

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: July 15, 2022

Findings Date: July 15, 2022

Project Analyst: Tanya M. Saporito

Co-Signer: Lisa Pittman

Project ID #: D-12193-22

Facility: Watauga Assisted Living

FID #: 220173

County: Watauga

Applicant: LHH of Watauga, LLC

Project: Relocate and replace a 60-bed ACH facility and license no more than 24 beds as Special Care Unit beds

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.

NC

LHH of Watauga, LLC (hereinafter referred to as “the applicant” or LHH) proposes to develop a new 60-bed adult care home (ACH) facility in Banner Elk, in Watauga County by acquiring and relocating 60 existing, licensed ACH beds from an existing facility in Watauga County, Mountain Care Facilities in Boone, and license 24 of those 60 beds as special care unit (SCU) beds. The new 60-bed ACH facility will be known as Watauga Assisted Living. The residents who reside at Mountain Care Facilities will be relocated to Watauga Assisted Living and Mountain Care Facilities will permanently close when Watauga Assisted Living is licensed and operational.

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 2022 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

Policies

There is one policy in the 2022 SMFP which is applicable to this review: Policy **GEN-4: Energy Efficiency and Sustainability for Health Service Facilities**, on pages 30-31 of the 2022 SMFP states:

“Any person proposing a capital expenditure greater than \$4 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.

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

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

The capital expenditure of the project is over \$5 million. The applicant did not respond to Policy GEN-4 in Section B, and there is no information in the remainder of the application or the exhibits that responds to the requirements of Policy GEN-4.

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 based on the following:

- The applicant does not adequately demonstrate that the proposal is consistent with Policy GEN-4 because the applicant did not respond to Policy GEN-4 and did not provide the information elsewhere in the application.
- (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 applicant proposes to develop a new 60-bed ACH facility in Banner Elk, including 24 SCU beds, in Watauga County by replacing and relocating 60 existing, licensed ACH beds from Mountain Care Facilities, an existing facility which the applicant states will permanently close when the new facility is developed.

Patient Origin

On page 177, the 2022 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The proposed ACH facility and the existing facility from which the ACH beds are to be relocated are both located in Watauga County. Thus, the service area for this project is Watauga County. Facilities may also serve residents of counties not included in their service area.

The following table from page 27 illustrates historical patient origin for calendar year (CY) 2021 for Mountain Care Facilities, the facility that will close and from which patients will be transferred and beds will be relocated:

Mountain Care Facilities Patient Origin, CY 2021

COUNTY	# PATIENTS	% OF TOTAL
Watauga	34	92%
Caldwell	1	3%
Ashe	2	5%
Total	37	100%

Source: application page 27

The following table from page 28 illustrates projected patient origin for Watauga Assisted Living for the fiscal year 2024 (October 1, 2023 – September 30, 2024):

Watauga Assisted Living Projected Patient Origin, FY 2024

COUNTY	# PATIENTS	% OF TOTAL
Watauga	49	90.7%
Avery	2	3.7%
Caldwell	2	3.7%
Ashe	1	1.9%
Total	54	100.0%

Source: application page 28

In Section C, pages 28-29, the applicant provides the assumptions and methodology used to project its patient origin. The applicant assumes 90.7% of the ACH beds will be utilized by Watauga County residents, which is similar to the historic patient origin for ACH beds at Mountain Care Facilities. The applicant's assumptions are reasonable and adequately supported based on the following:

- The applicant bases projected patient origin on historical patient origin of the facility from which the beds will be relocated and the patients transferred.
- The applicant states there is only one other adult care home in Watauga County; thus, the applicant projects a large percentage of its residents will be from Watauga County.

Analysis of Need

In Section C.4, pages 30-32, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services, as summarized below:

- The proposed ACH beds are not "new" beds; rather, they are existing licensed ACH beds that will be relocated from an older facility to a new facility closer to other health care providers in the Boone area. (page 30)
- The owner of Mountain Care Facilities, Inc., LHH of Watauga, will continue to operate Mountain Care Facilities, Inc., the facility from which the 60 ACH beds will relocate until the new facility is operational. Those patients who reside in Mountain Care Facilities, Inc. will then transfer to the new facility. (page 30)
- There is only one other licensed adult care home in Watauga County, and there will be continued need for ACH services in the county. (page 30)
- There is a growing need in the county for ACH services, and for the placement of underserved groups in adult care homes. The applicant states it is committed to serving the Medicaid and other underserved populations in the area. (pages 30-31)
- The applicant states 24 of the 60 proposed beds will be special care unit (SCU) beds to serve an increasing population of Alzheimer's / Dementia patients. (page 31)
- Citing data from the *2020 Alzheimer's Disease Facts and Figures* published by the Alzheimer's Association, the applicant states approximately 10% of people over the

age of 65 have Alzheimer’s disease. That same data projects a 16.7% increase in the number of persons in that age group who will be diagnosed with Alzheimer’s disease between 2020 and 2025. The population of persons over the age of 65 in Watauga County is projected to increase by 17.45% during that same time, which substantiates the need for the facility in general and the SCU beds in particular. (pages 31-32)

The applicant provides data from Claritas that illustrates the population composition in Watauga County and compares that data to both North Carolina and the United States. The applicant states the Claritas data demonstrates the need that Watauga County residents who need ACH services have for the proposed ACH beds, particularly when Mountain Care closes. The applicant demonstrates that the beds proposed to be relocated would serve the increasing population of persons over age 65 and the increasing population of Alzheimer’s patients in the service area.

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

- The applicant explains how the population data it presented demonstrates the need for the ACH beds proposed to be relocated.
- The applicant explains how the proposed ACH facility will serve the population it proposes to serve, including the population age 65 and over, which is projected to increase.

Projected Utilization

In Section Q Form C.1b the applicant provides projected utilization for the first three years following project completion, as summarized in the table below:

Watauga Assisted Living Projected Utilization			
	1ST FULL FY CY2023	2ND FULL FY CY2024	3RD FULL FY CY2025
Number of beds	60	60	60
# of Admissions	54	24	27
# of Patient Days	18,480	19,710	19,710
Average Length of Stay	342	821	730
Occupancy Rate	84.4%	90.0%	90.0%
ACH- Special Care Unit Beds	24	24	24
# of Admissions	22	10	11
# of Patient Days	7,392	7,884	7,884
Average Length of Stay	336	788	717
Occupancy Rate	84.4%	90.0%	90.0%

Source: Section Q, Form C.1b, page 2

In Section Q, in “LHH of Watauga, LLC Significant Assumptions for Section Q”, assumption numbers 3, 4 and 29 state, respectively:

“3) Assumed 30 residents transferred from existing facility for fill up purposes.

- 4) *Average 8 admissions/month during fill up period until occupancy reaches 90%.*
- 29) *Initial occupancy includes transfer of existing residents from Mountain Care Facilities, Inc. – which will cease operations upon completion of this project.”*

Other than those statements, there is no information, assumptions or methodology in the application or exhibits that show how the applicant proposes to achieve 90.0% occupancy in project years two and three as shown in the table from Form C.1b. The applicant has not even demonstrated how it proposes to achieve 84.4% occupancy in the first project year. In assumption number 3 as noted above, the applicant states it assumes 30 residents will transfer from Mountain Care Facilities (MCF). However, the 2021 License Renewal Application (LRA) for Mountain Care Facilities, Inc. shows that for the time during which data was recorded, August 1, 2019 through July 31, 2020, the beginning census at Mountain Care Facilities was 23 patients, and the ending census was 18. That same LRA shows 7,010 total days of care during that same time, which is a 32.01% occupancy rate $[(7,010 / 365 \text{ days}) / 60 \text{ beds} = 0.3201]$. The 2022 SMFP, Table 11C on page 214 shows the adjusted occupancy rate for Watauga County, which includes both existing ACH facilities, was 63.38%. The applicant does not explain how it proposes to reach 84.4% occupancy in PY 1 and 90% occupancy in PY 2 and PY 3.

The applicant states Exhibits C.1 and C.4 provide supporting data for the utilization projections. Exhibit C.1 provides, in part, a page of Watauga County population statistics that show population growth projections in North Carolina, Watauga County and the United States for the period of time 2022-2027 for the 65 and over population group. Exhibit C.4 contains Watauga County demographic statistics for a certain ZIP code in Watauga County and other specific ZIP codes, and several pages that are unreadable. However, there is no information in either Exhibit C.1 or C.4 that explains why the data provided is relevant to the application and how the data supports projected utilization.

Projected utilization is not reasonable and adequately supported for the reasons stated above.

Access to Medically Underserved Groups

In Section C.6, pages 37-38, the applicant states it is committed to serving medically underserved groups and to accepting residents who depend on Special Assistance/Medicaid as a payment. In addition, the applicant confirms its commitment to serving racial and ethnic minorities, women, persons with disabilities and older persons in the proposed ACH facility.

The applicant provides the estimated percentage for each medically underserved group, as shown in the following table from page 38:

MEDICALLY UNDERSERVED GROUPS	PERCENTAGE OF TOTAL PATIENTS
Low income persons	35%
Racial and ethnic minorities	15%
Women	63%
Persons with Disabilities	15%
The elderly	100%
Medicare beneficiaries	100%
Medicaid recipients	35%

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 each of the 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 not conforming to this criterion because projected utilization is not reasonable and adequately supported for all the reasons stated above.

- (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.

NC

The applicant proposes to develop a 60-bed ACH facility in Banner Elk, including 24 SCU beds, in Watauga County by replacing and relocating 60 existing, licensed ACH beds from Mountain Care Facilities, an existing facility which the applicant states will permanently close when the new facility is developed.

In Section D, page 43, the applicant explains why it believes the needs of the population presently utilizing the services to be relocated will be adequately met following project completion. The applicant states:

“The current facility will remain operational until which point the newly constructed facility is complete and properly licensed. At that point, any existing residents will be transferred directly to the new facility, and the current facility will permanently close. All needs of the patients currently being served will be met unconditionally.

...

There will be no adverse impact to any [underserved groups]. With the non-discrimination policies of Watauga Assisted Living, all groups of underserved populations will have full access to the newly constructed facility.”

In Section D.2(3)(b), pages 44-45, the applicant also states there will be no impact to, among other groups, Medicaid recipients following the relocation of the ACH beds to a new proposed facility. However, that statement is inconsistent with the information provided in Section Q, Form F.2(b), which projects 24.5% of total patient services gross revenue will be provided to Medicaid recipients. The historical payor mix, provided by the applicant in Section L, page 67 shows historical payor mix for CY 2020 was 93% Medicaid recipients and 7% private pay. Those percentages were verified by the Project Analyst by examining Mountain Care Facilities, Inc.’s 2021 License Renewal Application (LRA) as filed by the applicant. Therefore, the applicant projects a decrease of 68.5% in the Medicaid recipients it proposes to serve following the ACH bed relocation. The information provided in Section D is likewise inconsistent with the applicant’s statement in Section L, page 67:

“The assumptions used for occupancy represent a combination of the historical payer mix at the facility from which the 60 ACH beds will be transferred from [sic] (Mountain Care Facilities) as well as other occupancy levels from other Adult Care Home facilities operated by the owners of LHH of Watauga, LLC combined with the need to increase the Special Assistance and Medicaid Personal Care Services”

In Section Q, on Form O, Facilities, the applicant lists two other adult care homes operated by LHH of Watauga, LLC: Jonas Ridge Adult Care and Tabor Commons. The Project Analyst examined each facility’s 2021 LRA for the payor mix, which shows the following:

- Jonas Ridge Adult Care: 71.9% patients were recipients of Medicaid/Special Assistance
- Tabor Commons: 83.6% patients were recipients of Medicaid/Special Assistance

Thus, the information provided by the applicant in Sections D, L and Q is inconsistent, given the historical provision of services to Medicaid recipients at each facility was from 71.9% to 93% as reported on each facility’s 2021 LRA. The inconsistencies refute the applicant’s claim that it will continue to serve the same or nearly the same percentage of Medicaid recipients

following the ACH bed relocation. The applicant provides no further information to indicate how those Medicaid patients it has historically served will continue to be served following the bed relocation.

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 applicant does not adequately demonstrate that the needs of the population currently using the services to be reduced, eliminated or relocated will be adequately met following project completion for all the reasons described above.
 - The applicant does not adequately demonstrate 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.

NC

The applicant proposes to develop a new 60-bed ACH facility in Banner Elk, including 24 SCU beds, in Watauga County by replacing and relocating 60 existing, licensed ACH beds from Mountain Care Facilities, an existing facility which the applicant states will permanently close when the new facility is developed.

In Section E, page 47, the applicant describes the one alternative it considered and explains why that alternative is either more costly or less effective than the alternative proposed in this application. The applicant states:

“Based on the existing (and expected future) demand for Adult Care Home facility services within Watauga County, the applicants [sic] decided not to ignore the opportunity to relocate 60 ACH beds to a newly constructed facility. The relocation of these 60 ACH beds will open availability to Adult Care Home facility placement within Watauga County that would not exist if the existing facility were to be closed and the ACH beds de-licensed. Therefore LHH of Watauga is choosing to pursue this proposed project other than the status quo.”

In evaluating that alternative, the applicant determined that constructing a replacement facility is the most effective and cost-efficient option to best address Watauga County’s need for increased access to high quality and cost-effective assisted living care.

However, the applicant does not adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need because 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 applicant proposes to develop a new 60-bed ACH facility in Banner Elk, including 24 SCU beds, in Watauga County by replacing and relocating 60 existing, licensed ACH beds from Mountain Care Facilities, an existing facility which the applicant states will permanently close when the new facility is developed.

Capital and Working Capital Costs

In Section Q, Form F.1a Capital Cost, the applicant projects the total capital cost of the project, as shown in the table below.

Site Costs*	\$1,285,000
Construction Costs	\$10,000,000
Miscellaneous Costs	\$3,015,000
Total	\$14,300,000

*includes land purchase, closing costs and site preparation.

The applicant provides its assumptions and methodology for projecting capital cost in Section Q and Exhibit F.2. The applicant adequately demonstrates that the projected capital cost is based on reasonable and adequately supported assumptions based the information provided in Section Q and Exhibit F.2.

In Section F.3, page 50, the applicant projects no start-up costs, and projects working capital in the amount of \$163,021. On page 50, the applicant provides the assumptions and

methodology used to project the working capital needs of the project. The applicant adequately demonstrates that the projected working capital needs of the project are based on reasonable and adequately supported assumptions because the projected costs are based on the experience of the applicant and RenCare Solutions, Inc., who share common ownership, in developing similar projects.

Availability of Funds

In Section F.2, page 48, the applicant provides a table, reproduced below, to illustrate the source of funding for the project capital cost:

SOURCES OF FINANCING FOR WORKING CAPITAL	AMOUNT
Loans	\$10,000,000
Cash or Cash Equivalents, Accumulated Reserves or Owner's Equity	\$1,550,000
Bonds	\$0
Other	\$2,750,000
Total	\$14,300,000

On page 49, the applicant states:

“Additional capital costs will be financed by a combination of LHH of Watauga, LLC, RenCare Solutions, the related facilities of Tabor Commons ..., Jonas Ridge Adult Care

...

LHH of Watauga currently has cash equivalents of \$250,000. RenCare Solutions, the related entity management company owned by common ownership of LHH of Watauga – also maintains significant liquidity and positive equity; with cash equivalent in excess of \$1,000,000 at any point in time. These cash equivalents, combined with the overall owners’ equity and profitability position of RenCare Solutions and the other Adult Care Home facilities mentioned above will provide more than enough funds to cover the debt/equity difference with bank financing.”

The applicant refers to Exhibit F.2 for additional documentation of funding for the project capital cost. Exhibit F.2 contains the following:

1. A letter dated February 10, 2022 signed by Sterling Koonce, CEO of Medicine Mart, LLC which indicates an intent to invest up to \$2 million for the project.
2. A letter dated February 1, 2022 signed by the President of Health Financing Consultants which indicates an intent to invest up to 70% of the total project cost, representing “approximately \$10 million”.

3. Two letters which appear to be duplicates as they each state exactly the same thing, each dated February 10, 2022 and signed by George Ware. Each letter indicates an intent to invest up to \$200,000 for the project.
4. A bank statement from Truist Bank dated January 31, 2022 that shows a balance of \$250,000 in a simple business checking account for LHH of Watauga, LLC.
5. A bank statement from Truist Bank dated January 31, 2022 that shows a balance of \$1,151,003 in a corporate savings account for RenCare Solutions, Inc.

The application shows available funding in the amount of \$13,601,003. The project capital cost is \$14,300,000, which leaves a balance of \$698,997 [$\$14,300,000 - \$13,601,003 = \$698,997$]. The applicant has not provided any information in the application or exhibits that indicates a source of funding for the balance of \$698,997. Additionally, the applicant does not indicate how Sterling Koonce or George Ware are related to LHH of Watauga, LLC; nor does the applicant document the ability of either person to invest the amounts stipulated in each letter. Thus, even if the relationship of the two persons to the applicant could be established, the application does not contain any bank or other financial information from either individual that would demonstrate each person's ability to invest the amount of money indicated.

Moreover, an "applicant" is defined as a person (as defined in N. C. G. Stat. 131E-176(19), who will:

- *"Incur an obligation for a capital expenditure to develop or offer the proposed new institutional health service(s); or*
- *Offer or develop the proposed new institutional health service(s)."*

Therefore, once the relationship of Sterling Koonce and George Ware to the applicant is established, each of those persons may need to be an applicant, since each will incur an obligation for a capital expenditure to develop the proposed new ACH facility.

In Section F.3, page 50, the applicant projects \$163,021 in initial operating costs, representing the first three months of expenses during the initial operating period. The applicant projects no start-up costs; thus, the total working capital is \$163,021.

In Section F.3, page 51, the applicant states the working capital will be funded with the cash or accumulated reserves of the applicant, LHH of Watauga. On page 52, the applicant states:

"LHH of Watauga currently has cash equivalents of \$250,000. RenCare Solutions, the related entity management company owned by common ownership of LHH of Watauga – also maintains significant liquidity and positive equity; with cash equivalent in excess of \$1,000,000 at any point in time. These cash equivalents, combined with the overall owners' equity position of RenCare Solutions will provide more than enough funds to cover working capital needs for Watauga Assisted Living."

The applicant refers again to Exhibit F.2 for documentation regarding funding for the working capital needs of the project.

Therefore, the total amount of funding needed for the project is \$14,463,021 [\$14,300,000 in capital costs + \$163,021 in working capital = \$14,463,021]. The applicant has only demonstrated the availability of \$13,601,003 for the project, which leaves a total balance (capital cost and working capital) of \$862,018 [\$14,463,021 - \$14,300,000 = \$862,018]. The applicant has not provided any information in the application or exhibits that indicates a source of funding for the \$862,018 total balance.

The applicant does not adequately demonstrate availability of sufficient funds for the capital and working capital needs of the project because the funding commitment and availability letters provided in Exhibit F.2 do not demonstrate sufficient funding for the capital and working capital needs of the project as explained above.

Financial Feasibility

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

	1 ST FULL FISCAL YEAR	2 ND FULL FISCAL YEAR	3 RD FULL FISCAL YEAR
Total Patient Days	18,480	19,710	19,710
Total Gross Revenues (Charges)	\$2,608,474	\$2,782,123	\$2,782,123
Total Net Revenue	\$2,608,474	\$2,782,123	\$2,782,123
Average Net Revenue per Patient Day	\$138	\$141	\$141
Total Operating Expenses (Costs)	\$2,610,357	\$2,748,322	\$2,748,322
Average Operating Expense per Patient Day	\$139	\$139	\$139
Net Income	(\$1,883)	\$33,801	\$33,801

The assumptions used by the applicant in preparation of the pro forma financial statements are provided in Form C.1b, Form F.2b, Form F.3b, Form F.4 and Form H. However, assumption number 5, provided by the applicant in Section Q, states: “All revenue is reflected net of contractual adjustments on Form F.2b.” The only information provided on Form F.2b are lines for self-pay and Medicaid which combine to comprise *gross revenue*, which the applicant states is the same as *net revenue*, with no contractual adjustments. The applicant then subtracts *operating costs* as provided in Form F.3b, to calculate projected *net income* for the facility. There are no contractual adjustments indicated on the Forms provided by the applicant, and no other assumptions to indicate what contractual adjustments the applicant references, or to otherwise explain the inconsistency. Similarly, there is no other information, assumptions or methodology in the application or exhibits to explain the applicant’s inconsistent information provided in Form F.2b and the assumptions and methodology provided in Section Q.

The applicant does not adequately demonstrate that the financial feasibility of the proposal is reasonable and adequately supported based on the following:

- The applicant does not show the availability of sufficient funds for the capital and working capital needs of the project.
- The applicant does not demonstrate how Sterling Koonce or George Ware are related to the applicant.
- The applicant does not provide evidence to show that Sterling Koonce or George Ware, if properly associated with the applicant, are able to invest the dollar amounts that each letter indicates.
- The application contains an inconsistency between the calculation of *gross revenue* and *net revenue* for the facility and the assumptions and methodology provided in Section Q following the Forms.
- The applicant does not provide any additional assumptions or methodology to explain the inconsistency between the financial forms and the assumptions and methodology.
- Projected utilization is not based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization in Criterion (3) which is incorporated herein by reference. Therefore, projected revenues and operating expenses, which are based in part on projected utilization, are also questionable.

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 reasons:

- The applicant does not adequately demonstrate that the working capital costs are based on reasonable and adequately supported assumptions for all the reasons described above.
 - The applicant does not adequately demonstrate availability of sufficient funds for the capital and working capital needs of the proposal for all the reasons described above.
 - The applicant does not adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of 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.

The applicant proposes to develop a new 60-bed ACH facility in Banner Elk, including 24 SCU beds, in Watauga County by replacing and relocating 60 existing, licensed ACH beds from Mountain Care Facilities, an existing facility which the applicant states will permanently close when the new facility is developed.

On page 177, the 2022 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The proposed ACH facility and the existing facility from which the ACH beds are to be relocated are both located in Watauga County. Thus, the service area for this project is Watauga County. Facilities may also serve residents of counties not included in their service area.

Table 11A of the 2022 SMFP indicates that there is currently a total of three facilities in Watauga County with licensed ACH beds. The table below is a summary of those facilities in Watauga County, from the 2022 SMFP, Chapter 11, Tables 11A and 11C. There is a projected surplus of 76 ACH beds in 2025 for Watauga County.

2021 ACH INVENTORY AND 2024 NEED PROJECTIONS FOR BEAUFORT COUNTY	
# ACH Facilities	3
# Beds in ACH Facilities	156
# Beds in Nursing Facilities	20
Total Licensed Beds	176
# CON Approved Beds (License Pending) including CON Bed Transfer	0
Total # Available	176
Total # in Planning Inventory	176
Projected Bed Utilization Summary	100
Projected Bed Surplus (Deficit)	76

In Section G, page 56, the applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved adult care home services in Watauga County. The applicant states:

“the 60 ACH beds that are proposed by LHH of Watauga and to be relocated to Watauga Assisted Living [sic] are already licensed within Watauga County. The relocation of these beds will have no effect on the inventory of available ACH beds within Watauga County. Based on the projected population growth of the aging population of Watauga County, it will be important to keep these ACH beds in service within the service area.”

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 in Watauga County.
- The applicant adequately demonstrates that the proposed project proposes to relocate existing licensed ACH beds within Watauga County.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

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

C

The applicant proposes to develop a new 60-bed ACH facility in Banner Elk, including 24 SCU beds, in Watauga County by replacing and relocating 60 existing, licensed ACH beds from Mountain Care Facilities, an existing facility which the applicant states will permanently close when the new facility is developed.

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

POSITION	1ST FULL FY 10/1/23- 9/30/24	2ND FULL FY 10/1/24- 9/30/25	3RD FULL FY 10/1/25- 9/30/26
Certified Nurse Aides/Nursing Assistants	22.0	24.0	24.0
Special Care Unit Coordinator	1.0	1.0	1.0
Cooks	4.0	5.0	5.0
Activities Director	1.0	1.0	1.0
Housekeeping	3.0	3.0	3.0
Maintenance	1.0	1.0	1.0
Administrator	1.0	1.0	1.0
Business Office	1.0	1.0	1.0
Total	34.0	37.0	37.0

Adequate operating expenses for the health manpower and management positions proposed by the applicant are budgeted in Form F.3b. In Section Q the applicant provided the assumptions and methodology used to project staffing. In Section I, pages 60-61, the applicant describes the methods to be used to recruit or fill new positions and its proposed 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 provides the assumptions and methodology used to project staffing.

- The applicant provides the methods to be used to recruit or fill new positions and proposed training and continuing education programs.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (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 60-bed ACH facility in Banner Elk, including 24 SCU beds, in Watauga County by replacing and relocating 60 existing, licensed ACH beds from Mountain Care Facilities, an existing facility which the applicant states will permanently close when the new facility is developed.

Ancillary and Support Services

In Section I, page 60, the applicant identifies the necessary ancillary and support services for the proposed ACH services. On pages 61-62, the applicant explains how each ancillary and support service is or will be made available and provides supporting documentation in Exhibit I-1.

The applicant adequately demonstrates that the necessary ancillary and support services will be made available because the applicant identifies the necessary ancillary and support services for ACH patients located in or near Watauga County and how these services will be made available.

Coordination

In Section I, page 61 the applicant describes its efforts to develop relationships with other local health care and social service providers and provides supporting documentation in Exhibit I-1. The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system because the applicant received support letters from Watauga County Social Services and other area businesses and pharmacies for the project which show an intent to coordinate 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 all the reasons described above.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

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

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

NA

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

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction

project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

NC

The applicant proposes to develop a new 60-bed ACH facility in Banner Elk, including 24 SCU beds, in Watauga County by replacing and relocating 60 existing, licensed ACH beds from Mountain Care Facilities, an existing facility which the applicant states will permanently close when the new facility is developed.

In Section K, page 63, the applicant states that the project involves constructing 47,500 square feet of new space. Line drawings are provided in Exhibit K-1.

On page 63, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal because the applicant states the architect will develop the project to incorporate the most cost-effective design and means of construction.

On page 64, the applicant does not adequately explain why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services based on the following:

- The applicant states on page 64 that the facility will be comprised of existing, licensed ACH beds that will be relocated within the county and will provide an upgraded facility for existing and projected residents. However, the applicant does not indicate how the bed relocation and the new facility will not unduly increase the costs of ACH services to the public or the costs and charges associated with those services.

In Section K, page 64, the applicant identifies applicable energy saving features and water conservation measures that will be incorporated into the construction plans and provides supporting documentation in Exhibit K-5.

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 all the reasons described above.

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and ... persons [with disabilities], which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:
- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

Watauga Assisted Living is not an existing facility; thus, it has no historical data to report. However, LHH of Watauga, LLC operates Mountain Care Facilities, the existing facility in Watauga County from which the ACH beds will be relocated. On page 67, the applicant provides a table showing the most recent payor mix at Mountain Care Facilities, as shown below:

**Mountain Care Facilities Historical Payor Mix
1/1/20-12/31/20**

PAYOR CATEGORY	ACH SERVICES AS % OF TOTAL
Self-pay	7%
Insurance*	
Medicare*	
Medicaid*	93%
Other (County/Special Assistance	
Total	100.00%

*Including any managed care plans

In Section L, page 68, the applicant provides the following comparison of residents served at Mountain Care Facilities during the last full year to the population in the service area.

	PERCENTAGE OF TOTAL PATIENTS SERVED BY THE FACILITY	PERCENTAGE OF THE POPULATION IN THE SERVICE AREA
Female	56.0%	50.4%
Male	44.0%	49.6%
Unknown	0.0%	0.0%
64 and Younger	0.0%	86.0%
65 and Older	100.0%	14.0%
American Indian	--	0.4%
Asian	--	1.5%
Black or African-American	4.0	2.1%
Native Hawaiian or Pacific Islander	--	0.0%
White or Caucasian	96.0	92.3%
Other Race	--	3.7%
Declined / Unavailable	--	0.0%

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 existing beds to be relocated to the proposed facility 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;

NA

Neither the applicant nor any related entities own, operate or manage an existing health service facility located in the service area. The existing ACH facilities owned by LHH of Watauga, LLC are in Burke and Columbus counties. Therefore, Criterion (13b) is not applicable to this review.

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

NC

In Section L, page 69, the applicant projects the following payor mix for the proposed services, as shown in the table below:

PAYOR CATEGORY	PERCENTAGE OF TOTAL PATIENTS SERVED
Self-Pay	65%
Medicaid	35%
Total	100%

Source: Table on page 75 of the application.

It is not possible to tell which project year is represented in the table. The applicant states, in the heading to the table, that the data represent the third full fiscal year, but the year given is October 1, 2023-September 30, 2024, which represents the first full fiscal year of operation as stated by the applicant in Sections C and Q.

As shown in the table above, the applicant projects that 65% of total services will be provided to self-pay patients and 35% to Medicaid patients. However, in the assumptions provided on page 69 to project payor mix the applicant states:

“The assumptions used for occupancy represent a combination of the historical payer mix at the facility from which the 60 ACH beds will be transferred from ... as well as other occupancy levels from other Adult Care Home facilities operated by the owners of LHH of Watauga LLC combined with the need to increase the Special Assistance and Medicaid Personal Care Services beneficiary occupancy consistent with the recognized population growth within the service area.”

The applicant provides historical payor mix of Mountain Care Facilities, Inc. on page 67, that shows 97% of total historical ACH services were provided to Medicaid patients and 7% to private pay patients. Additionally, the applicant states it bases projected *payor mix* at WAL on the *occupancy levels* at the other two facilities owned by LHH of Watauga, LLC that are in Burke and Columbus counties, not on the payor mix in each of those facilities. The applicant has not explained how the payor mix at Watauga Assisted Living in Watauga County would be similar to the historical occupancy levels in the two other facilities in Burke and Columbus counties.

Furthermore, the projected payor mix in Section Q, Form F.2b, shows projected revenue from Medicare as 24.5% of gross revenue, not 35% as represented in the table form page 69.

The projected payor mix is not reasonable and adequately supported.

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 based on the reasons stated above.

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

C

In Section L.5., page 70, 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

The applicant proposes to develop a new 60-bed ACH facility in Banner Elk, including 24 SCU beds, in Watauga County by replacing and relocating 60 existing, licensed ACH beds from Mountain Care Facilities, an existing facility which the applicant states will permanently close when the new facility is developed.

In Section M.1, page 72, 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 will 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 Caldwell Community College.
- The applicant provides a copy of a letter of support from Caldwell Community College 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.

NC

The applicant proposes to develop a new 60-bed ACH facility in Banner Elk, including 24 SCU beds, in Watauga County by replacing and relocating 60 existing, licensed ACH beds from Mountain Care Facilities, an existing facility which the applicant states will permanently close when the new facility is developed.

On page 177, the 2022 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The proposed ACH facility and the existing facility from which the ACH beds are to be relocated are both located in Watauga County. Thus, the service area for this project is Watauga County. Facilities may also serve residents of counties not included in their service area.

Table 11A of the 2022 SMFP indicates that there is currently a total of three facilities in Watauga County with licensed ACH beds. Table 11C of the 2022 SMFP shows ACH bed need projections for each county. The table below is a summary of those facilities in Watauga County, from the 2022 SMFP, Chapter 11, Tables 11A and 11C. There is a projected surplus of 76 ACH beds in 2025 for Watauga County.

2022 ACH INVENTORY AND 2025 NEED PROJECTIONS FOR WATAUGA COUNTY	
# ACH Facilities	3
# Beds in ACH Facilities	156
# Beds in Nursing Facilities	20
Total Licensed Beds	176
# CON Approved Beds (License Pending) including CON Bed Transfer	0
Total # Available	176
Total #in Planning Inventory	176
Projected Bed Utilization Summary	100
Projected Bed Surplus (Deficit)	76

Regarding the expected effects of the proposal on competition in the service area, in Section N, page 73, the applicant states:

“Since the proposed project does not increase the number of ACH beds in Watauga 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 73, the applicant states:

“Watauga Assisted Living will provide a much-needed service to the community at reasonable cost.”

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 73, the applicant states:

“The owners of LHH of Watauga have a reputation for delivering quality care, operating its other Adult Care Home facilities on the top end of the NC Adult Care Home Rating System. We fully expect this to continue at Watauga Assisted Living.”

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 73, the applicant states:

“Watauga Assisted Living will provide services to the underserved and indigent population of Watauga County through the Special Assistance and Medicaid Personal Care Services programs.”

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

However, since the applicant did not explain why the provision of services to Medicaid recipients is projected to decrease from 93% to either 24.5% or 35% as indicated in the application and the Pro Forma forms in Section Q, the statement above is questionable.

The applicant does not adequately describe the expected effects of the proposed services on competition in the service area or adequately demonstrate the proposal would have a positive impact on cost-effectiveness, quality, and access because the applicant does not adequately demonstrate that:

- 1) The proposal is cost effective, because the applicant does not adequately demonstrate the financial feasibility of the proposal or that projected revenues and operating costs are reasonable. See discussion in Criterion 5.
- 2) Quality care would be provided based on the applicant’s record of providing care in the past. The applicant does not provide documents detailing on training, on-going quality

control measures, proposed written facility policies, history of the management team in managing this type of facility, certifications either for the management team and/or proposed certifications for the facility such as with industry adult care home organizations.

- 3) Medically underserved groups will have access to the proposed services based on the applicant does 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:
 - o The applicant provides no basis in terms of documentation, assumptions, or methodology for the estimate for the populations it proposes to serve, particularly Medicaid recipients. See discussion in Criteria 3, 5 and 13.
 - o The applicant provides inconsistent information as to the payor sources for the proposed project.

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 not 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 Q, Form A, facilities, the applicant identifies the adult care home facilities located in North Carolina owned, operated or managed by the applicant or a related entity. The applicant identifies a total of two of this type of facility located in North Carolina.

In Section O, page 76, the applicant states that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in one of these facilities. The applicant states that all the problems have been corrected. According to the files in the Adult Care Licensure Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in one 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 three ACH 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.

NA

The application is relocating existing licensed ACH beds within the same county; therefore, the Criteria and Standards for Nursing Facility or Adult Care Home Services are not applicable.