

## REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: August 21, 2024

Findings Date: August 21, 2024

Project Analyst: Ena Lightbourne

Co-Signer: Lisa Pittman

Project ID #: J-12501-24

Facility: Chatham County Rehabilitation Center

FID #: 130367

County: Chatham

Applicant(s): Liberty Healthcare Properties of Chatham County, LLC

Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC

Project: Change of scope and cost overrun for Project ID # J-11656-19, Project ID # J-11378-17, and Project ID # J-10168-13 to relocate no more than 15 NF beds from Warren Hills Nursing Center and no more than 18 NF beds from Oak Forest Health and Rehabilitation pursuant to Policy NH-6 for a total of no more than 138 NF beds upon project completion

### REVIEW CRITERIA

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

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

C

Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC (hereinafter collectively referred to as “the applicant”) propose a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 adult care homes (ACH) beds from Liberty Commons in Halifax County and 20 ACH beds from Liberty Commons Nursing and Rehab Center in Columbus County to Chatham County Rehabilitation Center for a total of no more than 105 nursing facility (NF) beds and 36 ACH beds upon project completion) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13

(Develop 90 NF beds) for a total of no more than 115 NF beds upon completion of both projects) to relocate no more than 15 NF beds from Warren Hills Nursing Center (“Warren Hills”) in Warren County and no more than 18 NF beds from Oak Forest Health and Rehabilitation (“Oak Forest”) in Forsyth County pursuant to Policy NH-6, for a total of no more than 138 NF beds upon project completion.

On November 1, 2018, the applicant was issued a Material Compliance approval for Project J-11378-17 to reduce the number of relocated NF beds from 25 to 15 NF beds. On March 27, 2024, the applicant was issued a Material Compliance approval for Project ID# J-12246-22 (Change of Scope and Cost Overrun for Project ID # J-11656-19) to separate the 36 ACH beds and develop the project as a stand-alone ACH facility.

The current application proposes a capital cost increase of \$14,344,386 for a total combined expenditure of \$35,022,599 for this project and Project ID#s J-11656-19, J-11378-17, and J-10168-13. In Section K, page 76, the applicant states that the increase in capital expenditure is due to the significant increase in the cost of construction labor and materials.

### **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 2024 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

### **Policies**

There are two policies in the 2024 SMFP which are applicable to this review: *Policy NH-6: Relocation of Nursing Facility Beds* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

**Policy NH-6: Relocation of Nursing Facility Beds**, on page 24 of the 2024 SMFP states:

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

- 1. demonstrate that the proposal shall not result in a deficit, or increase an existing deficit in the number of licensed nursing home facility beds in the county that would be losing nursing home facility beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins; and*
- 2. demonstrate that the proposal shall not result in a surplus or increase an existing surplus of licensed nursing home facility beds in the county that would gain nursing home facility beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

In Section B, page 25, the applicant demonstrates how the proposal would not result in a deficit in the counties losing NF beds and a surplus in the county gaining NF beds.

**Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities**, on page 30 of the 2024 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. In Section B, page 26, the applicant describes its plan to assure improved energy efficiency and water conservation.

## **Conclusion**

The Agency reviewed the:

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

Based on that review, the Agency concludes that the application is conforming to this criterion based on the following:

- The applicant does not propose to develop any beds, services, or equipment for which there is a need determination in the 2024 SMFP.
- The applicant adequately demonstrates that the proposal is consistent with Policies NH-6, and Policy GEN-4 based on the following:

- The applicant adequately demonstrates that the proposal is consistent with Policy NH-6 because the proposed project will not result in a deficit, or increase an existing deficit in the number of licensed NF beds in the county that would be losing NF beds as a result of the proposed project, and the proposal shall not result in a surplus or increase an existing surplus of licensed NF beds in the county that would gain NF beds.
  - The applicant adequately demonstrates that the application includes a written statement describing the project's plan to ensure improved energy efficiency and water conservation.
- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, ... persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.

## C

The applicant proposes a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills and no more than 18 NF beds from Oak Forest for a total of no more than 138 NF beds upon project completion.

On page 141, the 2024 SMFP defines the service area for nursing facility beds as: *“A nursing home facility’s service area is the county in which the bed is located. Each of the 100 counties in the state is a separate service area.”* Chatham County Rehabilitation Center is located in Chatham County. Thus, the service area for this facility consists of Chatham County. Facilities may also serve residents of counties not included in their service area.

Chatham County Rehabilitation Center is not an existing facility. Therefore, there is no historical patient origin to report. The following table illustrates projected patient origin.

Chatham County Rehabilitation Center Projected Patient Origin						
County	1 <sup>st</sup> Full FY		2 <sup>nd</sup> Full FY		3 <sup>rd</sup> Full FY	
	10/1/26-9/30/27		10/1/27-9/30/28		10/1/26-9/30/27	
	FY2027		FY2028		FY2029	
	Patients	% of Total	Patients	% of Total	Patients	% of Total
Chatham	164	70.39%	286	71.50%	325	72.22%
Lee	19	8.15%	35	8.75%	38	8.44%
Randolph	11	4.72%	15	3.75%	17	3.78%
Wake	11	4.72%	15	3.75%	17	3.78%
Alamance	5	2.15%	8	2.00%	9	2.00%
Orange	19	8.15%	35	8.75%	38	8.44%
Durham	4	1.72%	6	1.50%	6	1.33%
<b>Total</b>	<b>233</b>	<b>100.00%</b>	<b>400</b>	<b>100.00%</b>	<b>450</b>	<b>100.00%</b>

Section C, pages 44-45

In Section C, page 45, 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:

- The applicant projects patient origin based on the 2022 patient origin data (2023 reports) of existing nursing facilities within the service area counties and the patients county of resident at the time of admission.
- Projected patient origin is based on the demonstrated need for the proposed project, such as the projected growth in the 65 and older population in the service area.

**Analysis of Need**

In Section C, pages 39-43, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services, as summarized below.

- The historical growth of the 65 and older population in the Chatham County service area. (page 39-40)
- The relocation of the underutilized NF beds from Warren Hills and Oak Forest would allow these facilities to operate more efficiently and better serve their residents. (pages 40-42)
- The benefits of creating two separate facilities for ACH and NF, as a result of this project and a Material Compliance approval for Project ID# J-12246-22 (Separate the 36 ACH beds and develop the project as a stand-alone ACH facility). (page 42)
- The proposed project will allow Warren Hills and Oak Forest to develop much-demanded private rooms to better serve their residents. (page 43)
- The growing demand for senior services will give Liberty the opportunity to develop facilities alongside age-restricted communities which will allow patients to transition within their community. (page 43)

The information is reasonable and adequately supported based on the following

- The applicant demonstrates need based on data from Spotlight Pop-Facts by Environics, which illustrates that Chatham County’s total population of seniors (aged 65 and older and the age cohort most likely to utilize NF beds) has increased by over 20 percent from 2020 to 2024.
- The applicant adequately demonstrates that the relocation of the underutilized beds from Warren Hills and Oak Forest would be better served at Chatham County rehabilitation Center and provides supporting documentation of the facilities’ historical utilization.

Projected Utilization

In Section Q, page 93, the applicant provides historical and projected utilization, as illustrated in the following table.

<b>Chatham County Rehabilitation Center Projected Utilization</b>			
	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>
Total # of Beds	138	138	138
# of Admissions	233	400	450
# of Patient Days	20,776	39,484	46,759
Average Length of Stay (ALOS)	89.17	98.71	103.91
Occupancy rate	41.2%	78.4%	92.8%

In Section Q, page 94, the applicant provides the assumptions and methodology used to project utilization, which is summarized below.

- The applicant states that the utilization projections for the NF beds remain unchanged from the original approved application.
- In the original application, the applicant projects utilization using the net average fill-up rate of Summerstone Health and Rehab Center because of the similarities to Chatham County Rehab Center. According to the most recent License Renewal Application, Summerstone is a stand-alone nursing facility licensed for 120 NF beds. On page 94, the applicant states that utilization assumptions used in the original application are still accurate for this application.
- The applicant relied on the most recent census data of other facilities operated by Liberty in Chatham County and on the projected demographic trends in the service area.

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

- The applicant relied on the historical utilization of a similar nursing facility operated by Liberty.
- The applicant relied on census data from other Liberty operated facilities, its experience operating nursing facilities, and the applicant’s projected need.

**Access to Medically Underserved Groups**

In Section C, page 47, the applicant states:

*“The Applicants are projecting serving 28,366 Medicaid recipient days for the third full fiscal year. That projection amounts to a total projection of 60.66% Medicaid residents of the total served. The Applicants have defined low income persons as Medicaid recipients.*

*According to the CDC National Center for Health Statistics, 83.1% of nursing home residents are 65 years of age or older. Also, according to the CDC National Center for Health Statistics, 59.0% of short-stay residents and 66.6% of long-stay residents were women. These totals align with Liberty’s prior experience operating NF facilities.*

*The Applicants are projecting to serve 22.12% Medicare patients for the NF beds.*

*The current license renewal process does not require a report on the race of persons served. Therefore, Liberty does not have the statistics on these patients served at affiliated communities and therefore cannot provide a correct estimate on the percentage of total patients from these groups that will be served...services provided will be non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis.”*

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

<b>Medically Underserved Groups</b>	<b>Percentage of Total Patients</b>
Low-income persons*	60.66%
Racial and ethnic minorities	N/A
Women	65.00%
Persons with Disabilities	100.00%
Persons 65 and Older	85.00%
Medicare beneficiaries	22.12%
Medicaid recipients	60.66%

Source: Section C, page 47

\*The applicant identifies low-income persons as Medicaid recipients.

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.

## Conclusion

The Agency reviewed the:

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

Based on that review, the Agency concludes that the application is conforming to this criterion for 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 a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills Nursing Center and no more than 18 NF beds from Oak Forest Health and Rehab for a total of no more than 138 NF beds upon project completion.

In Section D, pages 52-53, the applicant explains why it believes the needs of the population presently utilizing the services to be reduced will be adequately met following completion of the project. On pages 52-53, the applicant states:

*“The 15 SNF beds from Warren Hills and 18 SNF beds from Oak Forest proposed to be transferred are all currently underutilized and not in service. These 33 total NF beds are currently underutilized, with Warren Hills nursing bed average census being 83 residents, and Oak Forest’s nursing bed average census being 133.”*

The information is reasonable and adequately supported because the applicant is relocating beds that are underutilized, therefore, the proposed project would not affect the needs of the facility’s residents. In Exhibit D.3, the applicant provides a letter from Liberty Health documenting their support for the project and confirmation of the underutilized beds at Warrens Hills and Oak Forest.

In Section Q, pages 95-96, the applicant provides historical and projected utilization, as illustrated in the following tables.



<b>Warren Hills Nursing Center Historical and Projected Utilization</b>					
	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
<b>NF Beds</b>					
Total # of Beds	140	140	140	140	100
# of Admissions	212	208	208	208	208
# of Patient Days	30,283	30,253	30,253	30,253	30,253
Average Length of Stay (ALOS)	142.84	145.45	145.45	145.45	145.45
Occupancy rate	59.26%	59.20%	59.20%	59.20%	82.88%
<b>ACH Beds</b>					
Total # of Beds	20	20	20	20	20
# of Admissions	14	16	16	16	16
# of Patient Days	4,739	4,293	4,293	4,293	4,293
Average Length of Stay (ALOS)	338.50	268.31	268.31	268.31	268.31
Occupancy rate	64.92%	58.81%	58.81%	58.81%	58.81%

<b>Oak Forest Health and Rehabilitation Historical and Projected Utilization</b>					
	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
<b>NF Beds</b>					
Total # of Beds	170	170	170	170	152
# of Admissions	492	516	516	516	516
# of Patient Days	48,722	48,146	48,146	48,146	48,146
Average Length of Stay (ALOS)	99.03	93.31	93.31	93.31	93.31
Occupancy rate	78.52%	77.59%	77.59%	77.59%	86.68%

In Section Q, page 97, the applicant provides the assumptions and methodology used to project utilization. The applicant projects utilization using the average 3-year (2021-2023) facility census and admissions for Warren Hills and Oak Forest. The applicant projects that admissions, patient days and occupancy rates will remain constant from FY2024 through FY2026, prior to the relocation of the NF beds. Projected utilization is reasonable and adequately supported.

**Access to Medically Underserved Groups**

In Section D, page 53, the applicant states:

*“The 15 SNF beds from Warren Hills and 18 SNF beds from Oak Forest proposed to be transferred are all currently underutilized and not in service. Additionally, according to the 2023 fiscal year data for Warren Hills and Oak Forest, 25,745 (85%), and 35,529 (73%) of the total census days were reimbursed by Medicaid, respectively. Warren Hills and Oak Forest have and will continue to support access to the groups...”*

The applicant adequately demonstrates that the needs of medically underserved groups that will continue to use NF and ACH beds will be adequately met following completion of the project because the applicant is proposing to relocate beds that are currently not in use. The relocation of the underutilized beds would allow the facilities to serve their residents more efficiently and allow the facility to create space to meet the growing demand for more private rooms.

### **Conclusion**

The Agency reviewed the:

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

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately demonstrates that the 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.

CA

The applicant proposes a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills and no more than 18 NF beds from Oak Forest for a total of no more than 138 NF beds upon project completion.

In Section E, page 56, 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:

Maintain the Status Quo-The applicant considered this alternative but dismissed it because the applicant is proposing to relocate beds that are currently underutilized. The applicant states that relocating these beds would allow the facilities losing beds to operate more efficiently and better serve their residents.

Develop the SNF Beds in Another Location/County-The applicant states that this alternative is not cost-effective. Iredell County has the largest bed deficit without a need determination according to the 2024 SMFP. Constructing an 89-bed facility in Iredell County would not be financially feasible because of the applicant's commitment and investment in the previously approved projects and its commitment to optimizing cost-effectiveness.

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

- The applicant is proposing to meet the need for NF beds in Chatham County while allowing the facilities that are losing the underutilized beds to operate more efficiently.
- The applicant provides reasonable information to explain why it believes the proposed project is the most effective alternative.
- The application is conforming to all other statutory and regulatory review criteria. Therefore, the application can be approved.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

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. Liberty Healthcare Properties of Chatham County, LLC and Liberty Commons Nursing and Rehabilitation Center of Chatham County, LLC (hereinafter certificate holder) shall materially comply with all representations made in the certificate of need application.**
- 2. The certificate holder shall relocate no more than 15 nursing facility beds from Warren Hills Nursing Center in Warren County and no more than 18 nursing facility beds from Oak Forest Health and Rehabilitation in Forsyth County pursuant to Policy NH-6, for a total of no more than 138 NF beds at Chatham County**

**Rehabilitation Center upon completion of this project and Project ID#s J-11656-19, J-11378-17, and J-10168-13.**

- 3. Upon completion of the project, Chatham County Rehabilitation Center shall be licensed for no more than 138 nursing facility beds.**
- 4. Upon completion of this project the certificate holder shall take the necessary steps to delicense 15 nursing facility beds from Warren Hills Nursing Center in Warren County, and 18 nursing facility beds from Oak Forest Health and Rehabilitation in Forsyth County for a total of no more than 33 nursing facility beds.**
- 5. The certificate holder shall certify at least 60 percent of the total number of licensed nursing home beds in the facility for participation in the Medicaid program and shall provide care to Medicaid recipients commensurate with representations made in the application.**
- 6. For the first two years of operation following completion of the project, the certificate holder shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
- 7. The certificate holder shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.**
- 8. Progress Reports:**
  - a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.**
  - b. The certificate holder shall complete all sections of the Progress Report form.**
  - c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.**
  - d. The first progress report shall be due on April 1, 2025.**
- 9. The certificate holder shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.**

**10. The certificate holder shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**

- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant proposes a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills and no more than 18 NF beds from Oak Forest for a total of no more than 138 NF beds upon project completion.

**Capital and Working Capital Costs**

In Section Q, page 98, the applicant projects the total capital cost of the project, as shown in the table below.

<b>Chatham Couty Rehabilitation Center Previously Approved &amp; Proposed Capital Cost</b>			
	<b>Previously Approved (J-11656-19, J-11378-17, J-10168-13)</b>	<b>New Combined Total Projected Capital Cost</b>	<b>Difference (J-12501-24)</b>
Purchase Price of Land	\$3,000,000	\$3,019,592	\$19,592
Closing Costs	\$20,000	\$30,196	\$10,196
Site Preparation	\$1,527,513	\$3,474,148	\$1,946,635
Construction/Renovation Contract(s)	\$14,269,200	\$19,093,480	4,824,280
Architect/Engineering Fees	\$300,000	\$450,000	\$150,000
Non-Medical Equipment	\$0	\$600,000	\$600,000
Furniture	\$1,410,000	\$1,553,411	\$143,411
Consultant Fees (Legal/professional)	\$151,500	\$1,551,916	\$1,400,416
Other (Contingency)	\$0	\$2,256,763	\$2,256,763
Other (License / Fees / Permits)	\$0	\$1,325,350	\$1,325,350
Other (Developer Fee)	\$0	\$1,667,743	\$1,667,743
<b>Total Capital Cost</b>	<b>\$20,678,213</b>	<b>\$35,022,599</b>	<b>\$14,344,386</b>

In Section C, page 44, 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 projects capital cost based on the market increase in the costs for land, closing costs, site prep, construction, and architect/engineering fees.

- In Exhibit K.5.3, the applicant provides the architect’s construction cost verification estimate.

In the previously approved application, Project ID# J-11656-19, the applicant projected that start-up costs will be \$232,885 and initial operating expenses will be \$1,067,004 for a total working capital of \$1,299,888. On page 66, the applicant states that this project does not propose an increase in the working capital costs.

In Section F, page 64, the applicant states that the capital cost will be funded, as shown in the table below.

**Sources of Capital Cost Financing**

Type	Liberty Healthcare Properties of Chatham County, LLC	Total
Loans	\$0	\$0
Accumulated reserves or OE *	\$14,344,386	\$14,344,386
Bonds	\$0	\$0
Other (Specify)	\$0	\$0
<b>Total Financing</b>	<b>\$14,344,386</b>	<b>\$14,344,386</b>

In Section F, page 65, the applicant states that the capital and working capital costs will be financed by the equity of John A. McNeill, Jr. and Ronald B. McNeill, owners of the applicant. In Exhibit F.5, the applicant provides a letter dated April 8, 2024, from John A. McNeill, Jr. and Ronald B. McNeill expressing their intention to fund the capital costs for the proposed project. Exhibit F.5 includes a letter from the chief financial officer of Liberty Healthcare Management Inc., attesting that Liberty has sufficient cash and assets to fund the project. The applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the proposed project.

**Financial Feasibility**

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

Chatham County Rehabilitation Center	1 <sup>st</sup> Full FY FY 2027	2 <sup>nd</sup> Full FY FY 2028	3 <sup>rd</sup> Full FY FY 2029
Total Patient Days	20,776	39,484	46,759
Total Gross Revenues (Charges)	\$7,786,637	\$14,644,860	\$17,706,481
Total Net Revenue	\$7,689,304	\$14,461,799	\$17,485,150
Average Net Revenue per Patient Day	\$370	\$366	\$374
Total Operating Expenses (Costs)	\$9,694,424	\$14,584,486	\$15,984,699
Average Operating Expense per Patient Day	\$467	\$369	\$342
Net Income	(\$2,005,120)	(\$122,687)	\$1,500,451

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

- The applicant projects revenues, net income, and operating expenses based on the historical operation and facility census of existing Liberty facilities and the applicant's experience with operating nursing facilities across the state.
- The applicant accounts for 5% inflation related to patient care cost, the expansion of the workforce to accommodate facility growth, and Chatham County population and demographic data.
- 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.

### C

The applicant proposes a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills and no more than 18 NF beds from Oak Forest for a total of no more than 138 NF beds upon project completion.

On page 141, the 2024 SMFP defines the service area for nursing facility beds as: “A nursing home facility’s service area is the county in which the bed is located. Each of the 100 counties in the state is a separate service area.” Chatham County Rehabilitation Center is located in Chatham County. Thus, the service area for this facility consists of Chatham County. Facilities may also serve residents of counties not included in their service area.

Table 10A on page 149 of the 2024 SMFP shows a total of 525 existing and approved NF beds in Chatham County, as summarized in the table below.

<b>Chatham County Inventory of Existing/Approved NF Beds</b>				
<b>Facility</b>	<b>Total Licensed NF Beds</b>	<b>CON Bed Transfer</b>	<b>Total Available Beds</b>	<b>Total Planning Inventory</b>
Carolina Meadows Health Center	90	0	90	0
Chatham County Rehabilitation Center	0	15	105	105
Siler City Center	150	0	150	150
The Arbor	40	0	40	0
The Laurels of Chatham	140	0	140	140
<b>Total</b>	<b>420</b>	<b>15</b>	<b>525</b>	<b>395</b>

In Section G, pages 67-68, the applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved nursing facility services in Chatham County. The applicant states:

*“The proposed project plans to relocate 15 SNF beds from Warren Hills (Warren County) and 18 SNF beds from Oak Forest (Forsyth County) to Chatham County Rehabilitation Center (Chatham County).*

...

*Thus, transferring these 33 total SNF beds from the various counties to Chatham County will not result in a surplus or deficit or increase an existing surplus or deficit in the number of licensed NF beds in Warren, Forsyth, or Chatham County. As a result ...Warren, Forsyth, and Chatham Counties would not have a surplus or deficit or increase an existing surplus or deficit in the number of licensed NF beds in the county that would be losing or the county that would gain the NF beds as a result of the proposal.”*

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 applicant is proposing to relocate beds from two counties that have a surplus of NF beds that is higher than the number of beds to be relocated, therefore, it would not result in a deficit or surplus in either county.
- The relocation of the 33 NF beds will reduce the Chatham County NF bed deficit.
- The applicant adequately demonstrates that the proposed NF beds are needed in addition to the existing or approved NF beds.



## **Conclusion**

The Agency reviewed the:

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

Based on that review, the Agency concludes that the application is conforming to this criterion for 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 a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills and no more than 18 NF beds from Oak Forest for a total of no more than 138 NF beds upon project completion.

The applications for Project ID#s J-11656-19, J-11378-17, and J-10168-13 adequately demonstrated the availability of resources, including health manpower and management personnel to provide the proposed services and no changes are proposed in this application which would affect that determination.

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

C

The applicant proposes a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills and no more than 18 NF beds from Oak Forest for a total of no more than 138 NF beds upon project completion.

The applications for Project ID#s J-11656-19, J-11378-17, and J-10168-13 adequately demonstrated the availability of the ancillary and support services necessary to the provision

of the proposed services and adequately demonstrated the proposed services would be coordinated with the existing healthcare system and no changes are proposed in this application which would affect that determination.

- (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 a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills and no more than 18 NF beds from Oak Forest for a total of no more than 138 NF beds upon project completion.

In Section K, page 76, the applicant states that the project involves constructing 71,780 square feet of new space. Line drawings are provided in Exhibit K.5.1.

On page 76, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal based on the architect's cost estimates and accounting for the market increase in construction and other related costs.

On page 76, 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 because cost estimates are based on the current market cost to develop the project.

On page 77, the applicant states that in the application for Project ID# J-11656-19, the applicant identified applicable energy saving features that will be incorporated into the construction plans and no changes are proposed in this application.

### **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

The applications for Project ID#s J-11656-19, J-11378-17, and J-10168-13 adequately demonstrated 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 and no changes are proposed in this application which would affect that determination.

- (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

The applications for Project ID#s J-11656-19, J-11378-17, and J-10168-13 were conforming to this criterion and no changes are proposed in this application which would affect that determination.

- (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

The applications for Project ID#s J-11656-19, J-11378-17, and J-10168-13 adequately demonstrated 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 no changes are proposed in this application which would affect that determination.

- (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

The applications for Project ID#s J-11656-19, J-11378-17, and J-10168-13 adequately demonstrated how the applicant will offer a range of means by which a person will have access to its services and no changes are proposed in this application which would affect that determination.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

The applicant proposes a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills and no more than 18 NF beds from Oak Forest for a total of no more than 138 NF beds upon project completion.

The applications for Project ID#s J-11656-19, J-11378-17, and J-10168-13 adequately demonstrated that the proposed health services will accommodate the clinical needs of health professional training programs in the area and no changes are proposed in this application which would affect that determination.

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

C

The applicant proposes a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills and no more than 18 NF beds from Oak Forest for a total of no more than 138 NF beds upon project completion.

Table 10A on page 149 of the 2024 SMFP shows a total of 525 existing and approved NF beds in Chatham County. The table below summarizes the existing and approved NFs and beds as shown in the 2024 SMFP.

<b>Chatham County Inventory of Existing/Approved NF Beds</b>				
<b>Facility</b>	<b>Total Licensed NF Beds</b>	<b>CON Bed Transfer</b>	<b>Total Available Beds</b>	<b>Total Planning Inventory</b>
Carolina Meadows Health Center	90	0	90	0
Chatham County Rehabilitation Center	0	15	105	105
Siler City Center	150	0	150	150
The Arbor	40	0	40	0
The Laurels of Chatham	140	0	140	140
<b>Total</b>	<b>420</b>	<b>15</b>	<b>525</b>	<b>395</b>

Regarding the expected effects of the proposal on competition in the service area, in Section N, page 84, the applicant states:

*“Chatham County Rehabilitation Center will still be a brand new, state-of-the-art highly rated and operationally efficient facility that we project to become a quick choice for county residents. We expect this facility will encourage operators of other county facilities to evaluate the care and quality of their facilities and to improve and up fit where possible to remain competitive in the marketplace.”*

Regarding the impact of the proposal on cost effectiveness, in Section N, page 85, the applicant states:

*“The proposed project still anticipates offering rates that are competitive to surrounding facilities.”*

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 85, the applicant states:

*“Chatham County Rehabilitation Center will still be a brand new, state-of-the-art highly rated and operationally efficient facility that we project to become a quick choice for county residents.”*

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 85, the applicant states:

*“Chatham County Rehabilitation Center will allow admissions only on the written order of a physician. Persons whose health, habilitative, or rehabilitative needs cannot be met by the services offered in the facility will not be admitted. Otherwise, Chatham County Rehabilitation Center affords equal treatment and access to its services for all persons, without discrimination due to age, race, color, religion, sex, marital status, national origin, sexual orientation, ancestry, or disability, or any other factor that would classify a resident as underserved.”*

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

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

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

### **Conclusion**

The Agency reviewed the:

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

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

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

### C

In Section Q, pages 108-109, the applicant identifies the nursing facilities located in North Carolina owned, operated or managed by the applicant or a related entity. The applicant identifies a total of 38 of this type of facility located in North Carolina.

In Section O, pages 88-90, the applicant provides a list of 11 facilities that were surveyed by the Department of Health and Human Services. On page 88, the applicant states that some of the surveys resulted in deficiencies that were corrected with a plan of correction that was approved and the facility was subsequently determined to be back in compliance. According to the files in the Nursing Home Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, eleven facilities were cited for "Substandard Quality Care". Eight of the facilities were

determined to be back in compliance. The remaining three facilities are pending a final determination. After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all 38 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 a change of scope and a cost overrun for Project ID# J-11656-19 (Relocate 16 ACH beds from Liberty Commons and 20 ACH beds from Liberty Commons Nursing and Rehab Center to Chatham County Rehab Center) and Project ID# J-11378-17 (Relocate 25 NF beds from Legion Road Healthcare in Orange County which is a change of scope for Project ID #J-10168-13 (Develop 90 NF beds)) to relocate no more than 15 NF beds from Warren Hills Nursing Center in Warren County and no more than 18 NF beds from Oak Forest Health and Rehabilitation in Forsyth County. The Criteria and Standards for Nursing Facility or Adult Care Home Services, promulgated in 10A NCAC 14C .1100, are not applicable to this review because the applicant does not propose to add new NF beds to an existing facility or to develop a new facility.