

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: January 29, 2018

Findings Date: February 2, 2018

Project Analyst: Tanya S. Rupp

Team Leader: Fatimah Wilson

Project ID #: O-11421-17

Facility: Bradley Creek Health Center at Carolina Bay

FID #: 130064

County: New Hanover

Applicant: Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC, Carolina Bay Healthcare Center of Wilmington, LLC

Project: Develop 8 non-Medicaid certified adult care home beds pursuant to Policy LTC-1 for a total of 30 nursing facility beds, 78 adult care home beds and 129 independent living units

### REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

C

Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC and Carolina Bay Healthcare Center of Wilmington, LLC (the applicants) propose to develop 8 non-Medicaid certified adult care home (ACH) beds at Bradley Creek Health Center at Carolina Bay (Bradley Creek), an existing Continuing Care Retirement Community (CCRC) located in Wilmington in New Hanover County, pursuant to Policy LTC-1. Bradley Creek is currently licensed for 30 nursing facility (NF) beds, 70 adult care home (ACH) beds, and 129 independent living (IL) units. The facility also includes a 24-bed memory support unit for residents suffering from Alzheimer's or other related dementia disorders. Upon completion of the proposed project, Bradley Creek will have 30 NF beds, 78 ACH beds, and 129 IL units.

## **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 that are applicable to this review.

## **Policies**

The following policy is applicable to this review:

### **Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds**

*“Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes. To qualify for such exemption, applications for certificates of need shall show that the proposed adult care home bed capacity:*

- 1. Will only be developed concurrently with, or subsequent to, construction on the same site of independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages, and rooms.*
- 2. Will provide for the provision of nursing services, medical services or other health related services as required for licensure by the North Carolina Department of Insurance.*
- 3. Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing or adult care unit of the continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.*
- 4. Reflects the number of adult care home beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care after making use of all feasible alternatives to institutional adult care home care.*
- 5. Will not participate in the Medicaid program or serve State-County Special Assistance recipients.*

*One half of the adult care home beds developed under this exemption shall be excluded from the inventory used to project adult care home bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the North Carolina 2002 State Medical Facilities Plan are automatically amended to conform with the provisions of this policy at the effective date of this policy.”*

In Section II.1, pages 12 – 22 and Section III.4, page 37, the applicants state that the proposed ACH beds to be added will conform to Policy LTC-1 as follows:

- The beds will be developed “*concurrently with the construction on the same site of independent living accommodations and licensed skilled nursing beds.*”
- The beds will provide for the provision of nursing services, medical services or other health related services as required for licensure by the North Carolina Department of Insurance (see pages 12 – 22).
- The beds will be used exclusively to meet the needs of the people with whom Bradley Creek has continuing care contracts and who have lived in a non-nursing unit of the facility for a period of at least 30 days, unless as excepted by Policy LTC-1.
- The proposed number of ACH beds is required to meet the projected needs of the CCRC community and its residents.
- The proposed ACH beds will not be certified for participation in the Medicaid program or serve State-County Special Assistance recipients.

The applicants adequately demonstrate conformity with the requirements of Policy LTC-1.

### **Conclusion**

The information in the application, including any exhibits, is reasonable and adequately supported because the applicants adequately describe how the proposed project conforms to Policy LTC-1.

This determination is based on a review of:

- the information in the application, including exhibits; and
- information which was publicly available during the review and used by the Agency.

Therefore, the applicant adequately demonstrates that 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.

C

The applicants propose to develop 8 non-Medicaid certified ACH beds at Bradley Creek pursuant to Policy LTC-1 for a total of 30 NF beds, 78 ACH beds, and 129 IL units. The facility also includes a 24-bed memory support unit for residents suffering from Alzheimer’s or other related dementia disorders. Upon project completion, the facility will have 100 private rooms and 8 semi-private rooms.

On page 219, the 2017 SMFP defines the service area for ACH 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 Tyrell, are considered a combined service area*”. Thus, the service area for this facility consists of New Hanover County. Facilities may also serve residents of counties not included in their service area.

**Patient Origin**

In Section III.8, pages 40 – 41, the applicants provide historical patient origin for both NF and ACH beds for Bradley Creek, as shown in the following table:

COUNTY	NF BEDS- PERCENT OF TOTAL NF ADMISSIONS	ACH BEDS- PERCENT OF TOTAL ACH ADMISSIONS
New Hanover	96%	85%
Brunswick	4%	3%
Chatham	0%	1.5%
Pender	0%	1.5%
Out of State	0%	9%
<b>Total</b>	<b>100%</b>	<b>100%</b>

In Section III.9, page 41, the applicants project patient origin for both NF and ACH beds at Bradley Creek during the first full federal fiscal year of operation following completion of the project as shown in the following table:

**Bradley Creek Projected Utilization, FFY 2019**

COUNTY	NF BEDS- PERCENT OF TOTAL NF ADMISSIONS	ACH BEDS- PERCENT OF TOTAL ACH ADMISSIONS
New Hanover	96%	90%
Brunswick	4%	3%
Chatham	0%	1%
Pender	0%	1%
Out of State	0%	5%
<b>Total</b>	<b>100%</b>	<b>100%</b>

In Section III.9, page 41, the applicants state they utilized current patient origin to project future patient origin, with a slight difference: the applicants state that, since the proposal is to add ACH beds to an existing CCRC, the projected patient origin for NF beds will remain consistent with the facility's history. With regard to the ACH beds proposed pursuant to Policy LTC-1, however, the applicants project that a higher percentage of residents will come from New Hanover County, because the beds will be used exclusively to meet the needs of people with whom the facility has continuing care contracts, who are residents of New Hanover County.

The applicants adequately identify the population to be served.

### **Analysis of Need**

In Section III.1, pages 31 - 35 the applicants describe the need to develop 8 new ACH beds at Bradley Creek, an existing CCRC in New Hanover County, pursuant to Policy LTC-1, as follows:

- Bradley Creek is an existing CCRC with 129 IL units, 70 ACH beds and 30 NF beds. The IL units consist of 123 IL apartments and six units that are in a garden flat building. The applicant proposes to develop a two additional garden flat buildings, each with six IL units, based on anticipated population growth in the area (page 31).
- Later, the applicants propose to develop additional garden flat building with six units each; eventually there will be a total of eight garden flat buildings. The applicants state that the beds proposed in this application will serve populations of residents coming from the IL units (page 33).
- Between 2016 and 2017, utilization of the ACH beds at Bradley Creek increased from 12% in June 2016 (date of licensure) when the facility reported 253 patient days, to 97% in September 2017 when the facility reported 2,047 patient days (see page 33 and Exhibit 12). That represents total growth of approximately 700%  $[(2,047 / 253) - 1 = 7.09]$  (page 33).
- The current ACH bed complement will not be sufficient to meet the needs of the residents who will occupy the new independent living units and who will need adult care home beds (pages 33 – 34).
- The ACH bed complement currently consists of private rooms, and the applicants have couples who are residents and who naturally desire to age in place together. The applicants have had to block off a private room to accommodate a couple, and anticipate that more couples will desire the same (page 34).
- The applicants conducted a study to determine the number of “closed” ACH beds (those reserved for residents of the CCRC, as pursuant to Policy LTC-1) in New

Hanover County and found that there are only 18 out of 218 ACH beds in the county that are “closed” (page 34).

- The applicants analyzed demographic data from Environics Analytics and the North Carolina Office of State Budget and Management and found the population of persons age 65 and older in New Hanover County is projected to increase by 90% from 2010 to 2030, and the population of persons over age 85 is projected to increase by 97% during that same time (page 32).
- The applicants provide letters of support from existing patients at Bradley Creek, each of which indicates that additional ACH beds to accommodate couples who desire to age in place together are needed at the facility (Exhibit 9).
- The applicants also provide physician support letters which indicate physicians in the area will refer patients to the facility.

Based on review of the information in Section III and in referenced exhibits, the applicants adequately demonstrate the need to develop eight Policy LTC-1 ACH beds at Bradley Creek.

Projected Utilization

In Section IV, page 43, the applicants provide historical utilization for Bradley Creek for the nine months preceding submittal of the application, January 1, 2017 – September 30 2017, summarized in the following table:

Year	NF Days	% Utilization*	ACH Days	% Utilization*	Facility Days	Facility Utilization*
2017	5,469	67%	16,224	85%	21,693	79%

\*Utilization of NF and ACH days calculated based on (# patient days / 270) / # beds

In Section IV, pages 43 - 47, the applicants provides projected utilization for 30 NF beds and 78 ACH beds during the first two full federal fiscal years (FFYs), as shown in the following table.

**NF Beds - Projected Utilization  
 First and Second Operating Years**

	OY1 FFY 2019	OY2 FFY 2020
Patient Days	9,490	9,490
# of beds	30	30
Occupancy Rate	86.7%	86.7%

Growth was calculated by # patient days / 365 days per year / # beds

**ACB Beds - Projected Utilization  
First and Second Operating Years**

	<b>OY1 FFY 2019</b>	<b>OY2 FFY 2020</b>
Patient Days	26,826	27,010
# of beds	78	78
Occupancy Rate	94.2%	94.8%

Growth was calculated by # patient days / 365 days per year / # beds

In Section III, pages 31 - 34, and in Section IV, page 44, the applicants provide the assumptions and methodology used to project utilization, summarized as follows:

- The most recent average daily census (ADC) for the facility was 59.4 patients over the last nine months, or 85% occupancy. For the three months prior to that, occupancy was 93%, with 65 residents.
- New Hanover County population as a whole is projected to grow by nearly 7% from 2017 to 2022, according to data obtained by the applicants from Evironics Analytics; furthermore, the population in New Hanover County of persons age 65 and older, who are more likely to utilize the ACH beds in a CCRC, is projected to increase by 20.79% (page 32).
- Similar data from the North Carolina State Office of Management and Budget projects the population of persons age 65 - 74 in New Hanover County will increase by 74.43% from 2010 – 2030; furthermore, the population age 85 and over is projected to increase by 91.72% during that same time (page 32, Exhibit 8).
- Bradley Creek proposes to add IL units in response to resident demand (page 33).
- There is a need for additional ACH capacity for couples who desire to age in place together, and the current facility is not able to accommodate those couples without blocking off private rooms (page 33).
- Occupancy of existing ACH beds averaged 85% in the nine months preceding submittal of this application, with the last two months (August 2017 and September 2017) at over 90% utilization (page 33).
- Applicants project a fill-up rate of two patients per month until reaching 94% occupancy for the ACH beds. This rate is based on the applicants' historical experience for the past nine months at Bradley Creek (page 44).
- Occupancy is projected to be 94% in the first two project years: the most recent average daily census (ADC) for the nine months preceding submittal of the application was 59 patients, or 85% occupancy (see page 33). Given the historical growth in the ACH bed utilization at Bradley Creek over past two years, combined

with the projected growth of the population age 65 and over in the county, this is a reasonable projection.

Additionally, in Exhibit 9 the applicants provide 10 patient letters which indicate support for the ACH beds.

Projected utilization is based on reasonable and adequately supported assumptions.

### **Access**

In Section VI.5, pages 69-70, the applicants state that Bradley Creek will be non-restrictive with respect to social, racial, ethnic, or gender-related issues and that admissions will occur on a first come, first served basis. In addition, on page 55, the applicants state that the facility will admit to its 52 “open” ACH beds any person over the age of 18 who qualifies for and is in need of ACH services. In addition, the applicants state, in III.4, page 37, that the proposed Policy LTC-1 ACH beds and the existing 12 “closed” NF beds will be used exclusively to meet the needs of people with whom the facility has continuing care contracts.

The applicants also state, in Section VI.3, page 54, that 61.54% of Bradley Creeks' NF patient days will be reimbursed by Medicare.

### **Conclusion**

The information in the application, including any exhibits, is reasonable and adequately supported for the following reasons:

- clearly cited, facility-specific historical data from which the applicant identifies the projected patient population and demonstrates the need the projected patient population has for the proposed services,
- documentation from existing couples who have contracts with the CCRC who would prefer to age in place together and thus would need ACH beds such that the facility would no longer have to block private beds in order to accommodate those patients, and
- projected utilization supported by historical utilization and population growth statistics.

This determination is based on a review of the:

- information in the application, including any exhibits
- information which was publicly available during the review and used by the Agency

Therefore, the applicant adequately demonstrates that 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.

NA

The applicants do not propose to reduce, eliminate or relocate a facility or service; therefore, this Criterion is not applicable to this review.

- (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 develop eight non Medicaid-certified ACH beds at Bradley Creek in New Hanover County, pursuant to Policy LTC-1. Upon completion of the proposed project, Bradley Creek will have 30 NF beds, 78 ACH beds and 129 independent living units.

In Section III.2(a), page 35, the applicants describe the alternatives considered prior to submitting the application, which include:

- Maintain the Status Quo - the applicants state that this would ignore the needs of the existing residents of the CCRC who desire to remain together as couples, and would not address the need for additional ACH beds in general in the facility. Additionally, Bradley Creek's existing ACH beds operated at an average of 93% capacity in CY 2016 (see page 33). The applicants state there is clear demand for the proposed adult care home beds.
- Develop only Four Policy LTC-1 Beds – the applicants state that, because of the documented desire of couples to age in place together, the addition of the eight ACH beds as proposed in this application provides the applicants the opportunity to create space for couples or other family members without taking private beds out of commission and without having to send family members out of the facility for their long-term care needs.

Furthermore, the application is 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 information in the application, including any exhibits, is based on reasonable and adequately supported assumptions regarding the number of residents to be served in the proposed ACH beds and the desire of couples to age in place together in Bradley Creek.

This determination is based on a review of the:

- information in the application, including any exhibits
- information which was publicly available during the review and used by the Agency

Therefore, the applicant adequately demonstrates that the application is conforming to this criterion, and the application is approved, subject to the following conditions.

- 1. Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC and Carolina Bay Healthcare Center of Wilmington, LLC d/b/a Bradley Creek Health Center at Carolina Bay shall materially comply with all representations made in the certificate of need application.**
- 2. Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC and Carolina Bay Healthcare Center of Wilmington, LLC d/b/a Bradley Creek Health Center at Carolina Bay shall develop no more than 8 Policy LTC-1 adult care home beds for a facility total of no more than 30 NF beds and 78 ACH beds upon completion of the project.**
- 3. The 8 Policy LTC-1 adult care home beds shall not participate in the Medicaid program or serve State-County Special Assistance recipients.**
- 4. The 8 Policy LTC-1 adult care home beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing or adult care unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
- 5. The 8 new Policy LTC-1 adult care home beds shall be developed on the same site with the independent living units.**
- 6. 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, Bradley Creek Health Center at Carolina Bay 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.

**7. Carolina Bay of Wilmington, LLC, Carolina Bay Properties of Wilmington, LLC and Carolina Bay Healthcare Center of Wilmington, LLC d/b/a Bradley Creek Health Center at Carolina Bay 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 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 develop eight non Medicaid-certified ACH beds at Bradley Creek, an existing CCRC located in New Hanover County, pursuant to Policy LTC-1. Upon completion of the proposed project, Bradley Creek will have 30 NF beds, 78 ACH beds and 129 independent living units.

#### **Capital and Working Capital Costs**

In Section VIII.1, page 69, the applicant projects the total capital cost to expand Bradley Creek will be \$77,800, which includes \$8,800 in construction costs and \$69,000 in consultant fees.

In Section IX, page 75, the applicant states that since the facility is currently operational, the only start-up costs or initial operating expenses associated with the project is \$1,000 in inventory and advertising costs.

#### **Availability of Funds**

In Section VIII.2, page 70, the applicants state that the entire capital cost will be financed with owner's equity. In Exhibit 13, the applicant provides a letter dated October 4, 2017 from John A. McNeill, Jr., one of the owners of Bradley Creek, which commits to funding the entire capital cost and start-up costs associated with the project. Also in Exhibit 13 is a copy of an email dated October 5, 2017 from Ronnie McNeill, one of the owners of Bradley Creek which commits to funding the entire capital cost and start-up costs associated with the project. The exhibit also provides a letter dated October 4, 2017 from a Certified Public Accountant representing both John A. McNeill, Jr. and Ronnie McNeill, which confirms that each person has in excess of \$15,000,000 in current assets.

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

**Financial Feasibility**

In Table X.4B, page 85, the applicant projects that the per diem reimbursement rate/charge for the second full federal fiscal year as follows:

**Projected Per Diem Reimbursement, Second FFY (2020)**

PAYMENT SOURCE BY TYPE OF CARE	PRIVATE ROOM	SEMI-PRIVATE ROOM
<b>NF Beds (includes SCU beds)</b>		
Private Pay	\$295.02	NA
Medicare	\$526.96	NA
Medicaid	NA	NA
<b>ACH Beds</b>		
Private Pay	\$224.98	\$224.98
Medicare	NA	NA
Medicaid	NA	NA

In Section XIII, the applicant provided 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), the applicant projects that revenues will exceed operating expenses in the first two operating years of the project, as shown in the tables below:

**Bradley Creek – Project Year 1 (FFY 2019)**

	NF	ACH	ENTIRE FACILITY**
Projected # Days	9,490	26,826	36,316
Projected Average Charge*	\$415	\$225	\$275
Patient Gross Revenue	\$3,942,277	\$6,035,313	\$9,977,591
Other Revenues	\$345,721	\$12,072	\$357,792
Total Revenue	\$3,978,643	\$6,047,385	\$10,026,028
Total Expenses	\$3,334,817	\$5,201,173	\$8,535,989
Net Income	\$643,826	\$846,213	\$1,490,039

\*Calculated by gross patient revenue / # days

\*\*Does not include IL Units

**Bradley Creek – Project Year 2 (FFY 2020)**

	NF	ACH	ENTIRE FACILITY**
Projected # Days	9,490	27,010	36,500
Projected Average Charge*	\$415	\$225	\$275
Patient Gross Revenue	\$3,942,277	\$6,076,710	\$10,018,987
Other Revenues	\$345,721	\$12,155	\$357,875
Total Revenue	\$3,978,643	\$6,088,864	\$10,067,507
Total Expenses	\$3,381,794	\$5,223,998	\$8,605,792
Net Income	\$596,849	\$864,866	\$1,461,716

\*Calculated by gross patient revenue / # days

\*\*Does not include IL Units

In the pro forma financial statement (Form B), the applicant projects total revenue for the overall facility will exceed total operating expenses for the overall facility in the second operating year of the project.

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section XII of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicants adequately demonstrate sufficient funds for the capital and operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

### **Conclusion**

The information in the application, including any exhibits, is based on reasonable and adequately supported assumptions regarding:

- the applicant uses reasonable and adequately supported assumptions to project utilization,
- historical data is used to project future costs and charges and demonstrate the project's financial feasibility, and
- the applicant projects that revenues will exceed operating expenses in the first two Operating Years of the project.

This determination is based on a review of the information in the application, including any exhibits.

Therefore, the applicant adequately demonstrates that 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 develop eight new ACH beds at Bradley Creek, an existing CCRC located in New Hanover County, pursuant to Policy LTC-1. Upon completion of the proposed project, Bradley Creek will have 30 NF and 78 ACH beds along with 129 independent living units.

On page 219, the 2017 SMFP defines the service area for ACH 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 Tyrell, are considered a combined*

*service area*". Thus, the service area for this facility consists of New Hanover County. Facilities may also serve residents of counties not included in their service area.

The beds which are the subject of this application are proposed to be "closed" beds, and will only be available to existing independent living residents of Bradley Creek. The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Bradley Creek for at least 30 days. The proposal is consistent with the policy in the 2017 SMFP. Furthermore, the applicants adequately demonstrate the need the population to be served has for eight additional Policy LTC-1 ACH beds. The discussion regarding the need for the proposed beds found in Criterion (3) is incorporated herein by reference.

The information in the application, including any exhibits, is based on reasonable and adequately supported assumptions regarding:

- The need for ACH beds in Bradley Creek to accommodate couples who reside in the CCRC.
- The projected population growth in New Hanover County, particularly of the age 65 and older group.

This determination is based on a review of the information in the application, including any exhibits.

Therefore, the applicant adequately demonstrates that 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

The applicants currently operate Bradley Creek and employ a total of 82.95 full time equivalent (FTE) employees. Furthermore, the applicants currently provide direct care staff twenty-four hours per day, seven days per week. The applicants do not propose the addition of any FTE staff members as a result of this project.

In Section VII.6, pages 66 - 67, the applicants describe their experience and process for recruiting and retaining staff. Adequate costs for the health manpower and management positions proposed by the applicant 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.

The information in the application, including any exhibits, is reasonable and adequately supported for the following reasons:

- The applicants adequately demonstrate that sufficient staffing is currently in place at Bradley Creek.
- The applicants adequately demonstrate that their experience in recruiting and retaining staff will continue to assist in the provision of adequate personnel for Bradley Creek.

This determination is based on a review of the information in the application, including any exhibits.

Therefore, the applicants adequately demonstrate that 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

Bradley Creek is an existing CCRC with 30 licensed NF beds, 70 licensed ACH beds and 129 independent living units. In Section II.2, pages 11 – 16 and 18, the applicants describe the ancillary and support services that will be provided by the facility or made available through agreements with other providers including dietary, medical transportation, dentistry, physician, therapy, rehab, laboratory, personal care, housekeeping and laundry services. Exhibit 11 contains a copy of an existing transfer agreement in the event a patient requires transfer to an acute care hospital. The applicants adequately demonstrate that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system.

The information in the application, including any exhibits, is based on reasonable and adequately supported assumptions regarding the provision of necessary ancillary and support services at Bradley Creek.

This determination is based on a review of the information in the application, including any exhibits.

Therefore, the applicant adequately demonstrates that 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

The applicants do not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicants do not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, this Criterion is not applicable to this review.

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

NA

The applicants are not an HMO. Therefore, Criterion 10 is not applicable to this review.

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

NA

The applicants do not propose to construct any new space or make more than minor renovations to existing space. Therefore, Criterion 12 is not applicable to this review.

- (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

The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Bradley Creek for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

However, the applicants provide nursing services which are not limited by Policy LTC-1. In Section VI.2, page 53, the applicants state that in FFY 2017, 62.5% of nursing facility patients at Bradley Creek were recipients of Medicare.

The application is conforming to this Criterion based on a review of the:

- Information in the application, including any exhibits
- Information which was publicly available during the review and used by the Agency

- (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

The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Bradley Creek for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

In Section VI.6, page 55, the applicants state that there have been no civil rights access complaints against the facility or any entities related to the applicants.

The application is conforming to this Criterion based on a review of the:

- Information in the application, including any exhibits
  - Information which was publicly available during the review and used by the Agency
- c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Bradley Creek for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

However, the applicants provide nursing services which are not limited by Policy LTC-1. In Section VI.3, page 54, the applicants project that in the second full FFY of operation (FFY 2020), 61.54% of nursing facility patients at Bradley Creek will be recipients of Medicare.

The application is conforming to this Criterion based on a review of the:

- Information in the application, including any exhibits
  - Information which was publicly available during the review and used by the Agency
- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C

The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Bradley Creek for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

In Section VI.7, page 56, the applicants state the facility currently receives referrals from New Hanover Regional Medical Center, Cape Fear Hospital, Liberty Home Care, Liberty's in-house marketing team and local physician practices.

The application is conforming to this Criterion based on a review of the:

- Information in the application, including any exhibits
  - Information which was publicly available during the review and used by the Agency
- 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 Exhibit 10, the applicants provide a copy of an existing clinical training program agreement with Cape Fear Valley Community College. The applicants state on page 51 that Bradley Creek has extensive experience with local healthcare providers in New Hanover County.

The information in the application, including any exhibits, is reasonable and adequately supported because the applicants adequately demonstrate that they have existing clinical training agreements in place and that the facility will continue to meet the needs of clinical training programs in the area.

This determination is based on a review of the information in the application, including any exhibits.

Therefore, the applicant adequately demonstrates that 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.

C

The applicants propose to develop eight new ACH beds at Bradley Creek, an existing CCRC located in New Hanover County, pursuant to Policy LTC-1. Upon completion of the

proposed project, Bradley Creek will have 30 NF and 78 ACH beds along with 129 independent living units.

On page 219, the 2017 SMFP defines the service area for ACH 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 Tyrell, are considered a combined service area”*. Thus, the service area for this facility consists of New Hanover County. Facilities may also serve residents of counties not included in their service area.

The beds which are the subject of this application are proposed to be “closed” beds, and will only be available to existing independent living residents of Bradley Creek. The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at Bradley Creek for at least 30 days. The proposal is consistent with the policy in the 2017 SMFP.

In Section III.5, page 40, the applicants state:

*“The beds will be developed under the conditions of Policy LTC-1, which limits the patient population to the residents of the CCRD, Carolina Bay. As such, access to existing adult care home beds and impact on other providers in the county is not applicable.”*

In Sections XI.13 and XI.14, the applicants discuss measures undertaken to assure cost-effectiveness and quality in the delivery of its services. In addition, in Exhibit 6 the applicants provide a copy of the Quality Assurance Program followed by the facility.

The application is conforming to this criterion for the following reasons:

- The applicant adequately demonstrates the need for the proposal and that it is a cost-effective alternative.
- The applicant adequately demonstrates that it will provide quality services.

This determination is based on a review of the:

- Information in the application, including any exhibits
- Information which was publicly available during the review and used by the Agency

(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 I.12, pages 7 - 8, the applicants identifies the other facilities in North Carolina which are owned and/or managed by the management company that manages Bradley Creek. In Section II.6, page 29, the applicants identify three of 26 North Carolina facilities owned and/or managed by the same management company that have experienced quality of care issues within the past 18 months. In Exhibit 7 the applicants provide copies of the survey results that were conducted by the Division of Health Service Regulation. Those documents confirm that all facilities are back in compliance with the Medicare Conditions of Participation. After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all facilities, the applicants provided sufficient evidence that quality care has been provided in the past.

The information in the application, including any exhibits, is reasonable and adequately supported for the following reasons:

- The applicants provided copies of the CMS Survey reports that document the instances that led to a finding of non-conformity with the Medicare Conditions of Participation, and
- The applicants provided documentation that the facilities involved are now back in compliance.

This determination is based on a review of the:

- information in the application, including any exhibits
- information which was publicly available during the review and used by the Agency

Therefore, the applicants adequately demonstrates that 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 to a Continuing Care Retirement Community developing new Policy LTC-1 adult care home beds.