

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: March 29, 2019

Findings Date: March 29, 2019

Project Analyst: Gregory F. Yakaboski

Assistant Chief: Lisa Pittman

Project ID #: F-11607-18

Facility: Liberty Commons Nursing & Rehabilitation Center of Mint Hill

FID #: 180101

County: Mecklenburg

Applicant(s): Liberty Commons of Mecklenburg, LLC

Mecklenburg County Healthcare Properties, LLC

Project: Relocate 12 ACH beds from Radbourne Manor Village (Project I.D. #F-11052-15) to Liberty Commons Nursing & Rehabilitation Center of Mint Hill (Project I.D. #F-11461-18) for a total of 83 NF beds and 12 ACH beds upon project completion

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, Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC propose a change of scope (COS) for the approved, but undeveloped, Liberty Commons Nursing & Rehabilitation Center of Mint Hill (Liberty Commons of Mint Hill) project [Project I.D. # F-11461-18], which authorized the construction of a new 83-bed nursing facility at 7712 Wilson Grove Road in Mint Hill. Specifically, in the original approved application, the applicants proposed to develop a new 83-bed nursing facility by relocating five nursing facility beds from Warren Hills (Warren County), ten beds from Cross Creek (Hyde County), 20 beds from Bermuda Commons (Davie County), 22 beds from Mary Gran (Sampson County), seven beds from Liberty Commons of Columbus (Columbus County), nine

beds from Shoreland (Columbus County), and ten beds from Legion Road Healthcare (Orange County).

In the current COS application, the applicants propose to add 12 ACH beds to the approved Liberty Commons of Mint Hill project by relocating 12 ACH beds from Radbourne Manor Village (Project I.D. #F-11052-15) project for a total of 83 NF beds and 12 ACH beds at Liberty Commons of Mint Hill upon project completion. Further, operating year (OY) one for the overall project (Project I.D. #F-11461-18 and this proposed project) will be full fiscal year (FFY) 2025 (10/1/2024 – 9/30/2025) instead of FFY 2024 (10/1/2023 – 9/30/2024).

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 applicant was found confirming to the following policies in Project ID #F-11461-18:

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

In the current COS application, **Policy LTC-2: Relocation of Adult Care Home Beds** in the 2018 SMFP is applicable to this review.

Policy LTC-2: Relocation of Adult Care Home Beds 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 existing and proposed locations for the 12 ACH beds are in Mecklenburg County. The application is consistent with Policy LTC-2.

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 and Policy LTC-2.

- (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 COS for the approved, but undeveloped, Liberty Commons of Mint Hill project which authorized the construction of a new 83-bed nursing facility. In the current COS application, the applicants propose to add 12 ACH beds to the approved Liberty Commons of Mint Hill project by relocating 12 ACH beds from Radbourne Manor Village (Project I.D. #F-11052-15) project for a total of 83 NF beds and 12 ACH beds at Mint Hill upon project completion.

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 bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area”*. Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

In Section C.3, pages 20-21, the applicants provide the projected patient origin for the 12 ACH beds that are being proposed to be relocated to Liberty Commons of Mint Hill, as summarized below.

**Liberty Commons of Mint Hill
Projected Patient Origin for 12 Relocated ACH Beds**

County	General ACH Beds	
	# of Patients	% of Total
Mecklenburg	11	92%
Union/Cabarrus/Stanly	1	8%
TOTAL	12	100%

Source: Application, page 20

Totals may not sum due to rounding

In Section C, page 20, 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 C.4, pages 21-23, and supplemental information, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services. On page 21, the applicants state:

“The key factors that drive the need for the proposed project are as follows:

- *Lack of ACH care in combination facilities*
- *Lack of placement options for Mecklenburg County special assistance/Medicaid residents*
- *Mecklenburg County’s growing senior population”*

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

- The 12 ACH beds are existing and only being relocated within Mecklenburg County and therefore are not adding to the projected surplus in Mecklenburg County.
- There are only 13 facilities in Mecklenburg County that have both NF and ACH beds and of the 13 facilities only two offered the combination of nursing facility and adult care that Liberty Commons of Mint Hill is projecting to provide.
- The applicants demonstrate that based on the North Carolina Office of State Budget and Management (NCOSBM) estimates, Mecklenburg County’s total population of seniors (aged 65 and older and the age cohort most likely to utilize ACH beds) is expected to rise from 81,931 individuals in 2010 to 205,624 in 2030, an increase of approximately 153%.
- The applicants demonstrate that based on a review of the 2018 License Renewal Applications (LRAs) of 37 ACH facilities in Mecklenburg County 78% of the days of care were private pay and only 22% were for county assistance whereas according to a North Carolina assisted living fact sheet from the National Center for Assisted Living (NCAL) 44% of residents rely on Medicaid (county assistance) for their care.

Projected Utilization

In Section Q and supplemental information, the applicants provide projected utilization as illustrated in the following table(s).

Liberty Commons of Mint Hill – Projected Utilization

	OY1 10/1/24-9/30/25	OY2 10/1/25-9/30/26	OY3 10/1/26-9/30/27
NF Beds			
# of NF Beds	83	83	83
# of Patient Days	22,865	28,182	28,182
Occupancy Rate	75.47%	93.03%	93.03%
ACH Beds			
# of ACH Beds	12	12	12
# of Patient Days	3,250	4,026	4,026
Occupancy Rate	74.20%	91.92%	91.92%

In Section Q and supplemental information, the applicant provides the assumptions and methodology used to project utilization, which is summarized below.

- Liberty opened a 30 ACH bed facility in Mecklenburg County, The Terrace at Brightmore of South Charlotte, in April, 2015. The applicants utilized the census data from that project to project utilization for this proposed project. The applicants state that the census at The Terrace at Brightmore of South Charlotte has consistently stayed at capacity. For the proposed Liberty Commons of Mint Hill project the applicants state that they proposed a slightly faster fill up rate because of the fact that the 12 ACH beds will be in a combination facility and will be projecting 36% State/County assistance.
- According to the US Census Bureau, the poverty rate for seniors in North Carolina is around 10%;
- By 2022 there will be approximately 150,000 seniors living in Mecklenburg County (NCOSBM).
- Approximately 15,000 seniors living in Mecklenburg County will be living below the poverty rate by the year 2022 (150,000 x .10 = 15,000).
- Currently there are only approximately 3,000 ACH beds in Mecklenburg County and only 22% of the patient days are county assistance/Medicaid patients.
- In addition, the applicants relied on additional utilization census from other facilities currently operated by Liberty. See Section A.10, pages 9-11, for a list of both the 26 nursing facilities and 4 adult care home facilities owned or operated by the applicant or related entity.

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

- The applicants relied on historical data/experience and current data from a different existing Liberty ACH facility also located in Mecklenburg County
- The applicants relied on utilization census from other Liberty operated facilities.

- The fill-up rate is reasonable based on the management company’s experience and the applicants projected need.
- The applicants relied on data from a North Carolina assisted living fact sheet from the National Center for Assisted Living (NCAL), the US Census Bureau and the North Carolina Office of State Budget and Management.

Access

In Section C, page 25, the applicant states Liberty Commons of Mint Hill will provide services to all persons without discrimination on the basis of “*social, racial, ethnic, or gender related issues.*” In Section L, page 52, the applicants project the following payor mix during the third full fiscal year of operation following completion of the project, as illustrated in the following table.

Liberty Commons of Mint Hill: 12 ACH Beds- Third FFY (10/1/2026 – 9/30/27)

Payor Category	Services as Percent of Total ACH Services
Private Pay	64%
County Assistance/Medicaid	36%
Total	100%

Source: Table on page 52

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.
- The applicants adequately explain why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicants project 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.

C

In Project I.D. # F-11461-18, the applicants were found conforming with this criterion.

In the current application, the applicants propose a COS for the approved, but undeveloped, Liberty Commons of Mint Hill project which authorized the construction of a new 83-bed nursing facility. In the current COS application, the applicants propose to add 12 ACH beds to the approved Liberty Commons of Mint Hill project by relocating 12 ACH beds from Radbourne Manor Village (Project I.D. #F-11052-15) project a total of 83 NF beds and 12 ACH beds at Liberty Commons of Mint Hill upon project completion.

In Section D, page 31, and supplemental information, the applicants explain why they believe the needs of the population presently utilizing the services to be reduced, eliminated or relocated will be adequately met following completion of the project. On page 31, the applicants state:

“The relocation of these ACH beds will not have any negative effect, as there are no patients currently utilizing these beds. No facility is losing beds, as Radbourne Manor Village III is currently closed.”

In Section D, page 31, the applicant states *“In fact, it will only have a positive effect as it will put 12 AL beds into service. Additionally, this will have a positive effect on all groups listed in Section D.4, as a projected 36.36% of the ACH residents will be county assistance/Medicaid payers.”*

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:

- 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

In the current application, the applicants propose a COS which would allow the applicants to relocate 12 ACH beds from Radbourne Manor Village (Project I.D. #F-11052-15) to the approved Liberty Commons of Mint Hill (Project I.D. #F-11461-18) for a total of 83 NF beds and 12 ACH beds upon project completion.

In Section E, page 32, and supplemental information, 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:

- Moving the 12 ACH beds to Royal Park of Matthews- This alternative would have required building onto the current community at a high capital cost. Therefore, this was not the least costly or most effective alternative.
- Moving the 12 ACH beds to The Pavilion at Brightmore of South Charlotte- This alternative would have required building onto the current community at a high capital cost. Therefore, this was not the least costly or most effective alternative.
- Moving the 12 ACH beds to Liberty Commons of Mecklenburg- The applicants state that based on its experience nursing facilities and combination nursing/adult care bed facilities operate best when licensed for between 90-100 beds. In addition, this approved facility is located in Deweese township and is expected to have a growth of 917 people in the 65+ age bracket as compared to Clear Creek Township (where Liberty Commons of Mint Hill will be located) which is expected to have a growth of 1050 people in the 65+ age bracket. There, this was not the most effective alternative.

On page 32, and supplemental information, the applicants state that its proposal is the most effective alternative for two reasons: First, the overall number of beds: adding 12 ACH beds to the already approved 83 NF beds puts Liberty Commons of Mint Hill at a total of 95 beds. Based on the experience of its operators, the applicants are aware that facilities run the smoothest when licensed from 90-110 beds. If the 12 ACH beds were added to Liberty Commons of Mecklenburg it would put that facility at over 110 beds (112) while keeping Liberty Commons of Mint Hill below 90 beds (83). Second, the expected increase in the population age 65+, the age cohort most likely to utilize the ACH beds, in Deweese Township (Liberty of Mecklenburg location) is projected to have a smaller amount of growth in the 65+ age population as compared to Clear Creek Township (Mint Hill location).

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 application is conforming to all statutory and regulatory review criteria.

- The applicants provide credible information to explain why they believe the proposed project is the most effective alternative.

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 Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC shall materially comply with the representations in this application, the representations in Project I.D. #F-11461-18 and any supplemental responses. Where representations conflict, Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC shall materially comply with the last made representation.**
- 2. Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC shall relocate 12 ACH beds from Radbourne Manor Village (Project I.D. #F-11052-15) to the approved, but undeveloped, Liberty Commons Nursing & Rehabilitation Center of Mint Hill (Project I.D. #F-11461-18) for a total of 83 NF beds and 12 ACH beds upon project completion.**
- 3. Upon completion of the project, Liberty Commons of Mint Hill shall be licensed for no more than 83 nursing facility beds and 12 adult care home beds.**
- 4. Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC shall provide care to recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.**
- 5. For the first two years of operation following completion of the project, Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare 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.**

6. 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, Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, 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.**

7. 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 a COS for the approved, but undeveloped, Liberty Commons of Mint Hill project which authorized the construction of a new 83-bed nursing facility. In the current COS application, the applicants propose to add 12 ACH beds to the approved Liberty Commons of Mint Hill project by relocating 12 ACH beds from Radbourne Manor Village (Project I.D. #F-11052-15) project for a total of 83 NF beds and 12 ACH beds at Liberty Commons of Mint Hill upon project completion.

In the original Liberty Commons of Mint Hill project, Project I.D. # F-11461-18, the application was conforming to this criterion with approved capital costs of \$15,307,416 and working capital costs of \$738,624, as shown below.

Capital and Working Capital Costs

In Section Q, Form F.1b, page 65, the applicants project the total capital cost of this project (add 12 ACH beds) as shown in the table below.

	Original Costs (Project ID# F-11461-18)	Additional Costs for 12 ACH Beds	Total
Site Preparation Costs	\$2,005,166	\$0.00	\$2,005,166
Construction Costs	\$11,838,750	\$700,000	\$12,538,750
Miscellaneous Costs	\$1,463,500	\$177,000	\$1,640,500
Total	\$15,307,416	\$877,000	\$16,184,416

In Section Q, the applicants provide the assumptions used to project the capital cost.

In supplemental information, the applicants project that start-up costs associated with the COS application over and above the original working capital costs of \$738,624 will be \$36,286 to cover additional staffing and operating expenses during the fill-up of the 12 ACH beds.

Availability of Funds

In Section F, page 33, and supplemental information, the applicants state that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	Mecklenburg County Healthcare Properties, LLC	Total
Loans	\$	\$
Accumulated reserves or OE *	\$877,00	\$877,000
Bonds	\$	\$
Other (Specify)	\$	\$
Total Financing	\$877,000	\$877,00

* OE = Owner's Equity

In Section F, page 35, and in supplemental information, the applicants state that the working capital needs of the project will be funded as shown in the table below.

Sources of Financing for Working Capital		Amount
(a)	Loans	\$
(b)	Cash or Cash Equivalents, Accumulated Reserves or Owner's Equity	\$36,286
(c)	Lines of credit	\$
(d)	Bonds	\$
(e)	Total *	\$36,286

In Section F, pages 33 and 35, the applicants state that the capital costs will be financed by the owner's equity of John A. McNeill, Jr. and Ronald B. McNeill, owners of the applicants. In supplemental information, the applicants provide a letter dated January 14, 2019, from John A. McNeill, Jr. and Ronald B. McNeill expressing their intention to fund the capital and working capital costs for the proposed project. The applicants, in supplemental information, also included a letter dated March 19, 2019 from Joel M. White, CPA of the accounting firm Cherry Bekaert, which states that John A. McNeill, Jr. and Ronald B. McNeill have adequate funds to meet the capital and working capital requirements of the proposed project. The applicants adequately demonstrate that sufficient funds will be available for the capital needs of the proposed project.

Financial Feasibility

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.5 and supplemental information the applicant projects that revenues will exceed operating expenses in the first three operating years of the project, as shown in the table below.

Liberty Commons of Mint Hill: Entire Facility (NF and ACH beds)

	1st Full Fiscal Year	2nd Full Fiscal Year	3rd Full Fiscal Year
Total Patient Days	26,115	32,208	32,208
Total Gross Revenues (Charges)	\$6,971,138	\$8,700,243	\$8,814,930
Total Net Revenue	\$6,213,523	\$7,766,236	\$7,880,694
Average Net Revenue per Patient Days	\$237.93	\$241.13	\$244.68
Total Operating Expenses (Costs)	\$5,888,274	\$6,294,265	\$6,413,115
Average Operating Expense per Patient Days	\$225.48	\$195.43	\$199.16
Net Income	\$325,249	\$1,471,972	\$1,467,579

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section Q of the application and supplemental information 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
- 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 and working 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 a COS for the approved, but undeveloped, Liberty Commons of Mint Hill project which authorized the construction of a new 83-bed nursing facility. In the current COS application, the applicants propose to add 12 ACH beds to the approved Liberty Commons of Mint Hill project by relocating 12 ACH beds from Radbourne Manor Village (Project I.D. #F-11052-15) project for a total of 83 NF beds and 12 ACH beds at Liberty Commons of Mint Hill upon project completion.

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 bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area*”. Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

Based on data in Table 11A: Inventory of Adult Care Homes (Assisted Living) Beds in the 2018 SMFP, pages 226-228, Mecklenburg County has a total of 50 facilities with ACH beds with a total planning inventory of 3,305 ACH beds including ACH beds with Agency approval or license pending minus exclusions. Also, based on data in Table 11B: Adult Care Home Need Projections for 2021 in the 2018 SMFP, page 239, Mecklenburg County is projected to have an adult care home bed surplus of 360 beds in 2021.

In Section G, page 41, the applicants explain why they believe their proposal would not result in the unnecessary duplication of existing or approved adult care services in Mecklenburg County. The applicants state:

“The Applicants’ proposed change of scope project does not seek to increase the number of ACH beds in the Mecklenburg County SMFP inventory. Rather, the Applicants propose to relocate already existing ACH beds in the (Mecklenburg) SMFP inventory... no new beds will be added to adult care home bed inventory in the SMFP.”

The applicants adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area because the proposal would not result in an increase in adult care home beds in Mecklenburg County, but rather relocate existing adult care home beds within Mecklenburg County.

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 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 43, Section Q, Form H, page 85 and supplemental information, the applicants provide current and projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

Liberty Commons of Mint Hill: Projected Staffing for OY2 (10/1/25 to 9/30/26)

Position	Projected		
	NF Beds	ACH Beds	Total Facility
Director of Nursing	1.00	0.00	1.00
MDS Nurse	1.00	0.00	1.00
Registered Nurse	5.60	0.00	5.60
Licensed Practical Nurse	12.60	1.95	15.40
CNAs	30.80	4.24	33.60
Ward Secretary	0.50	0.00	0.50
Medical Records	1.00	0.00	1.00
Social Services	1.00	0.00	1.00
Activities Director	0.87	0.13	1.00
Housekeeping	0.87	0.13	1.00
Housekeeping Aides	4.89	0.71	5.60
Laundry Aides	2.45	0.35	2.80
Physical Therapist	2.00	0.00	2.00
Physical Therapist Assistant	2.40	0.00	2.40
Physical Therapist Aides	1.00	0.00	1.00
Occupational Therapist	1.00	0.00	1.00
Speech Therapist	0.50	0.00	0.50
Certified Occupational Therapist Assistant	1.60	0.00	1.60
Maintenance Supervisor	0.87	0.13	1.00
Janitors	0.87	0.13	1.00
Transportation	0.87	0.13	1.00
Administration	0.87	0.13	1.00
Business Office Manager	0.87	0.13	1.00
Other: Business Office Staff	0.87	0.13	1.00
TOTAL	76.30	8.29	84.00

Source: Form H in Section Q of the application and supplemental information.

The assumptions and methodology used to project staffing are provided in Section H, Form H and in supplemental information. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.4, which is found in Section Q. In Section H, page 43 and in supplemental information, respectively, the applicants describe the methods to be used to recruit or fill new positions and its proposed training and continuing education programs. In Section H, page 43, and in supplemental information, the applicants identify the proposed medical director. In supplemental information, the applicants 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
- 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.

- (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 I, page 45, the applicant states,

“The applicants adequately demonstrated in [sic] approved application that the necessary ancillary and support services will be available and that proposed services will be coordinated with the existing health care system. Nothing has changed for this application.”

In Project I.D. # F-11461-18, the application was conforming to this criterion.

In supplemental information the applicants state that the following ancillary and support services are necessary for the proposed services:

- Inpatient Nursing Care
- Dietician
- Audiology
- Physician Services
- Podiatry
- Respiratory Care
- Laboratory
- Dentistry
- Pharmacy
- Non-emergency Medical Transport

- Facility Van
- Mental Health/Behavioral Program
- Personal Laundry
- Pastoral/Chaplaincy
- Speech Therapy
- Rehab Services
- Therapeutic
- Housekeeping

In supplemental information, the applicants adequately explain how each ancillary and support service is or will be made available.

In supplemental information, the applicants describe the efforts to develop relationships with other local health care and social service providers.

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
- 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

The applicants do 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

The applicants are not HMOs. 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 Project I.D. # F-11461-18, the application was conforming to this criterion. In Section K, that applicants state that there were no changes proposed in this COS application except an updated floor plan to accommodate the addition of the proposed 12 ACH beds. Line drawings are provided in Exhibit K.5.

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;

NA

In Project I.D. #F-11461-18, this Criterion was deemed to be not applicable because the applicant proposed to develop a new facility. The applicant proposes no changes in the current COS application that would affect that determination.

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

- (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

In Project I.D. #F-11461-18, this Criterion was deemed to be not applicable because the applicant proposed to develop a new facility. The applicants propose no changes in the current COS application that would affect that determination.

The Agency reviewed the:

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

- (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 Project I.D. # F-11461-18, the application was conforming to this criterion

The applicants propose a COS for the approved, but undeveloped, Liberty Commons of Mint Hill project which authorized the construction of a new 83-bed nursing facility. In the current COS application, the applicants propose to add 12 ACH beds to the approved Liberty Commons of Mint Hill project by relocating 12 ACH beds from Radbourne Manor Village (Project I.D. #F-11052-15) project for a total of 83 NF beds and 12 ACH beds at Liberty Commons of Mint Hill upon project completion.

In Section L, page 52, the applicant projects the following payor mix for the proposed ACH services during the third full fiscal year of operation following completion of the project, as shown in the table below.

ACH Beds- Third Full FFY (10/1/2026 – 9/30/2027)

Payor Category	Services as Percent of Total ACH Services
Private Pay	64%
County Assistance/Medicaid	36%
Total	100%

Source: Table on page 52

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 36% of total ACH services will be provided to patients receiving County Assistance/Medicaid.

In supplemental information, the applicant provides the assumptions and methodology used to project payor mix for the proposed ACH services during the third full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported based on the applicants historical business experience and 2018 LRA data.

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.

- (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. # F-11461-18, the application was conforming to this criterion and the applicants propose no changes in the current COS application that would affect that determination.

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 applicants adequately document 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. Therefore, the application is conforming to this criterion.

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

C

In Project I.D. # F-11461-18, the application was conforming to this criterion and the applicants propose no changes in the current COS application that would affect that determination.

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 applicants adequately demonstrate 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 a COS for the approved, but undeveloped, Liberty Commons of Mint Hill project which authorized the construction of a new 83-bed nursing facility. In the current COS application, the applicants propose to add 12 ACH beds to the approved Liberty Commons of Mint Hill project by relocating 12 ACH beds from Radbourne Manor Village (Project I.D. #F-11052-15) project for a total of 83 NF beds and 12 ACH beds at Liberty Commons of Mint Hill upon project completion.

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 bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area”*. Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

Based on data in Table 11A: Inventory of Adult Care Homes (Assisted Living) Beds in the 2018 SMFP, pages 226-228, Mecklenburg County has a total of 50 facilities with ACH beds with a total planning inventory of 3,305 ACH beds including ACH beds with Agency approval or license pending minus exclusions. Also, based on data in Table 11B: Adult Care Home Need Projections for 2021 in the 2018 SMFP, page 239, Mecklenburg County is projected to have an adult care home bed surplus of 360 beds in 2021.

In Section N, pages 55-56, 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 page 55, the applicants state

“The applicants demonstrated in the original application the expected positive effects of the SNF beds on the competition. In regard to this change of scope, the proposed project will have a positive effect on the competition in the area, as the demand for these 12 ACH beds may encourage other facilities with poor utilization in Mecklenburg County to improve their current situations in order to compete. Access to ACH beds at Liberty Commons of Mint Hill, especially to those residents in need of Medicaid and Special Assistance residents (over 1/3 of the 12 ACH beds will be reserved for Medicaid/Special Assistance), will allow admission of residents who seek homelike care at lower costs.”

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 (see Sections F and Q of the application, any exhibits and the supplemental information)
- Quality services will be provided (see Section O of the application and any exhibits)
- Access will be provided to underserved groups (see Section L of the application, any exhibits and the supplemental information.)

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.

- (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 A.1, page 5, the applicants state that Liberty Long Term Care, LLC (Liberty) is the parent company of Liberty Commons of Mecklenburg, LLC. In Section A.10, pages 10-11, the applicants provide a list of its affiliates which include 26 nursing home facilities and 4 adult care homes located in North Carolina owned, operated or managed by the applicant or a related entity.

In Section O, pages 58-59, the applicants state that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in six of the twenty-six nursing facilities: Woodlands Nursing and Rehabilitation Center, Warren Hills Nursing Center, Liberty Commons Nursing and Rehabilitation Center of Rowan County, The Oaks and Liberty Commons Nursing and Rehabilitation Center of Lee County. The applicants state that all of the problems have been corrected as documented in Section O, pages 58-59 except for Woodlands Nursing and Rehabilitation Center which was awaiting a revisit and expects to be in compliance as of November 6, 2018. According to the files in the Nursing Home 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 eight of these facilities and all are back in compliance as of the date of this decision. Furthermore, according to the files in the Adult Care Licensure 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 two of the four adult care

home facilities: The Commons at Brightmore and Liberty Commons Assisted Living. According to the files in the Adult Care Licensure Section all are back in compliance as of the date of this decision.

After reviewing and considering information provided by the applicants and by the Nursing Home Licensure and Certification Section, the Adult Care Licensure Section and considering the quality of care provided at all 30 facilities, the applicants provided sufficient evidence that quality care has been provided in the past.

Additionally, the applicants were found conforming to this criterion in Project I.D. # O-11187-16. Therefore, the application is conforming to this criterion.

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

NA

In Project I.D. # F-11461-18, the application was conforming to The Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100 and the applicants propose no changes in the current COS application that would affect that determination.