

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: December 28, 2018

Findings Date: January 4, 2019

Project Analyst: Tanya M. Saporito

Team Leader: Gloria C. Hale

Project ID #: O-11542-18

Facility: Tidewater at Carolina Bay

FID #: 180367

County: New Hanover

Applicant: Liberty Assisted Living Properties of Wilmington, LLC

Project: Relocate 16 ACH beds from Fannie Norwood Memorial Home for the Aged to be combined with the 72 ACH beds previously approved in Project ID #O-10366-14 and develop the 88 ACH beds adjacent to the Carolina Bay of Wilmington at Autumn Hall campus

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

C

The applicants for this project are Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC. The applicants may be referred to collectively as “the applicants” or individually by name. The applicants propose a change of scope and a cost overrun for Project I.D. #O-10366-14, which proposed to relocate 72 ACH beds from a closed facility to an existing combination nursing facility in the same county, for a total of 100 nursing facility and 112 ACH beds upon project completion. The certificate of need for that application was issued on October 2, 2015. The applicants in the originally approved application were Liberty Commons Nursing Center, Inc., Port City Assisted Living Properties, LLC, and S&R Properties I, LLC. This proposal seeks to relocate the 72 ACH beds as previously approved, and to relocate an additional 16 ACH beds from another closed facility, The Fannie Norwood

Memorial Home for the Aged to develop a new 88-bed ACH facility, Tidewater at Carolina Bay, that will be located approximately one mile from the originally approved location.

This project also involves a cost overrun: the original application proposed a capital cost of \$11,680,651. The current application is for a cost overrun of \$4,924,349, for a new total project capital cost of \$16,605,000.

In the original application, the applicants projected occupancy and offering of services by March, 2020. Pursuant to a series of requests sent in progress reports, the proposed completion date was extended to September, 2021. In this change of scope / cost overrun application, the applicants project occupancy and offering of services by October, 2022.

Need Determination

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 2018 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations in the 2018 SMFP that are applicable to this review.

Policies

There are two policies in the 2018 SMFP that are applicable to this review: Policy LTC-2 and Policy GEN-4.

Policy LTC-2: Relocation of Adult Care Home Beds, on page 26 of the 2018 SMFP states:

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

- 1. Demonstrate that the facility losing beds or moving to a contiguous county is currently serving residents of that contiguous county; and*
- 2. Demonstrate that the proposal shall not result in a deficit, or increase an existing 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 North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins; and*
- 3. Demonstrate that the proposal shall not result in a surplus, or increase an existing 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 North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

Both The Fannie Norwood Memorial Home for the Aged, Inc. and the proposed site for the adult care home are located in New Hanover County. Therefore, the application is conforming with Policy LTC-2.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities, on page 33 of the 2018 SMFP, states:

“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.

In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178, Certificate of Need shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN-4.

Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 is 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 change of scope / cost overrun project exceeds \$2 million and is less than \$5 million; therefore, Policy GEN-4 is applicable to this review. In Section B.10, pages 17 - 18, the applicants state that the proposed building will be constructed using the latest technologies to assure maximum energy efficiency, in compliance with the requirements of Policy GEN-4 in the SMFP. The applicants further include a written statement describing specifics related to energy and water usage efficiencies.

The applicants adequately demonstrate that the application includes a written statement describing the project’s plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

Conclusion

In summary, the applicants adequately demonstrate that the proposal is consistent with Policy LTC-2 and Policy GEN-4 in the 2018 SMFP. Therefore, the application is conforming to this criterion.

The Agency reviewed the:

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

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

- the applicants adequately document the plan for relocating existing ACH beds from The Fannie Norwood Memorial Home for the Aged in New Hanover County to the proposed facility, Tidewater at Carolina Bay, in New Hanover County, and
- the applicants provide a written statement that demonstrates that the project includes a plan for energy efficiency and water conservation.

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

C

The applicants propose a change of scope and a cost overrun for Project I.D. #O-10366-14, which proposed to relocate 72 ACH beds from a closed facility to an existing combination nursing facility in the same county, for a total of 100 nursing facility and 112 ACH beds upon project completion. The certificate of need for that application was issued on October 2, 2015. The applicants in the originally approved application were Liberty Commons Nursing Center, Inc., Port City Assisted Living Properties, LLC, and S&R Properties I, LLC. This proposal seeks to relocate the 72 ACH beds as previously approved, and to relocate an additional 16 ACH beds from another closed facility, The Fannie Norwood Memorial Home for the Aged to develop a new 88-bed ACH facility, Tidewater at Carolina Bay, that will be located approximately one mile from the originally approved location.

This project also involves a cost overrun: the original application proposed a capital cost of \$11,680,651. The current application is for a cost overrun of \$4,924,349, for a new total project capital cost of \$16,605,000.

Patient Origin

On page 211, the 2018 SMFP defines the service area for adult care home beds as the adult care home bed planning area in which the beds are located. The SMFP states that each county in North Carolina (with the exception of Hyde and Tyrell) is a separate adult care home bed

planning area. Thus, the service area for the facility consists of New Hanover County. Facilities may serve residents of counties not included in their service area.

In Project I.D. #O-10366-14, the applicants adequately identified the population to be served and no changes are proposed in this application that would affect that determination.

Analysis of Need

In Section C.10, pages 22 - 23, the applicants explain why they believe the population projected to utilize the proposed services needs those services:

“The previously approved application was to relocate 72 ACH beds from Port South Villas in the same county to an addition at an existing combination building of 100 skilled nursing beds and 40 ACH beds. The parent organization had another Continuing Care Retirement Community project (Carolina Bay) under development in near proximity to this approved project. The decision was made not to develop two potentially competitive communities in near proximity at the same time. Since that time Carolina Bay has opened and is nearly complete with its fill up. The ACH portion of the healthcare center experienced the quickest fill up and is at capacity. Although this project will be an independently licensed and operated facility, it’s [sic] location on a parcel adjacent to Carolina Bay and its common ownership with the Liberty Healthcare Group will allow it to be affiliated with and marketed alongside Carolina Bay, thus drawing from the same group of people that allowed the ACH beds at the Carolina Bay healthcare center to fill up so quickly.

...

Recently, the Applicant entered into an Asset Purchase agreement ... to acquire the license for 16 ACH beds from the Fannie Norwood Memorial Home. Adding these beds to the previously approved 72 ACH beds allows the Applicant [sic] to construct a more financially feasible and more desirable free standing ACH facility, rather than trying to squeeze them all into the previously approved addition at the existing combination facility.”

In supplemental information received by the Agency on October 9, 2018, the applicants state the proposed new site is along a private drive set apart from the main road; conversely, the existing facility that was the subject of Project ID #O-10366-14 is along a busy street, thus making noise, privacy and ingress/egress a potential issue. The proposed new site is better suited to the needs of the residents who are projected to utilize Tidewater at Carolina Bay. Furthermore, the applicants state that the existing Liberty Commons combination facility is an older facility, and is not what today’s ACH patients demand.

In addition, in Project ID#O-10366-14, the applicants proposed to relocate existing ACH beds to an existing combination facility, and serve both NF and ACH residents. While Liberty Commons Rehabilitation Center (Liberty Commons) was beginning to be developed (Project ID #O-10366-14), the applicants experienced the positive fill up rate at Carolina Bay. In addition, the applicants learned that there is a demand in New Hanover County for upscale,

private ACH rooms in a free-standing facility. Thus, the applicants determined that, rather than relocate the ACH beds to Liberty Commons, it would better serve the needs of the ACH residents in the service area to develop a new ACH facility with private rooms to serve primarily private pay patients. In supplemental information provided to the Agency on October 9, 2018, the applicants confirm that the NF patients who were the subject of Project ID#O-10366-14 will continue to be served, since that facility currently exists (Liberty Commons Rehabilitation Center).

The applicants also selected a new site for the proposed facility, which is adjacent to the CCRC, Carolina Bay, because of the successful experience with the ACH beds at that facility. The site proposed in this change of scope / cost overrun application is approximately one mile from the existing facility, Liberty Commons Rehabilitation Center, where the ACH beds were originally to be relocated, according to the applicants in Section C, page 24 and in supplemental information provided to the Agency on October 9, 2018.

The following table compares the previously approved capital cost and the proposed capital cost in this application, as reported in Section Q, page 55 of the application.

TIDEWATER AT CAROLINA BAY – PREVIOUSLY APPROVED VS. PROPOSED CAPITAL EXPENDITURES			
ITEM/CATEGORY	PREVIOUSLY APPROVED COST	TOTAL PROPOSED COST	TOTAL OVERRUN COST
Full Purchase Price of Land	\$0	\$1,250,000	\$1,250,000
Closing Costs	\$0	\$20,000	\$20,000
Site Prep Costs	\$1,037,350	\$950,000	-\$87,350
Construction Contract	\$8,561,801	\$12,025,000	\$3,463,199
Architect / Engineering Fees	\$320,000	\$750,000	\$430,000
CON Preparation	\$20,000	\$0	\$0
Furniture	\$1,680,000	\$1,200,000	-\$480,000
Legal Fees	\$25,000	\$25,000	\$0
Contingency	\$36,500	\$365,000	\$328,500
Total	\$11,680,651	\$16,605,000	\$4,924,349

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

- The applicants demonstrate that the original project is no longer suited to the needs of the ACH residents in New Hanover County.
- The applicants demonstrate that the existing site of Liberty Commons is along a busy road, and the new proposed facility is on a private drive set back from the main road, thus providing an additional measure of safety for residents, and improved quality of life.
- The applicants demonstrate that the project will better serve patients who desire private rooms.
- The applicants do not propose to change the scope of services offered to the patients projected to be served.

Projected Utilization

In Section Q, Form C, the applicants provide projected utilization for the first two operating years of the project, as shown in the following table:

Tidewater at Carolina Bay Projected Utilization

	FFY 1 10/1/2022 – 9/30/2023	FFY 2 10/1/2023 – 9/30/2024	FFY 3 10/1/2024 – 9/30/2025
Number General ACH Beds	88	88	88
Days of Care	13,655	28,907	29,930
Occupancy Rate	42.5%	89.9%	93.2%

In Section C, pages 22 – 24 and supplemental information provided to the Agency on October 9, 2018 and December 18, 2018, the applicants provide the assumptions and methodology used to project utilization, which is summarized below. The applicants state the methodology, fill-up rate and other assumptions used to project utilization in the original application apply to this application as well, with the only difference being that there are no NF beds proposed in this application.

- Liberty Healthcare Group, the ultimate parent company, has recently developed a Continuing Care Retirement Community (CCRC) in New Hanover County, on a parcel adjacent to the proposed site for Tidewater Bay at Carolina. The applicant states the fill-up rate was high, such that the facility operated in excess of 80% during the 14 months prior to submission of this application; furthermore, the facility operated in excess of 90% occupancy in each of the nine months prior to submission of this application.
- Based on the experience of Liberty Healthcare Group and the CCRC in New Hanover County, the applicants project to begin with eight patients in the first month, and 6 patients per month for months two through five, five patients per month in months six and seven, and four patients per month for each month thereafter.

In Project I.D. #O-10366-14, the applicants adequately demonstrated that projected utilization was based on reasonable and adequately supported assumptions regarding continued growth in the patient population that utilizes the services proposed in the application.

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

- Projected utilization is based upon historical utilization of the applicants' CCRC in New Hanover County, combined with projected facility growth and the experience of the parent company.
- The monthly staggered fill-up rate of ACH patients is reasonable based on the experience of the parent company and the applicants' projected need.

Access

In supplemental information provided at the Agency’s request, the applicants project the following payor mix during the third full federal fiscal year of operation following completion of the proposed 88-bed ACH facility:

**Tidewater at Carolina Bay
Projected Payor Mix, FFY 2025**

PAYOR SOURCE	PERCENT OF TOTAL PATIENTS
Private Pay	86.6%
State/County Special Assistance	13.4%
Total	100.0%

The applicant states the projected payor mix is based on “...our experience at Carolina Bay as well as our experience operating several other ACH facilities in New Hanover County.” The applicant states there is a demand in New Hanover County for upscale units in new construction with private rooms. Since the applicants were part of the original application and currently operate the nursing facility that was to be combined with the ACH beds as originally proposed, the applicants state no NF or ACH residents will be adversely impacted by this current change of scope/cost overrun application. The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

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

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

- The applicants adequately identify the population to be served in Project ID #O-10366-14, and the applicants do not project a change in that population, except to the extent that the NF population in the original application will be served at the combination NF and the ACH patients will be served at Tidewater,
- the applicants adequately explain why the population to be served needs the services proposed in this application,
- Projected utilization is reasonable and adequately supported, and

- The applicants project the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports the assumptions.

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

C

In this current application, the applicants propose to relocate 16 existing ACH beds, within New Hanover County, from a non-operational facility (The Fannie Norwood Memorial Home for the Aged) to a new facility that will be developed as a change of scope from the previously approved Project ID #O-10366-14. In that application, the applicants were approved to relocate 72 existing but unutilized ACH beds within New Hanover County. In Section D, page 27 and in supplemental information provided at the Agency's request, the applicants state that the 16 ACH beds proposed to be relocated are not currently utilized because The Fannie Norwood Memorial Home for the Aged is not operational and has no residents; therefore, this application seeks to relocate beds in close proximity to their current location and utilize them again to serve residents.

Conclusion

The Agency reviewed the:

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

Based on that review, the Agency concludes that the applicant adequately demonstrates that there are no population groups currently using the ACH beds at The Fannie Norwood Memorial Home for the Aged, and that the project will not adversely impact the ability of underserved groups to access these services following project completion.

(4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

CA

The proposed project is a change of scope and a cost overrun for Project I.D. #O-10366-14 (relocate 72 ACH beds within the same county to an existing combination nursing facility for a total of 100 nursing facility and 112 ACH beds upon project completion). This proposal

seeks to relocate the 72 ACH beds as previously approved, and to relocate an additional 16 ACH beds from another facility to develop a new 88-bed ACH facility, Tidewater at Carolina Bay, that will be located approximately one mile from the originally approved location.

In Section E, page 29, the applicants describe alternatives considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- Relocate the 16 beds from the Fannie Norwood facility to the previously approved project, such that Liberty Commons Rehabilitation Center would then have 128 ACH beds. The applicant states this is not an effective alternative, because those beds were proposed to be developed as semi-private beds in a three-story facility, because the building and the parcel are each too small for any other development. The applicant states another reason this would not be an effective alternative is that private rooms are one of the top demands of ACH residents in the service area; the new facility proposed in the current application proposes private rooms and upscale amenities in response to the needs of New Hanover County residents. An additional reason the applicants chose to develop a new facility on a different site is that the site proposed in the current application is on a private drive off of the main road, thus providing a bit more safety and security for the residents.

In supplemental information provided to the Agency on October 9, 2018, the applicants state this change of scope / cost overrun application is the most effective proposal for meeting the needs that New Hanover County patients have for ACH services. Likewise, the applicants state the change of scope / cost overrun application represents the applicants' proposal to provide the highest quality of care for those services.

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

- The applicants were approved in Project ID #O-10366-14 to develop the project.
- The applicants' goal to develop a state-of-the-art ACH facility to serve New Hanover County residents as identified in Project ID #O-10366-14, is still in place in this application.
- The NF residents who were proposed to be served in Project ID# O-10366-14 will still be served at Liberty Commons Rehabilitation Center as proposed in that application.

Conclusion

The Agency reviewed the:

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

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

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

- 1. Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall materially comply with the representations in this application and the representations in Project I.D. #O-10366-14 and supplemental information provided to the Agency during the review of this application. Where representations conflict, Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall materially comply with the last made representation.**
- 2. Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall relocate 16 ACH beds from Fannie Norwood Memorial Home to be combined with the 72 ACH beds previously approved in Project ID #O-10366-14 and develop a new 88 bed adult care home facility adjacent to the Carolina Bay of Wilmington at Autumn Hall campus.**
- 3. Upon project completion, Tidewater at Carolina Bay shall be licensed for no more than 88 adult care home beds.**
- 4. The total approved capital expenditure for Project I.D. #O-11542-18 is \$4,924,349. The previously approved capital expenditure was \$11,680,651, which results in the total capital cost for development of the project at \$16,605,000.**
- 5. Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section VI of the application and that would otherwise require a certificate of need.**
- 6. Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall provide care to the recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.**
- 7. For the first two years of operation following completion of the project, Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**

- 8. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Tidewater at Carolina Bay shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
 - a. Payor mix for the services authorized in this certificate of need.**
 - b. Utilization of the services authorized in this certificate of need.**
 - c. Revenues and operating costs for the services authorized in this certificate of need.**
 - d. Average gross revenue per unit of service.**
 - e. Average net revenue per unit of service.**
 - f. Average operating cost per unit of service.**

- 9. Liberty Assisted Living Properties of Wilmington, LLC and Port City Assisted Living Properties, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**

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

C

The proposed project is a change of scope and a cost overrun for Project I.D. #O-10366-14 (relocate 72 ACH beds within the same county to an existing combination nursing facility for a total of 100 nursing facility and 112 ACH beds upon project completion). This proposal seeks to relocate 72 ACH beds as previously approved, and to relocate an additional 16 ACH beds from another facility, to develop a new 88-bed ACH facility.

Capital and Working Capital Costs

The total capital cost for development of the proposed Tidewater at Carolina Bay is now expected to be \$16,605,000, which represents an increase of \$4,924,349 over the previously approved Project I.D. #O-10366-14 capital cost of \$11,680,651, which is above the allowed 115% overage for capital expenditures. The following table compares the previously approved capital cost and the proposed capital cost in this application, as reported Section Q, Form F.1b:

TIDEWATER AT CAROLINA BAY – PREVIOUSLY APPROVED VS. PROPOSED CAPITAL EXPENDITURES			
ITEM/CATEGORY	PREVIOUSLY APPROVED COST (PROJECT ID #O-10366-14)	TOTAL PROPOSED COST	TOTAL OVERRUN COST (CURRENT APPLICATION)
Full Purchase Price of Land	\$0	\$1,250,000	\$1,250,000
Closing Costs	\$0	\$20,000	\$20,000
Site Preparation	\$1,037,350	\$950,000	-\$87,350
Construction Costs	\$8,561,801	\$12,025,000	\$3,463,199
Architect / Engineering Fees	\$320,000	\$750,000	\$430,000
CON Preparation	\$20,000	\$20,000	\$0
Furniture	\$1,680,000	\$1,200,000	-\$480,000
Legal Fees	\$25,000	\$25,000	\$0
Contingency	\$36,500	\$360,500	\$328,500
Total	\$11,680,651	\$16,605,000	\$4,924,349

In supplemental information provided to the Agency on December 19, 2018, the applicants project an increase in the start-up costs and initial operating expenses, as shown in the following table:

EXPENSE	PREVIOUSLY APPROVED COST	PROPOSED COST	DIFFERENCE
Start-Up Expenses	\$76,997	\$140,896	\$63,899
Estimated Initial Operating Period	5 months	10 months	5 months
Initial Operating Expenses	\$418,120	\$562,515	\$144,395
Total Working Capital Required	\$495,118	\$703,411	\$208,294

*Source: Application, Project ID#O-10366-14, page 84 and supplemental information as noted above.

Availability of Funds

In supplemental information provided to the Agency on December 19, 2018, the applicants provide a letter dated December 18, 2018 signed by John A. McNeil, Jr. and Ronald B. McNeil, owners of Liberty Healthcare Management, that confirms each will provide the finances to cover the capital cost and total working capital as set forth in this change of scope / cost overrun application. In the original application, Project ID #O-10366-14, the applicants provided a letter from an accounting firm that confirmed the personal financial status of John A. McNeil, Jr. and Ronald B. McNeil was in excess of \$10 million. The applicants adequately documented the availability of sufficient funds for the capital and working capital needs of the original project, and for this project.

Financial Feasibility

In the original application, Project ID #O-10366-14, the applicants projected that revenues will exceed expenses in the first and second full federal fiscal years of operation. In this cost overrun application, the applicants project that revenues will exceed expenses in project years two and three. The following tables show the revenue projections as presented in the first application, and the projections submitted in this cost overrun application:

	1ST FULL FYY (2018)	2ND FULL FYY (2019)
Total Revenue	\$8,160,129	\$8,160,129
Total Operating Expenses	\$7,719,619	\$7,427,900
Net Income	\$440,510	\$732,229

*Source: Agency Findings, Project ID #O-10366-14

Tidewater at Carolina Bay

	1ST FULL FISCAL YEAR	2ND FULL FISCAL YEAR	3RD FULL FISCAL YEAR
Total Patient Days of Care	13,655	28,907	29,930
Total Gross Revenues (Charges)	\$1,962,367	\$4,567,538	\$4,930,934
Total Net Revenue	\$1,962,367	\$4,567,538	\$4,930,934
Average Net Revenue per Day of Care	\$144	\$158	\$165
Total Operating Expenses (Costs)	\$2,631,483	\$2,434,924	\$2,642,773
Average Operating Expense per Day of Care	\$193	\$84	\$88
Net Income	-\$669,116	\$2,132,614	\$2,288,161

Project I.D. # O-10366-14 was determined to be conforming to this criterion with regard to the original proposal. The changes in operating expenses are accounted for by the necessity of a site change, development of a new facility, and increases in raw materials and labor; thus those changes do not affect the previous determination of conformity.

The assumptions used by the applicant in preparation of the pro forma financial statements for this application are reasonable, including projected utilization, costs and charges. See Section Q of the application and supplemental information provided to the Agency on December 19, 2018 for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

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

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

- The applicant adequately demonstrates that the capital and working capital costs are based on reasonable and adequately supported assumptions.
- The applicant adequately demonstrates availability of sufficient funds for the capital and working capital needs of the proposal.

- The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.
- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

The proposed project is a change of scope and a cost overrun for Project I.D. #O-10366-14 (relocate 72 ACH beds within the same county to an existing combination nursing facility for a total of 100 nursing facility and 112 ACH beds upon project completion). This proposal seeks to relocate the 72 ACH beds as previously approved, and to relocate an additional 16 ACH beds from another facility to develop a new 88-bed ACH facility, Tidewater at Carolina Bay, that will be located approximately one mile from the originally approved location.

On page 211, the 2018 SMFP defines the service area for adult care home beds as the adult care home bed planning area in which the beds are located. The SMFP states that each county in North Carolina (with the exception of Hyde and Tyrell) are separate adult care home bed planning areas. Thus, the service area for the facility consists of New Hanover County. Facilities may serve residents of counties not included in their service area.

In Project I.D. #O-10366-14, the applicants were approved to relocate 72 ACH beds within the same county to an existing combination nursing facility. In Project I.D. # O-10366-14, the applicants adequately demonstrated that the project would not result in unnecessary duplication of existing or approved adult care home services and no changes are proposed in this application that affect that determination. The applicants propose to relocate an additional 16 ACH beds from a non-operational facility and bring those beds back into service in New Hanover County.

Conclusion

The Agency reviewed the:

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

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

- (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 H.5, page 36, the applicants state that there are no substantial changes in the staffing levels or positions from the original project.

In Project I.D. # O-10366-14, the application was found conforming to this criterion, and the applicants propose no changes in the current application that would affect that determination. In Section Q, Form H, and in supplemental information submitted to the Agency on December 7, 2018, the applicants project the following staffing:

POSITON	1ST FULL FISCAL YEAR	2ND FULL FISCAL YEAR	3RD FULL FISCAL YEAR
Registered Nurse	1.90	1.90	1.90
Licensed Practical Nurse	4.20	4.20	4.20
Aides	28.00	28.00	28.00
Medical Technicians	11.20	11.20	11.20
AL Supervisor	0.50	0.50	0.50
Activities	1.00	1.00	1.00
Housekeeping	9.40	9.40	9.40
Plant Operations & Maintenance	1.00	1.00	1.00
Administration	1.00	1.00	1.00
Business Office Staff	1.00	1.00	1.00
TOTAL	59.20	59.20	59.20

Conclusion

The Agency reviewed the:

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

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

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

C

In Project I.D. # O-10366-14, the application was found conforming to this criterion, and the applicants propose no changes in the current application that would affect that determination.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

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

- (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

In Project ID #O-10366-14, the applicants did not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicants do not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

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

NA

In Project ID #O-10366-14, none of the applicants was an HMO. In this application, none of the applicants is an HMO. Therefore, Criterion (10) is not applicable to this review.

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

C

The application under review is for a change of scope / cost overrun for Project I.D. #O-10366-14. In the original application, the applicants proposed to relocate 72 ACH beds to an existing combination NF and ACH, and add 53,679 square feet (SF) of new construction to the existing facility.

This change of scope / cost overrun application proposes to develop a new 65,000 SF ACH facility with 88 beds, all of which will be private, on a new site adjacent to an existing CCRC operated by the parent company of the applicants. In supplemental information received on December 11, 2018, the applicants provide a letter from David R. Polston, Architect, which confirms the size and number of rooms as proposed by the applicants.

On pages 17 - 18, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal and provides supporting documentation in supplemental information received by the Agency on December 7, 2018 and December 18, 2018.

In supplemental information provided to the Agency on December 7, 2018, and December 11, 2018, the applicants state applicable energy saving features will be incorporated into the construction plans for the proposed facility.

Conclusion

The Agency reviewed the:

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

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

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

C

In Project I.D. #O-10366-14, the application was conforming to this criterion. There are no changes in this application that would affect that determination.

The Agency reviewed the:

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

Therefore, the application is conforming to Criterion (13a).

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

Regarding any obligation to provide uncompensated care, community service or access by minorities and persons with disabilities, the application was conforming to this criterion in Project I.D. # O-10366-14 and the applicants propose no changes in the current change of scope / cost overrun application that would affect that determination.

The Agency reviewed the:

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

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

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

C

In supplemental information provided to the Agency on October 9, 2018, the applicants project the following payor mix for the proposed services during all three full fiscal years of operation following completion of the project, as shown in the table below.

PAYOR CATEGORY	ACH SERVICES AS PERCENT OF TOTAL
Private Pay	86.6%
State / County Special Assistance	13.4%
Total	100.0%

Source: supplemental information received on October 9, 2018.

As shown in the table above, during each full fiscal year of operation, the applicants project that 86.6% of total services will be provided to private pay patients and 13.4% to State / County special assistance patients. In Project ID #O-10366-14, the applicants projected to serve Medicare / Medicaid patients as well. In supplemental information provided to the Agency on October 9, 2018 and December 18, 2018, the applicants state they will continue to provide NF services to Medicare and Medicaid recipients in the existing facility, Liberty Commons Rehabilitation Center, as represented in Project ID #O-10366-14.

In supplemental information provided on October 9, 2018, and December 18, 2018, the applicants provide the assumptions and methodology used to project payor mix during all three full fiscal years of operation following completion of the project. The projected payor mix is reasonable and adequately supported for the following reasons:

- It is based on the applicants' experience in New Hanover County, and
- It is based on the applicants' experience in other counties in North Carolina.

The Agency reviewed the:

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

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

- (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 Project I.D. # O-10366-14 the application was conforming to this criterion and the applicants propose no changes in the current change of scope / cost overrun application that would affect that determination.

The Agency reviewed the:

- Application

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

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

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

C

In Project I.D. # O-10366-14 the application was conforming to this criterion and the applicants propose no changes in the current cost overrun application that would affect that determination.

The Agency reviewed the:

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

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

- (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 proposed project is a change of scope and a cost overrun for Project I.D. #O-10366-14 (relocate 72 ACH beds within the same county to an existing combination nursing facility for a total of 100 nursing facility and 112 ACH beds upon project completion). This proposal seeks to relocate the 72 ACH beds as previously approved, and to relocate an additional 16 ACH beds from another closed facility to develop a new 88-bed ACH facility, Tidewater at Carolina Bay, that will be located approximately one mile from the originally approved location.

On page 211, the 2018 SMFP defines the service area for adult care home beds as the adult care home bed planning area in which the beds are located. The SMFP states that each county

in North Carolina (with the exception of Hyde and Tyrell) are separate adult care home bed planning areas. Thus, the service area for the facility consists of New Hanover County. Facilities may serve residents of counties not included in their service area.

In Project I.D. #O-10366-14, the applicants were approved to relocate 72 ACH beds within the same county to an existing combination nursing facility. In Project I.D. # O-10366-14, the applicants adequately demonstrated that the project would not result in unnecessary duplication of existing or approved adult care home services and no changes are proposed in this application that affect that determination. The applicants propose to relocate an additional 16 ACH beds from a non-operational facility and bring those beds back into service in New Hanover County.

Conclusion

The Agency reviewed the:

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

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

- (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 Project I.D. # O-10366-14 the application was conforming to this criterion. In the current application Section A, pages 9 - 11, the applicant identifies the nursing and adult care home facilities located in North Carolina owned, operated or managed by the applicant or a related entity. The applicant identifies a total of 34 facilities located in North Carolina.

In Section L, page 48, the applicant states that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in two of these facilities. In Section L, page 49, the applicant states that all of the problems have been corrected. According to the files in the Adult Care Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in four of these facilities. After reviewing and considering information provided by the applicant and by the Adult Care Licensure and Certification Section and considering the quality of care provided at all 34 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.

C

In Project I.D. #O-10366-14, the applicants were found conforming to all applicable *Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1101*. To the extent that the change of scope / cost overrun application proposes only ACH beds and no NF beds, the Rules are applicable to this review.

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

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- (a) *An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.*

-NA- The applicants do not propose to add nursing facility beds to an existing facility.

- (b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*

-NA- The applicants do not propose to establish a new nursing facility or add nursing facility beds to an existing facility.

- (c) *An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*

-NA- The applicants do not propose to add adult care home beds to an existing facility.

(d) *An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*

-C- In Section Q, on Form C, the applicants project that the proposed facility will have an occupancy rate of 89.9% by the end of the second operating year following project completion. The applicants provide the assumptions and methodology to project utilization in Section C and in supplemental information submitted to the Agency on October 9, 2018 and December 7, 2018. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.