

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: June 23, 2023

Findings Date: June 23, 2023

Project Analyst: Terris Riley

Co-Signer: Gloria C. Hale

Project ID #: G-12338-23

Facility: Harmony at Kernersville

FID #: 230135

County: Forsyth

Applicants: Kernersville IL-AL, LLC
Kernersville Operations, LLC

Project: Develop a new ACH facility by relocating 90 ACH beds from The Ivy at Clemmons, including 36 SCU 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.

C

Kernersville IL-AL, LLC and Kernersville Operations, LLC (hereinafter collectively referred to as “the applicant”) proposes to develop a new 90-bed adult care home (ACH) facility, including a 36-bed Special Care Unit (SCU), in Kernersville, in Forsyth County by relocating 90 existing, licensed ACH beds from an existing facility in Forsyth County, The Ivy at Clemmons. The new 90-bed ACH facility will be known as Harmony at Kernersville (hereinafter referred to as “Harmony”). The residents who reside at The Ivy at Clemmons will be discharged and the facility will permanently close.

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 2023 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 page 30 of the 2023 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 projected capital cost for the project is over \$5 million. In Section B, page 26, the applicant states,

“...plans to utilize automatic lighting fixtures, highly efficient mechanical designs, energy star-rated appliances, high-performance building insulation, energy efficient insulated windows, and LED lights in order to make the building as energy efficient as possible.”

Moreover, the applicant further states on page 26 that they will “utilize low-flow plumbing fixtures, as well as water-efficient washing machines and dish washers.” The applicant includes a letter from Mosely Architects in Exhibit B.21, confirming the applicant’s project design intent to create a more energy efficient and sustainable building.

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 conforms to this criterion based on the following:

- The applicant adequately demonstrates that the proposal is consistent with Policy GEN-4 because they adequately describe how they will assure energy efficiency and water conservation.
- The applicant provides documentation from a licensed architect confirming the applicant's energy efficiency and water conservation plans.

(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 90-bed ACH facility in Kernersville, NC, including 36 SU beds, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons, an existing facility, which the applicant states will permanently close when the new facility is developed.

Patient Origin

On page 171, the 2023 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 Forsyth County. Thus, the service area for this project is Forsyth County. Facilities may also serve residents of counties not included in their service area.

Historical

The applicant provides the historical patient origin for The Ivy at Clemmons as illustrated in the table below.

THE IVY AT CLEMMONS CURRENT PATIENT ORIGIN 8/01/2021 TO 07/31/2022		
COUNTY	# PATIENTS	% OF TOTAL
Davie	3	3.7%
Forsyth	61	75.3%
Gaston	1	1.2%
Iredell	5	6.2%
Onslow	1	1.2%
Surry	1	1.2%
Yadkin	6	7.4%
Yancey	3	3.7%
Total	81	100.0%

Source: Section C, page 29

Projected

The applicant provides the projected patient origin for Harmony at Kernersville, as shown in the table below.

ACH BEDS	HARMONY AT KERNERSVILLE					
	1ST FULL FY		2ND FULL FY		3RD FULL FY	
	01/01/2028 TO 12/31/2028		01/01/2029 TO 12/31/2029		01/01/2030 TO 12/31/2030	
COUNTY OR OTHER AREAS	# PATIENTS	% OF TOTAL	# PATIENTS	% TOTAL	#PATIENTS	% OF TOTAL
Forsyth	60	77.9%	91	77.1%	102	77.3%
Guilford	9	11.7%	13	11.0%	14	10.6%
Davidson	2	2.6%	3	2.5%	4	3.0%
Stokes	2	2.6%	2	1.7%	3	2.3%
Alamance	1	1.3%	1	0.8%	1	0.8%
Rockingham	1	1.3%	1	0.8%	1	0.8%
Yadkin	1	1.3%	1	0.8%	1	0.8%
Other States	1	1.3%	1	0.8%	1	0.8%
Brunswick	0	0.0%	1	0.8%	1	0.8%
Buncombe	0	0.0%	1	0.8%	1	0.8%
Mecklenburg	0	0.0%	1	0.8%	1	0.8%
Randolph	0	0.0%	1	0.8%	1	0.8%
Wake	0	0.0%	1	0.8%	1	0.8%
Total	77	100.00%	118	100.0%	132	100.0%

Source: Section C, page 31

In Section C, page 30, the applicant provides the assumptions and methodology used to project its patient origin. The applicant's assumptions are reasonable and adequately supported based on the following:

- It is based, in part, on the patient origin of other adult care home facilities in the Kernersville area because of their shared proximity to Guilford County.

- It is based, in part, on the patient origin of Harmony at Brookberry Farm because it is managed by the same company and will utilize the same or similar marketing strategies.
- The applicant bases projected patient origin, in part, on historical patient origin of the facility from which the beds will be relocated.

Analysis of Need

In Section C, pages 33-34, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services, as summarized below:

- The existing facility will be sold and used for a non-healthcare use; thus it will no longer be providing adult care home services.
- The proposed ACH beds are not “new” beds; rather, they are existing licensed ACH beds that will be relocated from the existing facility to the new facility.
- The Ivy at Clemmons has 90 adult care home beds but does not have a special care unit for Alzheimer’s and dementia.
- There are fewer adult care homes in the Kernersville area of Forsyth County than there are in the Clemmons area of the county despite similar population sizes. The proposed relocation will help address this need in the Kernersville area.
- The applicant states 36 of the 90 proposed beds will be special care unit (SCU) beds to serve an increasing population of Alzheimer’s / Dementia patients.

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

- The applicant provides population data that demonstrates the need for the ACH beds proposed to be relocated.
- The applicant demonstrates that the beds proposed to be relocated would serve the increasing population of persons over age 55 and the increasing population of Alzheimer’s patients in the service area.

Projected Utilization

In Section Q, Form C.1b, the applicant provides projected utilization, as illustrated in the following table.

Form C.1b Projected Health Service Facility Bed Utilization Harmony at Kernersville	1 st Full FY	2 nd Full FY	3 rd Full FY
	01/01/2028 To 12/31/2028	01/01/2029 To 12/31/2029	01/01/2030 To 12/31/2030
Adult Care Home – All Beds			
Total # of Beds (including SCU)	90	90	90
# of Admissions or Discharges	23	41	47
# of Patient Days	15,246	24,988	30,164
Average Length of Stay	663	609	642
Occupancy Rate	46.3%	76.1%	91.8%
Adult Care Home – Special Care Unit Beds			
Total # of Beds (including SCU)	36	36	36
# of Admissions or Discharges	14	28	31
# of Patient Days	5,818	11,354	12,482
Average Length of Stay	416	406	403
Occupancy Rate	44.2%	86.4%	95.0%

Source: Section Q, page 85

In Section Q, Form C.1b, the applicant provides the assumptions and methodology used to project utilization, which is summarized below.

- The applicant utilized data gathered from Harmony at Brookberry Farm, a very similar facility in Forsyth County developed by the same developer, designed by the same architect, and managed by the same management company to determine the facility’s fill-up rate.
- The applicant referenced the projected utilization based on the total number of beds for Forsyth County reported in the 2023 SMFP for the two years before the pandemic (using the average). See Form C.1b in Section Q as well as Exhibit Q.1.
- In order to get back to pre-pandemic utilization, the bed days would have to increase another 12.24% compared to the most recent data in the SMFP (page 84).

The applicant provides the following annual population growth projected for Forsyth County between 2022 and 2028, according to the NCOSBM population growth data:

Year	Annual Population Growth Age 65 to 74	Annual Population Growth Age 75 to 84	Annual Population Growth Age 85+
2023	1.33%	5.14%	1.66%
2024	1.74%	4.71%	1.34%
2025	2.15%	4.21%	1.10%
2026	1.91%	3.66%	1.68%
2027	1.33%	3.65%	3.23%
2028	1.30%	3.12%	3.61%

Source: Section Q, page 85

The applicant projects the following utilization percentages of intakes based on the population growth projected in the table above. This information is as follows:

Unit	Percentage Intake Ages 65 to 74	Percentage Intake Ages 75 to 84	Percentage Intake Ages 85+
Adult Living (AL)	10.71%	35.71%	53.57%
Special Care Unit (SCU)	7.41%	44.44%	48.15%

Source: Section Q, page 85

In Section C, page 34, the applicant refers to Exhibit Q.1 for a table showing the actual and projected utilization growth for AL beds and SCU beds for Harmony at Brookberry Farm, the facility on which their projections have been based.

In Section Q, Form C1.b, the applicant states:

“The total number of bed days for each month were taken from the AL [ACH] (non-SCU) beds and the SCU beds to determine a fill-up rate using a regression analysis. See Exhibit Q.1 for the utilization growth chart that resulted.”

The applicant projects utilization for the proposed facility, Harmony at Kernersville, based on historical utilization and growth for ACH beds and SCU beds for Harmony at Brookberry Farm, a similar facility. The applicant also accounted for the projections based on the need to stabilize the health services impacted by the COVID-19 pandemic.

Projected utilization is reasonable and adequately supported based on the following:

- The applicant projects utilization based on population growth percentages from NCOSBM.
- The applicant utilizes its experience at a similar facility to project fill-up rates.

Access to Medically Underserved Groups

In Section C, page 39, the applicant states:

“No qualifying individuals from medically underserved [sic] will be treated differently than any other potential resident with regard to the beds designated as available to individuals relying on Medicaid.”

...

“Within the confines of the admissions requirements listed in question L.5 of this application, the facility will not discriminate in any way with regard to gender, sex, race, ethnicity, color, religion, country of origin, marital status, disability, handicap, age, or sexual orientation.”

The applicant provides the estimated percentage for each medically underserved group, as shown in the following table from page 40:

MEDICALLY UNDERSERVED GROUPS	PERCENTAGE OF TOTAL PATIENTS
Low-income persons	11.1%
Racial and ethnic minorities	44.8%
Women	52.4%
Persons with Disabilities	100%
The elderly	100%
Medicare beneficiaries	100%
Medicaid recipients	11.1%

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 providing 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 conforming to this criterion for all the reasons described 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.

C

The applicant proposes to develop a new 90-bed ACH facility in Kernersville, NC, including 36 SCU beds, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons, an existing facility, which the applicant states will permanently close when the new facility is developed.

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

“The current residents of The Ivy at Clemmons will be discharged over the coming weeks. The operators have a resident discharge plan that will ensure that the current residents will be appropriately placed in other local facilities...”

The information is reasonable and adequately supported because in Exhibit D.1(a) and (b), the applicant provides letters from other local facilities that have committed to placing discharged residents from The Ivy at Clemmons in their respective facilities.

Access to Medically Underserved Groups

In Section D, page 44, the applicant states there is a much larger supply of ACH beds in the ‘Clemmons area’ and that two ACH facilities near the current location stated their willingness to admit up to 15 residents each from The Ivy at Clemmons.

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 applicant provides a statement regarding the availability of ACH beds in the Clemmons area.
- The applicant provides letters from local ACH facilities indicating their willingness to admit patients discharged from The Ivy at Clemmons.

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.

C

The applicant proposes to develop a new 90-bed ACH facility in Kernersville, NC, including 36 SCU beds, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons, an existing facility, which the applicant states will permanently close when the new facility is developed.

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 to meet the need. The alternatives considered were:

- Choosing a Different Location – the applicant could have chosen a different location for the new facility; however, this would be less effective because the planned community at Weldon Village affords the proposed facility an opportunity to be located in a residential community which is difficult to find.
- Not Converting 36 ACH Beds to SCU Beds – the applicant could have chosen not to have SCU beds; however, doing so would be more costly in the long run because it would take longer for the ACH beds to fill up and would not allow some of the residents to age in place should they require care in SCU beds.
- Developing the Facility without Independent Living Units – the applicant could have developed a stand-alone adult care home without independent living; however, this would result in an increase in costs because co-locating with an independent living facility affords the ability to share costs such as staff, laundry, and kitchen facilities.

In Section E, page 48, the applicant states that its proposal is the most effective alternative because the facility will be developed in a neighborhood setting and will allow for the ability of the residents to age in place.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the need because the application is conforming to all statutory and regulatory review criteria. Therefore, the application can be approved.

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. Kernersville IL-AL, LLC and Kernersville Operations, LLC, (hereinafter collectively the certificate holder) shall materially comply with all representations made in the certificate of need application.**
- 2. The certificate holder shall develop a new 90-bed ACH facility, including 36 SCU beds, in Kernersville, in Forsyth County, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons in Forsyth County.**
- 3. Upon completion of the project, Harmony at Kernersville shall be licensed for no more than 90 ACH beds.**
- 4. The certificate holder shall certify at least 11.1 percent of the total number of licensed adult care home beds in the facility for recipients of State/County Special Assistance with Medicaid commensurate with representations made in the application.**
- 5. Progress Reports:**
 - a. Pursuant to G.S. 131E-189(a), the certificate holder 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 holder shall complete all sections of the Progress Report Form.**
 - c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.**
 - d. The first progress report shall be due on January 1, 2024.**
- 6. The certificate holder shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.**

- 7. For the first two years of operation following completion of the project, Harmony at Kernersville 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.**
 - 8. Prior to the issuance of the certificate of need, the certificate holder shall obtain documentation from MP Care, LLC (seller) showing that the purchase transaction between the buyer and seller has been completed and shall provide a copy of the documentation to the Healthcare Planning and Certificate of Need Section.**
 - 9. The certificate holder shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant proposes to develop a new 90-bed ACH facility in Kernersville, NC, including 36 SCU beds, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons, 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 following table.

Land Purchase Price	\$1,302,210
Site Preparation	\$579,000
Construction Costs	\$14,073,500
Architect/Engineering Costs	\$367,200
Furniture	\$771,755
Consultant Fees	\$124,020
Financing Costs	\$84,775
Interest during Construction	\$3,818,214
Purchase of 90 ACH Beds	\$1,800,000
Utility Connection Fees	\$136,422
Surveys	\$7,235
Inspections	\$35,139
Site Monitoring	\$28,938
Taxes	\$8,268
Developer Fee	\$927,479
Contingency	\$1,203,208
Total Capital Cost	\$25,267,363

In Section Q, immediately following 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 provided costs and estimates that were prepared by a licensed architect (see Exhibit B.21)
- The applicant provided a copy of the purchase contract for 90 ACH beds in Exhibit C.1c.
- The applicant provided sufficient documentation to support costs for the development of the proposed project.

In Section F, page 51, the applicant projects that start-up costs will be \$320,434 and initial operating expenses will be \$1,773,00 for a total working capital of \$2,093,435. On page 51, 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 based on the following:

- The applicant provided projections for the initial operating period in which the facility would experience negative cash flow.
- The applicant states that the start-up costs were determined by adding up all costs incurred before the first day of operations.

Availability of Funds

In Section F, page 51, the applicant states that the capital cost will be funded, as shown in the table below.

Sources of Capital Cost Financing

Type	Kernersville IL-AL Investors, LLC	Kernersville Operations, LLC	Total
Loans	\$25,267,363	\$0	\$25,267,363
Accumulated reserves or OE *	\$0	\$0	\$0
Bonds	\$0	\$0	\$0
Other (Specify)	\$0	\$0	\$0
Total Financing	\$25,267,363	\$0	\$25,267,363

* OE = Owner's Equity

In Section F.3, page 52, the applicant states that the working capital needs of the project will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	Kernersville IL-AL Investors, LLC	Kernersville Operations, LLC	Total
Loans	\$0	\$0	\$0
Accumulated reserves or OE *	\$0	\$2,093,435	\$2,093,435
Bonds	\$0	\$0	\$0
Other (Specify)	\$0	\$0	\$0
Total Financing	\$0	\$2,093,435	\$2,093,435

* OE = Owner's Equity

On page 53, the applicant states:

“The owners of both applicants will provide all cash required outside of that provided by the loan...”

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

- In Exhibit F.2b, the applicant provides a letter from Synovus Bank expressing their interest in funding 70% of capital costs of the proposed project with a loan of up to \$17,687,154.
- In Exhibit F.2c, the applicant provides a letter from the CPA for owner applicants, James R. Smith and Hunter D. Smith. The letter states that the applicants' equity contribution will be approximately \$17,750,000.

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	21,064	36,342	42,646
Total Gross Revenues	\$4,229,705	\$7,105,446	\$8,725,637
Total Net Revenue	\$4,229,705	\$7,105,446	\$8,725,637
Average Net Revenue per Day	\$201	\$196	\$205
Total Operating Expenses	\$5,871,029	\$6,931,924	\$7,517,165
Average Operating Expense per Day	\$279	\$191	\$176
Net Income	(\$1,641,324)	\$173,522	\$1,208,472

The assumptions used by the applicant in preparation of the proforma financial statements are provided in Section Q, pages 91 and 95-97.

The applicant adequately demonstrates that the financial feasibility of the proposal is reasonable and adequately supported based on the following:

- The applicant relies on its experience at Harmony at Brookberry Farm, current state county assistance rates, and average Personal Care Services hours experienced by The Ivy at Clemmons.
- Projected utilization is based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization in Criterion (3) which is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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 and working capital costs are based on reasonable and adequately supported assumptions for all the reasons described above.
- The applicant adequately demonstrates availability of sufficient funds for the capital and working capital 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.

The applicant proposes to develop a new 90-bed ACH facility in Kernersville, NC, including 36 SCU beds, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons, an existing facility, which the applicant states will permanently close when the new facility is developed.

On page 171, the 2023 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 Forsyth County. Thus, the service area for this project is Forsyth County. Facilities may also serve residents of counties not included in their service area.

The applicant indicates that there is currently a total of 34 facilities in Forsyth County with licensed ACH beds. The table below is a summary of those facilities, from the 2023 SMFP, Chapter 11, Tables 11A and 11E, pages 182-183 and page 210, respectively.

Forsyth County ACH Facilities	Status	ACH Beds
Acordius Health at Winston-Salem	Licensed NF	14
Brighton Gardens of Winston-Salem	Licensed ACH	115
Brookdale Reynolds Road	Licensed ACH	72
Brookdale Winston-Salem	Licensed ACH	38
Brookstone of Clemmons	Licensed ACH	40
C.R.T. Golden Lamb Rest Home	Licensed ACH	40
Cadence at Clemmons	Licensed ACH	96
Clemmons Village I	Licensed ACH	60
Clemmons Village II	Licensed ACH	66
Creekside Manor	Licensed ACH	60
Forest Heights Senior Living Community	Licensed ACH	125
Harmony at Brookberry Farm	Licensed ACH	121
Homestead Hills Assisted Living	Licensed ACH	66
Kerner Ridge Assisted Living	Licensed ACH	66
Magnolia Creek Assisted Living	Licensed ACH	117
Memory Care of Triad	Licensed ACH	42
Salem Terrace Assisted Living and Memory Care	Licensed CCRC*	142
Salemtowne	Licensed ACH	46
Shuler Health Care/Crane Villa	Licensed ACH	12
Shuler Health Care/Phillips Villa	Licensed ACH	12
Shuler Health Care/Pierce Villa	Licensed ACH	12
Shuler Health Care/Record Villa	Licensed ACH	12
Shuler Health Care/Storey Villa	Licensed ACH	12
Somerset Court at University Place	Licensed ACH	60
Southfork	Licensed ACH	78
The Bradford Village of Kernersville – West	Licensed ACH	62
The Ivy at Clemmons	Licensed ACH	90
The Southwood	Licensed ACH	100
Tranquility Care	Licensed ACH	60
Trinity Elms	Licensed ACH	104
Verra Springs at Heritage Woods	Licensed ACH	29
Vienna Village	Licensed ACH	90
Arbor Acres United Methodist Retirement Community, Inc.	Licensed CCRC*	106
Brookridge Retirement Community	Licensed CCRC*	36
Salemtowne	Licensed CCRC*	20

*CCRC is a Continuing Care Retirement Community

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 Forsyth County. The applicant states:

“...the 2023 SMFP, the Forsyth County occupancy rate for adult care homes beds was 80.07%. This number is artificially low due to lowered pandemic admissions rates.

...

By the time the proposed facility opens in 2028, the effects of the pandemic will have worn off and the population will have grown even further.

...

...it would follow that the opening of the proposed facility would not only not be an unnecessary duplication of beds but would be a relief valve for the building occupancy in that part of the 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 in Forsyth County.
- The applicant adequately demonstrates that the proposed project is needed, particularly in the area of the county it proposes to relocate them.

Conclusion

The Agency reviewed the:

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

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

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

C

The applicant proposes to develop a new 90-bed ACH facility in Kernersville, NC, including 36 SCU beds, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons, an existing facility, which the applicant states will permanently close when the new facility is developed.

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

POSITION	CURRENT FTE STAFF 12/31/2022	PROJECTED FTE STAFF 2 ND FULL FISCAL YEAR
Certified Nurse Aides/Nursing Assistants	21.06	18.67
Alzheimer's Coordinator	0.00	1.00
Dining Services Manager	1.00	0.50
Cooks	2.81	3.58
Dietary Aides	1.41	5.92
Dishwasher	0.00	1.50
Activities Director	1.00	0.50
Activities Assistant	0.00	0.50
Housekeeping	5.61	3.00
Maintenance Director	1.00	0.50
Maintenance Tech	0.00	0.50
Administrator/CEO	1.00	0.50
Business Office	1.00	0.50
Registered Nurse	1.00	0.00
LPNs	0.00	4.00
Healthcare Coordinator	0.00	1.00
Housekeeping Manager	0.00	0.50
Marketing Director	1.00	0.50
Marketing Assistant	0.00	0.50
Medication Technicians	1.00	8.95
Scheduler	1.00	0.00
Van Driver	1.41	0.50
Total	41.30	53.12

The assumptions and methodology used to project staffing are provided in Section Q immediately following 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, page 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 90-bed ACH facility in Kernersville, NC, including 36 SCU beds, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons, an existing facility, which the applicant states will permanently close when the new facility is developed.

Ancillary and Support Services

In Section I, page 63, the applicant identifies the necessary ancillary and support services for the proposed ACH services. On page 64, the applicant explains how each ancillary and support service is or will be made available and provides supporting documentation in Exhibit I-2.

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 Forsyth County and how these services will be made available.

Coordination

In Section I, pages 63-64, the applicant describes its efforts to develop 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 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.

C

The applicant proposes to develop a new 90-bed ACH facility in Kernersville, NC, including 36 SCU beds, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons, an existing facility, which the applicant states will permanently close when the new facility is developed.

In Section K, page 66, the applicant states that the project involves constructing 80,420 square feet of new space. Line drawings are provided in Exhibit K-1.

On pages 67-68, the applicant identifies the proposed site and provides information about the current owner, zoning and special use permits for the site, and the availability of water, sewer and waste disposal and power at the site. Supporting documentation is provided in Exhibits K.4c(1) and K.4c(2). The site appears to be suitable for the proposed ACH based on the applicant's representations and supporting documentation.

On page 66, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal based on the following:

- the applicant states that the efficiency of design will lower construction costs as well as maintenance costs in subsequent years of operation.
- the applicant states that unnecessarily expensive construction could drive down revenue and increase maintenance costs.

On page 67, the applicant adequately explains 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 proposed location is in close proximity to an existing independent living facility which means support staff can be shared, streamlining costs.
- Due to the close proximity, rooms, and expensive equipment can be shared which further reduces costs because sharing such resources eliminates the need for additional square footage.

In Section K, page 67, 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 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

Harmony at Kernersville is not an existing facility; thus, it has no historical data to report. However, Kernersville Operations, LLC operates The Ivy at Clemmons, the existing facility in Forsyth County from which the ACH beds will be relocated. In Section L, page 71, the applicant provides a table showing the most recent payor mix at The Ivy at Clemmons, as shown below.

**The Ivy at Clemmons Historical Payor Mix
 8/1/2021-7/31/2022**

PAYOR CATEGORY	ACH SERVICES AS % OF TOTAL
Self-pay	42.1%
Medicaid*	57.9%
Total	100.00%

*Including any managed care plans

In Section L, page 72, the applicant provides the following comparison.

THE IVY AT CLEMMONS	PERCENTAGE OF TOTAL PATIENTS SERVED BY THE FACILITY	PERCENTAGE OF THE POPULATION IN THE SERVICE AREA
Female	62.5%	52.4%
Male	37.5%	47.6%
Unknown	0.0%	0.0%
64 and Younger	39.6%	83.3%
65 and Older	60.4%	16.7%
American Indian	0.0%	1.0%
Asian	0.0%	2.7%
Black or African-American	0.0%	27.8%
Native Hawaiian or Pacific Islander	0.0%	0.2%
White or Caucasian	0.0%	65.9%
Other Race	0.0%	2.5%

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;

C

Regarding any obligation to provide uncompensated care, community service or access by minorities and persons with disabilities, in Section L, page 72, the applicant indicates that no such obligation exists.

In Section, L, page 72, the applicant states that during the 18 months immediately preceding the application deadline, 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, page 73, the applicant projects the following payor mix for the proposed services during the third full fiscal year of operation following completion of the project, as shown in the table below.

PAYOR CATEGORY	PERCENTAGE OF TOTAL PATIENTS SERVED
Self-Pay	88.9%
Medicaid	11.1%
Total	100.0%

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 88.9% of total services will be provided to self-pay patients and 11.1% to Medicaid patients.

On page 73, 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 reasonably assumes that the payor source by percentage of total patients served will equal the payor source proportionate to the total number of patient days for the third full fiscal year.
- The applicant reasonably assumes that the proportion of residents relying on Medicaid will remain the same as the proportion of beds available for the third full fiscal year.

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.

- (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, page 74, 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 90-bed ACH facility in Kernersville, NC, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons, an existing facility, which the applicant states will permanently close when the new facility is developed.

In Section M, page 76, the applicant describes the extent to which area health professional training programs in the area 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 will offer the facility as a clinical learning site for students in and around Forsyth County.
- In Exhibit M-1, the applicant includes two letters from Forsyth Technical Community College and Guilford Technical Community College offering the facility as a clinical training site.

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.

- (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 90-bed ACH facility in Kernersville, NC, including 36 SCU beds, by relocating 90 existing, licensed ACH beds from The Ivy at Clemmons, an existing facility, which the applicant states will permanently close when the new facility is developed.

On page 171, the 2023 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 Forsyth County. Thus, the service area for this project is Forsyth County. Facilities may also serve residents of counties not included in their service area. The table below shows other facilities in Forsyth County.

Forsyth County ACH Facilities	Status	ACH Beds
Acordius Health at Winston-Salem	Licensed NF	14
Brighton Gardens of Winston-Salem	Licensed ACH	115
Brookdale Reynolds Road	Licensed ACH	72
Brookdale Winston-Salem	Licensed ACH	38
Brookstone of Clemmons	Licensed ACH	40
C.R.T. Golden Lamb Rest Home	Licensed ACH	40
Cadence at Clemmons	Licensed ACH	96
Clemmons Village I	Licensed ACH	60
Clemmons Village II	Licensed ACH	66
Creeside Manor	Licensed ACH	60
Forest Heights Senior Living Community	Licensed ACH	125
Harmony at Brookberry Farm	Licensed ACH	121
Homestead Hills Assisted Living	Licensed ACH	66
Kerner Ridge Assisted Living	Licensed ACH	66
Magnolia Creek Assisted Living	Licensed ACH	117
Memory Care of Triad	Licensed ACH	42
Salem Terrace Assisted Living and Memory Care	Licensed CCRC*	142
Salemtowne	Licensed ACH	46
Shuler Health Care/Crane Villa	Licensed ACH	12
Shuler Health Care/Phillips Villa	Licensed ACH	12
Shuler Health Care/Pierce Villa	Licensed ACH	12
Shuler Health Care/Record Villa	Licensed ACH	12
Shuler Health Care/Storey Villa	Licensed ACH	12
Somerset Court at University Place	Licensed ACH	60
Southfork	Licensed ACH	78
The Bradford Village of Kernersville – West	Licensed ACH	62
The Ivy at Clemmons	Licensed ACH	90
The Southwood	Licensed ACH	100
Tranquility Care	Licensed ACH	60
Trinity Elms	Licensed ACH	104
Verra Springs at Heritage Woods	Licensed ACH	29
Vienna Village	Licensed ACH	90
Arbor Acres United Methodist Retirement Community, Inc.	Licensed CCRC*	106
Brookridge Retirement Community	Licensed CCRC*	36
Salemtowne	Licensed CCRC*	20

*CCRC is a Continuing Care Retirement Community

Regarding the expected effects of the proposal on competition in the service area, in Section N, page 77, the applicant states:

“Because the applicants believe the need for more ACH beds exists in the Kernersville Area of Forsyth County, this proposal should not cause utilization to be negatively affected in competing adult care homes in the Kernersville Area in a drastic way.”

Regarding the impact of the proposal on cost effectiveness, in Section N, page 77, the applicant states:

“By reducing the number of non-SCU beds in Forsyth County overall, this provides an opportunity for competing facilities with non-SCU beds to increase utilization, and, in turn, have better cashflow.”

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

Regarding the impact of the proposal on quality, in Section N, page 77, the applicant states:

“...increased competition can increase the quality of care among special care units in general...”

See also Section O of the application and any exhibits.

Regarding the impact of the proposal on access by medically underserved groups, in Section N, page 77, the applicant states:

“By allowing Medicaid recipients to access some of the SCU beds, this proposal increases the number of overall SCU beds in the county available to Medicaid recipients.”

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

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

- 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.
- 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.
- 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

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

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

In Section Q, Form O Facilities, the applicant identifies the adult care homes located in North Carolina owned, operated or managed by the applicant or a related entity. The applicant identifies a total of four facilities of this type located in North Carolina.

In Section O, page 80, the applicant states that during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in none of these facilities.

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; however, the facility is now back in compliance. 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 four 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 applicant proposes to relocate 90 existing licensed ACH beds, including 36 SCU beds, from The Ivy at Clemmons to develop a new facility in Kernersville. The Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C.1100 are not applicable because they do not apply to a proposal to relocate existing licensed adult care home beds.