

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: May 25, 2018

Findings Date: May 25, 2018

Project Analyst: Gregory F. Yakaboski

Team Leader: Lisa Pittman

Project ID #: F-11462-18

Facility: Liberty Commons of Mecklenburg Health and Rehabilitation Center

FID #: 180099

County: Mecklenburg

Applicants: Liberty Commons of Mecklenburg, LLC

Mecklenburg County Healthcare Properties, LLC

Project: Develop a new 100-bed nursing facility (NF) in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County)

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

Liberty Commons of Mecklenburg, LLC (LCM, LLC) and Mecklenburg County Healthcare Properties, LLC (MCH Healthcare) (also known collectively as the applicants) propose to develop a new 100-bed nursing facility (NF) in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County). The new 100-bed NF would be known as

Liberty Commons of Mecklenburg Health and Rehabilitation Center (Liberty Commons of Mecklenburg). MCH Healthcare is the lessor and LCM, LLC is the lessee.

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

Policies

The following three policies are applicable to this review:

- **Policy NH-6: Relocation of Nursing Facility Beds**
- **Policy NH-8: Innovations in Nursing Home Design**
- **Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities**

Policy NH-6: Relocation of Nursing Facility Beds

Relocations of existing licensed nursing facility beds are allowed. Certificate of need applicants proposing to relocate licensed nursing facility beds shall:

- 1. Demonstrate that the proposal shall not result in a deficit, or increase an existing deficit in the number of licensed nursing facility beds in the county that would be losing nursing facility 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*
- 2. Demonstrate that the proposal shall not result in a surplus, or increase an existing surplus of licensed nursing facility beds in the county that would gain nursing facility 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.*

In Section III.1, page 45 and in Section III.4, page 53-54, the applicants explain why they believe the application is conforming to Policy NH-6. On pages 53-54, the applicants state that transferring the 100 NF beds in total from Davie, Forsyth, Hyde, Sampson and Warren counties to Mecklenburg county will not create a deficit in any of the counties from which the NF beds are being transferred from nor will it create a surplus of NF beds in Mecklenburg County as illustrated in the tables below.

County	NF Bed Surplus/Deficit in 2018 SMFP*	Proposed NF Bed Relocation to Mecklenburg County	Surplus/Deficit after Relocation of NF Beds to Mecklenburg County
Davie	64	2	62
Forsyth	13	13	0
Hyde	34	20	14
Sampson	112	45	67
Warren	25	20	5
Mecklenburg County**	<293>	100	<193>

*Source: 2018 SMFP, Table 10C.

**2018 SMFP states that there is a deficit of 395 NF beds in Mecklenburg County. Inadvertently, the number of NF beds at Huntersville Oaks NF in Mecklenburg County was underreported by 102 NF beds. The facility was listed as having 66 licensed NF beds when the facility has 168 licensed NF beds. Therefore, the deficit of NF beds in the 2018 SMFP for Mecklenburg County is 293 [395 – 102 = 293].

Therefore, the application is consistent with Policy NH-6.

Policy NH-8: Innovation in Nursing Home Design

Innovations in Nursing Facility Design Certificate of need applicants proposing new nursing facilities and replacement nursing facilities shall pursue innovative approaches in environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.

In Section III.4, pages 54-56 the applicants explains why the application is conforming to Policy NH-8. On page 54, the applicants state

“The proposed new, state of the art facility, will be designed to incorporate more home-like features, increased privacy, autonomy, resident choice, satisfaction, and convenience, among others. The applicants are committed to continue to implement innovative patient care practices, workplace practices, and environmental design elements that address the quality of care and quality of life needs of future residents at Liberty Commons Mecklenburg.”

Therefore, the application is consistent with Policy NH-8.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities

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 for 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.

In Section III, page 53, and in Section XI.14, pages 112-113, the applicants provide a written statement describing the proposed project's plan to assure improved energy efficiency and water conservation including solar panels, Energy Star rated appliances, pervious paving and Bio-swales, cold water Ozone laundry, rainwater reclamation for irrigation and "grey water" needs and periodic staff training and in-servicing on techniques to reduce energy and water use. The application is consistent with Policy GEN-4.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 demonstrate that the proposal is consistent with Policy NH-6 for the following reasons:
 - The applicants demonstrate that transferring the 100 NF beds in from Davie, Forsyth, Hyde, Sampson and Warren counties to Mecklenburg county will not create a deficit in any of the counties from which the NF beds are being transferred from nor will it create a surplus of NF beds in Mecklenburg County.
- The applicants adequately demonstrate that the proposal is consistent with Policy NH-8 for the following reasons:
 - The applicants demonstrate that the proposed project shall pursue innovative approaches in environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.

- The applicants adequately demonstrate that the proposal is consistent with Policy GEN-4 because they provide a written statement describing the project’s plan to assure improved energy efficiency and water conservation.

(2) Repealed effective July 1, 1987.

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

C

The applicants propose to develop a new 100-bed NF in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County).

Patient Origin

On page 183, the 2018 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

The following table illustrates projected patient origin.

Projected Patient Origin: OY1

County	NF Beds- Percent of Total NF Admissions
Mecklenburg	70.0%
Iredell	15.0%
Lincoln	5.0%
Catawba	4.0%
Cabarrus	4.0%
Rowan	2.0%
Total	100.0%

In Section III.9, pages 58-59, the applicants provide the assumptions and methodology used to project its patient origin. The applicant’s assumptions are reasonable and adequately supported.

Analysis of Need

In Section III.1, pages 45-50, the applicants explain why the population projected to utilize the proposed services needs the proposed services.

- There is a 293 NF bed deficit in Mecklenburg County per the 2018 SMFP. [Note: 2018 SMFP states that there is a deficit of 395 NF beds in Mecklenburg County. Inadvertently, the number of NF beds at Huntersville Oaks NF in Mecklenburg County was underreported by 102 NF beds. The facility was listed as having 66 licensed NF beds when the facility has 168 licensed NF beds. Therefore, the deficit of NF beds in the 2018 SMFP for Mecklenburg County is 293 [395 – 102 = 293].]
- There is an unmet need for NF beds in a new, efficient, home-like environment for the residents of Mecklenburg County.
- According to the Nursing Home Data Compendium (2015 Edition), 84.5% of nursing home resident were age 65 or older.
- From 2010 to 2017 the number of people 65+ years of age in Mecklenburg County increased by 35,768 people. With respect to Mecklenburg County, in 2010 the 65+ population was 81,111 and in 2017 the 65+ population was 116,879. This represents a 44.0% increase over that seven year period.
- In the 65+ age segment of Mecklenburg County's population was 116,879 in 2017 and the 65+ population is expected to growth another 28%, or 33,256 people, by 2022.
- The population of Mecklenburg County age 65 and older is projected to grow by 205,624 over the 20 year period of 2010 to 2030 per the North Carolina Office of State Budget and Management.
- The proposed site for Liberty Commons of Mecklenburg County is Deweese Township. The 65+ population in Deweese Township is projected to grow by 917 people from 2017 to 2022 in Deweese Township alone. (See page 47 and Exhibit 8)

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

- The 2018 SMFP calculates that Mecklenburg County has a deficit of 293 NF beds.
- The segment of the population most likely to utilize NF beds are those people who are 65+ in age.
- The number of people who are 65+ in age in Mecklenburg County increased by 44.0% over the previous seven years and the number of people 65+ is projected to increase by approximately 88,000 people by 2030.

Projected Utilization

In Section IV, pages 62-64, the applicants provide projected utilization for all 100 NF beds during the first two full federal fiscal years (FFYs). The following table illustrates projected utilization during the first and second full FFY.

NF Bed-Projected Utilization: OY1 and OY2

	OY1 FFY 2024	OY2 FFY 2025
Patient Days	26,116	33,580
# of beds	100	100
Occupancy Rate	72.0%	92.0%

As shown in the table above, in the second full FFY of operation, the applicants project the 100 NF beds will operate at 92.0% of capacity [$33,580/365/10 = 0.92$ or 92.0%].

In Section III, pages 45-51, Section IV, pages 61-67, the applicants provide the methodology and assumptions underlying the projected utilization, which are summarized below:

- Applied a net average fill-up rate of four patients per week for the NF beds during the fill up period.
- The overall population of Mecklenburg County is projected to increase by 8.36% from 2017-2022 after already increasing by almost 16% from 2010-2017. (See page 45)
- There is a 293 NF bed deficit in Mecklenburg County per the 2018 SMFP.

Projected utilization of the NF beds is based on reasonable and adequately supported assumptions.

Access

On page 73, the applicants state, *“If a private pay resident ‘spends-down’ and become [sic] Medicaid eligible he or she will not be discharged for that reason. Liberty Commons of Mecklenburg currently reserves approximately 60% of its beds for Medicaid residents and therefore it is not anticipated that a transfer would be necessary due to spend down of private funds.”*

On page 72, the applicants state, *“Services provided by Liberty Commons of Mecklenburg are non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis.”* Exhibit 16 contains a copy of the admissions policy which states, in part, *“Our admission policies apply to all residents admitted to the Facility, without regard to race, color, creed, national origin, age, sex, religion, handicap, ancestry, marital, veteran status, and/or payment source.”* On page 70, the applicants state that Liberty Commons of Mecklenburg *“proposes to serve a Medicaid population in line with the county [sic] current county average. According to the 2017 LRA’s, the county average is 58%*

Medicaid where the applicants propose to serve 60% Medicaid residents in its new additional beds upon completion.”

In Section VI.3, page 72, the applicants project the following payor mix during the second full fiscal year of operation following completion of the project, as illustrated in the following table.

Payor Category	Projected Days as a % of Total Days
Medicaid	60.0%
Medicare	15.0%
Private Pay	25.0%
Total	100.0%

Source: Table VI.3, page 72 of the application.

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 applicant adequately identifies the population to be served.
- The applicant adequately explains why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicant projects the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports its 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.

The applicants propose to develop a new 100-bed NF in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County).

On page 183, the 2018 SMFP defines the service area for nursing facility beds as *“A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”* Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

On pages 53-54, the applicants state that transferring the 100 NF beds in total from Davie, Forsyth, Hyde, Sampson and Warren counties to Mecklenburg county will not create a deficit in any of the counties from which the NF beds are being transferred from nor will it create a surplus of NF beds in Mecklenburg County as illustrated in the tables below.

County	NF Bed Surplus/Deficit in 2018 SMFP*	Proposed NF Bed Relocation to Mecklenburg County	Surplus/Deficit after Relocation of NF Beds to Mecklenburg County
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*Source: 2018 SMFP, Table 10C.

**2018 SMFP states that there is a deficit of 395 NF beds in Mecklenburg County. Inadvertently, the number of NF beds at Huntersville Oaks NF in Mecklenburg County was underreported by 102 NF beds. The facility was listed as having 66 licensed NF beds when the facility has 168 licensed NF beds. Therefore, the deficit of NF beds in the 2018 SMFP for Mecklenburg County is 293 [395 – 102 = 293].

In Section III.4, page 54, the applicants state that *“the beds being transferred are also not currently serving any residents at their current facility.”* Since the 100 NF beds are not currently serving residents, no residents will be impacted by the relocation of the 100 NF beds.

On page 50, the applicants state that all of the NF beds proposed to be transferred are licensed but unutilized. In addition, the five NF facilities the NF beds are proposed to be transferred from are all existing NF facilities in which the functional capacity of the facility is less than the licensed number of NF beds at the facility. Further, on pages 47-50, the applicants document that the historical patient census for 2016 and 2017 is less than the number of NF beds that will remain in each of the facilities from which NF beds are proposed to be transferred as illustrated in the table below. See also Exhibits 8, 9 and 10.

Facility	County	NF Beds: Licensed	NF Beds: Functional Capacity	Patient Census	Difference between Licensed Beds and Functional Capacity	# of NF beds proposed to be transferred to Liberty Commons of Mecklenburg County
Bermuda Commons	Davie	117	95	83	22	2
The Oaks	Forsyth	131	118	109	13	13
Cross Creek	Hyde	80	50	47	30	20
Mary Gran	Sampson	212**	145	130	67	45
Warren Hills	Warren	140	115	110	25	20

*Patient Census: Highest average patient census between 2016 and 2017. Pages 47-50 and Exhibits 8, 9 & 10.

**Page 50 of the application says 80 NF beds, however, this is a typo, the 2018 SMFP, Table 10A, page 196, states that Mary Gran NF is licensed for 212 NF beds.

Note: Each of the five NF facilities is ultimately owned by the same individuals that ultimately own the proposed Liberty Commons of Mecklenburg.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the applicants adequately demonstrate that:

- The needs of the population currently using the services to be reduced, eliminated or relocated will be adequately met following project completion.
- 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 applicants propose to develop a new 100-bed NF in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County).

In Section III.2, pages 51-52, the applicants describe the alternatives it 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:

- **Maintain the Status Quo:** The applicants state that this is not the most effective alternative based on the fact that all of the facilities from which NF beds are proposed to be transferred are licensed for more beds than they are functionally operating, the excess beds are currently unutilized. Further, the patient census is less than the functional number of beds at each of the facilities.
- **Propose New Standalone Facilities in Various Counties:** The applicants state that this is not the most effective alternative due to cost and operational efficiency. Based on its extensive experience, Liberty has found that the most operationally efficient and cost efficient facilities are NF facilities with between 80-120 NF beds.

On pages 51-52, the applicants state that its proposal is the most effective alternative because factoring in the 293 NF bed deficit in Mecklenburg County, the unutilized licensed NF beds in other Liberty facilities which facilities each had a patient census even lower than the functional capacity of those facilities and the *“exponential trend of increased population numbers for Mecklenburg County among those age 65+”* the applicants state *“This bed transfer would expand the diversity of healthcare options available to Mecklenburg county residents, while also reducing an excess of beds in Forsyth, Warren, Hyde, Davie and Sampson Counties.”*

The applicants provide supporting documentation in Exhibits 9 and 10.

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

- The proposed new 100 NF bed facility fits within the framework of the size of the facility that the applicants have found, through experience, to be the most operationally efficient and cost efficient facilities (facilities between 80-120 NF beds).
- Mecklenburg County has a NF bed deficit of 293 beds in the 2018 SMFP. The proposed new 100 NF bed facility based on the relocation of licensed but unutilized NF beds from other counties, will decrease the NF deficit in Mecklenburg County from 293 NF beds to 193 NF beds.
- Based on the 293 NF bed deficit for Mecklenburg County in the 2018 SMFP and the projected increases in the population 65 years of age or older (65+) for Mecklenburg County the proposed project is the most effective alternative.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing

- 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 Commons of Mecklenburg, LLC, and Mecklenburg County Healthcare Properties, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. Liberty Commons of Mecklenburg, LLC, and Mecklenburg County Healthcare Properties, LLC shall develop a new 100-bed NF, Liberty Commons of Mecklenburg, in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County).**
- 3. Upon completion of the project, Liberty Commons of Mecklenburg Health and Rehabilitation Center, shall be licensed for no more than 100 nursing facility beds.**
- 4. Upon completion of the project The Oaks (Forsyth County) shall be licensed for no more than 118 nursing facility beds, Warren Hills (Warren County) shall be licensed for no more than 120 nursing facility beds, Cross Creek (Hyde County) shall be licensed for no more than 60 nursing facility beds, Bermuda Commons (Davie County) shall be licensed for no 115 nursing facility beds, and Mary Gran (Sampson County) shall be licensed for no more than 167 nursing facility beds.**
- 5. Liberty Commons of Mecklenburg, LLC. shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.**
- 6. For the first two years of operation following completion of the project, Liberty Commons of Mecklenburg, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
- 7. No later than three months after the last day of each of the first three full year of operation following initiation of the services authorized by this certificate of need, Liberty Commons of Mecklenburg, LLC 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.**

8. Liberty Commons of Mecklenburg, LLC, and Mecklenburg County Healthcare 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 applicants propose to develop a new 100-bed NF in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County).

Capital and Working Capital Costs

In Section VII.1, page 87, the applicants project the total capital cost of the project as shown in the table below.

Site Costs	\$3,819,186
Construction Costs	\$13,118,186
Miscellaneous Costs	\$1,667,500
Total	\$18,604,791

In Section VIII.1, page 87, the applicants provide the assumptions used to project the capital cost.

In Section IX.1-2, page 92, the applicants project that start-up costs will be \$208,701 and initial operating expenses will be \$656,511 for a total working capital of \$865,212. On page 92, the applicants provide the assumptions and methodology used to project the working capital needs of the project.

Availability of Funds

In Section VIII.2, page 88, the applicants state that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	John A. McNeill, Jr. and Ronald B. McNeill	Total
Accumulated reserves or OE *	\$18,604,791	\$18,604,791
Total Financing	\$18,604,791	\$18,604,791

* OE = Owner's Equity

In Section IX.5, page 94, the applicants state that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	John A. McNeill, Jr. and Ronald B. McNeill	Total
Accumulated reserves or OE *	\$865,212	\$865,212
Total Financing	\$865,212	\$865,212

* OE = Owner's Equity

Financial Feasibility

The applicants provided pro forma financial statements for the first two full fiscal years of operation following completion of the project. In Form B, the applicants projects that revenues will exceed operating expenses in the first two operating years of the project, as shown in the table below.

	1 st Full Fiscal Year	2 nd Full Fiscal Year
Total Treatments	26,116	33,580
Total Gross Revenues (Charges)	\$7,468,116	\$9,602,450
Total Net Revenue	\$6,616,787	\$8,507,810
Average Net Revenue per treatment	\$253.36	\$253.36
Total Operating Expenses (Costs)	\$6,132,322	\$6,511,011
Average Operating Expense per treatment	\$234.47	\$193.90
Net Income	\$484,465	\$1,996,799

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section X and the proformas of the application 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
- Remarks made at the public hearing
- 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 demonstrate that the capital costs are based on reasonable and adequately supported assumptions.
 - The applicants adequately demonstrate availability of sufficient funds for the capital and working capital needs of the proposal.
 - The applicants adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.
- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

The applicants propose to develop a new 100-bed NF in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County).

On page 183, the 2018 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

Table 10A *Inventory of Nursing Home and Hospital Nursing Care Beds* in the 2018 SMFP, pages 192-193, lists a total of 30 nursing facilities and one hospital (Novant Health Presbyterian Medical Center) in Mecklenburg County with a combined total of 2,957 NF beds in the planning inventory, as shown in the table below.

2018 SMFP NF Inventory & 2020 Need Projections Mecklenburg County	
# Facilities	31
# Beds in Nursing Homes	3,264
# Beds in Hospitals	16
Total Licensed Beds	3,280
Total CON Approved/License Pending	30
Total # Available	3,310
Sum of Exclusions	353
Total # in Planning Inventory	2,957
Projected Bed Utilization with Vacancy Factor in 2020*	3,352
Projected Bed Deficit 2021	395*

*Source: Table 10C, 2018 SMFP, page 205.

**Note: 2018 SMFP states that there is a deficit of 395 NF beds in Mecklenburg County. Inadvertently, the number of NF beds at Huntersville Oaks NF in Mecklenburg County was underreported by 102 NF beds. The facility was listed as having 66 licensed NF beds when the facility has 168 licensed NF beds. Therefore, the deficit of NF beds in the 2018 SMFP for Mecklenburg County is 293 [395 – 102 = 293].

In Section III.1, page 45, the applicants explain why the proposal would not result in the unnecessary duplication of existing or approved NF bed services in Mecklenburg County. The applicant states:

“Liberty Commons of Mecklenburg is proposing to relocate licensed but unutilized NF beds from 5 different facilities to create one brand new, state-of-the-art 100 bed NF facility in Mecklenburg County. ... While the 2018 SMFP shows a skilled nursing bed deficit of 395 beds in Mecklenburg County, Huntersville Oaks is mistakenly only listed to have 66 licensed beds when in fact they are licensed for 168 beds. Therefore, the Applicants are submitting under the assumption that there is a 293 bed deficit in Mecklenburg County. ... Therefore, this relocation of beds would not result in a deficit or surplus of SNF beds in any of the proposed counties.”

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

- The proposal would not result in a surplus of NF beds in Mecklenburg County. In contrast, the proposal would reduce the deficit in NF beds in Mecklenburg County from 293 NF beds to 193 NF beds.
- The applicants adequately demonstrate that the proposed relocation of 100 NF beds to a new, state of the art NF facility, is needed in addition to the existing or approved 2,957 NF beds in the planning inventory in Mecklenburg County.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- Information which was publicly available during the review and used by the Agency.

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

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

C

In Section VI.3, pages 81-83, the applicants provide projected staffing for the proposed services as illustrated in the following table.

Position	OY2- FTE 10/1/2024 – 9/30/25
Director of Nursing	1.0
Staff Develop. Coordinator	0.40
MDS Nurse	1.0
RNs	7.0
LPNs	12.60
Certif. Nursing Assist.	42.0
Ward Secretary	0.5
Medical Records Consultant	0.5
Social Services Director	1.0
Activity Director	1.0
Activity Assistant	0.5
Housekeeping Supervisor	1.0
Housekeeping Aides	5.6
Laundry Aides	2.8
Physical Therapist	2.0
P.T. Assistant	2.4
P.T. Aides	1.0
Occupational Therapist	1.0
Speech Therapist	0.5
Certified OT Assistant	2.4
Maintenance Supervisor	1.0
Janitors	1.0
Transportation	1.0
Administrator	1.0
Business Office Manager	1.0
Business Office Staff	1.0

The assumptions and methodology used to project staffing are provided in Section VI.2-4, pages 78-84. Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in Form C, pages 121-126, which is found in the proformas. In Section VII.6, page 85, the applicants describe the methods to be used to recruit or fill new positions and proposed training and continuing education programs. See also Exhibit 6. In Exhibit 15 the applicants identify the proposed medical director and provide a letter from the proposed medical director indicating an interest in serving as medical director for the proposed services.

The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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.

- (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.4, pages 37-38, the applicants state that the following ancillary and support services necessary for the proposed services:

- Inpatient Nursing Care
- Physician Services
- Podiatry
- Dentistry
- Pharmacy
- Laboratory
- Medical Transport
- Audiology
- Dietary Services
- Respiratory Care
- Speech Therapy
- Rehab Services
- Therapeutic Activities
- Social Services
- Housekeeping
- Barber/Beauty
- Hospice/Respite
- Wound Care Program
- Mental Health/Behavioral Health
- Personal Laundry
- Pastoral/Chaplaincy

On pages 37-38, the applicants adequately explain how each ancillary and support service is or will be made available and provides supporting documentation in Exhibit 5.

In Section V.2-5, pages 68-69, the applicants describe the existing and proposed relationships with other local health care and social service providers and provides supporting documentation in Exhibits 12-15.

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

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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

The applicant does 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 applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

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

NA

The applicants are not a 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

In Section XI.5, pages 109-110, the applicants state that the project involves constructing 68,146 square feet of new space. Line drawings are provided in Exhibit 23.

On page 112, Section XI.12-13, the applicants adequately explain how the cost, design and means of construction represent the most reasonable alternative for the proposal and provides supporting documentation in Exhibits 23 and 25.

On pages 53 and 112-113, the applicants identify any applicable energy saving features that will be incorporated into the construction plans and provides supporting documentation in Exhibit 25.

On pages 105-107, the applicants identify the proposed site and provide information about the current owner, zoning and special use permits for the site, and the availability of water, sewer and waste disposal and power at the site. Supporting documentation is provided in Exhibits 18, 20 and 22.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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;

NA

Liberty Commons of Mecklenburg is not an existing facility. All of the NF beds being relocated to develop Liberty Commons of Mecklenburg are from other counties in North Carolina. Therefore, Criterion (13a) is not applicable to this review.

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

NA

Liberty Commons of Mecklenburg is not an existing facility. All of the NF beds being relocated to develop Liberty Commons of Mecklenburg are from other counties in North Carolina. Therefore, Criterion (13a) is not applicable to this review.

- (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.3, page 72, the applicants project the following payor mix for the proposed services during the second full fiscal year of operation following completion of the project, as shown in the table below.

Payor Category	Projected Days as a % of Total Days
Medicaid	60.0%
Medicare	15.0%
Private Pay	25.0%
Total	100.0%

Source: Table VI.3, page 72 of the application.

As shown in the table above, during the second full fiscal year of operation, the applicants project 15.0% of the total services will be provided to Medicare patients and 60.0% of the total services will be provided to Medicaid patients.

On pages 61-67 and page 70, the applicants provide the assumptions and methodology used to project payor mix during the second full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported for the following reasons:

- The applicants utilized past experience managing and supporting facilities, including the experience of a recently opened 100 bed NF facility in Forsyth County.
- The applicants state that Liberty Commons of Mecklenburg “*proposes to serve a Medicaid population in line with the county [sic] current county average. According to the 2017 LRA’s, the county average is 58% Medicaid where the applicants propose to serve 60% Medicaid residents in its new additional beds upon completion.*”

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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.

- (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.7, pages 73-74, the applicants adequately describe the range of means by which patients will have access to the proposed services.

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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.

- (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

Exhibit 12 contains a copy of a letter from Pfeiffer University, in response to contact from the applicants, stating the Pfeiffer University's Division of Applied Health Sciences "*would be pleased to establish an Affiliation Agreement with the facility to serve as a clinical training site for our health science students.*"

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the applicant adequately demonstrates that the proposed services will accommodate the clinical needs of area health professional training programs, and therefore, the application is conforming to this criterion.

- (15) Repealed effective July 1, 1987.
- (16) Repealed effective July 1, 1987.
- (17) Repealed effective July 1, 1987.
- (18) Repealed effective July 1, 1987.

- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

C

The applicants propose to develop a new 100-bed NF facility, Liberty Commons of Mecklenburg, in Mecklenburg County by relocating 13 NF beds from The Oaks (Forsyth County), 20 NF beds from Warren Hills (Warren County), 20 NF beds from Cross Creek (Hyde County), 2 NF beds from Bermuda Commons (Davie County), and 45 NF beds from Mary Gran (Sampson County).

On page 183, the 2018 SMFP defines the service area for nursing facility beds as "*A nursing care bed's service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*" Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

Table 10A *Inventory of Nursing Home and Hospital Nursing Care Beds* in the 2018 SMFP, pages 192-193, lists a total of 30 nursing facilities and one hospital (Novant Health

Presbyterian Medical Center) in Mecklenburg County with a combined total of 2,957 NF beds in the planning inventory, as shown in the table below.

2018 SMFP NF Inventory & 2020 Need Projections Mecklenburg County	
# Facilities	31
# Beds in Nursing Homes	3,264
# Beds in Hospitals	16
Total Licensed Beds	3,280
Total CON Approved/License Pending	30
Total # Available	3,310
Sum of Exclusions	353
Total # in Planning Inventory	2,957
Projected Bed Utilization with Vacancy Factor in 2020*	3,352
Projected Bed Deficit 2021	395**

*Source: Table 10C, 2018 SMFP, page 205.

**Note: 2018 SMFP states that there is a deficit of 395 NF beds in Mecklenburg County. Inadvertently, the number of NF beds at Huntersville Oaks NF in Mecklenburg County was underreported by 102 NF beds. The facility was listed as having 66 licensed NF beds when the facility has 168 licensed NF beds. Therefore, the deficit of NF beds in the 2018 SMFP for Mecklenburg County is 293 [395 – 102 = 293].

In Section V.6, pages 69-70, the applicants describe the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services. On pages 69-70, the applicants state

“Liberty Commons of Mecklenburg will be a brand new, state-of-the-art highly rated and operationally efficient facility that we project to become a quick choice for county residents. This will encourage operators of other county facilities to evaluate the care and quality of their facilities and to improve and up fit where possible to remain competitive in the marketplace. This will improve the quality of care for the residents in all facilities. Furthermore, the applicants propose to serve a Medicaid population in line with the county [sic] current county average.”

The applicants adequately describe the expected effects of the proposed services on competition in the service area and adequately demonstrates:

- The cost-effectiveness of the proposal (The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.)
- Quality services will be provided (The discussion regarding quality found in Criterion (20) is incorporated herein by reference.)
- Access will be provided to underserved groups (The discussions regarding access found in Criterion (3), (3a) and (13) are incorporated herein by reference.)

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 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 Section I.12, pages 11-12, the applicants identify the nursing facilities located in North Carolina owned, operated or managed by the applicants or a related entity. The applicants identify a total of 34 of this type of facility located in North Carolina.

In Section II.6, pages 39-44, the applicants state that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in four of these facilities. The applicant states that the problems in three of the facilities have been corrected and the problem in the fourth facility (Liberty Commons of Rowan) are under appeal. See page 44 and Exhibit 7. According to the files in the Nursing Home Licensure and Certification Section, DHSR, a total of five incidents occurred at five facilities within the eighteen months immediately preceding submission of the application through the date of this decision related to quality of care. As of the date of this decision, four of the problems had been corrected. Liberty Commons of Rowan is listed as being back in compliance as of February 2, 2018 and also under appeal. The fifth facility, Bermuda Commons Nursing and Rehabilitation Center, had an incident arise from an April 16, 2018 survey, which was subsequent to the filing of this application. A re-certification survey has not yet been conducted. After reviewing and considering information provided by the applicants and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all existing facilities, the applicants provided sufficient evidence that quality care has been provided in the past. Therefore the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic

medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C

The Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100 are applicable because the applicants propose to establish add nursing facility beds at an existing facility.

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 are not proposing 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.

-C- The applicants propose to establish a new nursing facility, Liberty Commons of Mecklenburg. In Section IV, pages 62-64, the applicants project occupancy is 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 as shown in the table below.

Liberty Commons of Mecklenburg-Projected Utilization: OY1 and OY2

	OY1 FFY 2024	OY2 FFY 2025
Patient Days	26,116	33,580
# of bed	100	100
Occupancy Rate	72.0%	92.0%

Source: Table IV.2, pages 62-64.

*Occupancy Rate Calculation: Total Days/365/# of beds.

As shown in the table above, in the second full FFY of operation, the applicants project the 100 NF beds will operate at 92.0% of capacity [33,580/365/10 = 0.92 or 92.0%]. In Section

III, pages 45-51, Section IV, pages 61-67, the applicants provide the methodology and assumptions underlying the projected utilization.

(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 are not proposing 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.

-NA- The applicants are not proposing to establish a new adult care home facility or add adult care home beds to an existing facility.