

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: September 22, 2017

Findings Date: September 22, 2017

Project Analyst: Jane Rhoe-Jones

Team Leader: Fatimah Wilson

Project ID #: P-11334-17

Facility: River Bend Senior Living

FID #: 170192

County: Craven

Applicant(s): Craven Propco, LLC

Craven Opco, LLC

Project: Replace and relocate 48 existing adult care home beds from New Bern House to create River Bend Senior Living, a new 48-bed adult care home facility

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

N.C. Gen. Stat. §131E-183(a) The Agency 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

The applicants, Craven Propco, LLC (Lessor) and Craven Opco, LLC (Lessee) propose to replace and relocate 48 adult care home (ACH) beds from New Bern House to a new replacement facility, River Bend Senior Living. New Bern House is currently listed in the inventory of ACH beds in Chapter 11, Table 11A, of the 2017 State Medical Facilities Plan (SMFP) as a licensed facility with 108 beds. Both the proposed facility (River Bend Senior Living) and the existing facility (New Bern House) are located in Craven County.

On March 22, 2017, the Adult Care Licensure Section, Division of Health Service Regulation (DHSR), granted approval for an exception to the Special Care Unit (SCU) moratorium to convert 60 of the 108 ACH beds at New Bern House to a SCU for Alzheimer's disease and related disorders. In April 2017, Craven Propco, LLC, one of the applicants for the proposed

project, entered into an asset purchase agreement with WP-New Bern Health Investors, LLC to purchase the remaining 48 beds at New Bern House. See Exhibits C and D for copies of the asset purchase agreement and the March 2017 letter granting the exception to the SCU moratorium.

Upon project completion, River Bend Senior Living will be licensed for a total of 48 ACH beds and New Bern House will be licensed for a total of 60 ACH beds designated as a SCU.

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 SMFP. Therefore, there are no need determinations applicable to this review.

Policies

The following two 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 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 contiguous counties shall:

1. *Demonstrate that the facility losing beds or moving to a continuous 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 care 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 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 home 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 Facilities Plan in effect at the time the certificate of need review begins.”*

In Section III.4, page 14, the applicants state that they propose to relocate ACH beds within the host county, Craven County. The number of licensed adult care home beds in Craven County will not change with the proposed relocation of beds. Therefore, the application is consistent with Policy LTC-2.

Policy GEN-4 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 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 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 patient or resident health, safety, or infection control.”

The capital expenditure for the proposed project is greater than \$5 million. In Section X.9, pages 38-39, the applicants provide a written statement describing the proposed plan for the project to assure improved energy efficiency and water conservation. See Exhibit W for a letter from the architect which outlines the plan for the proposed project to comply with all energy and water conservation standards, rules and codes.

The applicants adequately demonstrate the proposal includes a plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

Conclusion

In summary, the applicants adequately demonstrate that their proposal is consistent with Policy LTC-2: Relocation of Adult Care Home Beds and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities. Therefore, the application is conforming to this criterion.

- (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.

NC

The applicants propose to replace and relocate 48 ACH beds from New Bern House located at 2915 Brunswick Avenue in New Bern to River Bend Senior Living to be located at 316 Old Pollocksville Road in New Bern. According to information obtained from the Adult Care Licensure Section, DHSR, New Bern House is currently licensed for 108 ACH beds, 60 of which have been designated as a SCU after an exception was granted to the SCU moratorium in March 2017. New Bern House is currently listed in the inventory of ACH beds in Chapter 11, Table 11A, of the 2017 State Medical Facilities Plan (SMFP) as a licensed facility with 108 beds.

Upon project completion, River Bend Senior Living will be licensed for a total of 48 ACH beds and New Bern House will be licensed for a total of 60 ACH beds designated as a SCU.

The applicants state in Section I.10(c), page 6, that New Bern House is managed by Affinity Living Group which will also manage the proposed River Bend Senior Living ACH facility upon project completion. See Exhibit B for a copy of the management agreement that the applicant has with Affinity.

Patient Origin

On page 219, the 2017 SMFP defines the service area for adult care home beds as “*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.*” Thus, the service area for the proposed facility consists of Craven County. Facilities may also serve residents of counties not included in their service area.

In Section III.7(a) and (b), pages 16-17, the applicants provide the historical patient origin for New Bern House and projected patient origin for River Bend Senior Living, as shown in the table below.

County	Historical % of Total ACH Admissions New Bern House FFY2016	Projected % of Total ACH Admissions River Bend Senior Living FFY2020
Craven	100.0%	100.0%
Total	100.0%	100.0%

River Bend Senior Living is not an existing facility and therefore does not have any historical patient origin. Therefore, on page 17, the applicants state that the projected patient origin at River Bend Senior Living is based on the historical patient origin of New Bern House. The applicants also state that the proposed site for River Bend Senior Living is centrally located in New Bern (the primary population center in Craven County) and the closest adjoining county, Jones County is very sparsely populated.

The applicants adequately identify the population to be served.

Analysis of Need

The applicants propose to replace and relocate 48 existing adult care home beds from New Bern House to create River Bend Senior Living, a new 48-bed adult care home facility.

In Section III.1, page 12, the applicants state that the need to replace and relocate 48 ACH beds is because:

“The old and outdated physical plant of New Bern House (built in 1979) lacks modern systems and design elements, leading to impaired efficiency of operations and quality of care.”

The applicants cited examples of New Bern House’s inadequacies as: lack of fire sprinkler system, lack of energy-efficient systems and construction/insulation, insufficient lighting and semi-private rooms that due to the layout of the rooms, impinge upon resident privacy.

On page 13, the applicants state that the low occupancy of the 48 beds at New Bern House that are not part of the SCU is as a direct result of the facility being obsolete. However, the 60 bed SCU appears to be very well utilized according to 2017 licensure renewal application (LRA) data. Specifically, 59 of the 60 SCU beds were occupied as of July 31, 2016. The applicants do not provide any explanation as to why the 60 bed SCU is well utilized but the 48 ACH beds in the same facility are unoccupied.

On page 12 the applicants also state:

“The new replacement facility of River Bend Senior Living on the new site will have a vastly superior ability to provide quality care and to operate in a cost-effective and efficient manner. Some examples include:

- *The proposed facility will be constructed according to energy conservation standards pursuant to Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*
- *Fire sprinkler safety system*
- *Superior security system with magnetic lock doors*
- *Semi-private rooms are [sic] partly sectioned with a wall between beds for privacy.”*

The applicants propose to replace and relocate 48 existing ACH to a new replacement facility. Even though the beds to be relocated are currently licensed, the applicants must still demonstrate the need the population to be served has for the services proposed.

In Section III, pages 12-13, summarized below, the applicants continue to discuss the need to replace and relocate the 48 beds proposed for River Bend Senior Living:

- Current bed utilization – 48 beds are currently unoccupied at New Bern House due to low occupancy, which the applicant states is a direct result of its obsolete facility.
- Projected need for ACH beds in Craven County – The applicants state that there are 611 total licensed beds in the county. In its ACH bed utilization summary, the 2017 SMFP projects bed utilization for 2020 will be 423 beds. The applicants recognize this indicates a surplus of 188 beds ($611 - 423 = 188$) in 2020. In Exhibit F, the applicants provide a copy of the Craven County Aging Report for 2013-2033. The report includes an aging profile for population change and projected population growth for Craven County and states that the county's 85+ population is projected to increase to 3,412 in 2033. The 2017 SMFP projection is 2,460 in 2020 (the highest year of SMFP projections). The applicants state that the 2010 Census records the county 85+ population as 1,827.

Furthermore, the applicants state on page 13:

“Using the method employed by the 2017 SMHP [sic] of multiplying 3,412 by the 2017 SMHP's [sic] bed to population ratio for the age group of 85 and over (0.07587 corresponding to 75.87 beds per 1,000 population), it can be projected that 259 beds will be needed for the age group 85 and over in 2033 in Craven County. Two hundred fifty-nine is 72 beds greater than the 187 Projected 2020 Bed Utilization for that age group in the 2017 SMHP [sic]. Thus, even considering just the 85+ population, the group that utilizes beds at the highest rate, it is clear that quite a large number of additional beds will be needed in the future beyond 2020, supporting the need for the 48 beds in this application.”

In Section III.1, page 13, the applicants state Exhibits E and F provide statistical or other data that supports the need for the relocation of the adult care home beds. Exhibit E contains a population aging profile for Craven County. However, the applicants do not show how the aging profile provided in Exhibit E supports the need to replace and relocate 48 existing ACH beds in Craven County. Furthermore, the applicants do not adequately show how the Craven County population statistics provided in Exhibit F support the need to replace and relocate 48 existing ACH beds in Craven County.

Craven County currently has 11 ACH facilities, which includes 2 combination nursing facilities with ACH beds. The information about those facilities, the number of ACH beds at each facility, and the population at each facility as reported for the 2017 License Renewal Applications (LRA) is shown in the table below.

CRAVEN COUNTY					
Inventory of Adult Care Home Beds					
Facility	Total # of Licensed Beds*	# of ACH Beds	# of SCU Beds	Total # of ACH Residents	Occupancy
New Bern House**	108	108	0	59	98.3%
Bayview Nursing & Rehab Center	72	12	0	12	100.0%
Brookdale New Bern	60	60	0	20	33.3%
Croatan Village	72	54	18	54	75.0%
Good Shepherd Home for the Aged	54	54	0	29	53.7%
Homeplace of New Bern	60	40	20	60	100.0%
Riverpoint Crest Nursing & Rehab Center	123	18	0	6	33.3%
Riverstone	64	64	0	53	82.8%
Riverview	83	83	20	48	57.8%
The Courtyards at Berne Village	55	55	0	46	83.6%
The Courtyards at Berne Village Memory Care	25	0	25	17	68.0%
Total	776	548	83	404	73.7%

Source:2017 License Renewal applications.*Includes nursing and rehabilitation facility beds.**All beds at New Bern House. At the time of re-licensure (January 2017), New Bern House had not received the exemption to the moratorium on SCU beds. The exemption was granted March 22, 2017.

As shown in the table above, there are 548 existing ACH beds in Craven County, including the 48 beds that are the subject of this application (this total does not include SCU beds). Utilization of the current ACH beds in Craven County ranges from 33.3% to 100.0%. In Table 11B on page 247 of the 2017 SMFP, Craven County is listed as having a planning inventory of 611 ACH beds and a 2020 Projected Bed Utilization Summary total of 423 ACH beds, leaving a projected surplus of 188 ACH beds, which is 44.4% of the total 2020 Projected Bed Utilization [188 bed surplus / 423 projected bed utilization in 2020 = 0.444].

The last time ACH patients were served at this facility was in 2016. The overall Craven County ACH utilization rate is still over 70% depending on whether or not the 48 beds are included or excluded, respectively. The 2017 SMFP shows a surplus of 188 ACH beds in Craven County (or a 44.4% surplus). The applicants did not provide any data, assumptions or methodology which supports the stated need to relocate 48 ACH beds that have not been utilized for over a year.

In summary, the applicants did not adequately demonstrate the need to relocate 48 ACH beds.

Projected Utilization

In Section IV, page 19, the applicants provide projected utilization for the first two years of operation for the proposed project, as summarized in the following tables.

RIVER BEND SENIOR LIVING Projected Utilization (ACH only) First Project Year (October 2019 – September 2020) FY2020					
	1 ST QUARTER 10/1/19– 12/31/19	2 ND QUARTER 1/1/20– 3/31/20	3 RD QUARTER 4/1/21-6/30/20	4 TH QUARTER 7/1/21-9/30/20	TOTAL
Patient Days	1,196	2,002	2,791	3,402	9,391
Occupancy Rate	27.1%	45.8%	63.9%	77.0%	53.6%
# Beds	48	48	48	48	48

RIVER BEND SENIOR LIVING Projected Utilization (ACH only) Second Project Year (October 2020 – September 2021) FY2021					
	1 ST QUARTER 10/1/20– 12/31/20	2 ND QUARTER 1/1/21– 3/31/21	3 RD QUARTER 4/1/21-6/30/21	4 TH QUARTER 7/1/21-9/30/21	TOTAL
Patient Days	3,295	3,960	4,004	4,048	15,937
Occupancy Rate	88.9%	91.7%	91.7%	91.7%	91.0%
# Beds	48	48	48	48	48

As shown above, in the second year following completion of the proposed project, the applicants project the 48 ACH beds will operate at 91.0% of capacity [$15,937/365/48 = 0.9096$ or 91.0%] at the end of the second fiscal year (FY) FY2021.

In Exhibit L, the applicants provide their assumptions and methodology for projected utilization, as follows:

- 1) “Occupancy
 - A) Facility begins operations with 10 reserved beds on October 01, 2019
 - B) Fill-up at the rate of an average of 3 residents per month until ACH fills
 - C) No Special Care Unit
 - D) ACH considered full at 92% in Third Month of the Second Year (December 2020)”

The table on page 135 of Exhibit L states that the applicants will begin operations with 10 reserved beds and increase at a rate of three residents per month beginning in FY2020. The applicants project to have 81% occupancy by the end of FY 2020, Project Year 1 (PY1) and 92% occupancy by the end of FY2021 PY2 (See Exhibit L, page 139). In Exhibits E and F, the applicants provide population statistics that support the applicants’ assertion in Section III that the 65+ and 85+ population is steadily growing. However, the applicants do not explain how the population growth statistics provided in the Exhibits E and F are related to the projected occupancy rates as stated above.

In Exhibit L, the applicants provide a letter from Neal Lail, Chief Marketing Officer for Affinity Living Group, the management company for the facility. The letter includes the following table:

Facility/Location	Year of Opening	Total Beds	Reserved Beds at Opening (Month 1 ADC)	Average Monthly Net Move-Ins During Fill-Up	Month Stabilized Occupancy Reached (Occupancy %)
New Hanover	2011	60	14	6.83	Month 7 (92%)
Alamance House	2012	88	10	6.18	Month 12 (88%)
Guilford House	2013	60	16	12.67	Month 4 (92%)
Franklin House	2014	62	9	5.22	Month 10 (89%)

While the table above does show the experience of management in developing other ACH facilities, the applicants provide no explanation as to how the facilities listed above relate to the proposed River Bend Senior Living facility or why the 10 resident wait list and 3 resident fill-up rate is reasonable based on these facilities. The applicants do not adequately demonstrate that their assumptions are reasonable or adequately supported.

Therefore, projected utilization is not based on reasonable and adequately support assumptions.

Access

In Section VI.3(a), page 24, 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.”

In Section VI.1, page 23, the applicants do not provide an historical payor mix for River Bend Senior Living because is not an existing facility. However, for information purposes, the project analyst calculated the historical payor mix per patient days that the applicants reported for New Bern House in their 2017 LRA (FY2016), as follows:

NEW BERN HOUSE HISTORICAL PAYOR MIX FY2016		
Historical Payor Source	# of Patient Days	% of Total Patients
Medicaid	18,148	73.2%
Private Pay	6,649	26.8%
Total	24,797	100.0%

Source: 2017 LRA.

In Exhibit L, page 132, the applicants provide a letter from Andrew Carle, Chief Operating Officer for Affinity Living Group, which includes the historical payor mix for three existing ACHs also managed by Affinity, located in Health Service Area VI (Carteret County, Chowan County and Pamlico County). However, one of the facilities has a SCU, thus is not included in the table below (River Bend is not proposing a SCU).

Historical Payor Mix of Other HSA VI ACHs Managed by Affinity							
Location	County	Private Pay	Medicaid SA	Total Beds	Assisted Living	Memory Care	Occupancy
Newport	Carteret	42.0%	58.0%	64	64	0	89.1%
Edenton	Chowan	43.0%	57.0%	60	60	0	85.0%

The letter in Exhibit L states that the facilities above are similar to the proposed facility and that these locations are of comparable size and market. On page 23, the applicants project that 50.4% of all ACH resident days at the proposed River Bend Senior Living facility are to be paid for by Medicaid Special Assistance based on the historical payor mix of the facilities above. Therefore, the applicants adequately demonstrate the extent to which all residents of the service area, including underserved groups, are likely to have access to its services.

Conclusion

In summary, the applicants adequately identify the population to be served and demonstrate the extent to which all residents including underserved groups are likely to have access to the proposed services. However, the applicants does not adequately demonstrate the need to replace and relocate 48 existing adult care home beds from New Bern House to create River Bend Senior Living, a new 48-bed adult care home facility.

Therefore, the application is nonconforming 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 replace and relocate 48 ACH beds from New Bern House located at 2915 Brunswick Avenue in New Bern to River Bend Senior Living, a new replacement ACH facility to be located at 316 Old Pollocksville Road in New Bern. Both sites are located in Craven County. According to Google Maps, New Bern House is located 10-15 minutes (or 6-13 miles depending on the route) from the proposed new site for River Bend Senior Living.

Additionally, information obtained from the 2017 LRA license renewal application for New Bern House indicate that 49 beds were unoccupied since the 2016 licensure period. In Section III.1, pages 12-13, the applicants state the following about the 48 unoccupied beds that are to be relocated to River Bend Senior Living,

“The 48 licensed beds proposed to be relocated from New Bern House to the proposed River Bend Senior Living are unoccupied beds without residents. These beds are empty because of the low occupancy of New Bern House, which is a direct result of its obsolete facility.”

In Section III.6(c), page 16, the applicants state:

“With the proposed relocation of beds from the existing facility to the new facility on a new site, residents of Craven County will have an improved ability to obtain the same assisted living services in the future. ... the new facility will offer ... care driven by more efficient operations with modern systems.

The fact that the new site is both centrally located within Craven County and located in New Bern, the county’s primary population center, will provide optimal access to services for residents of Craven County. The new site is located ..., so geographic accessibility to services will not be impacted by the relocation.”

The 49 ACH beds at New Bern House are not currently serving residents, therefore no residents will be impacted by the relocation of 48 of those beds. The proposed relocation of 48 ACH beds will not change the inventory of ACH beds in Craven County because the beds are being relocated within the same host county.

The applicants demonstrate that that the needs of the population proposed to be served will be adequately met and that the proposal will not adversely affect the ability of underserved groups to obtain needed health care. Therefore, 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.

NC

In Section III.3, page 14, the applicants discuss the alternatives considered prior to submitting this application, which include:

- Leave the 48 licensed beds at New Bern House – the applicants state that the 48 beds are not being utilized. Therefore, having unoccupied beds is not a cost-effective alternative.
- Renovate New Bern House – the applicants state that renovating New Bern House would be cost restrictive and disturb operations. Therefore, renovating the facility is not an effective alternative.

After considering the above alternatives, the applicants concluded that relocating 48 ACH beds to River Bend Senior Living, a new replacement facility, is the least costly and most effective alternative.

However, the application is not conforming to all other statutory and regulatory review criteria, and thus, is not approvable. See Criteria (3), (5), (6) and (18a) and (21). An application that cannot be approved cannot be an effective alternative.

In summary, the applicants do not adequately demonstrate that this proposal is the least costly or most effective alternative to meet the identified need. Therefore, the application is not conforming to this criterion and cannot be approved.

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

NC

The applicants propose to replace and relocate 48 ACH beds from New Bern House to River Bend Senior Living in Craven County for a total of 48 ACH beds at River Bend Senior Living upon project completion.

Capital and Working Capital Costs

In Section VIII.1, pages 29-30, the applicants project the total capital costs for the proposed River Bend Senior Living facility will be \$7,214,460.00, which include:

RIVER BEND SENIOR LIVING Projected Capital Costs	
Site Costs	\$1,531,700
Construction / Renovation Costs	\$3,749,760
Building Purchase	\$288,000
Equipment/Furniture	\$650,000
Architect and Engineering Fees	\$185,000
Other Consultant Fees	\$65,000
Commercial Loan (Financing costs)	\$150,000
Interest During Construction Costs	\$245,000
Contingency	\$350,000
Total	\$7,214,460

In Section VIII.2, page 31, the applicants state that the capital costs of the project will be financed by a commercial loan. In Exhibit P, the applicants state the start-up cost will be \$125,500 with the initial operating cost being \$380,834, for a total working capital of \$506,334.

Availability of Funds

Exhibit N contains a copy of an April 11, 2017 letter from the Managing Director of Locust Point Capital, which states:

“Locust Point Capital (“Locust”) hereby expresses its interest in providing construction and permanent financing for your proposed new facility in Craven County. Through our longstanding relationships with affiliated entities of Craven Propco, LLC and Craven Opco, LLC, whereby we have previously funded all costs associated with several like projects,

Locust is comfortable with and is eager for the opportunity to fund 100% of the River Bend Senior Living project.”

Exhibit P contains a copy of an April 11, 2017 letter from the Managing Director of Locust Point Capital, which states:

“Locust Point Capital (“Locust”) hereby expresses its interest in providing working capital financing for your proposed new facility in Craven County. ... Locust is comfortable with and is eager for the opportunity to fund 100% of the River Bend Senior Living project.

...

Borrower: *Craven Opco, LLC*

Purpose: *To provide working capital financing inclusive of initial operating costs as well as start-up expense for 48 bed Adult Care Facility in New Bern, Craven County, NC.*

Amount: *\$506,334*

...”

The applicants adequately demonstrate the availability of sufficient funds for the capital and working capital needs for the proposed project.

Financial Feasibility

The applicants provide pro forma financial statements for the first three full fiscal years of operation following completion of the project. In the pro forma financial statement (Form B, pages 42-44), the applicants project that revenues will exceed operating expenses in the second operating year of the project, as shown below in the table.

RIVER BEND SENIOR LIVING			
	1st Full Fiscal Year 10/1/19-9/30/20	2nd Full Fiscal Year 10/1/20-9/30/21	3rd Full Fiscal Year 10/1/21-9/30/22
Total Patient Days	9,391	15,937	16,060
Total Gross Revenues (Charges)	\$801,806	1,446,835	1,460,066
Total Operating Expenses (Costs)	\$1,175,138	\$1,437,032	\$1,439,488
Average Operating Expense per patient day	\$125.13	\$90.17	\$89.63
Net Income	(\$373,322)	\$9,804	\$20,578

The applicants project that revenues will exceed operating expenses in the second and third operating years following project completion. However, the applicants do not adequately demonstrate that the assumptions used in preparation of the pro forma financial statements are reasonable, specifically with regard to projected utilization. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

Conclusion

In summary, the applicants adequately demonstrate that sufficient funds will be available for the capital and operating needs of the project. However, the applicants do not adequately demonstrate that the financial feasibility of the project is based upon reasonable projections of costs and charges. Therefore, the application is nonconforming 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.

NC

The applicants propose to replace and relocate 48 adult care home (ACH) beds from New Bern House to a new replacement facility, River Bend Senior Living, in New Bern. Upon project completion, there will be a total of 48 ACH beds at River Bend Senior Living and 60 ACH beds at New Bern House. New Bern House is currently listed in the inventory of ACH beds in Chapter 11, Table 11A, of the 2017 State Medical Facilities Plan (SMFP) as a licensed facility with 108 beds. Both the proposed facility (River Bend Senior Living) and the existing facility (New Bern House) will be located in Craven County.

On page 219, the 2017 SMFP defines the service area for adult care home beds as, “*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.*” Thus, the service area for this facility consists of Craven County. Facilities may also serve residents of counties not included in their service area.

According to the 2017 SMFP, there are currently a total of 11 existing facilities in Craven County that offer ACH services; two of which are in skilled nursing facilities. The 2017 SMFP projects a surplus of 188 ACH beds in Craven County by 2020. The table below is based on Table 11A, page 225, and Table 11B, page 247, in the 2017 SMFP.

2017 SMFP ACH INVENTORY & 2020 NEED PROJECTIONS Craven County	
# ACH Facilities	11
# Beds in ACH Facilities	581
# Beds in Nursing Homes	30
Total Licensed Beds	611
# CON Approved	0
Total # Available	611
Total # in Planning Inventory	611
Projected Bed Utilization	423
Projected Bed Surplus	188
Source: 2017 SMFP	

In Exhibit I, the applicants provide a visitation log documenting meetings seeking project support that they held with representatives from various city and county organizations; as well as letters of support from the Mayor of New Bern and other supportive parties, attesting to the

need for the proposed 48-bed River Bend Senior Living ACH.

Although, the 2017 SMFP projects a surplus of 188 beds in Craven County by 2020, only 5 of the 11 operational facilities in the county operated with approximately a 75% occupancy based on the information provided in the 2017 LRAs. New Bern House only operated 59 of its licensed 108 beds. Thus, its occupancy is low. In Section III.1, page 13, the applicants state,

“These beds are empty because of the low occupancy of New Bern House, which is a direct result of its obsolete facility.”

The occupancy rates for Craven County ACHs are shown below in the table.

CRAVEN COUNTY INVENTORY OF ADULT CARE HOME BEDS					
Facility	Total # of Licensed Beds	# of ACH Beds	# of SCU Beds	Total # of ACH Residents	Occupancy
New Bern House*	108	108	0	59	54.6%
Bayview Nursing & Rehab Center	72	12	0	12	100.0%
Brookdale New Bern	60	60	0	20	33.3%
Croatan Village	72	54	18	54	75.0%
Good Shepherd Home for the Aged	54	54	0	29	53.7%
Homeplace of New Bern	60	40	20	60	100.0%
Riverpoint Crest Nursing & Rehab Center	123	18	0	6	33.3%
Riverstone	64	64	0	53	82.8%
Riverview	83	83	20	48	57.8%
The Courtyards at Berne Village	55	55	0	46	83.6%
The Courtyards at Berne Village Memory Care	25	0	25	17	68.0%
Total	776	548	83	404	73.7%

Source: 2017 License Renewal applications. *All beds. **At the time of re-licensure, New Bern House had not received the exemption to the moratorium on SCU beds. The exemption was granted March 22, 2017.

The table on page 135 of Exhibit L indicates that for the proposed 48-bed River Bend Senior Living ACH, the applicants project to have 81% occupancy at the end of FY 2020 (4th quarter – see page 135 of Exhibit L), Project Year 1 (PY) and 92% occupancy by the end of PY 2 (4th quarter - see page 139 of Exhibit L).

The applicants do not propose to develop new ACH beds, but rather to replace and relocate beds from an existing facility (described by the applicants as “*outdated*”) to a new facility at River Bend Senior Living. There will be no increase in the inventory of ACH beds in Craven County as a result of the proposed project.

However, the applicants do not adequately demonstrate that there is a need to relocate 48 ACH beds. The discussions regarding analysis of need, including projected utilization, and alternatives found in Criteria (3) is incorporated herein by reference. Because the applicants do not demonstrate a need to relocate the 48 ACH beds, the applicants do not adequately demonstrate that the proposed project would not result in the unnecessary duplication of existing or approved ACH beds in Craven County. Consequently, the application is

nonconforming 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.4, page 28, the applicants provide the projected full time equivalent (FTE) staffing for River Bend Senior Living, illustrated as follows:

RIVER BEND SENIOR LIVING PROPOSED STAFF SECOND FFY: 10/1/2020 – 9/30/2021	
Position	Projected # of FTEs
Routine Services	
Supervisor (1/2 Direct Care)	3.0
Personal Care Aide	4.0
Med Tech (Direct Care)	3.0
Care Coordinator	1.0
Dietary	
Food Service Supervisor	1.0
Cook	1.0
Dietary Aide	
Activity Services	
Director	1.0
Patient Transportation	
Driver	.50
Housekeeping & Laundry	
Supervisor	1.0
Housekeeping Aide	.50
Laundry Aide	.50
Operations/Maintenance	
Maintenance Supervisor	1.0
Administration & General	
Administrator	1.0
Business Office Manager	1.0
Total FTEs	19.5

As illustrated above, the applicants provide staffing for the ACH and project 19.5 FTEs. A SCU is not proposed for this facility. Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in the pro forma financial statements. 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 V.1-3, page 21, the applicants provide information about coordinating the proposed service with the existing health care system. The applicants list the agreements it has with the following entities: Craven Community College – health professionals training program (See Exhibit K), Carolina East Medical Center – patient transfer agreement (See Exhibit J) and local physicians (See Exhibit K). In Section V.4, page 22, the applicants list referral sources for its proposed ACH facility to include social services and hospice (See Exhibits I, J, and K).

In Section II.1, pages 7-10, the applicants provide a list of the services to be provided including beauty and barber services, emergency medical services, therapy services, respite care, family support groups, transportation and specialized physician services. See Exhibit X for service agreements with Sysco (dietary menus) and PharmaCare (pharmaceutical services). The applicants adequately demonstrate that it will provide the necessary ancillary and support services and that the proposed services will be coordinated with the existing health care system. Therefore, the application is 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

In Section X, pages 36-39, the applicants discuss proposed project construction. On page 37, the applicants state that River Bend Senior Living will consist of 26,784 square feet. The applicants propose to relocate 48 ACH beds from New Bern House for a total of 48 licensed beds at River Bend Senior Living. One half of the beds will be designated as private beds and one half as semi-private. On pages 38-39, the applicants describe the features that will be included in the facility to maintain efficient energy operations and contain the costs of utilities.

Exhibit W, pages 196-197, contains a letter from an architect stating that the total cost for the 48-bed ACH facility is estimated to be \$140.00 per square feet for a total of \$3,749,760 in construction costs ($\$140 \times 26,784 = \$3,749,760$) which corresponds with line 9 in Table VIII.I, page 30 of the application. Also in the architect's letter is a description of the energy and water savings features that will be included in the proposed facility.

The applicants adequately demonstrate that the costs, design and means of construction represent the most reasonable alternative and that the construction costs will not unduly increase costs and charges for health services. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. 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 Section IX.1, page 33, the applicants state that there is no historical payor mix for River Bend Senior Living because the facility is not yet existing. However, there is historical payor mix information available for New Bern House; the facility from which the 48 River Bend Senior Living beds are being relocated, and that is also being managed by the same management company as the proposed project. The applicants report no current mix, but the project analyst derived the percentages of patient days from the payor mix the applicants reported in their 2017 LRA for New Bern House. The payor mix per patient days that the applicants reported in their 2017 LRA (FFY2016), pages 11-12, is as follows:

NEW BERN HOUSE HISTORICAL PAYOR MIX FFY2016		
Historical Payor Source	# of Patient Days	% of Total Patients
Medicaid	18,148	73.2%
Private Pay	6,649	26.8%
Total	24,797	100.0%

The United States Census Bureau provides demographic data for North Carolina and all counties in North Carolina. The following table contains relevant demographic statistics for the applicant’s service area.

Percent of Population						
	% 65+	% Female	% Racial & Ethnic Minority*	% Persons in Poverty**	% < Age 65 with a Disability	% < Age 65 without Health Insurance**
Craven County	17%	49%	34%	16%	13%	17%
Statewide	15%	51%	36%	17%	10%	15%

Source: <http://www.census.gov/quickfacts/table>, 2014 Estimate as of December 22, 2015.

*Excludes "White alone" who are "not Hispanic or Latino"

**"This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates. Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable... The vintage year (e.g., V2015) refers to the final year of the series (2010 thru 2015). Different vintage years of estimates are not comparable."

However, a direct comparison to the applicant’s current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities, women or handicapped persons utilizing health services.

The applicants demonstrate that it currently provides adequate access to medically underserved populations. Therefore, the application is conforming to this criterion.

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

C

In Section VI.4(a) and (b), page 25, the applicants state that the proposed facility is not yet operational, therefore there have been no civil rights access complaints at River Bend Senior Living. However, in clarifying information received from the applicants on September 15, 2017, 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 been 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

C

In Section VI.2, page 23, the applicants provide the projected payor mix for ACH services at River Bend Senior Living for FY 2021. In VI.2, page 24 and in Exhibit L, page 132, the applicants state that the projected payor mix is based on the historical payor mix of other ACH facilities that are comparable to River Bend Senior Living, managed by the same management company and in the same HSA. The project analyst calculated the percentage for each payor mix, as shown in the following table:

RIVER BEND SENIOR LIVING Projected Payor Mix FY2021		
Payment Source	# of Patient Days	Percent of Total Patients
Medicaid Special Assistance	8,030	50.4%
Semi-private		
Private Pay	7,907	49.6%
Total	15,937	100.0%

As shown above, 50.4% of all ACH resident days are projected to be paid for by Medicaid Special Assistance. The percent of total patients projected for the proposed facility is similar to the percent of total patients that the applicants provide in Exhibit L for other facilities managed by Affinity in HSA VI. The 48 ACH beds at New Bern House are currently unoccupied and are not providing access to anyone.

In Section VI.3, page 24, the applicants state: *“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. ... Residents who spend down will not be discriminated against in room availability or services.”* Exhibit M contains a copy of the admission policies.

The applicants demonstrate that medically underserved populations will have adequate access to the adult care home services provided by River Bend Senior Living. 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.

C

In Section V.4, page 22, the applicants state that access to the ACH proposed services at River Bend Senior Living will occur by a range of means to include: the Craven County Department of Social Services, local churches, and community organizations. In Exhibits I and K, the applicants provide a meeting schedule with various organizations. Exhibit J contains a transfer agreement with CarolinaEast Health System to transfer residents of the ACH to CarolinaEast if medically necessary.

The applicants adequately demonstrate they will offer 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.

C

In Section V.1, page 21, the applicants state that Craven Community College was contacted concerning offering River Bend Senior Living as a clinical training site. Exhibit K contains a copy of a letter to Craven Community College.

The applicants adequately demonstrate that the facility would accommodate the clinical needs of area health professional training programs. Therefore, the application is conforming to this criterion.

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

NC

The applicants propose to replace and relocate 48 adult care home (ACH) beds from New Bern House to a new replacement facility, River Bend Senior Living, in New Bern. Upon project completion, there will be a total of 48 ACH beds at River Bend Senior Living and 60 ACH beds at New Bern House. New Bern House is currently listed in the inventory of ACH beds in Chapter 11, Table 11A, of the 2017 State Medical Facilities Plan (SMFP) as a licensed facility

with 108 beds. Both the proposed facility (River Bend Senior Living) and the existing facility (New Bern House) will be located in Craven County.

On page 219, the 2017 SMFP defines the service area for adult care home beds as, “*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.*” Thus, the service area for this facility consists of Craven County. Facilities may also serve residents of counties not included in their service area.

According to the 2017 SMFP, there are currently a total of 11 existing facilities in Craven County that offer ACH services; 2 of which are in skilled nursing facilities. The table below is taken from Table 11A, page 225 and Table 11B, page 247, in the 2017 SMFP.

2017 SMFP ACH INVENTORY & 2020 NEED PROJECTIONS Craven County	
# ACH Facilities	11
# Beds in ACH Facilities	581
# Beds in Nursing Homes	30
Total Licensed Beds	611
# CON Approved	0
Total # Available	611
Total # in Planning Inventory	611
Projected Bed Utilization	423
Projected Bed Surplus	188
Source: 2017 SMFP	

As shown in the above table, the 2017 SMFP projects a surplus of 188 ACH beds in Craven County by 2020.

The applicants do not propose to develop new ACH beds, but rather to relocate 48 existing beds that are currently unoccupied. There will be no increase in the inventory of ACH beds in Craven County as a result of the proposed project.

In Section VI.5, page 25, the applicants discuss how the project will promote cost-effectiveness, quality and access to the proposed services. In Exhibit M, the applicants include their Admissions Agreement which includes a non-discrimination policy and civil rights statement.

See also Sections II, III, V, and VI where the applicants discuss the impact of the project on cost-effectiveness, quality and access to the proposed services.

However, the information provided by the applicants is not reasonable and does not adequately demonstrate that any enhanced competition in the service area includes a positive impact on cost-effectiveness for the proposed services. This determination is based on the information in the application and the following analysis:

- The applicants do not adequately demonstrate the need for the proposed project and that it is a cost-effective alternative. The discussions regarding analysis of need,

projected utilization and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.

- The applicants adequately demonstrate that they will continue to provide quality services. The discussion regarding quality found in Criterion (20) is incorporated herein by reference.
- The applicant adequately demonstrates that it will provide adequate access to medically underserved populations. The discussions regarding access found in Criteria (3) and (13) are incorporated herein by reference.

Consequently, the application is nonconforming 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.

C

In Section II.3, page 11, the applicants state that they as co-applicants are each a single purpose entity established for developing and operating the River Bend Senior Living ACH. However, Affinity Living Group, LLC will manage River Bend Senior Living along with 75 other ACH facilities in North Carolina, provided in a list in Exhibit B. According to a September 19, 2017 Penalty Report from the Adult Care Licensure Section, DHSR, during the 18 months immediately preceding the submittal of the application through the date of the decision, five facilities were found to be out of compliance with one or more Medicare conditions of participation. At this time, 71 facilities are in compliance with all Medicare conditions of participation. After reviewing and considering information provided in written comments submitted during the 30-day written comment period, by the applicants in the application, 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.

NC

The application is not conforming with all applicable Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100. The specific criteria are discussed below.

SECTION .1100 - CRITERIA AND STANDARDS FOR NURSING FACILITY SERVICES or ADULT CARE HOME SERVICES

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- (a) *An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.*
- NA- The applicant is not proposing to add nursing facility beds.
- (b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*
- NA- The applicant is not proposing to add nursing facility beds.
- (c) *An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*
- NA- The applicant is not proposing to add adult care home beds to an existing facility.
- (d) *An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project.*

-NC- In Section IV.2, page 19, the applicant projects that the occupancy rate will be 91% at the end of operating year two (FY2021). The assumptions and methodology for the projections are provided in Section IV.3, page 20 and Exhibit L (Assumptions and Worksheets).

However, the applicants did not adequately demonstrate that projected utilization is based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization found in Criterion (3) incorporated herein by reference.