

## REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: May 28, 2021

Findings Date: May 28, 2021

Project Analyst: Kim Meymandi

Team Leader: Lisa Pittman

Project ID #: A-12033-21

Facility: Spicewood Cottages Meadows

FID #: 210095

County: Haywood

Applicant(s): Earl Enterprises, Inc.

Earl Holding Company, LLC

Project: Develop a new 9-bed ACH facility by relocating 9 existing ACH beds from Chestnut Park Rest Home for a total of 9 beds upon project completion

### 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

Earl Enterprises, Inc. and Earl Holding Company, LLC, (hereinafter referred to as “the applicant”), propose to develop a new 9-bed Adult Care Home (ACH) facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home also located in Haywood County.

#### **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 2021 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

## **Policies**

There is one policy in the 2021 SMFP which is applicable to this review: *Policy LTC-2: Relocation of Adult Care Home Beds and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities.*

*Policy LTC-2: Relocation of Adult Care Home Beds*, on pages 24 and 25 of the 2020 SMFP, states:

*“Relocations of existing licensed adult care home beds are allowed to another service area. Certificate of need applicants proposing to relocate licensed adult care home beds to another service area shall:*

- 1. 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*
- 2. 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.”*

In Section B, page 24, the applicant explains why they believe the application is conforming to Policy LTC-2. The applicant states they propose to relocate ACH beds within Haywood County. The applicant does not propose to increase or decrease the number of licensed ACH beds in Haywood County. Therefore, the application is consistent with Policy LTC-2.

## **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 applicant does not propose to change the number of licensed ACH beds in Haywood County.

- (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 to develop a new 9-bed ACH facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home also located in Haywood County.

**Patient Origin**

On page 175, the 2021 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The proposed facility and the existing facility are both located in Haywood County. Thus, the service area for this project is Haywood County. Facilities may also serve residents of counties not included in their service area.

Spicewood Cottages Meadows has been operating as an independent living facility and has not been licensed as an ACH facility. Therefore, Spicewood Cottages has no historical patient origin to report. Chestnut Park Rest Home, currently licensed for 10 ACH beds closed on December 31, 2020 and transferred all existing residents to other area facilities. In Section C, pages 28-29, the applicant states that in the last full fiscal year (FY) of operation (CY 2020), 100 percent of the patients at Chestnut Park Rest Home originated from Haywood County. The applicant projects that in the third full FY, 100 percent of patients at Spicewood Cottages Meadows will originate from Haywood County.

The following table illustrates historical and projected patient origin.

County	Chestnut Park Rest Home Historical Patient Origin 1/1/2020 to 12/31/2020		Spicewood Cottages Meadows Third Full FY of Operation 10/1/2023 to 9/30/2024	
	Patients	% of Total	Patients	% of Total
Haywood	14	100%	9	100%
Other	0	0%	0	0%

Source: Section C pages 28-29

In Section C, page 29, the applicant provides the assumptions and methodology used to project its patient origin. The applicant assumes patient origin for Spicewood Cottages Meadows will be similar to the patient origin of other the other three licensed Spicewood ACH facilities (Spicewood Cottages Elms, Spicewood Cottages Oaks and Spicewood Cottages Willows) located on the same campus in Haywood County. The applicant’s assumptions are reasonable and adequately supported based on the following:

- The applicant currently operates other licensed ACH facilities in the area and has experience providing ACH services in Haywood County.
- The applicant bases the projected patient origin on the historical patient origin of the other ACH facilities on the same campus.

**Analysis of Need**

In Section C, pages 30-31, and Exhibit C.4, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services. On page 31, the applicant states the specific need for the project is based on the following factors:

- The need to maintain the number of available ACH beds in Haywood County.
- The lack of ACH bed capacity to service Medicaid/Special Assistance residents in Haywood County.
- Data from Claritas 2021 projects the 65+ population in Haywood County will grow at a rate of 13.21% from 2021 to 2026, which equates to an increase of 824 people in the 65+ age group (Exhibit C.1).

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

- The applicant provides data and information regarding the existing ACH bed inventory.
- The applicant provides population and aging projections for Haywood County to support the projected need for the ACH beds.
- The applicant does not propose to add any new ACH beds in Haywood County. Rather it proposes to relocate existing ACH beds in Haywood County to an existing building in Haywood County.

**Projected Utilization**

Spicewood Cottages Meadows is not an existing ACH facility, therefore it has no historical patient utilization to report. However, in Section Q page 3, the applicant provides the historical patient utilization for Chestnut Park Rest Home #1, from where the ACH beds are being relocated and is shown in the table below.

**Chestnut Park Rest Home #1 Historical Utilization**

	<b>Last Full FY 1/1/2020-12/31/2020</b>
# General ACH Beds	10
# of Admissions	3
Days of Care	3,108
Occupancy Rate	85.2%

In Section Q, page 2, the applicant provides the projected utilization for the first three years following project completion, as shown in the table below.

**Spicewood Cottages Meadows Projected Utilization**

	1 <sup>st</sup> Full FY 10/1/2021- 9/30/2022	2nd Full FY 10/1/2022- 9/30/2023	3rd Full FY 10/1/2023- 9/30/2024
# General ACH Beds	9	9	9
# of Admissions or Discharges	8	4	4
Days of Care	2,520	2,920	2,920
Occupancy Rate	76.7%	88.9%	88.9%

The applicant assumes they will admit eight patients in the first full fiscal year following project completion and will admit or discharge an average of four patients a year in the second and third full fiscal years. The applicant projects a first full FY occupancy rate of 76.7 percent and an 88.9 percent occupancy rate in the second and third full fiscal year of operation.

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

- Fill-up rate is based on applicant’s experience opening and operating other ACH facilities of a similar size in North Carolina.
- Utilization of the proposed facility is supported by projected growth of the aged population in Haywood County.

**Access to Medically Underserved Groups**

In Section C, pages 37-38, the applicant states:

*“Spicewood Cottages Meadows is committed to accepting Special Assistance / Medicaid Personal Care Service beneficiaries as residents and will always provide this benefit to the low- income population of the community. ...*

*Ear[l] Enterprises, Inc. has a strict non-discriminatory policy at all of its existing Adult Care Home facilities, which allows full access to its facilities regardless of gender, race, religion, or country of origin. ...*

*Spicewood Cottages Meadows is fully equipped to handle handicapped residents, including multiple handicap ramps and access to a handicapped equipped van to provide transportation for residents. ...*

*Spicewood Cottages Meadows would primarily be servicing the elderly population and would not discriminate based on age of the individual in need of service.*

The applicant provides the estimated percentage for each medically underserved group, as shown in the following table.

Medically Underserved Group	Percentage of Total Patients
Low income persons	40%
Racial and ethnic minorities	25%
Women	63%
Persons with disabilities	25%
Persons 65 and older	100%
Medicare beneficiaries	100%*
Medicaid recipients	40%**

\*Assuming all residents are over 65 with Medicare Part B

\*\*Low income and Medicaid are counted as the same

The applicant adequately describes 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 applicant provides an estimate for each medically underserved group it proposes to serve.
- The applicant provides written statements about offering access to all residents of the service area, including underserved groups.

### **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 for the following reasons:

- The applicant adequately identifies the population to be served.
- The applicant adequately explains why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicant projects the extent to which all residents, including underserved groups, will have access to the proposed services and adequately support their 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, ... persons [with disabilities], and other underserved groups and the elderly to obtain needed health care.

## C

The applicant proposes to develop a new 9-bed ACH facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home, also located in Haywood County. Chestnut Park Rest Home is a 10 bed ACH facility that ceased operations on December 31, 2020.

In Section D, the applicant explains why it believes the needs of the population presently utilizing the services to be relocated will be adequately met following completion of the project. On page 44, the applicant states:

*“Chestnut Park Rest Home #1 recently ceased operations after finding placement for all existing residents of the facility, therefore the ACH beds at Chestnut Park Home #1 are unoccupied. There would be no adverse effects on any existing residents.”*

In Exhibit D.1, the applicant provides a letter from the owner of Chestnut Park Rest Home stating that the facility ceased operations on December 30, 2020 and subsequently transferred all residents to other area facilities.

### **Access to Medically Underserved Groups**

In Section D, page 45, the applicant states that the ACH beds they are proposing to relocate are unoccupied and therefore, would not have an impact on access to medically underserved groups.

The applicant adequately demonstrates that the needs of medically underserved groups that will continue to use ACH beds will be adequately met following completion of the project for the following reasons:

- The beds proposed to be relocated are currently unoccupied.
- The applicant proposes to relocate the unoccupied beds within the same county.
- The applicant provides written statements about offering access to all residents of the service area, including underserved groups.

### **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 following reasons:

- 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 for all the reasons described above.
  - The applicant adequately demonstrates that the project will not adversely impact the ability of underserved groups to access these services following project completion for all the reasons described above.
- (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.

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The applicant proposes to develop a new 9-bed ACH facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home also located in Haywood County.

In Section E, page 48, 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. The alternatives considered were:

- Maintain the status quo – The applicant states that maintaining the status quo is ineffective because it would result in the ACH beds being delicensed and would therefore, decrease availability of ACH beds in Haywood County.
- Relocate the nine ACH beds to another facility owned and operated by the applicants and construct a new addition - The applicant states that constructing a new addition would be more costly and inefficient than relocating the beds to Spicewood Cottages Meadows, which has recently undergone a major renovation.

The applicant adequately demonstrates 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 applicant provides credible information to explain why it believes the proposed project is the most effective alternative.

### **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. Therefore, the application is approved subject to the following conditions:

- 1. Earl Enterprises Inc. and Earl Holding Company, LLC (hereinafter the certificate holders) shall materially comply with all representations made in the certificate of need application.**
- 2. The certificate holders shall develop a new 9-bed ACH facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home also located in Haywood County.**
- 3. Upon completion of the project, Spicewood Cottages Meadows shall be licensed for no more than 9 ACH beds.**
- 4. Progress Reports:**
  - a. Pursuant to G.S. 131E-189(a), the certificate holders shall submit periodic progress 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 holders shall complete all sections of the Progress Report Form.**
  - c. The certificate holders 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 third month. The first progress report shall be due on September 1, 2021. The second progress report shall be due on December 1, 2021 and so forth.**
- 5. The certificate holders shall certify at least 40% of the total number of adult care home beds in the facility for recipients of State/County Special Assistance with Medicaid and provide care to those residents, commensurate with representations made in the application.**
- 6. For the first two years of operation following completion of the project, Spicewood Cottages Meadows 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.**
- 7. 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 holders shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
  - a. Payor mix for the services authorized in this certificate of need.**
  - b. Utilization of the services authorized in this certificate of need.**

- c. Revenues and operating costs for the services authorized in this certificate of need.
- d. Average gross revenue per unit of service.
- e. Average net revenue per unit of service.
- f. Average operating cost per unit of service.

8. The certificate holders 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.

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The applicant proposes to develop a new 9-bed ACH facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home also located in Haywood County.

**Capital and Working Capital Costs**

In Section Q, page 4, the applicant projects the total capital cost of the project as shown in the table below.

<b>Capital Cost Category</b>	<b>Projected Cost</b>
Site Costs	\$0
Construction Costs	\$0
Miscellaneous Costs	\$65,000
<b>Total</b>	<b>\$65,000</b>

In Form F.1a., the applicant provides the assumptions used to project the capital cost. The applicant adequately demonstrates that the projected capital cost is based on reasonable and adequately supported assumptions based on the following:

- The applicant currently operates other licensed ACH facilities in the area and has experience in calculating costs associated with providing ACH services in Haywood County.
- The building and infrastructure are already in place to provide ACH services at the proposed facility.

In Section F.3, page 52, the applicant states there will be no start-up or initial operating expenses associated with the proposed project because this is an existing building on a campus with three ACH facilities that are already operational.

**Availability of Funds**

In Section F.2, page 50, the applicant states that the capital cost will be funded as shown in the table below.

**Sources of Capital Cost Financing**

Type	Earl Enterprises, Inc	Total
Loans	\$0	\$0
Accumulated reserves or OE *	\$65,000	\$65,000
Bonds	\$0	\$ 0
Other (Specify)	\$0	\$0
<b>Total Financing</b>	<b>\$65,000</b>	<b>\$65,000</b>

\* 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.2C contains a letter dated February 7, 2021 from the Owner/Operator of Earl Enterprises, Inc. committing to reserve \$65,000 in cash for the capital costs of the project.
- Exhibit F.2C contains the February 1, 2021 online banking balance of Earl Enterprises, Inc. showing a balance of \$115,874.
- The applicant documents it has adequate cash to fund the capital cost of the 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 Forms F.2b, the applicant projects that revenues will exceed operating expenses in the first three fiscal years following completion of the project, as shown in the table below.

	1 <sup>st</sup> Full Fiscal Year	2 <sup>nd</sup> Full Fiscal Year	3 <sup>rd</sup> Full Fiscal Year
Total Patient Days	2,520	2,920	2,920
Total Gross Revenues (Charges)	\$271,019	\$313,308	\$313,308
Total Net Revenue	\$271,019	\$313,308	\$313,308
Average Net Revenue per Patient Day	\$108	\$107	\$107
Total Operating Expenses (Costs)	\$264,308	\$278,283	\$278,283
Average Operating Expense per Patient Day	\$105	\$95	\$95
Net Income	\$6,711	\$35,024	\$35,024

The assumptions used by the applicant in preparation of the pro forma financial statements are provided in Section Q. The applicant adequately demonstrates that the financial feasibility of the proposal is reasonable and adequately supported based on the following:

- The applicant accounts for projected operating expenses, such as salaries, building and grounds maintenance and rental expenses consistent with projections elsewhere in the application.
- The applicant accounts for projected revenues consistent with projections elsewhere in the application.
- Projected utilization is based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization found in Criterion (3) 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 for the following reasons:

- The applicant adequately demonstrates that the 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 needs of the proposal for all the reasons described above.
  - The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of revenues and operating expenses 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.

### C

The applicant proposes to develop a new 9-bed ACH facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home also located in Haywood County.

On page 175, the 2021 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The proposed facility and the existing facility are both located in Haywood County. Thus, the service area for this project is Haywood County. Facilities may also serve residents of counties not included in their service area.

Table 11A of the 2021 SMFP indicates that there is currently a total of 13 facilities in Haywood County with licensed ACH beds. The table below is a summary of those facilities in Haywood County, from the 2021 SMFP, Chapter 11, Tables 11A and 11C. There is a projected surplus of 97 ACH beds in 2024 for Haywood County.

<b>2021 ACH INVENTORY AND 2024 NEED PROJECTIONS FOR HAYWOOD COUNTY</b>	
# ACH Facilities	13
# Beds in ACH Facilities	300
# Beds in Nursing Facilities	23
Total Licensed Beds	323
# CON Approved Beds (License Pending) including CON Bed Transfer	0
Total # Available	323
Total # in Planning Inventory	323
Projected Bed Utilization Summary	215
Projected Bed Surplus (Deficit)	97

In Section G, the applicant explains why it believes its proposal would not result in any unnecessary duplication of existing or approved ACH services in Haywood County. The applicant states:

*“The 9 ACH beds that are proposed to be relocated to Spicewood Cottages Meadows are already licensed within Haywood County. The relocation of these beds will have no effect on the inventory of available ACH beds within Haywood County.”*

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 Haywood 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.

The applicant proposes to develop a new 9-bed ACH facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home also located in Haywood County.

In Section Q, Form H, the applicant provides projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

**Projected FTE Positions  
Spicewood Cottages Meadows**

<b>Position</b>	<b>1<sup>st</sup> Full FY</b>	<b>2<sup>nd</sup> Full FY</b>	<b>3<sup>rd</sup> Full FY</b>
CNAs/Nursing Assistants	3.00	3.30	3.30
Dietary Aides	1.00	1.00	1.00
Activities Director	0.25	0.25	0.25
Housekeeping	0.25	0.25	0.25
Maintenance	0.50	0.50	0.50
Clerical	0.50	0.50	0.50
<b>Total</b>	<b>5.50</b>	<b>5.80</b>	<b>5.80</b>

The assumptions and methodology used to project staffing are provided in Section Q, Form H. Adequate operating expenses for the health manpower and management positions proposed by the applicant are budgeted in Form F.3b. In Section H, pages 60-61, and Exhibit H-4, the applicant describes the methods used to recruit or fill new positions and its existing training and continuing education programs.

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

- The applicant projects the number of FTE staffing positions necessary to accommodate the proposed development of healthcare services at Spicewood Cottages Meadows.
- The increased costs are accounted for in the budgeted Operating Costs.
- The methods used to recruit or fill new positions and the existing training and education programs are provided.

**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 applicant proposes to develop a new 9-bed ACH facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home also located in Haywood County.

#### **Ancillary and Support Services**

In Section I, the applicant identifies the necessary ancillary and support services for the proposed services. On page 62, the applicant explains how each ancillary and support service is or will be made available and provides supporting documentation in Exhibit I.

The applicant adequately demonstrates that the necessary ancillary and support services will be made available based on the following:

- The applicant identifies the necessary ancillary and support services for ACH patients located in or near Haywood County and how these will be made available.
- All the necessary ancillary and support services are currently in place at the three adjacent facilities, which are owned and operated by the applicant and can be shared with the proposed ACH facility.

#### **Coordination**

In Section I, page 62, the applicant describes its existing and proposed relationships with other local health care and social service providers and provides supporting documentation in Exhibit I.2. The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system based on the following:

- The applicant has numerous years of experience serving the needs of ACH patients in the service area.
- The applicant has established relationships and agreements with the community health care and ancillary service providers where ACH patients can receive appropriate referrals for necessary services and care related to their condition.

#### **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

- (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.

NA

The applicant proposes to develop a new 9-bed ACH facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home also located in Haywood County.

The applicant does not propose to construct any new space or renovate any existing space. Therefore, Criterion (12) is not applicable to this review.

- (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

The applicant does not provide a historical payor mix for Spicewood Cottages Meadows because it is not an existing facility. However, in Section L, page 65, the applicant provides the historical payor mix for the facility Chestnut Park Rest Home #1 from where the proposed ACH beds are being relocated, during the last full operating year (CY2020), as shown in the table below.

**Chestnut Park Rest Home #1  
Historical Payor Mix CY 2020**

<b>Payor Category</b>	<b>ACH Services as % of Total</b>
Self-pay	20.8%
Insurance*	0.0%
Medicare*	0.0%
Medicaid*	79.2%
Miscellaneous (Incl. VA)	0.0%
<b>Total</b>	<b>100%</b>

\*Including any managed care plans

In Section L, page 69, the applicant provides the following comparison of patients served at Chestnut Park Rest Home #1 during the last full FY (CY 2020) to the population in the service area.

	<b>Percentage of Total Patients Served by the Facility or Campus during the Last Full OY</b>	<b>Percentage of the Population in the Service Area*</b>
Female	58.0%	52.3%
Male	42.0%	47.7%
Unknown	0.0%	0.0%
64 and Younger	4.0%	72.8%
65 and Older	96.0%	27.2%
American Indian	0.0%	0.8%
Asian	0.0%	0.7%
Black or African-American	18.0%	1.6%
Native Hawaiian or Pacific Islander	0.0%	0.1%
White or Caucasian	82.0%	93.0%
Other Race	0.0%	3.9%
Declined / Unavailable	0.0%	0.0%

\*The percentages can be found online using the United States Census Bureau's QuickFacts which is at: <https://www.census.gov/quickfacts/fact/table/US/PST045218>. Just enter in the name of the county.

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 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

Regarding any obligation to provide uncompensated care, community service or access by minorities and persons with disabilities, in Section L.2, page 69, the applicant states it has no obligation to provide such care.

In Section L.2, page 70, the applicant states that during the last five years no patient civil rights access complaints have been filed against the facility or any similar facilities owned by the applicant or a related entity and located in North Carolina.

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

In Section L.3, page 70, the applicant projects the following payor mix during the third full fiscal year of operation following completion of the project, as illustrated in the following table.

**Spicewood Cottages Meadows**  
**Third Full Fiscal Year 10/1/2023-9/30/2024**

<b>Payor Source</b>	<b>General ACH Beds</b>
Private Pay	60%
Medicaid/County Assistance	40%
Total	100%

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 40% of total services will be provided to Medicaid/County Assistance patients. In Exhibit Q.1 the applicant provides the assumptions and methodology used to project payor mix 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 following:

- The applicant bases the projections on the historical experience of the applicant as an owner and operator of other ACH facilities in the area
- The applicant relies on the historical utilization of ACH beds in Haywood County by Medicaid/Special Assistance patients.

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C

In Section L.5., page 71, the applicant adequately describes the range of means by which patients will have access to the proposed services.

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

In Section M.1, page 73, the applicant describes the extent to which area health professional training programs will have access to the facility for training purposes and provides supporting documentation in Exhibit M-1. The applicant adequately demonstrates that health professional training programs in the area have access to the facility for training purposes based on the following:

- The applicant offers the facility as a clinical learning site for students from Haywood Community College.
- The applicant provides a copy of the letter sent to Haywood Community College offering training opportunities in Exhibit M-1.

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately demonstrates that the proposed services will accommodate the needs of health professional training programs in the area; 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 applicant proposes to develop a new 9-bed ACH facility at an existing unlicensed building in Haywood County by relocating 9 existing ACH beds from Chestnut Park Rest Home also located in Haywood County.

On page 175, the 2021 SMFP defines the service area for ACH beds as *“the county in which the adult care home bed is located.”* The proposed facility and the existing facility are both located in Haywood County. Thus, the service area for this project is Haywood County. Facilities may also serve residents of counties not included in their service area.

Table 11A of the 2021 SMFP indicates that there is currently a total of 13 facilities in Haywood County with licensed ACH beds. The table below is a summary of those facilities in Haywood County, from the 2021 SMFP, Chapter 11, Tables 11A and 11C. There is a projected surplus of 97 ACH beds in 2024 for Haywood County.

<b>2021 ACH INVENTORY AND 2024 NEED PROJECTIONS FOR HAYWOOD COUNTY</b>	
# ACH Facilities	13
# Beds in ACH Facilities	300
# Beds in Nursing Facilities	23
Total Licensed Beds	323
# CON Approved Beds (License Pending) including CON Bed Transfer	0
Total # Available	323
Total # in Planning Inventory	323
Projected Bed Utilization Summary	215
Projected Bed Surplus (Deficit)	97

Regarding the expected effects of the proposal on competition in the service area, in Section N, page 74, the applicant states:

*“Since the proposed project does not increase the number of ACH beds in Haywood County, there is no anticipated effect on competition in the proposed service area”*

Regarding the impact of the proposal on cost effectiveness, in Section N, page 74, the applicant states:

*“Spicewood Cottages Meadows will provide a much-needed service to the community at reasonable cost. The impact of this proposed application can only increase the efficiency of the facilities located on the Spicewood Cottage campus, which has a positive impact on cost effectiveness.”*

See also Sections C, F, and Q of the application and any exhibits.

Regarding the impact of the proposal on quality, in Section N, page 74, the applicant states:

*“Earl Enterprises Inc. has a reputation for delivering quality care, operating its facilities on the top end of the NC Adult Care Home Rating System. We fully expect this to continue at Spicewood Cottages Meadows.”*

See also Sections C, and O of the application and any exhibits.

Regarding the impact of the proposal on access by medically underserved groups, in Section N, page 74, the applicant states:

*“Spicewood Cottages Meadows will provide services to the underserved and indigent population of Haywood County through the Special Assistance and Medicaid Personal Care Services programs.”*

See also Section L and C of the application and any exhibits.

The applicant adequately describes the expected effects of the proposed services on competition in the service area and adequately demonstrates the proposal would have a positive impact on cost-effectiveness, quality, and access because the applicant adequately demonstrates that:

- 1) The proposal is cost effective because the applicant adequately demonstrated: a) the need the population to be served has for the proposal; b) that the proposal would not result in an unnecessary duplication of existing and approved health services; and c) that projected revenues and operating costs are reasonable.
- 2) Quality care would be provided based on the applicant’s representations about how it will ensure the quality of the proposed services and the applicant’s record of providing quality care in the past.
- 3) Medically underserved groups will have access to the proposed services based on the applicant’s representations about access by medically underserved groups and the projected payor mix.

### **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 based on 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 O, page 76, the applicant identifies five ACH facilities located in North Carolina owned, operated or managed by the applicant or a related entity.

In Section O, pages 77-78, the applicant states that, during the 18 months immediately preceding the submittal of the application, all incidents related to sub-standard quality of care have been resolved and all facilities owned and operated by the applicant are back in full compliance. 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 of 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 Nursing Facility or Adult Care Home Services. 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 88.9% 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.