein. Therefore, 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;

NA

This criterion was found to be not applicable to the original application, (Project I.D. # F-8071-08), therefore it is likewise not applicable to the current application.

- (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;

NA

This criterion was found to be not applicable to the original application, (Project I.D. # F-8071-08), therefore it is likewise not applicable to the current application.

- (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 IV.6, page 61, the applicants provide the payer mix for the proposed nursing facility following completion of the proposed project. The applicants indicate a change from the payer mix previously approved in Project I.D. # F-8071-08, as illustrated in the following table:

**Payer Mix  
 Projected Patient Days as Percent  
 of Total Patient Days**

<b>Payer Source</b>	<b>Original Application</b>	<b>Cost Overrun Application</b>
Self-Pay (includes private pay, indigent and charity care)	4.7%	2.3%
Commercial Insurance	0%	2.3%
Medicare	23.3%	23.3%
Medicaid	72.1%	68.6%
Other (Hospice)	0%	3.5%
<b>Total</b>	<b>100%</b>	<b>100%</b>

The applicants discuss the change in payer source projections in Section IV.6, page 61, and in supplemental information. On page 61 the applicants state,

*“Projected payor mix has changed only slightly from the original. Hospice patients are now counted separately; Medicare is unchanged and the commercial and self-pay patients are differentiated.”*

The applicants state, in supplemental information, that Medicaid pays the hospice agency and the hospice agency, in turn, pays the nursing home for the routine nursing home care provided. In addition, commercial insurance participation is anticipated now based on recent experience of PruittHealth, Inc. the applicants’ management services company.

Moreover, the applicants state on page 59,

*“The applicants will not discriminate on the basis of income, race, ethnicity, minority, gender, handicap conditions, age or on any other circumstance or physical condition which would classify the individual as underserved. Please see Exhibit 14 in the original approved application for a copy of the admissions policy which includes the non-discrimination policy.”*

Consequently, the applicants demonstrate that the facility will provide adequate access to medically underserved populations. Therefore, 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 IV.5, page 60, the applicants state,

*“To be admitted to the facility, a person must have an order for admission from a physician or other person legally authorized to admit patients. All admissions to the facility will be in accordance with facility policies and procedures as outlined in Exhibit 14 in the original approved application.”*

In addition, on page 60, the applicants provide a listing of health care providers and others they anticipate receiving referrals from. The application was conforming to this criterion in Project I.D. #F-8071-08 and the applicants propose no changes in the current application that would affect that determination. Consequently, 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 Project I.D. # F-8071-08, the application was conforming to this criterion and the applicants propose no changes in the current application that would affect that determination. Consequently, 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 were previously approved to develop a 90-bed nursing facility in Union County. In Project I.D. # F-8071-08, the application was conforming to this criterion, and the applicants propose no changes in the current application that would affect that determination. Consequently, the application is conforming to this criterion.

- (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.

NA

This criterion was found to be not applicable to the original application, (Project I.D. # F-8071-08), therefore it is likewise not applicable to the current application.

- (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