

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: November 14, 2017

Findings Date: November 14, 2017

Project Analyst: Celia C. Inman

Team Leader: Lisa Pittman

Project ID #: J-11369-17

Facility: Johnston Senior Living

FID #: 170320

County: Johnston

Applicants: Johnston Propco, LLC

Johnston Opco, LLC

Project: Develop a new ACH facility, Johnston Senior Living, by relocating 66 beds from Johnston Manor (Project I.D. #J-11046-15), leaving 66 ACH beds at Johnston Manor

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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.

CA

Johnston Propco, LLC (Propco), and Johnston Opco, LLC (Opco), collectively referred to as “the applicants”, propose to acquire and relocate 66 licensed adult care home (ACH) beds from Johnston Manor in Garner, Johnston County to develop a new facility, Johnston Senior Living in Smithfield, Johnston County. This results in a change of scope for Project ID #J-11046-15 (Develop a new 132-bed ACH in Garner, Johnston County by relocating and replacing Cardinal Care and Smithfield House West). The remaining 66 beds of the approved 132 beds (Project ID #J-11046-15) will be developed at Johnston Manor, as proposed.

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 2017 State Medical Facilities Plan (2017 SMFP); therefore, there are no need determinations in the 2017 SMFP which are applicable to this review.

Policies

The following policies are applicable to this review:

- Policy LTC-2: Relocation of Adult Care Home Beds
- Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities

Policy LTC-2: Relocation of Adult Care Home Beds, page 26 of the 2017 SMFP, states:

“Relocations of existing licensed adult care home beds are allowed only within the host county and to contiguous counties. Certificate of need applicants proposing to relocate licensed adult care home beds to a contiguous county shall:

- 1. Demonstrate that the facility losing beds or moving to a contiguous county is currently serving residents of that contiguous county; and*
- 2. Demonstrate that the proposal shall not result in a deficit, or increase an existing deficit in the number of licensed adult home beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins, and*
- 3. Demonstrate that the proposal shall not result in a surplus, or increase an existing surplus of licensed adult care beds in the county that would gain adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

The proposed project involves the acquisition and relocation of 66 licensed ACH beds from Johnston Manor in Garner to a new 66-bed facility in Smithfield. The beds are being relocated within Johnston County; therefore, the application is consistent with Policy LTC-2.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities, page 33 of the 2017 SMFP, states:

“Any person proposing a capital expenditure greater than \$2 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 improving 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 are 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 resident or resident health, safety or infection control.”

The proposed capital expenditure for this project is greater than 5 million. In Section X.9 pages 36-37 of the application, the applicants describe the measures that will be used to promote energy efficient operations and water conservation which include: economical construction system, the most up-to-date technologies, individual HVAC units, zoned programmable thermostats for public spaces, energy recovery ventilators, natural gas or propane water heater system, and LED and fluorescent lighting. The applicants adequately demonstrate the proposal includes a plan to assure improved energy efficiency and water conservation.

Conclusion

In summary, the applicants demonstrate that the proposal is conforming to the applicable policies in the 2017 SMFP. Therefore, the application is conforming to this criterion, subject to Condition (9) in Criterion (4).

- (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, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicants propose to acquire 66 licensed ACH beds from Johnston Manor in Garner and relocate them to a new facility in Smithfield, which results in a change of scope for Project ID #J-11046-15 (Develop a new 132-bed ACH in Garner, Johnston County by relocating and replacing Cardinal Care and Smithfield House West). The application as submitted erroneously refers to the new facility, Johnston Senior Living, as being developed in Garner; however, the 66 beds are being relocated and developed as Johnston Senior Living in Smithfield. Johnston Manor (Project ID #J-11046-15) in Garner will be developed with the remaining 66 beds, pursuant to a Material Compliance determination issued on November 6, 2017. This review is expedited pursuant to Session Law 2007-473. Therefore, the Project Analyst requested and received supplemental information from the applicants to properly reflect the proposed project.

On page 219, the 2017 SMFP defines the service area for adult care home beds as “*An adult care home bed’s service area is the adult care home bed planning area in which the bed is located. 98 counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrrell, are considered a combined service area.*” The proposed facility, Johnston Senior Living is located in Johnston County. Thus, the service area for this project consists of Johnston County. Facilities may also serve residents of counties not included in their service area.

Patient Origin

In Section III.7, page 15 of the application, the applicants provide the projected patient origin at the proposed facility during the first full federal fiscal year of operation (October 1, 2020-September 30, 2021) following completion of the project. However, in the supplemental information requested during the expedited review of this application, the applicants corrected the proposed patient origin to agree with the correct Smithfield location of the 66 beds being relocated, as shown in the table below.

County	ACH Beds- Percent of Total ACH Admissions
Johnston	100%
Total	100%

The applicants adequately identify the population to be served.

Analysis of Need

Project ID #J-11046-15 approved the relocation of 132 existing adult care beds to develop a new 132-bed facility, Johnston Manor, to be located in Garner in Johnston County. The applicants propose to acquire and relocate 66 of the 132 beds from Garner to Smithfield, leaving 66 adult care beds to be developed in Garner, as approved in Project ID #J-11046-15. On page 12, the applicants state that the proposed relocation,

“... increases the level of accessibility of care to residents within Johnston and Wake counties since the proposed new facility is located in a different area of Johnston County (Smithfield, NC as opposed to Garner, NC). The proposed new site in Smithfield, NC is centered within Johnston County.”

The 2017 SMFP shows an adult care home bed surplus of 145 beds in Johnston County. However, the applicants are not proposing to add new adult care home beds. The proposal is to relocate 66 licensed beds to Smithfield from the approved 132-bed adult care home facility in Garner. Therefore, two new 66-bed facilities will be developed: one in Garner and one in Smithfield, providing greater geographical access to adult care services for the residents of Johnston County.

In the supplemental information provided in the expedited review of the application, the applicants state that the cost to develop a single-story 132-bed facility “skyrocketed” beyond the cost estimated in the CON certificate. The proposal of the two smaller facilities “makes the project more economically feasible from a standpoint of site acquisition and development budget”. The applicants further state that larger facilities also have lower resident census rates and have other operational challenges. The applicants state that Johnston Senior Living will provide a comprehensive range of long term care to its residents in accordance with the rules governing the licensure of adult care homes.

The applicants adequately demonstrate a need to replace and relocate the existing ACH facilities.

Projected Utilization

In Section IV, page 17 of the application, the applicants provide projected quarterly utilization for the 66-bed Johnston Senior Living facility during the first two full federal fiscal years (FFYs), beginning October 1, 2020. The following table summarizes the projected annual utilization during the first and second full FFY.

**ACH Bed-Projected Utilization
 First and Second Operating Years**

		OY1 FFY 2021	OY2 FFY 2022
Adult Care Home	Patient Days	13,477	22,446
	Occupancy Rate	55.9%	93.2%
	# of beds	66	66
Special Care Unit	Patient Days	0	0
	Occupancy Rate	0.0%	0.0%
	# of beds	0	0
Total ACH	Patient Days	13,477	22,446
	Occupancy Rate	55.9%	93.2%
	# of beds	66	66

As shown in the table above, in the second full FFY of operation, the applicants project the 66 ACH beds will operate at 93% of capacity [$22,446/365/66 = .932$ or 93%].

In Exhibit 7, the applicants provide the assumptions and worksheets for the descriptions of the assumptions used to project utilization of the proposed 66 ACH beds, including:

- Facility begins operations with 15 reserved beds on October 1, 2020;
- Fill-up at the rate of an average of four residents per month, slowing to one until the ACH reaches functional capacity - averaging 37 patients for OY1 and 62 for OY2;
- ACH considered full at 94% in the fourth month of the second year;
- No special care unit beds; and
- 32 private beds, 34 semi-private beds.

Exhibit 7 also includes the worksheets showing the calculations derived from the proposed assumptions and methodology which support the projected quarterly utilization provided in Section IV.2, page 17 of the application. The following tables summarize the calculations provided for the first two operating years, in Exhibit 7, pages 98 and 109, respectively.

**Projected Fill-up and Occupancy
 FFY21 October 2020-September 2021**

	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Feb 2021	Mar 2021	Apr 2021	May 2021	Jun 2021	Jul 2021	Aug 2021	Sep 2021	Avg FY21
# of Beds	66	66	66	66	66	66	66	66	66	66	66	66	66
# of Residents	15	19	23	27	31	35	39	43	47	51	55	58	37
% of Occupancy	23%	29%	35%	41%	47%	53%	59%	65%	71%	77%	83%	88%	56%

**Projected Fill-up and Occupancy
 FFY22 October 2021-September 2022**

	Oct 2021	Nov 2021	Dec 2021	Jan 2022	Feb 2022	Mar 2022	Apr 2022	May 2022	Jun 2022	Jul 2022	Aug 2022	Sep 2022	Avg FY22
# of Beds	66	66	66	66	66	66	66	66	66	66	66	66	66
# of Residents	59	60	61	62	62	62	62	62	62	62	62	62	62
% of Occupancy	89%	91%	92%	94%	94%	94%	94%	94%	94%	94%	94%	94%	93[94]%

As demonstrated in the tables above, the applicants project to have 15 residents within the first month of operation. Then the applicants project a fill-up of four residents per month from the second operational month (November 2020) through the eleventh month of operations (August 2021). The applicants project a slow-down in admissions with three residents being admitted in September 2021 and one resident being admitted per month in October through January 2022 with the facility projected to reach 94% utilization in January 2022.

Projected utilization is based on reasonable and adequately supported assumptions.

Access

In Section VI.2, page 21, and Exhibit 7, the applicants state that 68% of its projected residents will receive State/County Special Assistance. In Section VI.3, page 22, the applicants state, “[A]ll persons will be admitted to the facility without regard to their race, color, creed, age, national origin, handicap, sex, or source of payment. ...” The applicants adequately demonstrate the extent to which all residents, including underserved groups, will have access to the proposed services at Johnston Senior Living.

The applicants further state on page 22:

“Private pay patients who spend down and become eligible for Medicaid will not be discharged from the facility. Source of payment will not affect the delivery of either routine services or specialized nursing care.”

Exhibit 11 contains a copy of the proposed admissions policy which states, in part, “We maintain a non-discrimination policy and admit residents without regard to race, creed, color, religion, familial status, sex, or national origin of the resident.”

Conclusion

In summary, the applicants adequately identify the population to be served, adequately demonstrate the need that this population has for the proposed project and adequately demonstrate the extent to which all residents, including underserved groups, will have access to the proposed services. Therefore, the application is conforming to this criterion.

- (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, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

C

The applicants propose to acquire 66 licensed ACH beds from Johnston Manor in Garner, and relocate the beds to a new facility in Smithfield, which results in a change of scope for Project ID #J-11046-15 (Develop a new 132-bed ACH in Garner, Johnston County by relocating and replacing Cardinal Care and Smithfield House West).

On page 219, the 2017 SMFP defines the service area for adult care home beds as “*An adult care home bed’s service area is the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrrell, are considered a combined service area.*” The proposed facility, Johnston Senior Living is located in Johnston County. Thus, the service area for this project consists of Johnston County. Facilities may also serve residents of counties not included in their service area.

Project ID #J-11046-15 was approved for the replacement and relocation of 132 beds to a site in Garner, Johnston County. The project has not been developed at this point. This application seeks to move 66 of the 132 beds to a new facility to be developed in Smithfield, Johnston County, leaving 66 remaining beds to be developed at the previously approved site in Garner, pursuant to obtaining a Material Compliance determination.

In Section III.6, page 14, the applicants state:

“... no persons are currently being served. The 66 licensed beds proposed to be relocated are empty beds without residents.”

The applicants also discuss the proposed relocation of beds as improving the ability of residents to obtain assisted living services in the future with 66 beds in Garner and 66 beds in Smithfield.

The applicants adequately demonstrate that the application is conforming to this criterion.

- (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 applicants propose to acquire and relocate 66 ACH beds from the approved 132-bed facility, Johnston Manor (Project ID #J-11046-15) in Garner, Johnston County to a new 66-bed facility, Johnston Senior Living in Smithfield, Johnston County. Thus, this results in a change of scope for Project ID #J-11046-15, which will now develop a 66-bed facility in Garner, pursuant to a Material Compliance determination issued on November 6, 2017.

In the supplemental information requested during the expedited review of this application, the applicants describe the alternatives considered prior to submitting the application, which include:

- Maintain the Status Quo – develop the 132-bed Johnston Manor facility in Garner. The applicants state that this alternative was no longer considered viable due to operational concerns attributed to the inability to fill such a large facility and the accessibility of care for residents in Johnston County.
- Relocate 66 of the 132 beds, resulting in a 66-bed facility in Garner and a 66-bed facility in Smithfield - The applicants state that this is a cost-effective and efficient alternative because it increases the level of accessibility of care to residents of Johnston County.

For the reasons as stated above, the applicants determined the least costly and most effective alternative is the Change of Scope application, relocating 66 beds to a new facility in Smithfield and developing the remaining 66 in Garner, as proposed in Project ID #J-11046-15, pursuant to a Material Compliance determination issued on November 6, 2017.

Furthermore, the application is conforming or conditionally conforming to all other applicable statutory and regulatory review criteria, and thus, is approvable. An application that cannot be approved cannot be an effective alternative.

The applicants adequately demonstrate that the proposed alternative is the most effective or least costly alternative to meet the identified need. Therefore, the application is conforming to this criterion and approved subject to the following conditions.

1. **Johnston Propco, LLC and Johnston Opco, LLC shall materially comply with all representations made in the certificate of need application and in supplemental information provided. In those instances where representations conflict, Johnston Propco, LLC and Johnston Opco, LLC shall materially comply with the last made representation.**
2. **Smithfield Holdings, LLC and Smithfield Opco Holdings, LLC shall materially comply with all conditions of approval on the certificate of need**

for Project ID #J-11046-15, except as specifically modified by the conditions of approval for this application, Project ID #J-11369-17.

- 3. Johnston Propco, LLC and Johnston Opco, LLC shall relocate no more than 66 ACH beds from Johnston Manor in Garner, Johnston County to Johnston Senior Living in Smithfield, Johnston County.**
- 4. Johnston Propco, LLC and Johnston Opco, LLC shall takes steps to de-license 66 beds at Johnston Manor in Garner, Johnston County.**
- 5. Upon completion of this project and Project ID #J-11046-15, Johnston Senior Living will be licensed for no more than 66 ACH beds and Johnston Manor will be licensed for no more than 66 ACH beds.**
- 6. For the first two years of operation following completion of the project, Johnston Propco, LLC and Johnston Opco, LLC of North Carolina, Inc. shall not increase actual private pay charges more than 5% of the projected private pay charges provided in Section IX 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 made in the certificate of need application.**
- 7. Johnston Propco, LLC and Johnston Opco, LLC shall provide care to recipients of State/County Special Assistance with Medicaid, commensurate with their representations in the application and supplemental materials.**
- 8. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Johnston Propco, LLC and Johnston Opco, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
 - a. Payor mix for the services authorized in this certificate of need.**
 - b. Utilization of the services authorized in this certificate of need.**
 - c. Revenues and operating costs for the services authorized in this certificate of need.**
 - d. Average gross revenue per unit of service.**
 - e. Average net revenue per unit of service.**
 - f. Average operating cost per unit of service.**
- 9. Johnston Propco, LLC and Johnston Opco, LLC shall submit a plan of energy efficiency and water conservation to the Construction Section, DHSR that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation.**

10. **Johnston Propco, LLC and Johnston Opco, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section, 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 applicants propose to acquire and relocate 66 licensed ACH beds from Johnston Manor in Garner, to a new facility in Smithfield, which results in a change of scope for Project ID #J-11046-15 (Develop a new 132-bed ACH in Garner, Johnston County by relocating and replacing Cardinal Care and Smithfield House West). Johnston Manor, in Garner, will be developed with the 66 remaining beds, pursuant to a Material Compliance determination issued on November 6, 2017.

Capital and Working Capital Costs

In supplemental information provided during the expedited review of this application, the applicants provide a revised Table VIII.1, as summarized below.

Project Capital Cost

Site Costs		
Land	\$ 350,000	
Closing Costs/Legal Fees	\$ 35,000	
Other Site Costs	\$ 849,225	
Total Site Costs		\$ 1,234,225
Construction Contract		\$ 4,046,560
Miscellaneous		
Equipment	\$ 650,000	
Architect & Engineering Fees	\$ 185,000	
Other Consultant Fees	\$ 65,000	
Commercial Loan/Interest During Construction	\$ 395,000	
Contingency	\$ 150,000	
Total Miscellaneous		\$ 1,445,000
Total Capital Cost		\$ 6,725,785

The supplemental information shows the projected working capital to be \$338,235, inclusive of start-up and initial operating expenses.

Availability of Funds

In Section VIII.2, page 29, the applicants state that the capital costs will be financed through a commercial loan. On page 29, the applicants state:

*“See **Exhibit 12** and **Exhibit 13** [emphasis in original] for letters from Locust Point Capital indicating willingness to offer the commercial loan and working capital loan, respectively.”*

The letters contained in Exhibits 12 and 13 document Locust Point Capital’s willingness to provide 100% financing (\$7,788,945) for the development, construction, and permanent financing and working capital of \$378,980, respectively, for a 66 bed adult care facility, reference as being in Garner, rather than Smithfield.

In supplemental information requested by the Project Analyst in the expedited review of this application, the applicants provided updated line drawings, architect’s letter, and capital cost sheet documenting the proper construction and capital costs of the Smithfield facility, as shown in the table above. The supplemental information also provides updated financing letters from Locust Point Capital, documenting the financing of the new capital and working capital amounts of \$6,725,785 and \$338,235, respectively.

The applicants adequately demonstrate that sufficient funds will be available for the capital and working capital needs of the proposed project.

Financial Feasibility

In Tables IX.2A and IX.2B, page 32, the applicants project the per diem reimbursement rate/charge as follows:

Payment Source by Type of Care	Private Room	Semi-Private Room
ACH Beds		
Private Pay	\$95.00	\$0.00
State/County Special Assistance	\$74.10	\$74.10
SCU Beds*		
Private Pay	\$0.00	\$0.00
State/County Special Assistance	\$0.00	\$0.00

*Special Care Unit (SCU)

Johnston Senior Living is projected to have 66 ACH beds, including 32 private rooms (32 beds) and 17 semi-private rooms (34 beds).

In the projected revenue and expense statement (Form B), the applicants project revenues will exceed operating expenses in the second and third full FFYs following completion of the proposed project, as illustrated in the table below.

	Project Year 1	Project Year 2	Project Year 3
Projected # of Days	13,477	22,446	22,630
Projected Average Charge	\$78.93	\$184	\$209
Gross Patient Revenue	\$1,063,791	\$1,787,292	\$1,804,392
Total Expense	\$1,277,158	\$1,691,138	\$1,694,498
Net Income	(\$213,366)	\$96,154	\$109,894

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable including projected utilization, costs and charges. The discussions regarding projected utilization found in Criterion (3) and staffing in Criterion (7) are incorporated herein by reference. The applicants adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicant adequately demonstrates the financial feasibility of the project is based upon reasonable and adequately supported assumptions regarding projected utilization, revenues (charges) and operating costs. Therefore, the application is conforming to this criterion.

- (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 applicants propose to acquire and relocate 66 ACH beds from an approved 132-bed replacement facility in Garner, Johnston County (Project ID #J-11046-15) to a new 66-bed facility in Smithfield, Johnston County. The remaining 66 beds will be developed in Garner, as approved in Project ID #J-11046-15 and pursuant to a Material Compliance determination issued on November 6, 2017.

On page 219, the 2017 SMFP defines the service area for adult care home beds as “*An adult care home bed’s service area is the adult care home bed planning area in which the bed is located. 98 counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrrell, are considered a combined service area.*” The proposed facility, Johnston Senior Living is located in Johnston County. Thus, the service area for this project consists of Johnston County. Facilities may also serve residents of counties not included in their service area.

Table 11A of the 2017 SMFP, page 233, lists a total of 25 ACH facilities in Johnston County, including Johnston Manor’s 132-bed replacement facility approved in Project ID

#J-11046-15. The total inventory and projected bed need as shown in Table 11B of the 2017 SMFP, page 248, is summarized below.

Johnston County Adult Care Home Bed Need Projections for 2020

Projected 2020 Utilization	Planning Inventory	2020 Bed Surplus
562	707	145

As shown in the table above, there is a projected surplus of 145 adult care home beds in Johnston County. However, the applicants are not proposing to add new adult care home beds. The proposal is to relocate 66 licensed beds to Smithfield from the 132-bed adult care home facility in Garner, approved in Project ID #J-11046-15. Therefore, two new 66-bed facilities will be developed with existing, licensed ACH beds: one in Garner and one in Smithfield, providing Johnston County residents with greater geographical access to ACH services. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.

The applicants adequately demonstrate that the proposed project would not result in the unnecessary duplication of existing or approved ACH beds in Johnston County. Consequently, the application is conforming to this criterion.

- (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

In Section VII.2, page 26, the applicants project the total staffing for the proposed Johnston Senior Living ACH facility in the second full fiscal year of operation (FFY2022), as summarized in the table below.

**Johnston Senior Living Proposed
 Staffing Chart Second FFY 2022**

Salaried Staff Position	ACH Beds FTE Positions
Routine Services	
Supervisor (1/2 Direct Care)	3.00
Personal Care Aide (Direct Care)	8.00
Med Tech (Direct Care)	3.00
Care Coordinator	1.00
Total	15.00
Dietary	
Supervisor	1.00
Cooks	1.00
Dietary Aides	
Total	2.00
Activity Services	
Director	1.00
Total	1.00
Patient Transportation	
Driver	0.50
Total	0.50
Housekeeping/Laundry	
Housekeeping Supervisor	1.00
Housekeeping Aides	0.50
Laundry Aides	0.50
Total	2.00
Operations & Maintenance	
Maintenance Supervisor	1.00
Total	1.00
Admin & General	
Administrator	1.00
Business Office Manager	1.00
Total	2.00
Total All Positions	23.50

The table above, summarized from the table on page 26 of the application, identifies the proposed direct care positions. The applicants project 26,000 annual direct care staff hours for the ACH beds (12.5 direct care staff positions x 2,080 annual hours = 26,000). Therefore, the applicants project residents will receive 1.2 direct care hours per resident per day (26,000 direct care staff hours/22,446 number of projected resident days for FFY2022 = 1.16).

The applicants provide the assumptions used in the projection of staffing in Exhibit 7 of the application. In Exhibit 2, the applicants describe the experience Affinity Living Group, LLC has with managing adult care homes. Exhibit 2 also contains the resumes of the licensed professionals associated with Affinity Living Group, LLC who will provide

consultation services to Johnston Senior Living. The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the application is conforming to this criterion.

- (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 Section II.1, pages 7-10, the applicants describe the ancillary and support services that will be provided by the facility or made available through agreements with other providers. Exhibit 10 contains a support letter from an Internal Medicine physician from BPUC Assisted Living On Site Care, which provides medical care for ACH residents. Exhibit 23 contains service agreement letters from Sysco Charlotte, LLC agreeing to provide dietary consultation, and Pharmacare agreeing to provide pharmaceutical services.

The applicants adequately demonstrate the availability of the necessary ancillary and support services and that the proposed services will be coordinated with the existing health care system. Therefore, the application is not conforming to this criterion.

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

NA

- (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 applicants propose to acquire and relocate 66 ACH beds from an approved 132-bed replacement facility in Garner, Johnston County (Project ID #J-11046-15) to a new 66-bed facility in Smithfield, Johnston County. The remaining 66 beds will be developed in Garner, as otherwise approved in Project ID #J-11046-15 and pursuant to a Material Compliance determination issued on November 6, 2017.

The application states that the total square footage of the proposed 66-bed facility is 32,998 square feet. The applicants provide a line drawing in Exhibit 21. However, the line drawing is not the proper drawing for the proposed project. In supplemental information provided during the expedited review, the applicants provide the proper line drawing associated with the 66 beds being relocated to Smithfield, which documents the construction of 28,904 square feet of space.

The supplemental information also includes an updated capital cost sheet Section VIII.1, which shows projected capital costs of \$6,725,785; and an updated letter from the architect, attesting to the cost per square foot of construction (\$140), which agrees with the updated capital cost sheet.

Additionally, the supplemental information includes a letter dated September 9, 2017, from the architectural company, stating that the proposed ACH would comply with all applicable federal, state, and local construction and licensure codes and will also ensure a structure that is energy efficient and provides water conservation.

The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative, and that the construction cost will not unduly increase costs and charges for health services. Therefore, the application is conforming to this criterion.

- (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 handicapped persons, 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 #J-11046-15, the application was found conforming to this condition, and the applicant proposes no changes in the current application that would affect that determination; consequently, this change of scope application is conforming to this criterion.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

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In Section VI.4(a), page 22, the applicants state that the proposed facility is not currently in operation. However, in supplemental information provided to the Agency during the expedited review of this application, the applicants state that there were two civil rights access complaints filed against two ACH facilities while the facilities were being managed by a different management company, but those complaints have since been resolved.

- (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

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In Section VI.2, page 21, the applicants project the following payor mix during the second full FFY (2022):

Projected ACH Days as a % of Total Days

Payor Source	Days	Percentage
Private Pay	7,116	31.70%
Special Assistance Private Room	3,650	16.26%
Special Assistance Semi-private Room	11,680	52.04%
Total	22,446	100.00%

As shown in the table above, the applicants project that Special Assistance - Basic Medicaid will be the payor source for 68% of the ACH residents. Exhibit 11 contains a copy of the proposed admissions policy which states, in part:

“We maintain a non-discrimination policy and admit residents without regard to race, creed, color, religion, familial status, sex, or national origin of the resident.”

The applicants demonstrate that medically underserved populations would have adequate access to the proposed ACH services. Therefore, the application is conforming to this criterion.

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

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In Section VI.3, page 23, the applicants state, *“The facility will allow admission into the facility only on the written order of a physician.”*

In Section V.4, pages 19-20, the applicants state that the majority of referrals at Johnston Senior Living are expected to come from local hospitals, the Johnston County Department of Social Services, local churches and community organizations.

The applicants adequately demonstrate a range of means by which residents will have access to the facility. Therefore, the application is conforming to this criterion.

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

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Exhibit 10 contains a copy of a letter from the Dean of Health, Wellness, & Human Services at Johnston Community College supporting the relocation of 66 beds from Johnston Manor to Johnston Senior Living. In supplemental information provided during

the expedited review of this application, the applicants provide an updated letter from the Dean which acknowledges the Smithfield facility as a potential clinical training and employment site for their students. The information provided is reasonable and credible and supports a finding of conformity with this criterion.

- (15) Repealed effective July 1, 1987.
- (16) Repealed effective July 1, 1987.
- (17) Repealed effective July 1, 1987.
- (18) Repealed effective July 1, 1987.

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

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The applicants propose to acquire and relocate 66 existing ACH beds from an approved 132-bed replacement facility in Garner, Johnston County (Project ID #J-11046-15) to a new 66-bed facility in Smithfield, Johnston County. The remaining 66 beds will be developed in Garner, as otherwise approved in Project ID #J-11046-15 and pursuant to a Material Compliance determination issued on November 6, 2017.

On page 219, the 2017 SMFP defines the service area for adult care home beds as “*An adult care home bed’s service area is the adult care home bed planning area in which the bed is located. 98 counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrrell, are considered a combined service area.*” The proposed facility, Johnston Senior Living is located in Johnston County. Thus, the service area for this project consists of Johnston County. Facilities may also serve residents of counties not included in their service area.

Table 11A of the 2017 SMFP, page 233, lists a total of 25 ACH facilities in Johnston County, including Johnston Manor’s 132-bed replacement facility approved in Project ID #J-11046-15. The total inventory and projected bed need as shown in Table 11B of the 2017 SMFP, page 248, is summarized below.

Johnston County Adult Care Home Bed Need Projections for 2020

Projected 2020 Utilization	Planning Inventory	2020 Bed Surplus
562	707	145

As shown in the table above, there is a projected surplus of 145 adult care home beds in Johnston County. However, the applicants are not proposing to add new adult care home

beds. The proposal is to relocate 66 beds to Smithfield from the approved 132-bed adult care home facility in Garner. Therefore, two new 66-bed facilities will be developed with existing ACH beds: one in Garner and one in Smithfield.

In Section VI.5, page 23, the applicants discuss how the project will have a positive impact on cost-effectiveness, quality and access to the proposed service. See also Sections II, III, V, VI and VII where the applicants discuss the impact of the project on cost-effectiveness, quality and access to the proposed services

The information in the application and the supplemental information is reasonable and adequately demonstrates that any enhanced competition in the service area includes a positive impact on cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following analysis:

- The applicants adequately demonstrate the need for the proposed project and that it is a cost-effective alternative. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- The applicants adequately demonstrate that they will provide quality services. The discussion regarding quality found in Criterion (20) is incorporated herein by reference.
- The applicants demonstrate that they will provide adequate access to medically underserved populations. The discussions regarding access found in Criteria (3) and (13) are incorporated herein by reference.

Therefore, the application is conforming to this criterion.

- (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.

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In Section II.3, pages 10-11, the applicants state that they as co-applicants are each single purpose entities established for developing and operating the Johnston Senior Living ACH; and do not currently own, lease, or manage any adult care facilities in North Carolina. However, the applicants propose to contract with Affinity Living Group, LLC, a related entity, to manage the proposed facility. According to information provided in this application and other recently submitted applications, Affinity Living Group, LLC currently manages 75 facilities. According to a September 19, 2017 Penalty Report from the Adult Care Licensure Section, DHSR, during the 18 months immediately preceding the submittal of this application through the date of the decision, two facilities were found

to be out of compliance with one or more Medicare conditions of participation. At this time, 73 facilities are in compliance with all Medicare conditions of participation. After reviewing and considering information provided by the applicants in the application and by the Adult Care Licensure Section and considering the quality of care provided at all 75 facilities managed by Affinity Living Group, the applicants 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.
- (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 Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100 are not applicable because the applicants do not propose to establish either new adult care home beds or new nursing facility beds.