

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: March 14, 2016

Findings Date: March 14, 2016

Project Analyst: Celia C. Inman

Assistant Chief: Lisa Pittman

Project ID #: G-11120-16

Facility: The Arboretum at Heritage Greens

FID #: 980248

County: Guilford

Applicant: KC Heritage Greens, LLC

Project: Relocate 18 existing adult care home beds from Elm Villa to the Arboretum at Heritage Greens, a 48-bed assisted living facility in Guilford County, for a total of 66 adult care home beds upon completion of the project

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.

C

The applicant, KC Heritage Greens, LLC (KCHG), proposes to relocate 18 existing adult care home (ACH) beds from Elm Villa to The Arboretum at Heritage Greens (The Arboretum), a 48-bed assisted living facility in Guilford County, for a total of 66 ACH beds upon completion of the project.

Heritage Greens is a senior living community in Guilford County. There are two separately licensed assisted living facilities on the Heritage Greens campus: The Arboretum at Heritage Greens (48-bed Alzheimer's Memory Care Special Care Unit (SCU) facility) and Verra Springs at Heritage Greens (45-bed ACH facility). Both facilities are managed by Kisco Senior Living, LLC (Kisco), an owner-affiliated entity.

The 2016 State Medical Facilities Plan (SMFP) lists Elm Villa with 44 existing ACH beds in the inventory of Guilford County ACH beds in Chapter 11, Table 11A. This project relocates 18 of the 44 beds to The Arboretum. KC Greensboro Expansion, LLC (KCGE) proposes to relocate the remaining 26 Elm Villa ACH beds to a separately licensed facility in a concurrently filed application, Project I.D. #G-11121-16.

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 2016 SMFP. Therefore, there are no need determinations applicable to this review.

Policies

POLICY LTC-2: RELOCATION OF ADULT CARE HOME BEDS is applicable to this review.

Policy LTC-2 states:

Relocations of existing licensed adult care home beds are allowed only within the host county and to contiguous counties currently served by the facility. Certificate of need applicants proposing to relocate licensed adult care home beds to contiguous counties shall:

- 1. Demonstrate that the proposal shall not result in a deficit in the number of licensed adult care home beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the State Medical Facilities Plan in effect at the time the certificate of need review begins, and*
- 2. Demonstrate that the proposal shall not result in a surplus of licensed adult care home beds in the county that would gain adult care home beds as a result of the proposed project, as reflected in the State Medical Facilities Plan in effect at the time the certificate of need review begins."*

Both facilities are located in Guilford County; therefore the number of licensed adult care home beds in Guilford County does not change. The application is consistent with Policy LTC-2.

Conclusion

In summary, the applicant adequately demonstrates that its proposal is consistent with Policy LTC-2. Therefore, 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

The applicant proposes to relocate 18 existing ACH beds from Elm Villa to The Arboretum, an existing 48-bed ACH in Guilford County, for a total of 66 ACH beds upon completion of the project.

Heritage Greens is a senior living community in Guilford County. There are two separately licensed assisted living facilities on the Heritage Greens campus: The Arboretum (48-bed Alzheimer’s Memory SCU facility) and Verra Springs at Heritage Greens (45-bed ACH facility). Both facilities are managed by Kisco Senior Living, LLC (Kisco), an owner-affiliated entity.

Population to be Served

On page 223, the 2016 SMFP defines the service area for adult care home beds as “*the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.*” Thus, the service area for this project consists of Guilford County. Facilities may also serve residents of counties not included in their service area.

In Section III.7, page 43, the applicant provides the projected patient origin as shown in the table below.

County	Projected % of Total ACH Admissions
Guilford	100.0%
Total	100.0%

On page 43, the applicant states that the prospective residents will transition from independent residences in either the Heritage Greens or the Abbotswood at Irving Park (AIP)

senior living communities to assisted living residences in the ACH facility. Thus, all prospective residents of The Arboretum will be residents of Guilford County.

The applicant adequately identified the population to be served.

Analysis of Need

In Section III.1, pages 25-36, the applicant describes the need to replace and relocate the 44 existing Elm Villa ACH beds. In this application, the applicant proposes to relocate 18 of the existing Elm Villa beds to The Arboretum.

The Arboretum is currently operating at 95% of capacity, as illustrated in the following table.

**The Arboretum ACH Patient Days of Care
March through November 2015**

	March	April	May	June	July	Aug	Sept	Oct	Nov	Total
SCU Resident Days	1,391	1,322	1,422	1,368	1,364	1,362	1,401	1,456	1,410	12,496
# of Beds	48	48	48	48	48	48	48	48	48	48
Occupancy	93.5%	91.8%	95.6%	95.0%	91.7%	91.5%	97.3%	97.8%	97.9%	94.7%

Beginning on page 26, the applicant states the need to relocate 18 Elm Villa beds to The Arboretum on the Heritage Greens campus is based on the following qualitative and quantitative factors:

- The bed relocation is an effective and efficient redistribution of existing ACH bed capacity in Guilford County, resulting in expanded capacity at a well-utilized facility without resulting in a net increase of licensed ACH beds in Guilford County. Kisco operates two senior living communities with ACH beds in Guilford County: Heritage Greens and Abbotswood at Irving Park. The Heritage Greens campus consists of two separately licensed ACH facilities: The Arboretum and Verra Springs. The applicant states that all three ACH facilities are well utilized. Elm Villa, also located in Guilford County, has 44 existing ACH beds which the owners can no longer continue to operate. See Elm Villa owner's letter in Exhibit 14. This project will relocate 18 of the beds to The Arboretum ACH facility on the Heritage Greens campus. The concurrently filed CON application, Project I.D. #G-11121-16, will relocate the remaining 26 Elm Villa beds to Abbotswood at Irving Park.
- The Arboretum is the only Kisco facility in Guilford County providing specialized services for Alzheimer's and dementia related diseases. Residents from the other Kisco facilities in Guilford County are referred to The Arboretum if they develop memory care issues. Therefore, those services are in high demand. The Arboretum is operating at 95% occupancy and has a waiting list. Furthermore, 18 Heritage Greens residents have moved out since January 2015 because they needed assisted living care for Alzheimer's related disease and space was not available at The Arboretum. The bed relocation will provide increased access to specialized Alzheimer's disease and

dementia care services for residents of Kisco’s Guilford County senior living communities.

- North Carolina and Guilford County population and demographic data, including Alzheimer’s data, in Section III, pages 27-32, suggests a rapidly growing base of local residents of age 65 and older which highlights the need for additional ACH beds and additional specialized Alzheimer’s services.
- The bed relocation will increase access to semi-private rooms at The Arboretum, reducing the cost of specialized Alzheimer’s memory care services for Kisco residents in Guilford County.

The applicant adequately demonstrates the need to replace and relocate the 18 ACH beds to The Arboretum.

Projected Utilization

In Section IV, pages 46-47, the applicant provides projected utilization as shown in the following tables.

**The Arboretum at Heritage Greens Assisted Living Projected Utilization
 First Project Year (October 2016 – September 2017)**

	1 ST QUARTER 10/1 /16– 12/31/16	2 ND QUARTER 1/1/17 – 3/31/17	3 RD QUARTER 4/1/17-6/30/17	4 TH QUARTER 7/1/17-9/30/17	TOTAL
SCU Resident Days	5,507	5,643	5,706	5,768	22,624
# Beds	66	66	66	66	66
Occupancy	90.7%	95.0%	95.0%	95.0%	93.9%

**The Arboretum at Heritage Greens Assisted Living Projected Utilization
 Second Project Year (October 2017 – September 2018)**

	1 ST QUARTER 10/1 /17– 12/31/17	2 ND QUARTER 1/1/18– 3/31/18	3 RD QUARTER 4/1/18-6/30/18	4 TH QUARTER 7/1/18-9/30/18	TOTAL
SCU Resident Days	5,768	5,643	5,706	5,768	22,886
# Beds	66	66	66	66	66
Occupancy	95.0%	95.0%	95.0%	95.0%	95.0%

**The Arboretum at Heritage Greens Assisted Living Projected Utilization
 Third Project Year (October 2018 – September 2019)**

	1 ST QUARTER 10/1 /18– 12/31/18	2 ND QUARTER 1/1/19– 3/31/19	3 RD QUARTER 4/1/19-6/30/19	4 TH QUARTER 7/1/19-9/30/19	TOTAL
SCU Resident Days	5,768	5,643	5,706	5,768	22,886
# Beds	66	66	66	66	66
Occupancy	95.0%	95.0%	95.0%	95.0%	95.0%

As shown above, for the second and third years following completion of the proposed project, the applicant projects the 66 ACH beds will operate at 95.0% of capacity [22,886/365/66 = 0.95 or 95.0%]

In Section IV, page 48, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

- Heritage Greens is a Kisco managed senior living community. The Arboretum's prospective residents will transition from independent living at either the Heritage Greens or Abbotswood at Irving Park senior living communities to assisted living at The Arboretum. This is consistent with the admission patterns for Kisco's existing senior living communities.
- The Arboretum is operating at 95% occupancy. The existing ACH beds are projected to remain at that occupancy during the initial three project years.
- A net average fill-up rate of four patients per week for the relocated 18 ACH beds during the fill-up period until the relocated 18 ACH beds reach 95 percent occupancy.
- The Arboretum Alzheimer's and dementia beds are in high demand. There is currently no available capacity, therefore there is a waitlist for assisted living beds. In addition to the waitlist, the Heritage Greens senior living community has had a total of 18 residents move out since January 2015 because they were in need of assisted living care for Alzheimer's disease and dementia and there was no availability at The Arboretum.
- Population and demographic data for Guilford County set forth in Section III.1, pages 27-32.

Projected utilization is based on reasonable and adequately supported assumptions.

Access

In Section VI.4, pages 57-58, the applicant states:

“Kisco affords equal treatment and access to its services for all persons, without discrimination due to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability. Heritage Greens independent living residents will be admitted to The Arboretum when a resident needs assistance with daily living and has Alzheimer's Disease or a related memory disorder.”

The applicant states that source of payment does not affect the facility's delivery of routine ACH care. As part of an independent living community, residents are all private pay and do not utilize governmental or special assistance. On page 56, the applicant states:

“During at least the past 5 years, Kisco has not evicted any KCHG ACH resident for non-payment. During this same 5-year period, KCHG has had fewer than five residents who lived much longer than they or the families planned for. In a few of these instances, the family chose to spend down with KCHG and to then move the resident to a Medicaid facility. In other cases, KCHG, while still providing the needed care, worked with the families of each resident to find a lower cost options [sic]. Examples of the lower cost options are: 1) moving into a lower cost two-bedroom/two roommate room at KCHG, 2) moving to a lower cost facility, or 3) getting care through the use of Kisco’s MUAHS license.” (note: MUAHS is Multi-unit Assisted Housing with Services)

Thus, the applicant adequately demonstrates the extent to which all residents of the area, including underserved groups, are likely to have access to the services.

Conclusion

In summary, the applicant adequately identifies the population to be served; adequately demonstrates the need the population to be served has for the proposed services; and demonstrates the extent to which all residents of the area, including underserved groups, are likely to have access to the services. Therefore, 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.

C

The applicant proposes to relocate 18 existing ACH beds from Elm Villa to The Arboretum, an existing 48-bed ACH facility. In the concurrently filed CON application, Project I.D. #G-11121-16, KCGE proposes to relocate the remaining 26 Elm Villa ACH beds to Abbotswood at Irving Park. All three facilities are located in Guilford County. In Section III.1, page 38, the applicant states that due to aging and declining health, the owners of Elm Villa have determined to close the facility; therefore, the proposed project will result in an effective reallocation of existing ACH bed capacity in Guilford County. In his letter in Exhibit 14, the owner of Elm Villa states:

“... to maintain the needed assisted living beds in Guilford County, we have entered into an agreement with Kisco to sell the right to operate the 44 ACH beds. We are currently working to relocate the remaining Elm Villa residents to existing and available local facilities. We anticipate that all remaining Elm Villa residents will be relocated out of our facility before April 2016.”

On page 56, the applicant states that the ACH beds to be relocated from the Elm Villa facility were not developed pursuant to a certificate of need, and thus, no representations were made regarding access by the medically underserved in those beds.

The applicant demonstrates that the needs of the population presently served will be adequately met and that the proposal will not adversely affect the ability of medically underserved groups to obtain needed health care. Therefore, the application is conforming to this criterion.

- (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 III.2, pages 39-40, the applicant describes the alternatives considered, including maintaining the status quo, as discussed below.

- 1) Maintain the Status Quo –The applicant states that The Arboretum needs additional ACH bed capacity. As evidenced by the high occupancy rate, there is effectively no available capacity at The Arboretum. In addition, there is a waitlist and 18 residents have moved from Heritage Greens because they needed assisted living care for Alzheimer’s related disease and none was available at The Arboretum. Therefore, the applicant states that maintaining the status quo would not be an effective alternative.
- 2) Develop the Relocated ACH Beds in Another Geographic Location – The applicant states that the primary need for the proposed project is driven by the demand for Alzheimer’s related memory care assisted living services within Kisco’s senior living communities in Guilford County. The Arboretum at Heritage Greens is the only Kisco facility in Guilford County that provides specialized services for Alzheimer’s disease and dementia residents; therefore, developing space elsewhere would not address the identified need. The applicant also states that construction of new space for the 18 beds is cost prohibitive and inefficient from a staffing perspective and there is not sufficient space on the Heritage Greens campus to construct a new ACH facility. For these reasons, this alternative was rejected.
- 3) Relocate the Elm Villa Beds to The Arboretum at Heritage Greens and Abbotswood at Irving Park– The applicant states that the proposed projects, as presented in this application, and the concurrently filed application, Project I.D. #G-11121-16, provide the most effective alternative for addressing the identified needs to provide additional assisted living services at the Kisco facilities, while redistributing existing ACH bed capacity within Guilford County.

Furthermore, the application is conforming to all other applicable statutory and regulatory review criteria, and thus, is approvable. An application that cannot be approved cannot be an effective alternative.

In summary, the applicant adequately demonstrates that the proposed alternative is the most effective or least costly alternative to meet the need identified. The application is conforming to this criterion and approved subject to the following conditions.

1. **KC Heritage Greens, LLC shall materially comply with all representations made in the certificate of need application.**
 2. **KC Heritage Greens, LLC shall relocate 18 adult care home beds from Elm Villa to The Arboretum at Heritage Greens for a total of 66 adult care home beds upon project completion.**
 3. **For the first two years of operation following completion of the project, KC Heritage Greens, LLC shall not increase actual private pay charges more than 5% of the projected private pay charges provided in Section IX 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 made in the certificate of need application.**
 4. **KC Heritage Greens, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and 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 applicant proposes to relocate 18 existing ACH beds from Elm Villa to The Arboretum for a total of 66 ACH beds upon project completion. The applicant states the project will be developed in existing facility space and does not require construction or renovation of space.

Capital and Working Capital Costs

In Section VIII, page 69, the applicant projects the total capital cost of the proposed project will be \$465,400, including:

Costs	Total Costs
Equipment / Furniture	\$ 50,400
Consultant Fees	\$ 55,000
Other (bed purchase)	\$ 360,000
Total Capital Costs	\$ 465,400

In Section IX.1-3, pages 74-75, the applicant states that The Arboretum is an existing ACH facility and therefore there will be no start-up or initial operating expenses.

Availability of Funds

In Section VIII.5, page 71, and Exhibit 10, the applicant documents that KCHG intends to fund the project through equity investments in KCHG by its majority member, Andrew S. Kohlberg Trust (Trust).

In Exhibit 10, the applicant provides a letter dated January 11, 2016 from Kenneth L. Johnson, CPA, Partner - Kushner, Smith, Joanou & Gregson, LLP, which states that the Trust has in excess of \$50 million in net worth, that the funds are currently available to the Trust and that the Trust is planning to invest up to \$7 million in this project and the concurrently filed Project I.D. #G-11121-16.

Exhibit 10 also contains a letter dated January 6, 2016 from Andrew S. Kohlberg, Trustee-Andrew S. Kohlberg Trust, which confirms that the Trust has the funds and will invest them in KCHG to support the proposed project, if needed.

Furthermore, Exhibit 10 also contains a letter dated January 6, 2016 from Craig Taylor, General Counsel - KC Heritage Greens, LLC, which confirms that KCHG owners intend to provide funding for the proposed project, if needed.

The applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the project.

Financial Feasibility

In the tables in Section X.4, pages 79-80, the applicant projects that the monthly charge will be \$5,578 for private rooms and \$4,925 for semi-private rooms.

In Section XI.8, page 88, the applicant states The Arboretum ACH facility will consist of 66 beds, as shown below.

	Private Beds	Semi-Private Beds	Total Beds
Existing ACH Beds	32	16	48
New Beds	(18)	36	18
Total Beds	14	52	66

KCHG proposes to expand the existing facility by 18 licensed beds. The applicant will add the 18 beds to existing private bedrooms, making them semi-private bedrooms. The net impact is a reduction of the number of private beds to 14 and an increase of the number of semi-private beds to 52 for a total of 66 licensed beds.

In the projected revenue and expense statement (Form B), the applicant projects revenues will exceed operating expenses in Project Years 1 and 2 following completion of the proposed project, as shown in the table below.

	Project Year 1	Project Year 2
Gross Revenues	\$3,907,995	\$3,953,166
Total Operating Expenses	\$3,076,541	\$3,094,157
Net Profit	\$ 831,454	\$ 859,009

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable including projected utilization, costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the project. Furthermore, the applicant adequately demonstrates that the financial feasibility of the proposal is based upon 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 applicant proposes to relocate 18 existing ACH beds from Elm Villa to The Arboretum for a total of 66 ACH beds upon project completion.

On page 223, the 2016 SMFP defines the service area for adult care home beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area”*. Thus, the service area for this project consists of Guilford County. Facilities may also serve residents of counties not included in their service area.

The 2016 SMFP documents that there are currently a total of 37 existing facilities in Guilford County that offer ACH services. The table below is a summary of the 37 facilities in Guilford County. The table is recreated from the 2016 SMFP, Chapter 11, Table 11A, pages 233-234 and Table 11B, page 251. There is a projected surplus of 481 ACH beds in 2019 for Guilford County.

2016 SMFP ACH Inventory & 2019 Need Projections Guilford County	
# ACH Facilities	37
# Beds in ACH Facilities	1,951
# Beds in Nursing Homes	389
Total Licensed Beds	2,340
# CON Approved (License Pending)	0
Total # Available	2,340
Total # in Planning Inventory	2,327
Projected Bed Surplus	481

Source: 2016 SMFP

The applicant does not propose to develop new ACH beds, but rather to replace and relocate 18 ACH beds, currently operated in a facility which is closing, to The Arboretum, an existing facility. There will be no increase in the inventory of ACH beds or the number of facilities in Guilford County. In fact, the inventory of ACH facilities will be reduced by one; upon relocation of its beds through this project and concurrently filed Project I.D. #G-11121-16, the Elm Villa ACH facility will close. The discussions regarding analysis of need, including projected utilization, and access, and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference. The applicant adequately demonstrates that the proposed project would not result in the unnecessary duplication of existing or approved ACH beds in Guilford County. 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.

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The applicant proposes to provide personal care staff twenty-four hours per day, seven days per week. In Section VII.3, page 64, the applicant states that by FFY2018 (the second full fiscal year) the ACH facility will be staffed by 38.6 full-time equivalent (FTE) staff positions, including 30.45 FTE direct care staff positions (Section VII.4, page 65). Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements.

In Section VII.6, pages 66-67, the applicant describes Kisco's experience and process for recruiting and retaining staff. The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services. 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

In Section II.2, pages 18-20, the applicant describes the ancillary and support services that will be provided by the facility or made available through agreements with other providers including dietary, medical transportation, dentistry, physician, therapy, recreation, personal care, housekeeping and laundry services. Exhibit 5 contains copies of letters from providers expressing an interest in continuing to provide pharmacy and therapy service. In addition, Exhibit 3 contains a copy of the Kisco management agreement for the facility. In Section V, page 52, the applicant states that Kisco has a long history of providing health care services locally and thus, has well-established relationships with local healthcare providers. The applicant adequately demonstrates that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Therefore, 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 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

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

services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

NA

- (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 existing 48-bed Arboretum facility reported one resident aged 55 to 64, and 41 residents aged 75 and older on its 2016 License Renewal Application. The applicant states that The Arboretum ACH beds are filled by private-pay independent living residents who need to step up to Alzheimer's /dementia care assisted living services.

The United States Census Bureau¹ provides demographic data for North Carolina and all counties in North Carolina. The following table contains relevant demographic statistics for the applicant's service area.

Percent of Population						
County	% 65+	% Female	% Caucasian	% Persons in Poverty	% < Age 65 with a Disability	% < Age 65 without Health Insurance
Guilford	14%	53%	52%	18%	7%	18%
Statewide	15%	51%	64%	17%	10%	15%

However, a direct comparison to the applicant's current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities, women or handicapped persons utilizing health services.

The applicant demonstrates that it currently provides adequate access to medically underserved populations. Therefore, the application is conforming to this criterion.

¹ <http://www.census.gov/quickfacts/table>

- (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

The applicant states that KCHG and Kisco afford equal treatment and access to its services for all persons, without discrimination due to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability. The Application for Residency is in Exhibit 4, along with the Memory Care Policy & Procedure Manual Table of Contents and the Move-In Criteria. Exhibit 6 contains relevant resident billing policies and procedures. In Section VI.5, page 58, the applicant states: “*No one has filed any civil rights access complaints against The Arboretum at Heritage Greens or against any Kisco Senior Living-managed facilities in North Carolina.*” 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 VI.2, page 56, the applicant projects the following payor mix during its second operating year.

Payor Source	ACH Beds
Private Pay	100.0%
Total	100.0%

As shown in the table above, the applicant projects 100% private pay for the relocated ACH beds. The proposed beds are being relocated from Elm Villa which was operating at 68% occupancy on July 31, 2015 and which the owners intend to close. In Section VI.4, page 57, the applicant states:

“Kisco affords equal treatment and access to its services for all persons, without discrimination due to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability. Heritage Greens independent living residents will be admitted to The Arboretum when a resident needs assistance with daily living and has Alzheimer’s Disease or a related memory disorder.”

The existing 48-bed Arboretum facility reported one resident age 55 to 64, and 41 residents aged 75 and older on its 2016 License Renewal Application. The applicant

states that The Arboretum ACH beds are filled by private-pay independent living residents who need to step up to Alzheimer's /dementia care assisted living services.

On page 54, the applicant states that all resident rooms and common spaces will meet handicapped-accessibility requirements.

The applicant demonstrates that medically underserved populations would have adequate access to the proposed ACH services. 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 VI.4, pages 57-58, the applicant states independent living residents will be admitted to The Arboretum when they need assistance with daily living and have Alzheimer's disease or a related memory disorder. See the Application for Residency and Move-In Criteria in Exhibit 4. In Section VI.6, page 58, in describing the range of means by which a person will have access to the proposed services, the applicant States:

"..., The Arboretum at Heritage Greens will continue to provide ACH services to all KCHG residents regardless of racial/ethnic origin, gender, physical or mental conditions, age, as long as they meet the Memory Care Move-In Criteria."

The applicant adequately demonstrates that the facility will offer a range of means by which patients will have access to the proposed services. Therefore, 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 V.1, page 52, the applicant describes how the facility will accommodate the clinical needs of area health professional training programs, as follows:

"KCHG will accommodate the clinical needs of health professional training programs. Please refer to Exhibit 8 for a copy of a letter to a clinical training program."

Exhibit 8 contains a copy of a letter dated January 12, 2016 and addressed to Guilford Technical Community College (GTCC) offering the facility as a training site for GTCC's nursing program.

The information provided is reasonable and adequately supports a determination that 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 applicant proposes to relocate 18 existing ACH beds from Elm Villa to The Arboretum for a total of 66 ACH beds upon project completion.

On page 223, the 2016 SMFP defines the service area for adult care home beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.”* Thus, the service area for this project consists of Guilford County. Facilities may also serve residents of counties not included in their service area.

The 2016 SMFP documents that there are currently a total of 37 existing facilities in Guilford County that offer ACH services. The table below is a summary of the 37 facilities in Guilford County. The table is recreated from the 2016 SMFP, Chapter 11, Table 11A, pages 233-234 and Table 11B, page 251. There is a projected surplus of 481 ACH beds in 2019 for Guilford County.

2016 SMFP ACH Inventory & 2019 Need Projections Guilford County	
# ACH Facilities	37
# Beds in ACH Facilities	1,951
# Beds in Nursing Homes	389
Total Licensed Beds	2,340
# CON Approved (License Pending)	0
Total # Available	2,340
Total # in Planning Inventory	2,327
Projected Bed Surplus	481

The applicant does not propose to develop new ACH beds, but rather to replace and relocate 18 ACH beds currently operated in a facility which is closing. There will be no increase in the inventory of ACH beds or the number of facilities in Guilford County.

In Section V.4, pages 53-54, the applicant discusses how the project will promote the cost-effectiveness, quality and access to the proposed services.

See also Sections II, III, V, VI and VII where the applicant discusses the impact of the project on cost-effectiveness, quality and access to the proposed services

The information in the application is reasonable and adequately demonstrates that any enhanced competition in the service area includes a positive impact on cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following analysis:

- The applicant adequately demonstrates the need for the proposed project and that it is a cost-effective alternative. The discussions regarding analysis of need, including projected utilization, and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- The applicant adequately demonstrates that it will provide quality services. The discussion regarding quality found in Criterion (20) is incorporated herein by reference.
- The applicant demonstrates that it will provide adequate access to medically underserved populations. The discussions regarding access found in Criteria (3) and (13) are incorporated herein by reference.

Therefore, 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.

C

In Section II.6, page 24, the applicant states that Kisco, The Arboretum's management company and an owner-related entity, manages the following existing adult care homes in North Carolina:

- The Arboretum at Heritage Greens, Guilford County
- Verra Springs at Heritage Greens, Guilford County
- Abbotswood at Irving Park, Guilford County
- Verra Springs at Heritage Woods, Forsyth County
- Magnolia Glen, Wake County
- Woodland Terrace, Wake County
- Abbotswood at Stonehenge, Wake County (Multi-unit assisted Housing with Services)

The applicant states that the list includes all the facilities with ACH beds that Andrew S. Kohlberg or the Andrew S. Kohlberg Trust owns and operates in North Carolina. The applicant further states:

“During the eighteen months immediately preceding the submittal of this CON application, there have been no substandard quality of care issues, fines, payment denial or suspension of admissions at any North Carolina ACH facility managed by Kisco Senior Living, LLC.”

According to the files in the Adult Care Licensure Section, DHSR, no incidents occurred within the eighteen months immediately preceding submission of the application through the date of this decision, for which any sanctions or penalties related to quality of care were imposed by the State on any facility owned and operated by the applicant or managed by Kisco. After reviewing and considering information provided by the applicant and by the Adult Care Licensure Section and considering the quality of care provided at all five facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

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

NA

The Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100 are not applicable because the applicant does not propose to establish new adult care home beds.