

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: March 29, 2018

Findings Date: April 6, 2018

Project Analyst: Tanya S. Rupp

Team Leader: Fatimah Wilson

Project ID #: G-11420-17

Facility: Summerstone Health and Rehabilitation Center

FID #: 923497

County: Forsyth

Applicant(s): Liberty Healthcare Properties of Kernersville, LLC

Liberty Commons of Kernersville, LLC

LCN & RC of the Oaks, LLC

Liberty Healthcare Properties of the Oaks, LLC

Project: Relocate 20 existing nursing facility beds from The Oaks to Summerstone Health and Rehabilitation Center pursuant to Policy NH-6 for a total of 120 nursing facility beds at Summerstone Health and Rehabilitation Center

### 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

Four applicants, Liberty Healthcare Properties of Kernersville, LLC (Summerstone Properties), Liberty Commons of Kernersville, LLC (Summerstone), LCN & RC of the Oaks, LLC (The Oaks) and Liberty Healthcare Properties of the Oaks, LLC (The Oaks Properties), also known collectively as the applicants, propose to relocate 20 existing nursing facility (NF) beds from The Oaks in Forsyth County to an existing facility, Summerstone Health and Rehabilitation Center (Summerstone) in Forsyth County, pursuant to Policy NH-6, for a total of 120 Nursing Facility beds at Summerstone upon project completion. Liberty HCP is the

lessor and Liberty Commons of Kernersville is the lessee. The Oaks is an existing nursing facility with 150 NF beds, located in Winston-Salem. Summerstone is a new nursing facility located in Kernersville that was licensed effective August 24, 2017 with 100 NF beds.

### **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 applicable to this review.

### **Policies**

The following policy is applicable to this review: **Policy NH-6: Relocation of Nursing Facility Beds.**

#### **Policy NH-6: Relocation of Nursing Facility Beds states:**

*“Policy NH-6: Relocation of Nursing Facility Beds Relocations of existing licensed nursing facility beds are allowed. Certificate of need applicants proposing to relocate licensed nursing facility beds shall:*

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

The applicants propose to relocate 20 NF beds from The Oaks to Summerstone. Both facilities are located in Forsyth County, approximately 11 miles apart.<sup>1</sup> In Section III.2, page 50, the applicants state the proposal is to relocate 20 existing NF beds and thus will not result in a surplus or deficit of NF beds in Forsyth County. The proposed project will not affect the total inventory of NF beds in Forsyth County. Therefore, the application is consistent with Policy NH-6.

### **Conclusion**

The Agency reviewed the:

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<sup>1</sup> See <https://www.mapquest.com/directions/from/us/nc/winston-salem-282086942/to/us/nc/kernersville-282027141>

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

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

- The applicants adequately demonstrate that the proposal is consistent with Policy NH-6 for the following reasons:
  - The applicants demonstrate that the proposal will not result in a deficit, or increase an existing deficit in the number of licensed nursing facility beds in Forsyth County; and
  - The applicants demonstrate that the proposal will not result in a surplus, or increase an existing surplus in the number of licensed nursing facility beds in Forsyth County.

(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 relocate 20 existing NF beds from The Oaks in Winston Salem to Summerstone, an existing facility in Kernersville, pursuant to Policy NH-6, for a total of 120 Nursing Facility beds at Summerstone upon project completion.

### **Patient Origin**

On page 191, the 2017 SMFP defines the service area for nursing facility beds as “*A nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” Thus, the service area for this facility is Forsyth County. Facilities may also serve residents of counties not included in their service area.

In Section III.8, page 54, and in supplemental information provided to the Agency on January 29, 2018, the applicants provide the current patient origin of Summerstone at the time this application was submitted, as shown in the table below:

<b>County</b>	<b>% of Total NF Admissions</b>
Forsyth	76.0%
Guilford	15.0%
Stokes	5.0%
Carteret	1.5%
Brunswick	1.0%
Wilkes	1.5%
<b>Total</b>	<b>100.0%</b>

Totals may not sum due to rounding

In Section III.9, page 55, and in supplemental information provided to the Agency on January 29, 2018, the applicants project patient origin for the facility during the first full federal fiscal year (FFY) of operation (10/1/2020 to 9/30/2021) following completion of the project as shown in the table below.

<b>County</b>	<b>% of Total NF Admissions</b>
Forsyth	58.0%
Guilford	33.0%
Stokes	5.0%
Other	4.0%
<b>Total</b>	<b>100.0%</b>

Totals may not sum due to rounding

In Section III.9, page 55 the applicants provide the assumptions and methodology used to project patient origin. In Section III.1, page 47 and in supplemental information requested by the Agency, the applicants project a decrease in the percentage of patients from Forsyth County and an increase in the percentage of patients from Guilford County. The applicants state that the location of the facility on the border of Guilford and Forsyth counties, combined with the fact that it is the only dedicated nursing facility in the area will draw a larger percentage of Guilford County residents in future years. The applicants also state the location of Summerstone is along a major transportation route (US 421) that will encourage access for residents. Additionally, in Exhibit 22 the applicants provide an October 10, 2017 letter from the Administrator of Summerstone which details Summerstone's patient origin during the two months it was operational prior to submittal of this application. The letter states that the initial fill-up of residents was a result of those residents who transferred from Springwood, the facility from which the existing NF beds were relocated. Springwood was located in Winston-Salem, closer to central Forsyth County. Therefore, the applicants project a shift in patient origin as new, non-transferred residents access the NF services provided by Summerstone.

The applicants' assumptions regarding patient origin are reasonable and adequately supported.

### **Analysis of Need**

In Section III.1, pages 43 - 48, the applicants describe the need to relocate 20 licensed NF beds from The Oaks in Winston-Salem to Summerstone in Kernersville, as summarized below:

- The applicants state there is a need in Forsyth County for NF beds in a “*new, efficient, home-like setting*” rather than a CCRC or hospital (page 43).
- The applicants provide current utilization data for The Oaks, the facility from which the beds will be relocated, that shows the “*functional capacity*” of The Oaks is 128 of 151 beds (page 43, Exhibit 8).
- The applicants show the total population of Forsyth County increased from 2010 – 2017, and that 15.35% of that total population is age 65 and over. Furthermore, the applicants state the age 65 – 74 population is projected to increase by over 80% from 2010 – 2030, and the age 75 – 84 population is projected to increase by 82% during the same time. By contrast, the general population of Forsyth County is projected to increase by 5.09%. (page 45, Exhibit 9.)
- The applicants provide data from the NC Office of State Budget and Management (NCOSBM) that shows similar population growth projections (page 45, supplemental information provided on February 21, 2018).
- The applicants state the location of Summerstone, on the Guilford – Forsyth county line, is in a location that is currently not adequately served by NF beds (pages 45 – 47).
- The applicants state the location of Summerstone, along US-421, will provide increased access to patients in the area in need of NF beds.
- The applicants examined the current distribution of NF beds by township in Forsyth County, as summarized in the following table:

TOWNSHIP	# SNF BEDS PER 2017 SMFP
Abbots Creek	100
Clemmonsville	220
Kernersville	192
Winston	884
<b>Total</b>	<b>1,396</b>
<b>Total Forsyth County Surplus per 2017 SMFP</b>	<b>261</b>

See table on page 46 of the application.

On pages 46 – 47, the applicants show all 15 townships in Forsyth County; however, the townships listed in the table are the only townships with NF beds.

- The applicants state that they do not count the 100 NF beds that are at Liberty Commons Nursing and Rehabilitation Center since it is not yet constructed; however, the 2017 SMFP included those beds in the planning inventory. The applicants state 884 of the county’s 1,396 open NF beds are located in the Winston Township. Conversely, 100 of the county’s NF beds are in the Abbots Creek Township, which is the Kernersville area. The applicants propose to relocate unutilized beds from the Winston Township to

the Abbots Creek Township in Kernersville, providing access to NF beds for patients outside of the Winston Township (pages 46 - 47).

- The applicants state that the Deep River Township, in Guilford County, close to the border of Forsyth County, has one facility with 28 “open” NF beds (River Landing at Sandy Ridge is a CCRC, and 32 of the 60 NF beds are reserved for the residents; therefore, 28 NF beds are “open” to the public). Since the applicants propose to serve Guilford County residents, they project that residents of the Deep River Township will be served by Summerstone.
- Novant Health recently opened an acute care hospital in Kernersville, which the applicants state is very important to the location of a new skilled nursing facility (pages 47 - 48).

However, the information regarding utilized beds at The Oaks, the current distribution of NF beds in the county, population growth trends, and Summerstone’s location as provided does not adequately demonstrate why Summerstone needs 20 additional NF beds. The facility’s current utilization does not show that the facility is utilizing the beds it has. The facility has only been open since August 2017, and thus has less than nine months of utilization data to report. The Rules promulgated by 10A NCAC 14C .1102(a) require an applicant proposing to add nursing facility beds to an existing facility to demonstrate that the occupancy of the existing nursing facility beds, over the nine months immediately preceding submittal of the application, was at least 90%. The applicants state the facility has not been opened for nine months and thus does not have nine months of data to report. However, utilization data provided in response to a request for additional information on February 21, 2018 shows that utilization has only been 66% at its highest in December 2017. The average utilization from August to December was 51%, as shown in the following table provided by the applicants:

	August 2017	September 2017	October 2017	November 2017	December 2017	Total/Average
# Days in month	31	30	31	30	31	153
# Resident Days	891	1,470	1,752	1,703	2,054	7,870
# Beds	100	100	100	100	100	100
% Occupancy	29%	49%	57%	57%	66%	51%

Note: data provided pursuant to a request for additional information on February 21, 2018

Even if we were to take the highest month’s utilization, 2,054 resident days in December 2017, and project that same occupancy level for nine months, the utilization would only be 57% [2,054 x 9 = 18,486. 18,486 projected resident days / 270 days = 68.467. 68.467 / 120 beds = 57.05]. Thus, the current occupancy of the facility does not demonstrate a need for additional NF beds at the facility. Additionally, the 2017 SMFP shows a surplus of 261 NF beds in Forsyth County. Even though the applicants do not propose to develop any new NF beds that would result in an increase in the inventory of NF beds in the county, the applicants nevertheless do not demonstrate that the existing beds in the county are sufficiently utilized such that relocating 20 unutilized NF beds would not unnecessarily duplicate existing or approved services.

In addition, In Section III.1, page 45, the applicants state Exhibits 9 and 10 provide statistical or other data that supports the need for the relocation of the NF beds. Exhibit 9 contains population data by age for Forsyth County. Exhibit 10 contains census information for North Carolina, including Forsyth and Guilford Counties, for 2010 – 2030. However, the applicants do not show how the population data provided in the application or the exhibits support the need to relocate unutilized beds in Forsyth County to a facility that has not demonstrated that its existing beds are sufficiently utilized. Furthermore, the applicants do not show how the 20 NF beds that are not utilized at The Oaks are going to be utilized in Summerstone, simply by relocating those beds from one facility to another. Summerstone’s utilization is simply insufficient to show that that facility needs additional NF beds and that those beds will be utilized. A search on Mapquest® reveals that the distance between Winston-Salem and Kernersville is approximately 10.4 miles. The population data provided by the applicants does not demonstrate that relocating the beds 10.4 miles will result in an increased utilization of those beds.

Therefore, based on review of the information provided by the applicants in the application and supplemental information, the applicants do not adequately demonstrate the need to relocate 20 NF beds from The Oaks to Summerstone.

Projected Utilization

In Section III.1, page 47 and Section IV, pages 57 - 61, the applicants provided projected utilization for all 120 NF beds during the first two full federal fiscal years (FFYs) of operation, as shown in the following table:

	<b>OY1 FFY 2019</b>	<b>OY2 FFY 2020</b>
Patient Days	41,279	41,607
# of beds	120	120
Occupancy Rate*	94.2%	95.0%

\*Calculated by dividing total patient days by 365 days per year by total number of beds

As shown in the table above, in the second full FFY of operation, the applicants project the 120 NF beds will operate at 95.0% of capacity [ $41,607 / 365 / 120 = .9499$  or 95.0%].

On page 58, stating a methodology that is “consistent with the 2017 SMFP”, the applicants project a net fill-up of four patients per week for the first two full federal fiscal years of operation (FFY 2019 and FFY 2020). In addition, in the application and in supplemental information provided at the Agency’s request, the applicants provide the assumptions and methodology used to project utilization of the 120 NF beds, summarized as follows:

- The number of residents who desire a private room: the letter from The Oaks Administrator indicates that facility has had to utilize semi-private NF rooms for private patients because of a lack of private rooms in the county. The applicant proposes to offer private rooms in Summerstone in response to patient demand (Exhibit 8).

- Fill-up rate experienced by the facility during the first few months of opening: It is noteworthy that, in the approved application to develop Summerstone, the applicants projected that the facility would have an occupancy rate of 28% during the first quarter of operation. The facility experienced an occupancy of 29% in the first month of operation, and by the end of the third month, the occupancy was 57%. The applicants project fill-up to continue, particularly with the addition of the 20 NF beds (page 43, supplemental information provided on February 21, 2018).
- Current patient origin at Summerstone: The applicants state the current patient origin at Summerstone is a reasonable indicator of future patient origin (page 55).
- Reliance on current Summerstone Administrator: The applicants state the Administrator of Summerstone provided a letter explaining the projected patient origin of the facility (Exhibit 22).
- Comparison to existing similar facility in Forsyth County: The applicants identified the *“closest similar existing facility to the Summerstone location ... to help identify the county of origin for its patients.”* The applicants state Pruitt Health-High Point is the most comparably located facility (on the Guilford-Forsyth County line) and its 2017 LRA reported a patient origin similar to Summerstone’s projected patient origin (page 55).
- Location: the applicants state the facility is located on the border of Guilford and Forsyth counties and along a major highway (US-421), and across the street from a recently developed acute care hospital, Novant Kernersville Medical Center. Furthermore, the applicants state they plotted a radius area around the facility that is a 45 mile drive from the facility. The applicants found that 96% of the projected population to be served lives within this radius (page 55).

Additionally, in Exhibit 14 the applicants provide two letters from healthcare providers in the area which indicate support for the project and an intent to refer patients to the facility. Exhibit 14 also provides one letter from a family member of a current Summerstone resident, and three letters from current Summerstone patients, each of which indicates support for the relocation of the 20 NF beds.

However, projected utilization is not reasonable and adequately supported for the following reasons:

- Current utilization of the existing NF beds at Summerstone does not meet the Performance Standards at 10A NCAC 14C .1102(a); therefore, the current utilization does not demonstrate that additional beds are needed at this facility;
- The applicants have not demonstrated that the proposed relocation of unutilized NF beds will result in an increase in utilization.



**Access**

In Section VI.5 page 69, the applicants state, *“If a private pay resident ‘spends-down’ and become [sic] Medicaid eligible he or she will not be discharged for that reason. Summerstone currently reserves approximately 67% of its beds for Medicaid residents and therefore it is not anticipated that a transfer would be necessary due to spend down of private funds.”*

In Section VI.5, page 68, the applicants state, *“Services provided by Summerstone are non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis.”* Exhibit 15 contains a copy of the admissions policy which states, in part, *“Our admission policies apply to all residents admitted to the Facility, without regard to race, color, creed, national origin, age, sex, religion, handicap, ancestry, marital, veteran status, and/or payment source.”*

In Section VI.3, page 68, the applicants provide the projected payor mix during the second full FFY (2020):

**Projected Days as a % of Total Days**

PAYOR SOURCE	NURSING PATIENTS
Private Pay	12.00%
Commercial Insurance	5.01%
Medicare	15.99%
Medicaid	67.01%
Total	100.00%

Totals may not sum due to rounding

As shown in the table above, the applicants project that Medicare and Medicaid will be the payor source for 83.0% of the projected patient days. The applicants adequately demonstrate the extent to which all residents of the service area, including underserved groups, are likely to have access to their services.

**Conclusion**

The Agency reviewed the following:

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

Based on that review, the Agency concludes that the application is not conforming to this criterion because the applicants do not adequately demonstrate the need to relocate the 20 NF beds from The Oaks to Summerstone.

- (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 relocate 20 existing NF beds from The Oaks in Winston Salem to Summerstone, an existing facility in Kernersville, pursuant to Policy NH-6, for a total of 120 Nursing Facility beds at Summerstone upon project completion.

In Section III.2, page 49, the applicants state the beds to be relocated from The Oaks will not affect that facility, since its functional capacity is currently 128 beds, and the beds proposed to be relocated are not currently being utilized. In Section III.8, page 53, the applicants state that, since the 20 NF beds located at The Oaks are not currently utilized, patients would be better served by relocating these beds to a facility where they will be utilized. On pages 53 – 54, the applicants state relocating these beds to Summerstone would effectively bring the beds back in service in the county. In Exhibit 8, the applicants provide a letter dated September 8, 2017 from the Administrator of The Oaks, which states in part:

*“The Oaks is licensed for 151 skilled nursing beds. However, we consider the functional capacity of the building to be 128 SNF beds. This is the number of beds we use to consider the building full from a staffing and operational standpoint. This functional capacity was established on the basis of us having to turn some of our semi-private rooms to private rooms due to the increased number of short term rehab patients.*

*The current nursing bed census is approximately 110 residents. The transferring of these beds will not affect us in any way. In fact, it will allow the facility to operate more efficiently and to better serve its current residents.”*

In Section III.8, pages 53 – 54, the applicants describe why the proposed relocation of the 20 NF beds will not adversely affect the residents of The Oaks. The applicants refer to the letter from the administrator in Exhibit 8, and state:

*“Residents currently being served by The Oaks will have the option to relocate to Summerstone. However... these beds are currently ... not in service. This transfer will bring back underutilized beds in a new area of the county.*

*...This will result in an improvement in the quantity of services provided which will directly benefit the residents of the county....”*

The applicants adequately demonstrate that the remaining NF beds at The Oaks will be utilized following the proposed relocation of 20 NF beds to Summerstone.

## **Conclusion**

The Agency reviewed the:

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

Based on that review, the Agency concludes that the applicants adequately demonstrate that:

- The needs of the population currently using the services to be reduced, eliminated or relocated will be adequately met following project completion.
- The project will not adversely impact the ability of underserved groups to access these services following project completion.

- (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

The applicants propose to relocate 20 existing NF beds from The Oaks to an existing facility, Summerstone Health and Rehabilitation Center, pursuant to Policy NH-6 for a total of 120 Nursing Facility beds at Summerstone upon project completion.

In Section III.2, pages 48 - 49, the applicants describe the alternatives considered and explain why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- Maintain the Status Quo – The applicants state that while The Oaks is currently licensed for 151 beds, the functional capacity is 128 beds. The 20 NF beds proposed to be relocated to Summerstone are not currently being utilized; therefore, ignoring this fact will continue to prevent NF beds from being utilized by patients who need them.
- Propose a new 20-bed standalone NF in Forsyth or a contiguous county- The applicants state that when factoring in the capital costs required to build a new, stand-alone facility, 20 NF beds is too few to achieve operational efficiency. Therefore, a 20-bed freestanding nursing facility is not an effective alternative.

In Section III.2, page 49, the applicants state that relocating the beds to the newly constructed Summerstone facility would be the most effective alternative to meet the needs of Forsyth County residents because it would result in beds that are not currently utilized becoming utilized in a new facility.

However, the applicants do not adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need for the following reasons:

- The applicants did not demonstrate that the current utilization of existing NF beds at Summerstone demonstrates a need for additional NF beds at that facility.
- The application is not conforming to all statutory and regulatory review criteria. An application that cannot be approved cannot be the most effective alternative.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above. Therefore, the application is denied.

- (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 relocate 20 existing NF beds from The Oaks to an existing facility, Summerstone Health and Rehabilitation Center, pursuant to Policy NH-6 for a total of 120 Nursing Facility beds at Summerstone upon project completion.

**Capital and Working Capital Costs**

In Section VIII.1, page 85, the applicants project the total capital cost of the proposed project will be as follows:

Construction costs-	\$ 22,000
Equipment-	\$160,000
Consultant Fees-	<u>\$ 5,000</u>
<b>Total:</b>	<b>\$187,000</b>

The applicants state in Section III.1, page 45, that Summerstone was originally constructed pursuant to Project ID #G-10220-13 to include the space for the 20 beds proposed in this application to be relocated; consequently, there is minimal capital cost associated with this project. In Section IX, page 91, the applicants project \$10,908 in start-up expenses and no initial operating expenses, since Summerstone is an existing facility.

**Availability of Funds**

In Section VIII.2, page 86, the applicants state that the capital costs will be financed by the owner equity of John A. McNeill, Jr. and Ronald B. McNeill, owners of the applicants. In Exhibit 15, the applicants provide a letter dated October 4, 2017 from John A. McNeill, Jr. and a copy of an email with the same date from Ronald B. McNeill, each of which demonstrates each person’s control of Liberty Healthcare Properties of Kernersville, LLC and Liberty Commons of Kernersville, LLC. Furthermore, each letter states that each person is committed to personally funding all capital costs for the proposed project from personal equity.

Exhibit 16 also includes a letter dated October 4, 2017 from Joel M. White, CPA of the firm Cherry Bekaert, which states that Mr. White is the CPA for both John A. McNeill, Jr. and Ronald B. McNeill, that he is aware of the proposed project, the projected capital costs and the financial status of the McNeills. Mr. White further attests to the fact that each man has in excess of \$15,000,000 in cash, stocks, or short term investments to fund the proposed project.

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

**Financial Feasibility**

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

	<b>1<sup>ST</sup> FULL FISCAL YEAR (FFY 2021)</b>	<b>2<sup>ND</sup> FULL FISCAL YEAR (FFY 2022)</b>
Total Patient Days	41,279	41,607
Total Gross Revenues (Charges)	\$10,137,591	\$10,218,079
Total Net Revenue	\$9,979,410	\$10,058,641
Average Net Revenue per patient day	\$241.75	\$241.75
Total Operating Expenses (Costs)	\$7,532,046	\$7,949,681
Average Operating Expense per patient day	\$182.46	\$191.06
Net Income	\$2,605,545	\$2,268,398

The assumptions used by the applicants in preparation of the pro forma financial statements, including projected utilization, costs and charges are not reasonable. See Section X 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.

**Conclusion**

The Agency reviewed the:

- Application

- Exhibits to the application
- Supplemental information requested by the Agency
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for the following reasons:

- The applicants do not adequately demonstrate that the capital costs are based on reasonable and adequately supported assumptions, because the assumptions regarding projected utilization are not reasonable or adequately supported.
  - The applicants do not adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of costs and charges, because the assumptions regarding the projected utilization are not reasonable or adequately supported.
- (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 relocate 20 existing but unutilized NF beds from The Oaks to Summerstone Health and Rehabilitation Center pursuant to Policy NH-6 for a total of 120 Nursing Facility beds at Summerstone upon project completion.

On page 191, the 2017 SMFP defines the service area for nursing facility beds as *“the nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”* Thus, the service area for this facility consists of Forsyth County. Facilities may also serve residents of counties not included in their service area.

Forsyth County currently has 15 nursing facilities and two CCRCs with NF beds. The information about those facilities, the number of NF beds at each facility, and the population at each facility as reported for the 2018 License Renewal Applications (LRA) is shown in the table below.

**Forsyth County NF Bed Inventory**

FACILITY	# NF BEDS	CON APPROVED / LICENSE PENDING	EXCLUSIONS	TOTAL PLANNING INVENTORY
Arbor Acres United Methodist Retirement Community	63	18	81	0
Brian Center Health & Retirement / Winston-Salem	40	0	0	40
Brookridge Retirement Community	77	0	10	67
Homestead Hills	40	0	1	39
Liberty Commons Nursing & Rehab Center of Springwood	200	0	0	0
Liberty Commons Nursing & Rehab Center of Kernersville	0	0	0	100
Liberty Commons Nursing & Rehab Center of Silas Creek	0	0	0	100
Oak Forest Health and Rehabilitation	170	0	18	152
Piney Grove Nursing & Rehabilitation Center	92	0	0	92
PruittHealth-High Point	100	0	0	100
Regency Care of Clemmons	120	0	0	120
Salemtowne	84	16	0	0
Salemtowne Replacement facility	--	--	100	0
Silas Creek Rehabilitation Center	90	0	0	90
The Oaks	151	0	0	151
Trinity Elms	100	0	0	100
Trinity Glen	117	0	2	115
Winston-Salem Nursing & Rehabilitation Center	230	0	0	230
<b>Total</b>	<b>1,674</b>	<b>34</b>	<b>212</b>	<b>1,496</b>

Source: 2018 License Renewal Applications

\*The applicants state on page 47 that since Liberty Commons Nursing and Rehabilitation Center is not yet constructed, they will not count the 100 NF beds as part of the inventory. However, the 2017 SMFP includes those beds in the planning inventory.

As shown in the table above, Forsyth County has a total planning inventory of 1,496 NF beds. Arbor Acres United Methodist Retirement Community and Brookridge Retirement Community are CCRCs, and Brian Center Health & Retirement Community is a combination NF and adult care home (ACH) facility. In Table 10C, on page 213 of the 2017 SMFP, Forsyth County is listed as having a planning inventory of 1,496 NF beds and a 2020 Projected Bed Utilization of 1,235 NF beds, leaving a projected surplus of 261 NF beds, which is 21% of the total 2020 Projected Bed Utilization [261 surplus / 1,235 projected bed utilization = 0.211]. Based on a projected surplus of 21% of the total projected NF bed need in Forsyth County for 2020, combined with the current utilization of Summerstone’s existing NF beds, the applicants do not adequately demonstrate how the NF beds at The Oaks are going to be utilized when they are relocated to Summerstone.

In Section III, page 43, the applicants explain why they believe this proposal would not result in the unnecessary duplication of existing or approved NF beds in Forsyth County. The applicants state that the beds proposed in this application are already in the Forsyth County inventory, currently located in The Oaks, but are not utilized. Thus, the relocation of these beds would actually result in existing underutilized beds being utilized in the new facility. In Exhibit 8, the applicants provide a letter dated September 8, 2017 from the Administrator of The Oaks, which states in part:

*“The Oaks is licensed for 151 skilled nursing beds. However, we consider the functional capacity of the building to be 128 SNF beds. This is the number of beds we use to consider the building full from a staffing and operational standpoint. This functional capacity was established on the basis of us having to turn some of our semi-private rooms to private rooms due to the increased number of short term rehab patients.*

*The current nursing bed census is approximately 110 residents. The transferring of these beds will not affect us in any way. In fact, it will allow the facility to operate more efficiently and to better serve its current residents.”*

The applicants state that relocating 20 NF beds that are not currently serving patients will allow beds that are not utilized to serve patients who need them in an area of the county that is not currently well served by NF beds.

However, the applicant does not adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area for the following reasons:

- The applicants do not demonstrate that the Summerstone facility needs additional NF beds.
- The applicants have not demonstrated that the proposed relocation of unutilized NF beds will result in an increase in utilization.
- The applicants do not demonstrate that the application is conforming to 10A NCAC 14C .1102(a).
- The applicants do not demonstrate that the current utilization of existing NF beds in Forsyth County demonstrates a need for additional beds in the county. Even though the applicants do not propose to develop any new NF beds in the county, the applicants do not demonstrate that the existing beds in the county are sufficiently utilized such that relocating the unutilized NF beds would not unnecessarily duplicate existing or approved services.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.



C

The facility has been licensed since August 2017 and has been staffed since that time. The applicants propose to continue to provide personal care staff twenty-four hours per day, seven days per week. In Section VII, pages 78 – 80, the applicants state that by FFY 2020 (the second full fiscal year) Summerstone will be staffed by 99.96 full-time equivalent (FTE) positions, as shown in the following table:

POSITION	CURRENT FTEs	PROPOSED (ADDITIONAL) FTEs
<b>ROUTINE SERVICES</b>		
Director of Nursing	1.00	-
Assistant Director of Nursing	1.00	-
Staff Development Coordinator	1.00	-
MDS Nurse	1.00	-
Registered Nurse	2.81	1.40
Licensed Practical Nurse	15.44	2.81
Certified Nursing Assistant	33.49	5.62
Ward Secretary	0.94	--
Medical Records Consultant	1.00	--
<b>SOCIAL WORK AND ACTIVITY SERVICES</b>		
Social Services Director	1.00	--
Social Services Assistant	1.00	--
Activity Services Director	1.00	--
<b>HOUSEKEEPING</b>		
Housekeeping Supervisor	0.50	--
Laundry Supervisor	0.50	--
Housekeeping Aides	4.20	--
Laundry Aides	2.80	--
<b>ANCILLARY SERVICES</b>		
Physical Therapist	3.00	--
Physical Therapist Assistant	4.00	--
Physical Therapist Aides	2.00	--
Occupational Therapist	3.00	--
Speech Therapist	0.50	--
Certified Occupational Therapist Assistant	4.00	--
<b>ADMIN AND GENERAL</b>		
Administrator	1.00	--
Admissions Coordinator	1.00	--
Business Office Manager	1.00	--
Business Office Staff	1.00	--
<b>Total</b>	<b>90.14</b>	<b>9.83</b>
<b>Total FTEs Following Project Completion</b>		<b>99.96</b>

Totals may not sum due to rounding by applicants

On page 81 of the application the applicants provide Table VII.4-*Direct Care Staff Hours Per Patient Day*. On page 82, the applicants discuss the methods by which they recruit and retain new staff. In addition, on page 65 the applicants state the medical director is currently employed by the facility and will remain in place. In Exhibit 14 the applicants provide a letter

from Dr. Layman Bernadini expressing her support for the project and indicating an intent to continue to serve as medical director for the facility.

The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

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

### C

In Section II.4, pages 35 - 36, the applicants state that ancillary and support services are necessary for the proposed services, including but not limited to:

- Physician services
- Podiatry
- Dentistry
- Pharmacy
- Laboratory
- Audiology
- Dietary and respiratory care

On page 36, the applicant adequately explains how each ancillary and support service is or will be made available and provides supporting documentation in Exhibit 4.

In Section III, page 36, the applicants describe the existing and proposed relationships with other local health care and social service providers and provide supporting documentation in Exhibit 4.

The applicants adequately demonstrate that the proposed services will be coordinated with the existing health care system.

## Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (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 applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

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

NA

The 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

Summerstone Health and Rehabilitation Center is an existing 74,442 square foot facility located at 485 Veterans Way in Kernersville. In Section III.1, page 45, the applicants state that when the facility was constructed, it was constructed with space for the beds proposed in this application. In this application, the applicants do not propose to:

- construct any new space
- 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

In Section VI.2, page 67, the applicants report that in the one month of operating before the application was submitted (August 2017 – September 2017), 83.0% of the patients at Summerstone had some or all of their services paid for by Medicare or Medicaid, as illustrated in the table below.

**Historical Payor Mix, Summerstone**

PAYOR SOURCE	% OF NF PATIENTS
Private Pay	12.00%
Commercial Insurance	5.01%
Medicare	15.99%
Medicaid	67.01%
Total	100.00%

The applicants state on page 68 that, since the facility was only open a few months prior to submission of this application, the Medicare data is based on internal information rather than a Medicaid cost report.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the applicants adequately document the extent to which medically underserved populations currently use the applicants' existing services in comparison to the percentage of the population in the applicants' service area which is medically underserved. 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

Summerstone Health and Rehabilitation Center has only been licensed since August 2017. In Section VI.6, page 69, the applicants state that there have been no civil rights access complaints filed against any entities related to the applicants.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (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.3, page 68, the applicants project the following payor mix during the second full FFY (2020):

**Projected Days as a % of Total Days**

PAYOR SOURCE	% OF NF PATIENTS
Private Pay	12.00%
Commercial Insurance	5.01%
Medicare	15.99%
Medicaid	67.01%
Total	100.00%

As shown in the table above, the applicants project that Medicare and Medicaid will be the payor source for 83.0% of the patients. The projected payor mix is based on the historical payor mix found on page 67 of the application. On page 68, the applicants state *“Services provided by Liberty Commons are non-restrictive with respect to social, racial, ethnic, or gender related issues and will be provided on a first come, first served basis.”* Exhibit 15 contains a copy of the admissions policy which states, in part, *“Our admissions policies apply to all residents admitted to the Facility without regard to race, color, creed, national origin, age, sex religion, handicap, ancestry, marital, veteran status and/or payment source.”*

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (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 VI.7, pages 69 - 70, the applicants describe the range of means by which patients will have access to the proposed services.

The Agency reviewed the:

- Application
- Exhibits to the application

- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion.

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

NC

In Section V, page 64, the applicants describe the extent to which area health professional training programs have access to the facility for training purposes. However, the applicants provided copies of four letters dated September 24, 2013 sent to Forsyth Technical Community College, Winston-Salem State University and Wake Forest School of Medicine offering to include Summerstone in clinical training rotations. The letters submitted in this application are copies of the same letters submitted with the original application to develop Summerstone Health and Rehabilitation Center (Project ID #G-10220-13). The facility has been licensed and operational since August, 2017, and no updated letters or agreements were provided as part of this application.

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the applicants did not adequately demonstrate that the proposed services will accommodate the clinical needs of area health professional training programs, and therefore, the application is not 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 relocate 20 existing NF beds from The Oaks, a nursing facility in Winston-Salem to Summerstone, in Kernersville pursuant to Policy NH-6 for a total of 120 Nursing Facility beds at Summerstone upon project completion.

On page 191, the 2017 SMFP defines the service area for nursing facility beds as *“the nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”* Thus, the service area for this facility consists of Forsyth County. Facilities may also serve residents of counties not included in their service area.

Forsyth County currently has 15 nursing facilities and two CCRCs with NF beds. The information about those facilities, the number of NF beds at each facility, and the population at each facility as reported for the 2018 License Renewal Applications (LRA) is shown in the table below.

**Forsyth County NF Bed Inventory**

FACILITY	# NF BEDS	CON APPROVED / LICENSE PENDING	EXCLUSIONS	TOTAL PLANNING INVENTORY
Arbor Acres United Methodist Retirement Community	63	18	81	0
Brian Center Health & Retirement / Winston-Salem	40	0	0	40
Brookridge Retirement Community	77	0	10	67
Homestead Hills	40	0	1	39
Liberty Commons Nursing & Rehab Center of Springwood	200	0	0	0
Liberty Commons Nursing & Rehab Center of Kernersville	0	0	0	100
Liberty Commons Nursing & Rehab Center of Silas Creek	0	0	0	100
Oak Forest Health and Rehabilitation	170	0	18	152
Piney Grove Nursing & Rehabilitation Center	92	0	0	92
PruittHealth-High Point	100	0	0	100
Regency Care of Clemmons	120	0	0	120
Salemtowne	84	16	0	0
Salemtowne Replacement facility	--	--	100	0
Silas Creek Rehabilitation Center	90	0	0	90
The Oaks	151	0	0	151
Trinity Elms	100	0	0	100
Trinity Glen	117	0	2	115
Winston-Salem Nursing & Rehabilitation Center	230	0	0	230
<b>Total</b>	<b>1,674</b>	<b>34</b>	<b>212</b>	<b>1,496</b>

Source: 2018 License Renewal Applications

\*The applicants state on page 47 that since Liberty Commons Nursing and Rehabilitation Center is not yet constructed, they will not count the 100 NF beds as part of the inventory. However, the 2017 SMFP includes those beds in the planning inventory.

As shown in the table above, Forsyth County has a total planning inventory of 1,496 NF beds. Arbor Acres United Methodist Retirement Community and Brookridge Retirement Community are CCRCs, and Brian Center Health & Retirement Community is a combination NF and adult care home (ACH) facility. In Table 10C, on page 213 of the 2017 SMFP, Forsyth



County is listed as having a planning inventory of 1,496 NF beds and a 2020 Projected Bed Utilization of 1,235 NF beds, leaving a projected surplus of 261 NF beds, which is 21% of the total 2020 Projected Bed Utilization [261 surplus / 1,235 projected bed utilization = 0.211]. In addition, Table 10C: Nursing Care Bed Need Projections for 2021 in the *Proposed 2018 SMFP*, which was on the Agency's website and available during the review of this application, shows a projected surplus of NF beds in Forsyth County of 13. The projected surplus remained unchanged in the final 2018 SMFP. In Section III, the applicants state that the 20 beds proposed to be relocated are not currently serving patients at The Oaks. In Exhibit 8, the applicants provide a letter dated September 8, 2017 from the Administrator of The Oaks, which states in part:

*"The Oaks is licensed for 151 skilled nursing beds. However, we consider the functional capacity of the building to be 128 SNF beds. This is the number of beds we use to consider the building full from a staffing and operational standpoint. This functional capacity was established on the basis of us having to turn some of our semi-private rooms to private rooms due to the increased number of short term rehab patients.*

*The current nursing bed census is approximately 110 residents. The transferring of these beds will not affect us in any way. In fact, it will allow the facility to operate more efficiently and to better serve its current residents."*

In Section V, pages 65 – 66 and Section III.8, page 54 the applicants describe the expected effects of the proposed services in the service area, and discusses how the facility will promote cost-effectiveness, quality and access to the proposed services in Forsyth County.

The applicants do not adequately describe the expected effects of the proposed services on competition in the service area and do not adequately demonstrate the cost-effectiveness of the proposal (see Sections III and V of the application and any exhibits).

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Supplemental information requested by the Agency
- Information publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above.

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

C

In Section I.12, pages 9 - 10, the applicants list the 35 facilities that they currently own, lease, manage or are developing in North Carolina. According to the files in the Nursing Home Licensure and Certification Section, DHSR, a total of four incidents occurred at four facilities within the eighteen months immediately preceding submission of the application through the date of this decision related to quality of care. As of the date of this decision, three of the problems had been corrected (one issue occurred in January 2018 and has not been inspected yet for re-certification). After reviewing and considering information provided by the applicants and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at all existing facilities, 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 Criteria and Standards for Nursing Facility or Adult Care Home Facility Services promulgated in 10A NCAC 14C .1100 are applicable because the applicants propose to establish add nursing facility beds at an existing facility.

**SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY 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.*

-NC- The applicants responded to this Rule by stating: “NA. Facility has not been open and operational for nine months prior to application submittal.” However, the Rule is applicable to this review. The applicants provide utilization information from August 2017 to December 2017, as shown in the table below:

	August 2017	September 2017	October 2017	November 2017	December 2017	Total/Average
# Days in month	31	30	31	30	31	153
# Resident Days	891	1,470	1,752	1,703	2,054	7,870
# Beds	100	100	100	100	100	100
% Occupancy	29%	49%	57%	57%	66%	51%

The utilization data provided by the applicants shows that the average occupancy, over the five 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 51%. Indeed, the highest utilization in December 2017, was only 66%. The applicants have not shown that the current utilization of the existing NF beds demonstrates a need for additional NF beds at Summerstone, based on current utilization, particularly since the 2017 SMFP shows a surplus of NF beds. Therefore, the application is not conforming to this Rule.

*(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.*

-NC- The applicants propose to add nursing facility beds to the existing facility. In Section IV.2, pages 57 - 63, the applicants project occupancy is to be at least 90 percent for the total number of nursing facility beds proposed to be operated, for the first two years following the completion of the proposed project as shown in the table below.

**Summerstone - Projected Utilization for OY1 and OY2**

	OY1 10/1/2018 – 9/30/2019	OY2 10/1/2019 – 9/30/2020
# of NF beds	120	120
Patient Days	41,279	41,607
Occupancy Rate	94%	95%

Table Source: Section IV, pages 59 - 60.

\*Occupancy Rate Calculation: Total Days / 365 / # of beds.

In Section III, pages 43-47, Section IV, pages 52-58, and in supplemental information, the applicants provide the methodology and assumptions underlying the projected utilization. However, projected utilization of the NF beds is not reasonable or adequately supported. See the discussion in Criterion (3) which is incorporated herein by reference.

*(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 applicants are 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. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*

-NA- The applicants are not proposing to establish a new adult care home facility or add adult care home beds to an existing facility.