

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: February 24, 2021

Findings Date: February 24, 2021

Project Analyst: Kim Meymandi

Team Leader: Lisa Pittman

Project ID #: J-11953-20

Facility: Mayview Assisted Living Center

FID #: 170322

County: Wake

Applicant(s): Mayview Assisted Living Center, LLC

Mayview Healthcare Properties, Inc.

Whitaker Glen, Inc.

Project: Relocate no more than 55 existing adult care home (ACH) beds from Brookridge Assisted Living for a total of no more than 75 ACH beds, which is a change of scope for Project ID# J-11371-17 (develop a new ACH facility)

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

C

The applicants for the proposed project, Mayview Assisted Living Center, LLC, Mayview Healthcare Properties, Inc. and Whitaker Glen, Inc. (hereinafter referred to as “the applicants”) propose to acquire and relocate no more than 55 existing ACH beds from Brookridge Assisted Living in Apex (Wake County) to an approved, not-yet-developed adult care home, Mayview Assisted Living Center (ALC), located on the campus of The Oaks at Whitaker Glen at 615 East Whitaker Mill Road in Raleigh for a total of 75 ACH beds, which is a change of scope (COS) for Project ID# J-11371-17 (develop a new ACH by acquiring and relocating 20 existing ACH beds from Wellington Health and Rehabilitation Center).

Table 11A on page 231 of the 2020 State Medical Facilities Plan (SMFP) lists Brookridge Assisted Living with 55 ACH beds in the inventory of Wake County ACH beds. Therefore, following completion of this project and Project ID# J-11371-17, Brookridge Assisted Living will no longer be licensed for any ACH beds, and Mayview ALC will be licensed for a total of 75 ACH beds.

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 2020 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

Policies

There is one policy in the 2020 SMFP which is applicable to this review. **Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities**, on page 31 of the 2020 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 are required to submit a plan of energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control.”

The proposed capital expenditure for this project is greater than \$5 million; therefore, Policy GEN-4 is applicable to this review. In Section B, pages 21-22, the applicants explain why they believe the application is conforming to Policy GEN-4. The applicants describe the energy efficiency and water conservation features they will utilize in regard to the building envelope, lighting, mechanical and plumbing systems.

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 the review, the Agency concludes that the application is conforming to this criterion because the applicants adequately describe 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.

NC

The applicants propose to acquire and relocate no more than 55 existing ACH beds from Brookridge Assisted Living in Apex to an approved, not-yet-developed adult care home, Mayview ALC, for a total of 75 ACH beds, which is a COS for Project ID# J-11371-17 (develop a new ACH by relocating 20 existing ACH beds). The applicants propose to relocate the 75 existing ACH beds to a new, 125,056 square foot facility to be developed on a site adjacent to The Oaks at Whitaker Glen, which is a 139-bed nursing facility that is owned by one of the applicants.

Patient Origin

On page 205, the 2020 SMFP defines the service area for ACH beds as "*the county in which the adult care home bed is located.*" Mayview ALC is proposed to be located in Wake County, thus, the service area for this project is Wake County. Facilities may also serve residents of counties not included in their service area.

Mayview ALC is an approved, not-yet-developed ACH facility and therefore has no historical patient origin to report. Mayview ALC and the location where the beds are being relocated from are both in Wake County. In Section C.3., page 30, the applicants project that 100 percent of patients at Mayview ALC will originate from Wake County. The following table from page 30 illustrates projected patient origin for the facility for the third full federal fiscal (FFY) year of operation:

Mayview Assisted Living Center ACH Beds Projected Patient Origin

COUNTY	THIRD FULL FFY (07/01/2026 – 06/30/2027)	
	# PTS.	% OF TOTAL
Wake	74	100.0%
Total	74	100.0%

In Section C, page 30, the applicants provide the assumptions and methodology used to project patient origin. The applicants state,

“Most residents who enter an assisted living facility do so because they can no longer complete the necessary activities of daily living to live independently. However, when possible, these residents attempt to enter an assisted living facility close their home to maintain their established family, social, medical, religious, and other relationships. Mayview ALC will focus on Wake County residents living within a 45 minute or closer drive to the adult care home.”

The applicants adequately identified the population to be served.

Analysis of Need

In Section C, page 31, the applicants reference Project ID# J-11371-17 Section III. 1. and Section III.2. and state that the need for locating Mayview ALC on the campus of The Oaks at Whitaker Glen has not changed.

The application for Project I.D. # J-11371-17 adequately demonstrated the need for relocating ACH beds to the Mayview ALC on the campus of The Oaks at Whitaker Glen. No changes are proposed in this application which would affect that determination.

The applicants adequately demonstrate the need to relocate 55 existing ACH beds from Brookridge Assisted Living in Apex to Mayview ALC.

Projected Utilization

Mayview ALC will be a new facility, therefore it has no historical patient utilization to report. On Form C in Section Q, the applicants provide projected utilization for the first three fiscal years (FY) of operation, as shown in the table below:

Mayview Assisted Living Center Projected Utilization

	PROJECTED		
	1 ST FULL FFY (7/1/24-6/30/25)	2 ND FULL FFY (7/1/25-6/30/26)	3 RD FULL FFY (7/1/26-6/30/27)
# General ACH Beds	75	75	75
Days of Care	17,548	26,645	26,645
Occupancy Rate	64.1%	97.3%	97.3%

As shown in the table above, the applicants project the 75 ACH beds will operate at 97.3% of capacity [(26,645 days / 365 days per year) / 75 beds = 0.973] in the second year of operation. In Section Q, the applicants provide the assumptions and methodology used to project utilization, which is summarized below.

- The proposed facility will consist of 59 private rooms and 8 semi-private rooms for a total of 75 ACH beds.
- The applicants project a nine-month ramp up period beginning in FY2024 with six admissions per month for the private rooms from July through March and one admission per month for the semi-private rooms from July through February.
- Rooms occupied are multiplied by the number of beds and number of days on the month to arrive at the projected days of care.

Projected utilization is reasonable and adequately supported.

Access to Medically Underserved Groups

In Section D, page 40, the applicants state,

“Mayview ALC will accept ACH residents regardless of race, ethnicity, sex, age, handicapped, or ability to pay.”

The applicants do not provide a historical payor mix for Mayview ALC because it is not an existing facility. In Section L, page 62, the applicants project the payor mix for Mayview ALC to be 100.0% private pay in the third full FY. In the original application (J-11371-17) the applicants projected Mayview’s payor mix would include 95% private pay and 5% Medicaid/Special Assistance. In this application, the applicants do not provide a reason for changing the payor mix. Furthermore, for informational purposes, the project analyst calculated the historical payor mix per patient days that Brookridge Assisted Living reported in their 2020 LRA (FY2019), as follows:

BROOKRIDGE HISTORICAL PAYOR MIX FY2019		
Historical Payor Source	# of Patient Days	% of Total Patients
Medicaid/Special Assistance	11,315	64.6%
Private Pay	6,205	35.4%
Total	17,520	100.0%

Source: 2020 LRA.

The applicants do not adequately describe the extent to which all residents of the service area, including underserved groups, are likely to have access to the proposed services based on the following:

- The applicants do not address how they will serve Medicaid/Special Assistance recipients at the proposed Mayview ALC.

- The applicants do not address where the current Medicaid/Special Assistance recipients at Brookridge Assisted Living will have access to the services they need once Brookridge Assisted Living is closed.

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 not conforming to this criterion for the following reason:

- Access to the medically underserved groups projected to be served in the original application (J-11371-17) is not adequately supported because the applicants now propose to serve 100% private pay patients.

- (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.

C

The applicants propose to acquire and relocate no more than 55 existing ACH beds from Brookridge Assisted Living in Apex to an approved, not-yet-developed adult care home, Mayview ALC, for a total of 75 ACH beds, which is a COS for Project ID# J-11371-17 (develop a new ACH by relocating 20 existing ACH beds). The applicants do not propose to reduce or eliminate any ACH beds; rather, the applicants propose building a new facility and acquiring ACH beds from a facility that will be closed.

Access to Medically Underserved Groups

In Section D, the applicants explain why they believe the needs of the population presently utilizing the services to be relocated will be adequately met following completion of the project. On page 39, the applicants state:

“The owners of Brookridge Assisted Living are retiring and leaving the assisted living business, the facility will be closed before Mayview ALC acquires the 55 ACH beds.”

On page 40 the applicants state,

“Mayview ALC will accept ACH residents regardless of race, ethnicity, sex, age, handicapped, or ability to pay.”

The applicants adequately demonstrate that the needs of medically underserved groups that will continue to use the health care services of an ACH and are the responsibility of the current owners who are closing Brookridge before the applicants acquire the 55 ACH beds.

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 because the applicants will not own the 55 beds at the time Brookridge closes. The owners who are closing Brookridge are responsible for relocating their patients.

- (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.

NC

The applicants propose to acquire and relocate no more than 55 existing ACH beds from Brookridge Assisted Living in Apex to an approved, not-yet-developed adult care home, Mayview ALC, for a total of 75 ACH beds, which is a COS for Project ID# J-11371-17 (develop a new ACH by relocating 20 existing ACH beds).

In Section E, the applicants state that they have no alternative to the proposed application because they have an approved project, Project ID# J-11371-17, to develop a 20 bed ACH to which they will relocate 55 beds from a facility that is closing.

On page 42, the applicants state:

“No alternative method of meeting the needs of the project exists because the applicants have an approved project, Project ID# J-11371-17, to develop a 20-bed ACH on the campus of The Oaks at Whitaker Glen in Raleigh. With the relocation of the 55 ACH beds from Brookridge Assisted Living, Mayview ALC will operate 75 ACH beds.”

However, the applicants do not adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need based on the following:

- The application is not conforming to all statutory and regulatory review criteria. An application that cannot be approved cannot be an effective alternative to meet the need.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above. Therefore, the application is denied.

- (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.

NC

The applicants propose to acquire and relocate no more than 55 existing ACH beds from Brookridge Assisted Living in Apex to an approved, not-yet-developed adult care home, Mayview ALC, for a total of 75 ACH beds, which is a COS for Project ID# J-11371-17 (develop a new ACH by relocating 20 existing ACH beds).

In Section Q, Form F.1b, the applicants project the total capital cost of this project as shown in the table below.

	Original Costs for Project ID # J-11371-17	Additional Costs for Project ID # J-11953-20	Total Original Costs + Additional Costs
Site Costs*	\$708,700	\$739,300	\$1,448,000
Construction Costs	\$3,430,500	\$27,783,478	\$31,213,978
Miscellaneous Costs**	\$949,925	\$3,335,291	\$4,991,085
Other***	\$705,869	-\$705,869 [0]	\$0
Total	\$5,794,994	\$31,152,200 [\$31,858,069]	\$36,947,194 [\$37,653,063]

*Site costs include site preparation, landscaping, permit and inspection fees

**Miscellaneous costs include architect/engineering fees, consultant fees, furniture and equipment and financing costs and construction interest

***Bed acquisition, Legal fees, Contingency per J-11953-20

NOTE: Project Analyst corrections are in []

The calculations made by the applicants in Form F1.b were found to be incorrect by the Project Analyst. The applicants deducted the cost of bed acquisition for Project ID # J-11371-17 from the additional costs for the proposed project. There was not an explanation for such a deduction and without an explanation, it must be assumed that this cost remains fixed and should be included in the total cost. The Project Analyst recalculated the totals and provided the corrected amounts in the table above.

The applicants do not adequately demonstrate that the projected capital cost is reasonable and adequately supported based on the following:

- The applicants do not provide assumptions used to project the capital cost of the project.
- The applicants do not provide the methodology used to project the capital cost of the project.

In Section F, pages 45-46, the applicants project \$257,265 in start-up costs and initial operating expenses will be \$841,551 for a total working capital of \$1,098,816. On page 45, the applicants provide the assumptions and methodology used to project the working capital needs of the project. The applicants adequately demonstrate that the projected working capital needs of the project are based on reasonable and adequately supported assumptions.

Availability of Funds

In Section F.2, page 46, and Exhibits F.2 and F.3 the applicants provide information on funding sources for the capital and working capital costs which are summarized in the table below.

Type	Amount
Loans	\$24,921,760
Cash or Cash Equivalents, Accumulated Reserves or OE *	\$7,329,256
Bonds	\$0
Other (Specify)	\$0
Total	\$32,251,016

* OE = Owner's Equity

However, the corrected amount of capital costs for this COS project, \$31,858,069, plus the total working capital costs of \$1,098,816 equals \$32,956,885 which is \$705,869 more than the documented sources of funding shown above.

Documentation of available funding is provided in Exhibits F.2 and F.3. The applicants provide two letters dated September 10, 2020 from Randall Loggins, Chief Investment Officer for PruittHealth attesting to the willingness of United Health Services, Inc. and Mayview Healthcare Properties, Inc. to provide funding for the project. In the letters Mr. Loggins states that, United Health Services, Inc. is willing to commit \$1,098,816 and Mayview Healthcare Properties is willing to commit \$6,230,440 for a total of \$7,329,256 in cash reserves for the partial funding of project costs. The applicants also provide a letter dated September 10, 2020 from Jennifer M. Lawley, which states Synovus Bank is committed to funding 80 percent of the project costs, up to \$24,921,760 in the form of a mortgage and provides the amortization schedules associated with the proposed loan. Exhibits F.2 and F.3 also contain copies of a United Health Services bank statement from Synovus which indicate cash and cash equivalents of \$14.2 million as of September 1, 2020.

The applicants do not adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project based on the following:

- The total amount of proposed funding sources is not adequate to cover the \$31,858,069 in additional capital costs of the proposed project as calculated by the Project Analyst plus the \$1,098,816 of projected working capital needs of the project.

Financial Feasibility

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

	1st Full Fiscal Year	2nd Full Fiscal Year	3rd Full Fiscal Year
Total Patient Days	17,548	26,645	26,645
Total Gross Revenues (Charges)	\$4,726,226	\$7,410,869	\$7,633,191
Total Net Revenue	\$4,574,260	\$7,173,201	\$7,388,393
Average Net Revenue per Patient Day	\$260	\$269	\$277
Total Operating Expenses (Costs)	\$5,415,812	\$6,928,776	\$7,120,824
Average Operating Expense per Patient Day	\$309	\$260	\$267
Net Income/(Loss)	(\$841,552)	\$244,425	\$267,569

The assumptions used by the applicant in preparation of the pro forma financial statements are provided in Section Q. The applicants adequately demonstrate that the projected working capital needs of the project as well as projected utilization are 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

Based on that review, the Agency concludes that the application is not conforming to this criterion for the following reasons:

- The applicants did not adequately demonstrate that the capital costs are based on reasonable and adequately supported assumptions for all the reasons described above.
- The applicants did not adequately demonstrate availability of sufficient funds for the capital and working capital needs of the proposal for all the reasons described above.

- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

The applicants propose to acquire and relocate no more than 55 existing ACH beds from Brookridge Assisted Living in Apex to an approved, not-yet-developed adult care home, Mayview ALC, for a total of 75 ACH beds, which is a COS for Project ID# J-11371-17 (develop a new ACH by relocating 20 existing ACH beds).

On page 205, the 2020 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” Thus, the service area for this project is Wake County. Facilities may also serve residents of counties not included in their service area.

Table 11A of the 2020 SMFP indicates that there is currently a total of 44 facilities in Wake County with licensed ACH beds. The table below is a summary of those facilities in Wake County, from the 2020 SMFP, Chapter 11, Table A and Table 11B. There is a projected surplus of 793 ACH beds in 2023 for Wake County.

2020 ACH INVENTORY AND 2023 NEED PROJECTIONS FOR WAKE COUNTY	
# ACH Facilities	44
# Beds in ACH Facilities	3,013
# Beds in Nursing Facilities	165
Total Licensed Beds	3,178
# CON Approved Beds (License Pending) including CON Bed Transfer	-40
Total # Available	3,138
Total # in Planning Inventory	3,138
Projected Bed Utilization Summary	2,345
Projected Bed Surplus (Deficit)	793

The applicants do not propose to develop new ACH beds, but rather to relocate 55 existing ACH beds, currently located at Brookridge ALC, to a new facility in Raleigh.

The applicant adequately demonstrates that the proposal would not result in an unnecessary duplication of existing or approved services in the service area based on the following:

- The proposal would not result in an increase in the inventory of ACH beds or the number of ACH facilities in Wake County.
- The discussions regarding analysis of need, including projected utilization, access, and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 all the reasons described 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 applicants propose to acquire and relocate no more than 55 existing ACH beds from Brookridge Assisted Living in Apex to an approved, not-yet-developed adult care home, Mayview ALC, for a total of 75 ACH beds, which is a COS for Project ID# J-11371-17 (develop a new ACH by relocating 20 existing ACH beds).

In Section H, page 53, the applicants state its projected staffing has changed from what was proposed as part of Project I.D. #J-11371-17. In Section Q, the applicants provide updated projected full-time equivalent (FTE) staffing for the first three full fiscal years following project completion, as illustrated in the following table.

Mayview Assisted Living Projected Staffing in FTEs			
	FTE Positions FY 1	FTE Positions FY 2	FTE Positions FY 3
Director of Health Services	1.0	1.0	1.0
Aides	15.7	22.3	22.3
Activities	2.0	2.8	2.8
Dietary	5.2	7.4	7.4
Housekeeping	1.9	1.9	1.9
Plant Operation & Maintenance	2.0	2.0	2.0
Administration	3.0	3.4	3.4
Admissions	1.0	1.0	1.0
Total	31.8	41.8	41.8

The assumptions and methodology used to project staffing are provided in Form H. This Change of Scope adds 55 beds to the 20 ACH beds approved in Project ID # J-11371-17, for a total of 75 beds. The total FTE staffing positions proposed for Project ID # J-11371-17 was 12.4. The COS application increases the proposed FTE staffing to 31.8 in the first operating year and 41.8 in operating years two and three. Adequate operating expenses for the increased health manpower and management positions proposed by the applicant are budgeted in Form F.3, which is found in Section Q. In Section H the applicants state that their methods used to recruit or fill new positions and its existing training and continuing education programs have not changed from the information submitted for Project ID # J-11371-17.

The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services based on the following:

- The applicants propose to increase the FTE staffing of the proposed project proportionately to the number of ACH beds being added in the COS.

- Project ID # J-11371-17 was found conforming to this criterion. The applicants do not propose any other staffing changes in the current application that would affect that determination.

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

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 applicants propose to acquire and relocate no more than 55 existing ACH beds from Brookridge Assisted Living in Apex to an approved, not-yet-developed adult care home, Mayview ALC, for a total of 75 ACH beds, which is a COS for Project ID# J-11371-17 (develop a new ACH by relocating 20 existing ACH beds).

Project I.D. # J-11371-17 was conforming to this criterion and in Section I the applicants state they propose 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.

- (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 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

The applicants propose to acquire and relocate no more than 55 existing ACH beds from Brookridge Assisted Living in Apex to an approved, not-yet-developed adult care home, Mayview ALC, for a total of 75 ACH beds, which is a COS for Project ID# J-11371-17 (develop a new ACH by relocating 20 existing ACH beds).

In Section K, page 57, the applicants state that the project involves constructing 125,056 square feet of new space. Line drawings are provided in Exhibit K.1.

Project ID# J-11371-17 was found conforming to this criterion. On page 59, the applicants state they propose no changes in the current application which would affect that determination.

The discussion regarding costs and charges found in Criterion (5) and energy efficiency and sustainability found in Policy GEN-4 is incorporated herein by reference.

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.

(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;

NA

(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;

NA

(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

NC

The applicants do not provide a historical payor mix for Mayview ALC because it is not an existing facility. In Section L, page 62, the applicants project the payor mix for Mayview ALC to be 100.0% private pay in the third full FY. In the original application (J-11371-17) the applicants projected Mayview's payor mix would include 95% private pay and 5% Medicaid/Special Assistance. In this application, the applicants do not provide a reason for changing the payor mix. Furthermore, for informational purposes,

the project analyst calculated the historical payor mix per patient days that Brookridge Assisted Living reported in their 2020 LRA (FY2019), as follows:

BROOKRIDGE HISTORICAL PAYOR MIX FY2019		
Historical Payor Source	# of Patient Days	% of Total Patients
Medicaid/Special Assistance	11,315	64.6%
Private Pay	6,205	35.4%
Total	17,520	100.0%

Source: 2020 LRA.

The applicants do not adequately describe the extent to which all residents of the service area, including underserved groups, are likely to have access to the proposed services based on the following:

- The applicants do not address how they will serve Medicaid/Special Assistance recipients at the proposed Mayview ALC.
- The applicants do not address where the current Medicaid/Special Assistance recipients at Brookridge Assisted Living will have access to the services they need once Brookridge Assisted Living is closed.

The Agency reviewed the:

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

Based on that review, the Agency concludes that the application is not conforming to this criterion based on the following reason:

- Access to the medically underserved groups projected to be served in the original application (Project ID# J-11371-17) is not adequately supported because the applicants now propose to serve 100% private pay patients.

- (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 ID #J-111371-17, the application was conforming to this criterion, and the applicant proposes no changes in the current application that would affect that determination. Consequently, this Change of Scope 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

Project I.D. # J-11371-17 was conforming to this criterion and 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.

- (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.

NC

The applicants propose to acquire and relocate no more than 55 existing ACH beds from Brookridge Assisted Living in Apex to an approved, not-yet-developed adult care home, Mayview ALC, for a total of 75 ACH beds, which is a COS for Project ID# J-11371-17 (develop a new ACH by relocating 20 existing ACH beds).

On page 205, the 2020 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” Thus, the service area for this project is Wake County. Facilities may also serve residents of counties not included in their service area.

Table 11A of the 2020 SMFP indicates that there is currently a total of 44 facilities in Wake County with licensed ACH beds. The table below is a summary of those facilities on Wake County, from the 2020 SMFP, Chapter 11, Table A and Table 11B. There is a projected surplus of 793 ACH beds in 2023 for Wake County.

2020 ACH INVENTORY AND 2023 NEED PROJECTIONS FOR WAKE COUNTY	
# ACH Facilities	44
# Beds in ACH Facilities	3,013
# Beds in Nursing Facilities	165
Total Licensed Beds	3,178
# CON Approved Beds (License Pending) including CON Bed Transfer	-40
Total # Available	3,138
Total # in Planning Inventory	3,138
Projected Bed Utilization Summary	2,345
Projected Bed Surplus (Deficit)	793

The applicants do not propose to develop new ACH beds, but rather to relocate 55 existing ACH beds, currently located at Brookridge ALC, to a new facility in Raleigh. As shown in the table above, there is a projected ACH bed surplus of 793 beds, including the 20 ACH beds allocated for transfer to Mayview ALC (Project ID #J-11371-17).

The applicants do not propose any changes to the cost-effectiveness of the project or the positive impact it will have on competition.

However, regarding the impact of the proposal on access by medically underserved groups, including the 5% Medicaid/Special Assistance that were projected to be served in the original project (ID# J-11371-17), the applicant does not adequately describe the expected effects of the proposed services on access because the applicant does not adequately demonstrate that medically underserved groups will have access to the proposed services. The discussion regarding access found in Criterion (3), (3a) and (13) 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 not 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.

In Section A, page 11, the applicants state that Mayview ALC was approved to operate 20 ACH beds in Wake County. Mayview ALC is not yet developed and not licensed. United Health Services is a related entity and operates 10 ACH beds at its nursing facility, The Oaks-Brevard, in Transylvania County. According to the files in the Nursing Home Licensure Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, no incidents related to quality of care occurred in any of these facilities. After reviewing and considering information provided by the applicant and by the Adult Care Licensure Section and considering the quality of care provided at all related 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

The application is conforming with all applicable Criteria and Standards for Adult Care Homes. The specific criteria are discussed below.

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

10A NCAC 14C .1102 PERFORMANCE STANDARDS

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

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

(b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed*

project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.

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

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

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

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

- C- In Section Q, on Form C, the applicants project that the proposed facility will have an occupancy rate of 97.3% by the end of the second operating year following project completion. The applicants describe their assumptions and methodology for projecting utilization in Section Q, Form C. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.