

## REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: December 10, 2021

Findings Date: December 10, 2021

Project Analyst: Kim Meymandi

Co-Signer: Lisa Pittman

Project ID #: J-12123-21

Facility: Britthaven of Holly Springs

FID #: 101149

County: Wake

Applicant(s): Britthaven, Inc.

Eagle Peak LTC Group, LLC

Project: Cost overrun for Project ID #J-8618-10 (Develop new 90-bed NF facility)

### REVIEW CRITERIA

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

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

C

The applicants, Britthaven, Inc. and Eagle Peak LTC Group, LLC collectively referred to as “the applicant”, propose a cost overrun (COR) for Project ID #J-8618-10 (Develop a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County).

A certificate of need was issued on May 17, 2011, for Project I.D. #J-8618-10 and authorized a capital cost of \$9,634,095. The current application proposes a capital cost increase of \$15,373,026 over the previously approved capital cost for a total combined capital cost of \$25,007,121. The cost overrun application is necessary due to the purchase price of land, increased site preparation, construction, and equipment costs due to current market conditions compared to the estimated costs in 2010 when the original application was submitted. The application proposes no material change in scope from the originally approved project.

## **Need Determination**

The original project did not involve a need determination pursuant to the 2010 SMFP and the current COR application does not involve the addition of any new health service facility beds, services, or equipment for which there is a need determination in the 2021 SMFP. Therefore, there are no need determinations applicable to this review.

## **Policies**

Project I.D. #J-8618-10 was found to be consistent with *Policy NH-6: Relocation of Nursing Home Facility Beds* and *Policy NH-8: Innovations in Nursing Home Facility Design* as published in the 2010 SMFP. The applicant proposes no changes in the current application which would affect that determination.

In the current COR application, the combined projected capital cost to develop the project is greater than \$2 million; thus, *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities* in the 2021 SMFP applies to this review.

*Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*, on page 29 of the 2021 SMFP, states:

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

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

*Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 is required to submit a plan of energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control.”*

The combined proposed capital expenditure for this project is greater than \$5 million. In Section B, page 31, the applicant describes the plans involved in achieving energy and water conservation goals and also provides a written statement:

*“The building will meet or exceed energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State building codes and is destined to be one of the most environmentally sound health care facilities in the state.”*

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

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 based on the following:

- The application does not propose any changes to the original proposal that would make any need determinations applicable to this review.
- The applicant adequately demonstrates that the proposal is consistent with Policy GEN-4 because the applicant provides 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, ... persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.

### C

The applicant proposes a COR for Project ID #J-8618-10 (Develop a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County).

A certificate of need was issued on May 17, 2011, for Project I.D. #J-8618-10 and authorized a capital cost of \$9,634,095. The current application proposes a capital cost increase of \$15,373,026 over the previously approved capital cost for a total combined capital cost of \$25,007,121. The cost overrun application is necessary due to the purchase price of land, increased site preparation, construction, and equipment costs due to current market conditions

compared to the estimated costs in 2010 when the original application was submitted. The application proposes no material change in scope from the originally approved project.

**Patient Origin**

On page 143, the 2021 SMFP defines the service area for nursing facility beds as “*the nursing care bed planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” The proposed Britthaven of Holly Springs will be located in Wake County. Thus, the service area for this project consists of Wake County. Facilities may serve residents of counties not included in their service area.

The application for Project ID# J-8618-10 adequately identified the current and projected patient origin for the facility at the time of the application. No changes are proposed in this application which would affect that determination.

**Analysis of Need**

The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.

<b>Britthaven of Holly Springs – Previously Approved &amp; Proposed Capital Cost</b>			
	<b>Previously Approved Capital Costs (J-8618-10)</b>	<b>New Total Capital Cost (J-12123-21)</b>	<b>Difference</b>
Purchase Price of Land	\$1,980,000	\$2,200,000	\$220,000
Closing Costs	\$39,600	\$39,600	\$0
Site Preparation	\$906,000	\$1,100,000	\$194,000
Construction/Renovation Contract(s)	\$5,794,620	\$17,320,000	\$11,525,380
Landscaping	\$0	\$300,000	\$300,000
Architect/Engineering Fees	\$200,000	\$985,688	\$785,688
Furniture	\$496,125	\$2,600,000	\$2,103,875
Consultant Fees (CON and legal fees)	\$4,250	\$100,000	\$95,750
Financing Costs	\$15,000	\$0	(\$15,000)
Interest during Construction	\$185,000	\$348,333	\$163,333
Other (Rezoning, Development Fees )	\$13,500	\$13,500	\$0
<b>Total Capital Cost</b>	<b>\$9,634,095</b>	<b>\$25,007,121</b>	<b>\$15,373,026</b>

In Section C, pages 32-33, the applicant explains why it believes the proposed increase in capital cost is necessary to develop the proposed project:

- **Increased Price of Land:** A material compliance determination was issued by the Agency on March 28, 2019 allowing for a change in location. The applicant states that the new site is slightly more expensive than the site originally approved.
- **Increased Site Preparation Costs:** The applicant states that water and sewer extensions are necessary at the new site because utilities are not readily accessible.
- **Increased Construction Costs:** The applicant states that since 2010, construction costs have risen 56.3%. Additionally, the applicant states they have added sustainability,

safety, wellness and landscaping features into the building design and plans that were not accounted for in the original CON application and these features add an estimated 37% to the cost of the project.

- Increased Landscaping Costs: The applicant states that due to requirements imposed by the town of Holly Springs, landscaping costs have increased.
- Increased Architect/Engineering Fees: The applicant states that these fees are calculated at 5.6% of actual construction costs and given that they are being done in-house, the applicant is using a conservative estimate.
- Increased Furniture Costs: The applicant states these costs include patient room furnishings as well as furniture needed for office, lounge and common areas.
- Increased Consultant Fees: The applicant states that this expense increased due to the \$50,000 filing fees that have been paid for 2 CON applications.
- Increased Financing and Interest Costs During Construction: The applicant states they estimate the project will take 18 months to complete and they have calculated the financing fees and interest associated with borrowing \$22 million for the project.

The information is reasonable and adequately supported based on the following:

- The applicant adequately explains the reasons the additional costs are necessary to develop the proposed project.
- The applicant provides supporting documentation for its statements in Exhibit C-8b.
- The applicant does not propose to change the scope of services offered or to change the patients projected to be served by the proposed project.

### Projected Utilization

In Project I.D. #J-8618-10, the Agency determined the applicant had demonstrated its projected utilization was based on reasonable and adequately supported assumptions. The applicant proposes no changes in the current application which would change the projected utilization from the previous project, or which would otherwise affect the Agency's determination in that project.

### Access to Medically Underserved Groups

The application for Project ID# J-8618-10 adequately demonstrated the extent to which all residents of the area, including underserved groups, were likely to have access to the proposed services. The applicant proposes no changes in the current application which would affect that determination.

### Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 application for Project I.D. #J-8618-10 adequately identified the population to be served and there are no changes proposed in this application which would affect that determination.
- The applicant adequately explains why the proposed increase in projected capital cost is necessary to provide the population to be served with the services proposed in this application.
- Projected utilization was deemed reasonable and adequately supported in Project I.D. #J-8618-10 and there are no changes proposed in this application which would affect that determination.
- The application for Project I.D. #J-8618-10 adequately identified the extent to which all residents, including underserved groups, were likely to have access to the proposed services, and there are no changes proposed in this application which would affect that determination.

- (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, ... persons [with disabilities], and other underserved groups and the elderly to obtain needed health care.

NA

The applicant does not propose to reduce a service, eliminate a service or relocate a facility or service. Therefore, Criterion (3a) is not applicable to this review.

- (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 applicant proposes a COR for Project ID #J-8618-10 (Develop a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County).

In Section E, page 38, the applicant describes 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:

Staying within the original approved amount of the CON-The applicant states that due to inflationary pressures since the original issuance of the CON, costs associated with the project have dramatically increased making it unfeasible to remain within the original approved costs.

Not complete the project-The applicant states this alternative would deny the citizens of Holly Springs access to state-of-the-art health care, forcing residents to travel outside the local community for healthcare services.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the need based on the following:

- The applicant does not propose to change the scope of the previously approved Project I.D. #J-8618-10.
- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.
- The application is conforming to all other statutory and regulatory review criteria. Therefore, the application can be approved.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- 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. Therefore, the application is approved subject to the following conditions:

- 1. The Britthaven, Inc. and Eagle Peak LTC Group, LLC (hereinafter certificate holder) shall materially comply with the representations in this application and the representations in Project I.D. #J-8618-10. Where representations conflict, the certificate holder shall materially comply with the last made representation.**
- 2. The total combined capital expenditure for both projects is \$25,007,121, an increase of \$15,373,026 over the capital expenditure of \$9,634,095 previously approved in Project I.D. #J-8618-10.**
- 3. The certificate holder shall construct a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County.**
- 4. Upon completion of this project and Project ID#J-8618-10, the certificate holder shall be licensed for no more than 90 nursing facility beds.**
- 5. The certificate holder shall take the necessary steps to de-license 90 NF beds at City of Oaks Health and Rehabilitation Center, following completion of the bed relocation to Britthaven of Holly Springs.**

- 6. For the first two years of operation following completion of the project, the certificate holder 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 made in the certificate of need application.**
- 7. The certificate holder 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.**
- 8. Progress Reports:**
  - a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.**
  - b. The certificate holder shall complete all sections of the Progress Report form.**
  - c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.**
  - d. Progress reports shall be due on the first day of every fourth month. The first progress report shall be due on May 1, 2022. The second progress report shall be due on September 1, 2022 and so forth.**
- 9. The certificate holder shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.**
- 10. No later than three months after the last day of each of the first three full fiscal years of operation following initiation of the services authorized by this certificate of need, the certificate holder 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.**
- 11. The certificate holder 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 applicant proposes a COR for Project ID #J-8618-10 (Develop a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County).

**Capital and Working Capital Costs**

The applicant projects the total capital cost to develop Britthaven of Holly Springs (as approved in Project I.D. #J-8618-10) will be \$25,007,121, an increase of \$15,373,026 over the previously approved capital expenditure. The total proposed capital cost is 159 percent of the previously approved capital expenditure and, thus, requires a certificate of need. The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.

<b>Britthaven of Holly Springs – Previously Approved &amp; Proposed Capital Cost</b>			
	<b>Previously Approved Capital Costs (J-8618-10)</b>	<b>New Total Capital Cost (J-12123-21)</b>	<b>Difference</b>
Purchase Price of Land	\$1,980,000	\$2,200,000	\$220,000
Closing Costs	\$39,600	\$39,600	\$0
Site Preparation	\$906,000	\$1,100,000	\$194,000
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Furniture	\$496,125	\$2,600,000	\$2,103,875
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Financing Costs	\$15,000	\$0	(\$15,000)
Interest during Construction	\$185,000	\$348,333	\$163,333
Other (Rezoning, Development Fees )	\$13,500	\$13,500	\$0
<b>Total Capital Cost</b>	<b>\$9,634,095</b>	<b>\$25,007,121</b>	<b>\$15,373,026</b>

In Project I.D. #J-8618-10 the Agency determined the applicant had demonstrated the projected capital cost was based on reasonable and adequately supported assumptions. There are no changes proposed in this application which would affect that determination.

In Section C, pages 32-33, the applicant explains the need for the proposed increase in projected capital costs. The discussion regarding analysis of need found in Criterion (3) is incorporated herein by reference.

On Form F.1b in Section Q, the applicant provides the assumptions used to project the proposed increase in capital cost. The applicant adequately demonstrates that the proposed

increase in the projected capital cost is based on reasonable and adequately supported assumptions based on the following:

- The applicant had previously demonstrated to the Agency in Project I.D. #J-8618-10 that the projected capital costs in that application were based on reasonable and adequately supported assumptions, and there are no changes proposed in this application which would affect that determination.
- The applicant explains the need for the different costs that make up the combined total increase in capital cost for this COR application and the explanations are reasonable and adequately supported.
- The applicant provides supporting documentation for the need for the proposed capital cost increase in Exhibit F.5-1.

In Project ID #J-8618-10, the applicant stated start-up costs will be \$114,695 and initial operating expenses will be \$498,428 for a total working capital of \$613,123. The Agency determined Project ID #J-8618-10 was conforming to this criterion. In Section F, pages 40-41, the applicant projects total start-up costs and initial operating expenses of \$384,583 and \$2,330,280, respectively, for a total of \$2,714,863 in working capital, \$2,101,740 above the previously approved working capital of \$613,123. On page 41, the applicant explains the additional incremental increase in working capital is due to the substantial increase in the cost of goods, supplies, materials and labor.

### **Availability of Funds**

In Project ID #J-8618-10, the Agency determined that the applicant adequately demonstrated it had sufficient funds available for the capital and working capital needs of the project in the amount of \$9,634,095 and \$613,123, respectively. The current application proposes a capital cost increase of \$15,373,026 over the previously approved capital cost and a working capital increase of \$2,101,740 over the previously approved working capital cost for a combined total cost of \$25,007,121 .

In Section F, page 39, the applicant states that the capital cost will be funded, as shown in the table below.

**Sources of Capital Cost Financing**

Type	Britthaven, Inc. and Hillco, Ltd.
Loans	\$25,007,121
Accumulated reserves or OE *	\$0
Bonds	\$0
Other	\$0
Total Financing	\$25,007,121

\* OE = Owner's Equity

The applicant adequately demonstrates the availability of sufficient funds for the capital needs of the project based on the following:

- Exhibit F.5b contains a letter dated August 5, 2021 from Robert Boggs, Senior Vice President of Truist Bank agreeing to provide interim and permanent financing for the project.
- Exhibit F.5c contains letters from the Chief Financial Officer of Hillco, Ltd. and the Treasurer of Eagle Peak LTC Group, LLC committing cash and cash reserves for the funding of the project.
- Exhibit F.5c contains a bank statement dated July 31, 2021 for Eagle Peak LTC Group, LLC verifying cash assets.

**Financial Feasibility**

In Project ID #J-8618-10, the applicant projected revenues would exceed operating expenses during the second full fiscal year of operation following project completion. The Agency determined Project ID #J-8618-10 had demonstrated the financial feasibility of the proposal was based on reasonable projections of costs and charges.

The applicant provides pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.2, the applicant projects that revenues will exceed operating expenses beginning in each of the first three full fiscal years following completion of the project, as shown in the table below.

<b>Revenues and Operating Expenses</b>			
	<b>1<sup>st</sup> FY 10/1/2024 to 9/30/2025</b>	<b>2<sup>nd</sup> FY 10/1/2025 to 9/30/2026</b>	<b>3<sup>rd</sup> FY 10/1/2026 to 9/30/2027</b>
Total (Days of Care)	30,222	30,222	30,222
Total Gross Revenues (Charges)	\$11,668,924	\$11,950,966	\$12,232,030
Total Net Revenue	\$9,925,512	\$10,195,869	\$10,465,253
Average Net Revenue per Days of Care	\$328	\$337	\$337
Total Operating Expenses (Costs)	\$9,814,856	\$9,998,926	\$10,188,599
Average Operating Expense per Days of Care	\$325	\$331	\$337
<b>Net Income</b>	<b>\$110,656</b>	<b>\$196,943</b>	<b>\$276,654</b>

In Section F, page 41, the applicant provides the assumptions used to project the proposed revenue and operating expenses. The applicant adequately demonstrates that the proposed increase in the revenue and operating cost is based on reasonable and adequately supported assumptions based on the following:

- The applicant bases revenues on daily rates and the experience of its management team in operating other nursing facilities.
- The applicant accounts for modest inflation rates, projected in each of the project years, consistent with historical trends.
- Staffing patterns and expenses and the costs of services and goods are based upon the management team’s accumulated experience in the nursing facility industry.

- Projected utilization is based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization in Criterion (3) which is incorporated herein by reference.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 demonstrates that the increased capital and working capital costs are based on reasonable and adequately supported assumptions for all the reasons described above.
  - The applicant adequately demonstrates availability of sufficient funds for the capital and working capital cost of the proposal for all the reasons described above.
  - The applicant projects no changes in annual utilization during the first three full years of operation.
  - The applicant adequately demonstrates that the projected charges and operating costs are based on reasonable and adequately supported assumptions for all the reasons described above.
  - The applicant adequately demonstrates the availability of sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal was 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 applicant proposes a COR for Project ID #J-8618-10 (Develop a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County).

Project ID #J-8618-10 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- 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

The applicant proposes a COR for Project ID #J-8618-10 (Develop a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County).

The application for Project ID #J-8618-10 adequately demonstrated the availability of resources, including health manpower and management personnel to provide the proposed services and no changes are proposed in this application which would affect that determination.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- 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.

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

C

The applicant proposes a COR for Project ID #J-8618-10 (Develop a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County).

The application for Project ID #J-8618-10 adequately demonstrated the availability of the ancillary and support services necessary to the provision of the proposed services and adequately demonstrated the proposed services would be coordinated with the existing

healthcare system and no changes are proposed in this application which would affect that determination.

### **Conclusion**

The Agency reviewed the:

- Application
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- 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.

- (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.

- (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 applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review.

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

C

The applicant proposes a COR for Project ID #J-8618-10 (Develop a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County).

In Section K, page 47, the applicant states that the project involves constructing a total of 65,272 square feet of new space which is 4,306 square feet more than it proposed in Project ID# J-8618-10. Line drawings are provided in Exhibit K.1.

In supplemental information requested by the Agency, the applicant states that the additional square footage is needed for covered courtyards, public spaces and therapy space and will provide increased comfort for residents and accommodate critical infection control.

A certificate of need was issued on May 17, 2011, for Project I.D. #J-8618-10 and authorized a capital cost of \$9,634,095. The current application proposes a capital cost increase of \$15,373,026 over the previously approved capital cost for a total combined capital cost of \$25,007,121. The cost overrun application is necessary due to the purchase price of land, increased site preparation, construction, and equipment costs due to current market conditions compared to the estimated costs in 2010 when the original application was submitted. The application proposes no material change in scope from the originally approved project.

The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.

<b>Britthaven of Holly Springs – Previously Approved &amp; Proposed Capital Cost</b>			
	<b>Previously Approved Capital Costs (J-8618-10)</b>	<b>New Total Capital Cost (J-12123-21)</b>	<b>Difference</b>
Purchase Price of Land	\$1,980,000	\$2,200,000	\$220,000
Closing Costs	\$39,600	\$39,600	\$0
Site Preparation	\$906,000	\$1,100,000	\$194,000
Construction/Renovation Contract(s)	\$5,794,620	\$17,320,000	\$11,525,380
Landscaping	\$0	\$300,000	\$300,000
Architect/Engineering Fees	\$200,000	\$985,688	\$785,688
Furniture	\$496,125	\$2,600,000	\$2,103,875
Consultant Fees (CON and legal fees)	\$4,250	\$100,000	\$95,750
Financing Costs	\$15,000	\$0	(\$15,000)
Interest during Construction	\$185,000	\$348,333	\$163,333
Other (Rezoning, Development Fees )	\$13,500	\$13,500	\$0
<b>Total Capital Cost</b>	<b>\$9,634,095</b>	<b>\$25,007,121</b>	<b>\$15,373,026</b>

The discussion regarding energy efficiency and sustainability for health service facilities found in Criterion (1) is incorporated herein by reference. The discussion regarding the need for the increased capital expenditure found in Criterion (3) is incorporated herein by reference. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. In Project ID#J-8618-10, the applicant adequately demonstrated that the cost, design, and means of construction represent the most reasonable alternative, and that the construction cost will not unduly increase costs and charges for health services and no changes are proposed in this application which would affect that determination.

**Conclusion**

The Agency reviewed the:

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

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

- (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 ... persons [with disabilities], which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:



- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

Project ID# J-8618-10 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately documents 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.

- (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 ... persons [with disabilities] to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

Project ID# J-8618-10 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

The Agency reviewed the:

- Application
- Exhibits to the application

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

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

C

Project ID# J-8618-10 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (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

Project ID# J-8618-10 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

The Agency reviewed the:

- Application
- Exhibits to the application

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

The applicant proposes a COR for Project ID #J-8618-10 (Develop a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County).

The application for Project ID# J-8618-10 adequately demonstrated that the proposed health services will accommodate the clinical needs of health professional training programs in the area. The applicant proposes no changes in the current application which would affect that determination.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (15) Repealed effective July 1, 1987.
- (16) Repealed effective July 1, 1987.
- (17) Repealed effective July 1, 1987.
- (18) Repealed effective July 1, 1987.
  
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

## C

The applicant proposes a COR for Project ID #J-8618-10 (Develop a new 90-bed nursing facility in Holly Springs, Wake County by relocating 90 beds from City of Oaks Health and Rehabilitation Center in Raleigh, Wake County).

On page 143, the 2021 SMFP defines the service area for nursing facility beds as “*the nursing care bed planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” The proposed Britthaven of Holly Springs will be located in Wake County. Thus, the service area for this project consists of Wake County. Facilities may serve residents of counties not included in their service area.

The applicant proposes a cost overrun for Project ID# J-8618-10. That application adequately demonstrated the expected effects of the proposed services on competition and how any enhanced competition would have a positive impact on cost-effectiveness, quality, and access to the services proposed. The applicant proposes no changes in this application which would affect that determination.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 based on all the reasons described 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 Q, Form A, the applicant identifies the nursing facilities located in North Carolina owned, operated or managed by the applicant or a related entity. The applicant identifies a total of 41 of this type of facility located in North Carolina.

In Section O, page 56, the applicant states that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in five of these facilities. The applicant states that these facilities are currently back in compliance. 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 seven of the 41 facilities. Facilities were back in compliance as of the date of these findings. After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section, DHSR, and considering the quality of care provided at all 41 facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.

G.S. 131E-183 (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

Project ID# J-8618-10 was found conforming to all applicable Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100, and the applicant proposes no changes in the current application which would affect that determination. Consequently, the application is conforming to the performance standards in this rule.