

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: March 27, 2025

Findings Date: March 27, 2025

Project Analyst: Chalice L. Moore

Co-Signer: Lisa Pittman

Project ID #: F-12560-24

Facility: Liberty Commons Nursing and Rehabilitation Center of Mint Hill

FID #: 180101

County: Mecklenburg

Applicants: Liberty Commons of Mecklenburg, LLC and Mecklenburg County Healthcare Properties, LLC

Project: Change of scope for Project ID #F-11461-18 (develop a new 83-bed NF) and Project ID #F-12022-21 (develop a new 100-bed NF) to relocate no more than 8 NF beds from Briar Creek Health Center for a total of no more than 108 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 Commons of Mecklenburg LLC and Mecklenburg County Healthcare (hereinafter referred to as “the applicant” or “Liberty Commons of Mint Hill”) propose a change of scope and cost overrun for Project ID #F-11461-18 (develop a new 83-bed NF) and Project ID #F-12022-21 (develop a new 100-bed NF) to relocate no more than 8 NF beds from Briar Creek Health Center for a total of no more than 108 NF beds upon project completion.

A certificate of need was issued on June 22, 2018, for Project ID #F-11461-18, (develop a new 83-bed NF). A certificate of need was issued June 29, 2021, for Project ID #F-12022-21 (Develop new 100-bed NF facility). The combined capital cost was \$16,790,771.

The current application proposes a capital cost increase of \$12,845,550, over the previously approved capital expenditure for a total combined capital expenditure of \$29,636,321.

Need Determination

The applicant does not propose to increase the number of licensed beds in any category, add any new health services, or acquire equipment for which there is a need determination in the 2024 SMFP. Therefore, there are no need determinations applicable to this review.

Policies

There is one policy in the 2024 SMFP applicable to this review, Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities.

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 proposed cost overrun capital expenditure for this project exceeds \$5 million. In Section B, page 24, the applicant describes the project’s plan to improve energy efficiency and conserve water. The applicant adequately demonstrates that the application includes a written statement describing the project’s plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicant adequately demonstrates that the proposal is consistent with Policy GEN-4 because the application includes a written statement describing the project’s plan to assure improved energy efficiency and water conservation.

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, ... persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicant proposes a change of scope and cost overrun for Project ID #F-11461-18 (develop a new 83-bed NF), Project ID #F-12022-21 (develop a new 100-bed NF) and to relocate no more than 8 NF beds from Briar Creek Health Center for a total of no more than 108 NF beds upon project completion.

Patient Origin

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

The following table illustrates the projected NF patient origin at Liberty Commons of Mint Hill demonstrated in the table below:

NF Beds	Liberty Commons of Mint Hill					
	1 st Full 10/01/2028 to 09/28/2029		2 nd Full FY 10/01/2029 to 09/30/2030		3 rd Full FY 10/01/2030 to 09/30/2031	
	Patients	% of Total	Patients	% of Total	Patients	% of Total
Mecklenburg	228	86.04%	358	86.06%	366	86.12%
Union	8	3.02%	13	3.13%	13	3.06%
Cabarrus	5	1.89%	8	1.92%	8	1.88%
Iredell	5	1.89%	8	1.92%	8	1.88%
Other	19	7.17%	29	6.97%	30	7.06%
Total	265	100.00%	416	100.00%	425	100.00%

In Section C, pages 36 and 37, the applicant provides the assumptions and methodology used to project its patient origin.

In Section C, page 38, the applicant states that while the projected patient is origin is similar to the data from the 2024 reports, the applicant believes that they will serve a greater portion of Mecklenburg County residents than the current average based on data from an NF patient county of residence at admissions report and the fact that Mecklenburg County residents are having to travel out of county for nursing care.

The applicant’s assumptions are reasonable and adequately supported because the patient origin projections are based on NF patient origin and admissions data from publicly available reports.

Analysis of Need

In Section Q, page 90, Form F.1b, the applicant provides a summary of the capital cost approved in Project ID # F-12022-21, the changes proposed in this application, and the new total projected capital cost, as shown in the table below:

Liberty Commons of Mecklenburg – Previously Approved and Proposed Capital Cost			
	Previously Approved Capital Cost (F-11462-18)	Projected Changes to Capital Cost (F-12561-24)	New Total Projected Capital Cost
Purchase Price of Land	\$800,000	\$0	\$800,000
Closing Costs	\$80,166	\$0	\$80,166
Site Preparation	\$1,125,000	\$1,375,000	\$2,500,000
Construction/Renovation Contracts	\$13,118,105	\$6,637,715	\$19,755,820
Landscaping	\$0	\$400,000	\$400,000
Architect/Engineering Fees	\$300,000	\$200,000	\$500,000
Furniture	\$1,200,000	\$96,000	\$1,296,000
Consultant Fees	\$167,500	\$0	\$167,500
Other Contingency	\$0	\$2,225,582	\$2,225,582
Other (Licenses/Fee/Permits)	\$0	\$500,000	\$500,000
Other (Developer Fee)	\$0	\$1,411,253	\$1,411,253
Total Capital Cost	\$16,790,771	\$12,845,550	\$29,636,321

Source: Section Q, Form F1.b

In Section C, page 38, the applicant explains why the proposed increase in capital cost is necessary to develop the proposed project:

- Site preparation: Increased \$1,375,000 after more due diligence done on site and material cost increases.
- Construction: Increased \$6,637,715 due to the extreme volatility and increase in material and labor costs.
- The previous total construction cost of \$13,118,105 was based upon \$192.50/sf. The new cost of \$266/sf was confirmed by the architect.
- Architect / Engineering Fees: Increase of \$200,000 due to larger building costs.

- Other Fees: Increase due to current market conditions and additional due diligence completed.
- The primary cause of the cost overrun is because construction labor and material costs have increased exponentially since the original 2018 CON and 2021 COS CONs.
- The applicant proposes to relocate 8 NF beds from Briar Creek Health Center (Briar Creek) to Liberty Commons of Mecklenburg.

The applicant proposes to relocate 8 NF beds from Briar Creek Health Center. The applicant states that the proposed changes to the previously approved projects are primarily driven by operational efficiencies and cost-effectiveness, enhancing the quality of care, meet regulatory standards more effectively, and provides a richer social environment for residents. The applicant describes the need for the need for the NF beds as follows:

- **Operational Efficiency and Cost-Effectiveness:** Larger nursing facilities can achieve greater operational efficiencies compared to smaller units. Economies of scale in larger facilities reduce the per-bed cost for both staffing and supplies. This can result in lower operational costs, improved staff efficiency, and better access to specialized services and equipment.
- **Enhanced Quality of Care:** Facilities with more than 100 beds often have better resources to provide specialized care and more diverse services. A larger facility like Liberty Commons of Mint Hill can offer a wider range of medical, rehabilitative, and recreational services due to its larger staff and resource base. Larger SNFs are more likely to have higher staffing levels, which is a critical factor in improving patient outcomes and satisfaction.
- **Staffing and Specialized Care:** Larger facilities have the capacity to employ a more diverse and specialized staff, including full-time registered nurses, physical therapists, and occupational therapists.

The information is reasonable and adequately supported for the following reasons:

- The applicant adequately explains why additional costs are necessary to develop the proposed project.
- The applicant provides a construction cost verification estimate in Exhibit K.5.3 from a licensed architect which certifies the proposed total capital cost of the project.
- The applicant provides reasonable assumptions about the data to demonstrate the projected changes to the project primarily driven by operational efficiencies, enhance the quality of care, meet regulatory standards more effectively, and provide a richer social environment for residents.

Projected Utilization

In Section Q, page 86, Form C.1b, the applicant provides projected NF bed utilization, as illustrated in the following table below.

Liberty Commons of Mint Hill Projected NF Bed Utilization			
	1st Full 10/01/2028 to 09/30/2029	2nd Full 10/01/2029 to 09/30/2030	3rd Full 10/01/2030 to 09/30/2031
# of Beds*	108	108	108
# of Admissions	265	416	425
# of Patient Days	18,615	33,306	35,770
Average Length of Stay	70.25	80.06	84.16
Occupancy Rate	47.2%	84.5%	90.7%

Source: Section Q, page 86

In Section Q, following Form C.1b, the applicant provides the assumptions and methodology used to project facility bed utilization upon project completion, which is summarized below:

- Liberty provides management and support to 38 facilities in North Carolina. In the original application, Liberty Commons of Mint Hill used the fill-up rate at Summerstone Health and Rehab to project the utilization assumptions for Liberty Commons of Mint Hill. Being that Summerstone is a standalone NF, the same being proposed with this application, the applicant feel those utilization assumptions used in original application are still accurate for this change of scope application.
- The applicant also utilized census data from other facilities currently operated by Liberty. The applicant also took into account current and future population and demographic data for Mecklenburg County to project future utilization of the facility.
- The applicant utilized its past experience, specifically of a facility of similar size, along with the future demographic demand to project future utilization of the facility. These are the same assumptions used in the previously approved application.

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

- The applicant adequately demonstrates that utilization in the service area is expected to increase with the addition of more beds and the ability to serve more patients.
- The applicant states it takes into account current and future population and demographic data for Mecklenburg County to project future utilization of the facility.

Access to Medically Underserved Groups

In Project ID # J-11461-18 and Project F-12022-21, the Agency determined the applications were conforming to this criterion and the applicant proposes no changes in the current application that would affect the determination.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion 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 cost overrun for Project ID #F-11461-18 (develop a new 83-bed NF), Project ID #F-12022-21 (develop a new 100-bed NF) and to relocate no more than 8 NF beds from Briar Creek Health Center for a total of no more than 108 NF beds upon project completion.

In Section D, page 45, 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. The applicant states:

“Briar Creek Health Center (Affiliates of the Applicants) proposed to remove 16 of the 22 nursing home beds from operation and replace them with adult care home beds. The CON for this proposal was approved on June 14, 2024. Please refer to Project F-12470-24. Briar Creek will remain committed to maintaining skilled nursing care for residents who require more intensive medical attention. In addition, the assisted living beds will be enhanced to meet the healthcare needs of the residents.”

The table below demonstrates the reduction of nursing home beds at Briar Creek Health Center:

Briar Creek Health Center		
	Number to be Reduced or Eliminated*	Number Remaining
Nursing Facility (NF) Beds	8	6

In Section Q, page 88, Form D.1, the applicant provides the historical and projected utilization of the NF beds at Briar Creek, as shown in the table below:

Briar Creek Historical and Projected Health Service Facility Bed Utilization							
	Last Full FY 10/01/22 to 09/30/23	Interim Full FY 10/01/24 to 09/30/24	Interim Full FY 10/01/24 to 09/30/24	Interim Full FY 10/01/24 to 0 9/30/24	Interim Full FY 10/01/24 to 09/30/24	Interim Full FY 10/01/24 to 09/30/24	Interim Full FY 10/01/24 to 09/30/24
Nursing Home - All Beds							
Total # of Beds, including all types of beds	22	22	6	6	6	6	6
# of Admissions or Discharges (Admissions)	281	208	38	38	38	38	38
# of Patient Days	6,621	3,324	913	913	913	913	913
Average Length of Stay	23.56	15.98	24.03	24.03	24.03	24.03	24.03
Occupancy Rate	82.45%	41.39%	41.69%	41.69%	41.69%	41.69%	41.69%
Adult Care Home- All Beds							
Total # of Beds, including all types of beds	108	108	130	130	130	130	130
# of Admissions or Discharges (Admissions)	76	97	113	122	122	122	122
# of Patient Days	28,228	36,140	42,175	45,370	45,370	45,370	45,370
Average Length of Stay	371.42	372.58	373.23	371.89	371.89	371.89	371.89
Occupancy Rate	71.61%	91.68%	88.88%	95.62%	95.62%	95.62%	95.62%

In Section Q, Form D.1, Assumptions, the applicant states that the historical and projected utilization are the same as were used in the application for Project ID # F-12470-24 which was approved on June 14, 2024.

Projected utilization is reasonable and adequately supported because it is based on assumptions and methodology used in a previously approved application.

The applicant adequately describes how the needs of the patients continuing to use the facility will be met following the reduction or elimination of the existing service components based on the following:

- The applicant states Briar Creek will continue to have a policy to provide healthcare services to all CCRC residents in need of such care regardless of race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability, or any other factor that would classify a resident as underserved.

Access to Medically Underserved Groups

In Section D, page 46, the applicant states Briar Creek will continue to have a policy to provide healthcare services to all CCRC residents in need of such care regardless of race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability, or any other factor that would classify a resident as underserved.

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

- The applicant adequately demonstrates services provided are non-restrictive with respect to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability.
- The applicant states Briar Creek will be equally accessible to all persons, including those with low income, racial and ethnic minority groups, women, people with disabilities, the elderly, and Medicare beneficiaries and Medicaid recipients.
- The applicant states access by medically underserved groups is not expected to be different from what was projected in the previously approved 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 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 a change of scope and cost overrun for Project ID #F-11461-18 (develop a new 83-bed NF), Project ID #F-12022-21 (develop a new 100-bed NF) and to relocate no more than 8 NF beds from Briar Creek Health Center for a total of no more than 108 NF beds upon project completion.

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 where:

- **Maintain Status Quo-** Maintaining the status quo would mean keeping the 8 SNF beds at Briar Creek Health Center where they are currently not being utilized. This alternative involves no additional costs but fails to address the current needs for more SNF beds at Liberty Commons of Mint Hill. By not relocating the beds, the potential to enhance care services and accommodate future additional patients at Liberty Commons of Mint Hill is missed, which might not be the most effective solution for the community's needs.

While maintaining the status quo involves no immediate financial outlay, it does not capitalize on the available resources to improve healthcare service delivery. Therefore, relocating the 8 SNF beds to Liberty Commons of Mint Hill represents a more effective alternative, aligning with the goal of enhancing patient care and meeting community needs.

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 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. **The Liberty Commons of Mecklenburg LLC and Mecklenburg County Healthcare Properties. LLC (hereinafter referred to as “the applicant” or “Liberty Commons Nursing and Rehabilitation Center of Mint Hill”) shall materially comply with all representations made in this application and the representations in Project ID # F-11461-18 and Project ID # F-12022-21. Where representations conflict, the certificate holder shall materially comply with the last made representation.**
2. **The certificate holder proposes a change of scope for Project ID #F-11461-18 (develop a new 83-bed NF), Project ID #F-12022-21 (develop a new 100-bed NF) and to relocate no more than 8 SNF beds from Briar Creek Health Center for a total of no more than 108 SNF beds upon project completion.**

3. **The total combined cost for both projects is \$29,636,321, an increase of \$12,845,550 over the capital expenditure of \$16,790,771 previously approved in Project ID# F-12022-21.**
4. **Upon completion of the project, Liberty Commons Nursing and Rehabilitation Center of Mint Hill shall be licensed for a total of no more than 108 NF beds upon project completion.**
5. **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.**
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 certify at least 60% of the number of licensed nursing home beds in the facility for participation in the Medicaid program and shall provide care to Medicaid recipients commensurate with representatives made in the application.**
8. **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.**
9. **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 August 1, 2025.**

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 cost overrun for Project ID #F-11461-18 (develop a new 83-bed NF), Project ID #F-12022-21 (develop a new 100-bed NF) and to relocate no more than 8 NF beds from Briar Creek Health Center for a total of no more than 108 NF beds upon project completion.

Capital and Working Capital Costs

In Section Q, page 90, Form F.1b, the applicant provides a summary of the capital cost approved in Project ID # F-11461-18 and F-12022-21 the changes proposed in this application, and the new total projected capital cost, as shown in the table below.:

Liberty Commons of Mint Hill - Previously Approved and Proposed Capital Cost			
	Previously Approved Capital Cost (F-11461-18 & F- 12022-21)	Projected Changes to Capital Cost (F-12560-24)	New Total Projected Capital Cost
Purchase Price of Land	\$800,000	\$0	\$800,000
Closing Costs	\$80,166	\$0	\$80,166
Site Preparation	\$1,125,000	\$1,375,000	\$2,500,000
Construction/Renovation Contracts	\$13,118,105	\$6,637,715	\$19,755,820
Landscaping	\$0	\$400,000	\$400,000
Architect/Engineering Fees	\$300,000	\$200,000	\$500,000
Furniture	\$1,200,000	\$96,000	\$1,296,000
Consultant Fees	\$167,500	\$0	\$167,500
Other Contingency	\$0	\$2,225,582	\$2,225,582
Other (Licenses/Fee/Permits)	\$0	\$500,000	\$500,000
Other (Developer Fee)	\$0	\$1,411,253	\$1,411,253
Total Capital Cost	\$16,790,771	\$12,845,550	\$29,636,321

Source: Section Q, Form F1.b

In Section C, page 38, and Section Q, page 90, Form F1.b, the applicant explains why the proposed increase in capital cost is necessary to develop the proposed project. The applicant adequately demonstrates that the project capital cost is based on reasonable and adequately supported assumptions based on the following:

- Site preparation: Increased \$1,375,000 after more due diligence done on site and material cost increases.
- Construction: Increased \$6,637,715 due to the extreme volatility and increase in material and labor costs.
- The previous total construction cost of \$13,118,105 was based upon \$192.50/sf. The new cost of \$266/sf was confirmed by the architect.
- Architect / Engineering Fees: Increase of \$200,000 due to larger building costs.
- Other Fees: Increase due to current market conditions and additional due diligence completed.
- The applicant states that the primary cause of the cost overrun is because construction labor and material costs have increased exponentially since the original 2018 CON and 2021 COS CONs.
- The applicant provides an architect’s construction cost verification estimate in Exhibit K.5.3.

In Section F, page 57, the applicant states there will be no changes to the working capital cost. In Project ID # F-12022-21, the Agency determined the application was conforming to this criterion and the applicant proposes no changes in the current application that would affect that determination.

Availability of Funds

The current application proposes a capital cost increase of \$12,845,550. In Section F, page 55, the applicant states that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	Liberty Commons of Mecklenburg, LLC	Mecklenburg County Healthcare Properties, LLC
Loans		
Cash and Cash Equivalents Accumulated reserves or OE *		\$12,485,550
Bonds		
Other (Describe)		
Total Incurred by Applicant		\$12,485,550

* OE = Owner’s Equity

Exhibit F.5 contains a September 11, 2024 letter, from the Chief Financial Officer of Liberty Healthcare Management, Inc. stating that Liberty Healthcare possesses financial strength as well as the operational expertise and quality philosophy to manage the facilities. Liberty has been financially stable for many years.

The applicant adequately demonstrates the availability of sufficient funds for the proposed increase in the projected capital cost because the applicant provides a letter from an appropriate company officer confirming the availability of the funding proposed for the capital needs of the project and a commitment to use that funding accordingly.

Financial Feasibility

In Section Q, Form F.2b, page 91, the applicant provides its projected revenues and operating expenses for the first three operating years as shown in the table below:

Liberty Commons of Mint Hill Projected Revenues and Operating Expenses upon Project Completion	1st Full FY 10/01/2028 to 09/30/2029	2nd Full FY 10/01/2029 to 09/30/2030	3rd Full FY 10/01/2030 to 09/30/2031
Total Patient Days	18,615	33,306	35,770
Total Gross Revenue	\$7,036,427	\$13,120,295	\$15,019,543
Total Net Revenue	\$6,948,472	\$12,401,659	\$13,742,209
Total Net Revenue per Patient Day	\$373	\$372	\$384
Total Operating Costs	\$8,035,650	\$12,401,659	\$13,742,209
Total Operating Costs per Patient Day	\$432	\$372	\$384
Net Income	(\$1,087,178)	\$554,623	\$1,089,590

Source: Section Q, page 91

The assumptions used by the applicant in preparation of the pro forma financial statements is provided in Section Q, Form F.2b Assumptions. The applicant adequately demonstrate that the financial feasibility of the proposal is reasonable and adequately supported based on the following:

- The applicant based its assumptions on the historical experience of similar sized facilities.
- The applicant based its projected revenues and net income on Liberty's experience in operating 38 existing NFs throughout the state of NC.
- 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 costs are based on reasonable and adequately supported assumptions for all the reasons described above.
- The applicant adequately demonstrates the availability of sufficient funds for the capital needs of the proposal for all the reasons described above.

- The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of revenues and operating expenses for all the reasons described above.
- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

The applicant proposes a change of scope and cost overrun for Project ID #F-11461-18 (develop a new 83-bed NF), Project ID #F-12022-21 (develop a new 100-bed NF) and to relocate no more than 8 NF beds from Briar Creek Health Center for a total of no more than 108 NF beds upon project completion.

In Project ID # F-11461-18 and F-12022-21, the Agency determined the applications were conforming to this criterion and the applicant proposes no changes in the current application that would affect the determination.

- (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 cost overrun for Project ID #F-11461-18 (develop a new 83-bed NF), Project ID #F-12022-21 (develop a new 100-bed NF) and to relocate no more than 8 NF beds from Briar Creek Health Center for a total of no more than 108 NF beds upon project completion.

In Section Q, pages 97 and 98, the applicant provides projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

Form H Staffing	Projected FTE Staff		
	1 st Full FY	2 nd Full FY	3 rd Full FY
Registered Nurses	2	6	6
Licensed Practical Nurses	13	14	17
Certified Nurse/Nursing Aides	19	34	40
Director of Nursing	1	1	1
MDS Nurse	0	1	2
Staff Development Coordinator	1	1	1
Physical Therapist	1	3	3
Speech Therapist	1	1	1
Occupational Therapist	2	2	2
Cooks	2	2	2
Dietary Aides	4	4	4
Social Workers	1	2	2
Activities Director	1	1	1
Medical Records	1	1	1
Laundry & Linen	2	3	3
Housekeeping	3	8	8
Maintenance/Engineering	1	2	2
Administrator / CEO	1	1	1
Business Office	1	4	4
Food Service Director	1	1	1
Marketing	1	2	1
Transportation Staff	1	1	1
Human Resources	1	1	1
Medical Director	1	1	1
Nurse Secretary	1	1	1

Source: Section Q, page 97 & 98

The assumptions and methodology used to project staffing are provided in Section Q, page 99. Adequate operating expenses for the health manpower and management positions proposed by the applicant are budgeted in Section Q, Form F.3b. The applicant proposes no changes to the methods to be used to recruit or fill new positions and its proposed training and continuing education programs from what it proposed in Project ID # F-12022-21.

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

- The applicant projects the types of positions based on Liberty’s historical experience with staffing patterns for nursing facility services.
- The applicant projects the number of FTEs projected for each position type is based on Liberty’s historical experience with staffing patterns for nursing facility services. Staffing is increased over time consistent with the assumed ramp-up in utilization.

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

In Project ID # F-11461-18 and F-12022-21, the Agency determined the applications were conforming to this criterion and the applicant proposes no changes in the current application that would affect the 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.

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

NA

- (11) Repealed effective July 1, 1987.

- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

C

The applicant proposes a change of scope and cost overrun for Project ID #F-11461-18 (develop a new 83-bed NF), Project ID #F-12022-21 (develop a new 100-bed NF) and to relocate no more than 8 NF beds from Briar Creek Health Center for a total of no more than 108 NF beds upon project completion.

In Section K, page 67, the applicant states that the project involves construction of a new space. The applicant states that the project involves new construction of 74,270 square feet. The project is for a one-story, one-hundred and eight bed nursing home facility in Mecklenburg County.

In Section K, page 67, 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 design and means of construction remain the same from previously approved applications. However, the current market conditions have driven up the costs for site preparation and construction in comparison to the estimated costs when the original applications were submitted.
- Exhibit K.5.3 provides the architect's construction cost verification estimate. The primary cause of the cost overrun is because construction labor and material costs have increased exponentially since the 2018 original CON and 2021 COS CON.

In Section K, page 67, the applicant adequately explains why the proposal will not unduly increase the costs for the applicant of providing the proposed services or the costs and charges to the public for the proposed services based on the following:

- The applicant states the current market conditions have driven up the costs for site preparation, construction, and architect/engineering fees in comparison to the estimated costs when the original applications were submitted. Approval of the cost overrun is the only way the applicant can build this building in Mecklenburg County. Based on the updated cost estimate provided by the architect and the new projected costs and charges, the applicant do not anticipate that this cost overrun will unduly increase costs and charges to the public.

In Section K, page 68, and Section B, page 24, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

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

In Project ID # F-11461-18 and F-12022-21, the Agency determined the applications were conforming to this criterion and the applicant proposes no changes in the current application that would affect the 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

In Project ID # F-11461-18 and F-12022-21, the Agency determined the applications were conforming to this criterion and the applicant proposes no changes in the current application that would affect the 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

In Project ID # F-11461-18 and F-12022-21, the Agency determined the applications were conforming to this criterion and the applicant proposes no changes in the current application that would affect the 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

In Project ID # F-11461-18 and F-12022-21, the Agency determined the applications were conforming to this criterion and the applicant proposes no changes in the current application that would affect the 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

In Project ID # F-11461-18 and F-12022-21, the Agency determined the applications were conforming to this criterion and the applicant proposes no changes in the current application that would affect the 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

In Project ID # F-11461-18 and F-12022-21, the Agency determined the applications were conforming to this criterion and the applicant proposes no changes in the current application that would affect the determination.

- (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, pages 100 and 101, 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 79-83, the applicant states that, during the 18 months immediately preceding the submittal of the application, eight facilities identified in Form O were determined to have had situations resulting in a finding of immediate jeopardy: Liberty Commons Nursing and Rehabilitation Center of Johnston County, Louisburg Healthcare & Rehabilitation Center, Bermuda Commons Nursing and Rehabilitation Center, Royal Park Rehabilitation and Health Center of Matthews, The Pavilion Health Center at Brightmore, The Foley Center, Woodhaven Nursing Center, and Liberty Commons Nursing and Rehabilitation Center of Columbus County.

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, incidents related to the quality of care occurred in eight facilities. The eight facilities are back in compliance. 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 nursing 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 cost overrun for Project ID #F-11461-18 (develop a new 83-bed NF), Project ID #F-12022-21 (develop a new 100-bed NF) and to relocate no more than 8 NF beds from Briar Creek Health Center for a total of no more than 108 NF beds upon project completion.

The Criteria and Standards for Nursing Facility or Adult Care Home Services, promulgated in 10A NCAC 14C .1100, were not applicable to Project ID# F-12560-24 because the rules do not apply to a proposal to relocate existing licensed skilled nursing facility beds. The applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, the administrative rules are not applicable to this review.

