

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: September 27, 2018

Findings Date: September 27, 2018

Project Analyst: Mike McKillip

Team Leader: Fatimah Wilson

Project ID #: J-11504-18

Facility: The Cardinal at North Hills

FID #: 080413

County: Wake

Applicants: The Cardinal at North Hills Healthcare, LLC

KSL Toledo Tenant, LLC

Project: Add 51 adult care home beds pursuant to Policy LTC-1 for a total of 106 adult care home beds and 15 nursing facility beds

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

C

The applicants, The Cardinal at North Hills Healthcare, LLC and KSL Toledo Tenant, LLC, [CNH] propose to add 51 adult care home beds pursuant to Policy LTC-1 for a total of 106 adult care home beds and 15 nursing facility beds. The existing healthcare facility operates 55 adult care home beds and 15 nursing facility beds, and is part of a licensed continuing care retirement community (CCRC) in Raleigh (Wake County).

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 2018 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

Policies

There are two policies in the 2018 SMFP which are applicable to this review: *Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities - Adult Care Home Beds* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

Policy LTC-1

Policy LTC-1 states:

“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.”*

In Section B.7, pages 17-19, the applicants state the proposed 51 ACH beds will developed and operated in a manner that is consistent with the requirements of Policy LTC-1. The applicants adequately demonstrate conformance with the requirements of Policy LTC-1.

Policy GEN-4

Policy GEN-4 states:

“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.

In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178, Certificate of Need shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN-4.

Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 is required to submit a plan of energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control.”

The proposed capital expenditure for this project is greater than \$5 million. In Section B.10, pages 21-22, the applicants state that the proposed addition will be constructed using energy efficiency materials and methods, in compliance with all applicable federal, state, and local requirements for energy efficiency and water conservation. The applicants further include a written statement as to what the architectural and engineering team will strive to do to improve energy efficiency and water conservation.

The applicants adequately demonstrate that the application includes a written statement describing the project’s plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4, subject to Condition (6) of Criterion (4).

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 because the applicants adequately demonstrate that the proposal is consistent with Policy LTC-1 and Policy GEN-4 based on the following reasons:

- The applicants adequately document their plan for developing the proposed adult care home beds on the same site as the independent living (IL) beds.
- The applicants adequately document their plan for developing the proposed adult care home beds to be used exclusively to meet the needs of their IL residents.
- The applicants adequately document the number of ACH beds required to meet the current and projected needs of residents with whom the facility has an agreement to provide continuing care.
- The applicants adequately document that the proposed additional ACH beds will not be certified for participation in the Medicaid program or serve State-County Special Assistance recipients.
- The applicants provide a written statement that demonstrates that the project includes a plan for energy efficiency and water conservation.

(2) Repealed effective July 1, 1987.

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

C

The applicants, CNH, propose to add 51 adult care home beds pursuant to Policy LTC-1 for a total of 106 adult care home beds and 15 nursing facility beds. The existing healthcare facility operates 55 adult care home beds and 15 nursing facility beds, and is part of a licensed continuing care retirement community (CCRC) in Raleigh (Wake County). In Section C.1, page 23, the applicants describe the project as follows:

“CNH is located at The Cardinal at North Hills CCRC (CON Project I.D. # J-8150-08) providing a full continuum of on-site services with 55 assisted living units (of which 18 are memory care units) and 15 nursing beds....

CNH proposes to develop 51 new ACH beds pursuant to Policy LTC-1. The Cardinal intends to expand the independent living portion of the community with the development of a 15-story expansion building containing 117 additional ILUs. The building design will furnish prospective residents with a broad array of living options

to choose from and will be fully integrated with the existing campus so that the broader community at the Cardinal will benefit from additional amenity and dining options.”

Patient Origin

On page 219, the 2018 SMFP defines the service area for ACH beds as the county in which the bed is located. Thus, the service area for the proposed ACH beds is Wake County. However, facilities may serve residents of counties not included in their service area.

In Sections C.2 and C.3, page 24, the applicants state the historical (CY2017) and projected patient origin for the ACH beds at CNH are entirely from Wake County because the beds are restricted for use by the CCRC residents who have entered into a residency agreement with CNH. The applicants' assumptions are reasonable and adequately supported.

Analysis of Need

In Section C.4, pages 25-36, the applicants explain why they believe the population projected to utilize the proposed services needs the proposed services. The applicants describe the factors which they state support the need for the proposed project as follows:

- The applicant's historical experience regard to the appropriate ratio of independent living units to assisted living units (pages 26-29);
- The historical fill-up, occupancy rates and waitlist for the existing adult care home beds at CNH since the opening of the facility in May 2017 (pages 30-31); and
- The projected growth and aging of the Wake County population (pages 31-36).

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

- CNH's current ratio of independent living (IL) units to assisted living (AL) units is 6.1, which is higher than the applicants' other existing North Carolina CCRCs, and higher than the statewide average ratio of 5.4 IL units per AL unit.
- The applicants report that CNH's utilization has exceeded an 82 percent average occupancy in its first year of operation, and currently has an extensive waitlist.
- Wake County population is projected to grow at a five-year compound annual growth rate (CAGR) of 2.1%, reaching 1.2 million by 2023.
- The highest percentage growth in the Wake County population in the 65+ age segment, which is the age segment which most utilizes adult care home services.

Projected Utilization

In Section Q, Form C, the applicants provide the historical and projected utilization through the first three full operating years for the facility's general and special care unit (SCU) adult care home beds, which is summarized below.

**The Cardinal at North Hills
 Adult Care Home Bed Utilization**

| | Prior Full CY2017 | Interim CY2018* | Interim CY2019 | Interim CY2020 | 1st Full CY2021 | 2nd Full CY2022 | 3rd Full CY2023 |
|-----------------------|----------------------|--------------------|-------------------|-------------------|--------------------|--------------------|--------------------|
| General ACH | | | | | | | |
| # of Beds | 27 | 35 | 35 | 35 | 86 | 86 | 86 |
| Patient Days | 2,219 | 8,616 | 11,824 | 11,824 | 19,027 | 28,377 | 29,133 |
| Occupancy Rate | 22.5% | 67.4% | 92.6% | 92.6% | 60.6% | 90.4% | 93.0% |
| | | | | | | | |
| SCU ACH | | | | | | | |
| # of Beds | 18 | 20 | 20 | 20 | 20 | 20 | 20 |
| Patient Days | 1,797 | 6,605 | 7,081 | 7,081 | 7,081 | 7,081 | 7,081 |
| Occupancy Rate | 27.4% | 90.5% | 97.0% | 97.0% | 97.0% | 97.0% | 97.0% |
| | | | | | | | |
| Total ACH Beds | | | | | | | |
| # of Beds | 45 | 55 | 55 | 55 | 106 | 106 | 106 |
| Patient Days | 4,016 | 15,220 | 18,905 | 18,905 | 26,108 | 35,458 | 36,274 |
| Occupancy Rate | 24.5% | 75.8% | 94.2% | 94.2% | 67.5% | 91.6% | 93.8% |

*CNH was previously approved (Project I.D. # J-11379-17) to relocate ten ACH beds from Magnolia Glen to CNH. As a result, CNH's licensed ACH beds increased from 45 to 55 in CY2018. CNH allocated eight of the ten relocated ACH beds to general ACH units and two of the beds were allocated to the special care unit.

In Section Q, pages 89-91, the applicants provide their assumptions for the above projections. The applicants state,

“CNH’s assisted living services were operationalized in May 2017. CNH’s existing non-SCU ACH beds (27 beds) have already achieved an occupancy rate of 70.6 percent as of March 2018. CNH projects ACH utilization for the 27 existing ACH beds based on a fill up rate of one resident per month. This fill up rate is based on Kisco’s management experience and supported by the recent fill up of independent living residences at the CCRC. Based on this schedule, the non-SCU ACH beds will achieve 92.8% occupancy by September 2018....

CNH’s existing memory care SCU ACH beds (18 beds) have already achieved an occupancy rate of 100 percent as of March 2018. Due to the rapid fill up of its SCU beds, CNH projects that occupancy will average 97 percent for the remaining months of CY2018 and through the first three years of the proposed project....

As described previously, in October 2017, CNH received CON approval to relocate 10 existing ACH beds from Magnolia Glen for a total of 55 ACH beds (CON Project ID #J-11379-17). ... CNH projects ACH utilization for the eight relocated non-SCU ACH beds based on a fill up rate of one patient per month beginning July 2018. This fill up rate is based on Kisco’s management experience and supported by the demand for assisted living residences in other Kisco senior living communities in Wake County. Based on this schedule, the non-SCU ACH beds will achieve 93.0% occupancy by April 2019. This rationale is consistent with the assumptions provided in CON Project ID #J-11379-17....

The first project year will be CY2021. At this time, all existing ACH beds will be operating at practical capacity. CNH project ACH utilization for the 51 additional ACH beds based on a fill up rate of three residents per month. This is reasonable and supported by the robust utilization of The Cardinal's existing independent living residences. As described previously, having opened in January 2017, The Cardinal campus already has an extensive wait list. These residents are driving the utilization of the existing assisted living residences. CNH's existing non-SCU ACH beds will achieve 92.8% occupancy by September 2018. ... Given the existing demand for The Cardinal campus, coupled with the addition of 117 independent living units, it is reasonable to project a net average fill up rate of three patients per month for the additional beds."

Projected utilization is reasonable and adequately supported for the following reasons:

- Projected utilization is based upon their historical experience with regard to the ratio of independent living units to assisted living units, and supported by the projected growth in the number of independent living units from 165 to 282 units.
- The applicants state their projected fill-up rates are consistent with their historical utilization experience at CNH and by their management experience operating other communities in Wake County, as well as by *an extensive wait list* for the CNH community.

Access

In Section C.8, page 38, the applicants state, "*Kisco affords equal treatment and access to its services for all persons, without discrimination due to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability.*" In Section L.1 (b), page 74, the applicants report that CNH's ACH bed payor mix for CY2017 was 100% private pay. The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 identify the population to be served.
- The applicants adequately explain why the population to be served needs the services proposed in this application.

- Projected utilization is reasonable and adequately supported.
- The applicants project the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports its assumptions.

(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 are not proposing a reduction or elimination of a service, or the relocation of a facility or a service. Therefore, Criterion (3a) 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, CNH, propose to add 51 adult care home beds pursuant to Policy LTC-1 for a total of 106 adult care home beds and 15 nursing facility beds.

In Section E.2, pages 45-46, the applicants describe the alternatives they considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- Maintain the status quo – The applicants state this was not an effective alternative due to the fact that it would not meet the growing demand for assisted living units at the CNH community or meet the needs of residents expected to occupy the 117 additional independent living units to be developed.
- Develop a different complement of ACH beds – The applicants considered a different number of ACH, but determined that the alternative was less effective due to the need to rebalance the ratio of assisted living beds to independent living units to meet the needs of the proposed expansion of the CNH community.

On page 48, the applicants state this proposal is the most effective alternative because it is *“supported by Kisco’s historical experience operation senior living communities in North Carolina and by the existing ratio of IL units to AL units in NC CCRCs.”*

The applicants adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need for the following reasons:

- The alternative will address the growing need for adult care home beds in CNH growing CCRC.
- The proposed expansion will enable the applicants to appropriately balance the projected number of IL units with AL units based on their historical operating experience.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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. Therefore, the application is approved subject to the following conditions:

- 1. The Cardinal at North Hills Healthcare, LLC and KSL Toledo Tenant, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. The Cardinal at North Hills Healthcare, LLC and KSL Toledo Tenant, LLC shall develop no more than 51 adult care home beds pursuant to Policy LTC-1 for a total of no more than 106 licensed adult care home beds and 15 licensed nursing facility beds upon completion of the project.**
- 3. The 51 additional Policy LTC-1 adult care home beds shall not participate in the Medicaid program or serve State-County Special Assistance recipients.**
- 4. The 51 additional 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 51 additional Policy LTC-1 adult care home beds shall be developed on the same site with the independent living units.**
- 6. The Cardinal at North Hills Healthcare, LLC and KSL Toledo Tenant, LLC shall develop and implement an Energy Efficiency and Sustainability Plan for the**

project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.

- 7. 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, he Cardinal at North Hills Healthcare, LLC and KSL Toledo Tenant, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
 - a. Payor mix for the services authorized in this certificate of need.**
 - b. Utilization of the services authorized in this certificate of need.**
 - c. Revenues and operating costs for the services authorized in this certificate of need.**
 - d. Average gross revenue per unit of service.**
 - e. Average net revenue per unit of service.**
 - f. Average operating cost per unit of service.**

- 8. The Cardinal at North Hills Healthcare, LLC and KSL Toledo Tenant, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**

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

C

The applicants, CNH, propose to add 51 adult care home beds pursuant to Policy LTC-1 for a total of 106 adult care home beds and 15 nursing facility beds. To accommodate the 51 additional ACH beds, the applicants propose to construct a new 15-story expansion building with 117 additional independent living units. The 51 ACH beds will occupy the 4th and 5th floors of the proposed building.

Capital and Working Capital Costs

In Section Q, Form F.1a, the applicant projects the capital cost, as follows:

Projected Capital Cost

| | |
|---------------------------|---------------------|
| Site Costs | \$221,500 |
| Construction Costs | \$21,605,042 |
| Miscellaneous Costs | \$3,656,000 |
| TOTAL CAPITAL COST | \$25,482,542 |

In Exhibit 13, the applicants provide the assumptions used to project the capital cost. In Section F.3, page 52, the applicants state CNH is an existing facility and, therefore, there will be no start-up expenses or initial operating expenses associated with the project.

Availability of Funds

In Section F.2, page 50, the applicant, CNH, states they anticipate funding the total project capital costs as shown in the table below.

Sources of Capital Cost Financing

| Type | Total |
|------------------------------|---------------------|
| Loans | |
| Accumulated reserves or OE * | \$25,482,542 |
| Bonds (Tax Exempt) | |
| Other (Specify) | |
| Total Financing | \$25,482,542 |

* OE = Owner’s Equity

Exhibit 11 contains a letter dated April 16, 2018 from the General Counsel for Kisco Senior Living (KSL) stating that Welltower, Inc., which is the investor that owns the real property on which CNH is located, will provide financing for the capital costs of the proposed project. Exhibit 11 also contains a letter dated April 13, 2018 from an “Authorized Signatory” for Welltower, Inc. stating that Welltower, Inc. will provide financing for the capital costs of the proposed project. Exhibit 11 also contains the Form 10-K for Welltower, Inc. which show that as of December 31, 2017, Welltower had \$28 billion in total assets, and \$14.9 billion in net assets (total assets less total liabilities).

Financial Feasibility

The applicants provide pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.5, the applicants project that operating expenses will exceed revenues for the healthcare facility in the first three operating year of the project, as shown in the table below.

**The Cardinal at North Hills
 Projected Revenue and Expenses for Healthcare Facility**

| REVENUES/EXPENSE | YEAR 1 CY2021 | YEAR 2 CY2022 | YEAR 3 CY2023 |
|-----------------------------------|------------------|------------------|------------------|
| Patient Days | 31,309 | 40,659 | 41,475 |
| Gross Patient Revenue | \$6,616,494 | \$8,379,884 | \$8,732,025 |
| Total Net Revenue | \$6,616,494 | \$8,379,884 | \$8,732,025 |
| Net Revenue per Patient Day | \$211 | \$206 | \$211 |
| Operating Expenses (Costs) | \$8,133,438 | \$8,618,612 | \$8,875,655 |
| Operating Expense per Patient Day | \$260 | \$212 | \$214 |
| Net Income (Loss) | (\$1,516,944) | (\$238,727) | (\$143,629) |

However, the applicants project that operating revenues will exceed operating expenses for the independent living units of the facility in each of the first three operating year of the project, as shown in the table below.

**The Cardinal at North Hills
Projected Revenue and Expenses for Independent Living Units**

| REVENUES/EXPENSE | YEAR 1 CY2021 | YEAR 2 CY2022 | YEAR 3 CY2023 |
|----------------------------|------------------|------------------|------------------|
| Revenue | \$19,659,628 | \$24,612,331 | \$24,918,389 |
| Operating Expenses (Costs) | \$15,515,467 | \$17,918,670 | \$18,277,043 |
| Net Income (Loss) | \$4,144,161 | \$6,693,661 | \$6,641,346 |

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See the financial section of the application for the assumptions used regarding costs and charges. The discussion regarding utilization projections found in Criterion (3) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 capital cost is based on reasonable and adequately supported assumptions.
- The applicants adequately demonstrate availability of sufficient funds for the capital needs of the proposal.
- The applicants adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

- (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, CNH, propose to add 51 adult care home beds pursuant to Policy LTC-1 for a total of 106 adult care home beds and 15 nursing facility beds. The existing healthcare facility operates 55 adult care home beds and 15 nursing facility beds, and is part of a licensed continuing care retirement community (CCRC) in Raleigh (Wake County).

On page 219, the 2018 SMFP defines the service area for ACH beds as the county in which the bed is located. Thus, the service area for the proposed ACH beds is Wake County. However, facilities may serve residents of counties not included in their service area.

According to the 2018 SMFP, there are currently a total of 50 existing facilities in Wake County that have ACH beds. The table below provides a summary of the 50 facilities in Wake County. The 2018 SMFP projects a surplus of 319 ACH beds in Wake County in 2021, as shown in the table below.

| 2018 SMFP ACH Inventory & 2021 Need Projections Wake County | |
|--|-------|
| # Facilities with ACH Beds | 50 |
| # Beds in Nursing Homes | 280 |
| # Beds in ACH Facilities | 2,929 |
| Total Licensed Beds | 3,209 |
| # CON Approved | 110 |
| Total # Available | 3,319 |
| Total # in Planning Inventory | 3,292 |
| Projected Bed Surplus | 319 |

In Section G.3 pages 58-59, the applicants explain why they believe their proposal would not result in the unnecessary duplication of existing or approved ACH services in Wake County. On page 58, the applicants state:

“The proposed additional ACH beds are being requested and will be developed pursuant to SMFP Policy LTC-1 which enables a CCRC to add bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes of the 2018 SMFP. ... The 51 additional ACH beds are proposed to be ‘closed beds’ and will be used exclusively by people with whom The Cardinal at North Hills CCRC has contracts for continuing care. 100 percent of the residents served by the new ACH beds will come from The Cardinal’s pool of IL residents, with whom The Cardinal has continuing care contracts, and who are residents of Wake County at the time of their need for these services, 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. The proposed project will not have any impact on existing facilities with ACH beds in Wake County.”

The applicants adequately demonstrate that the addition of the Policy LTC-1 beds at CNH will not result in an unnecessary duplication of the existing or approved services in Wake County for the following reasons:

- The applicants adequately demonstrate the need that current and projected independent residents at CNH have for the 51 additional Policy LTC-1 beds at the CCRC.
- The applicants adequately document that the additional 51 ACH beds will be used exclusively by people who already reside at the CNH CCRC.
- The applicants adequately demonstrate that the proposed ACH beds are needed in addition to the existing or approved adult care home beds.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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.

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

C

In Section Q, Form H, the applicant provides current and projected staffing for the proposed services, as summarized below.

**Current and Projected FTE Positions
 The Cardinal at North Hills**

| Staff Position | Current As of 1/1/18 | OY1 CY2021 | OY2 CY2022 | OY3 CY2023 |
|---------------------------------|---------------------------------|-----------------------|-----------------------|-----------------------|
| Registered Nurse | 2.50 | 5.00 | 5.00 | 5.00 |
| Resident Coordinator | 1.00 | 1.00 | 1.00 | 1.00 |
| SNF Aides | 3.01 | 6.02 | 6.02 | 6.02 |
| AL Aides | 8.19 | 13.13 | 16.41 | 16.41 |
| MC Aides | 10.50 | 10.50 | 10.50 | 10.50 |
| Director of Nursing | 1.00 | 1.00 | 1.00 | 1.00 |
| MDS Nurse | 0.50 | 1.00 | 1.00 | 1.00 |
| Alzheimer's Coordinator | 1.00 | 1.00 | 1.00 | 1.00 |
| Staff Development Coordinator | 1.00 | 1.00 | 1.00 | 1.00 |
| Medical Records | 0.50 | 1.00 | 1.00 | 1.00 |
| Physical Therapy | 0.50 | 1.00 | 1.00 | 1.00 |
| Occupational Therapy | 0.50 | 1.00 | 1.00 | 1.00 |
| Pharmacy | 1.00 | 1.00 | 1.00 | 1.00 |
| Medical Director | 1.00 | 1.00 | 1.00 | 1.00 |
| Dining Services Director | 1.00 | 1.00 | 1.00 | 1.00 |
| Dietary Supervisor | 1.40 | 1.40 | 1.40 | 1.40 |
| Cooks | 5.00 | 6.50 | 6.50 | 6.50 |
| Servers | 8.40 | 12.60 | 12.60 | 12.60 |
| Utility Workers | 1.75 | 2.28 | 2.28 | 2.28 |
| Social Worker | 1.00 | 1.00 | 1.00 | 1.00 |
| Wellness Director | 1.00 | 1.00 | 1.00 | 1.00 |
| Assistant Wellness Director | 1.00 | 1.00 | 1.00 | 1.00 |
| Transportation | 1.00 | 1.00 | 1.00 | 1.00 |
| Director Environmental Services | 1.00 | 1.00 | 1.00 | 1.00 |
| Housekeeping Director | 1.00 | 1.00 | 1.00 | 1.00 |
| Housekeeping Aides | 7.50 | 9.38 | 9.38 | 9.38 |
| Laundry Aides | 2.00 | 3.00 | 3.00 | 3.00 |
| Maintenance Technician | 2.00 | 2.50 | 2.50 | 2.50 |
| Administrator | 1.00 | 1.00 | 1.00 | 1.00 |
| Clerical | 6.00 | 6.00 | 6.00 | 6.00 |
| Resident Relations | 1.00 | 1.00 | 1.00 | 1.00 |
| Sales Director | 2.00 | 2.00 | 2.00 | 2.00 |
| Human Resources Director | 1.00 | 1.00 | 1.00 | 1.00 |
| Total FTE Positions | 78.25 | 100.29 | 103.27 | 103.57 |

Source: Form H in Section Q of the application

The assumptions and methodology used to project staffing are provided in Section H.1, page 60, and in Section Q, Form F.4. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements in Section Q.

In Section H.2, pages 60-61, the applicant describes the methods used to recruit or fill new positions. In Section H.3, pages 61-62, and Exhibit 10, the applicant describes its existing and continuing education program. In Exhibit 12, the applicant provides a letter from the current medical director confirming his support for the project and his intent to continue to serve in that capacity.

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

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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.

- (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 I.1, pages 64-65, the applicants state that the following ancillary and support services are necessary for the proposed services:

- | | |
|--------------------|-----------------------------|
| • Administration | • Home Health |
| • Business Office | • Food & Nutrition Services |
| • Medical Records | • Hospice |
| • Nursing | • Facility Maintenance |
| • Housekeeping | • Medical Supplies |
| • Medical Director | • Linen Services |
| • Pharmacy | • Podiatry |
| • Dentist | |

On page 64, the applicants explain how each ancillary and support service is made available.

In Section I.2, page 65, the applicants describe their history of providing health care service in North Carolina and their established relationships with local healthcare and social services providers in Wake County.

The applicants adequately demonstrate that necessary ancillary and support services are available and that the proposed services will be coordinated with the existing healthcare system.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 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, 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.

C

The applicants, CNH, propose to add 51 adult care home beds pursuant to Policy LTC-1 for a total of 106 adult care home beds and 15 nursing facility beds. The existing healthcare facility operates 55 adult care home beds and 15 nursing facility beds, and is part of a licensed CCRC in Raleigh.

To accommodate the 51 additional ACH beds, the applicants propose to construct a new 15-story, 59,638 square foot building with 117 additional independent living units. The 51 ACH beds will occupy the 4th and 5th floors of the proposed building. Line drawings of the proposed facility are provided in Exhibit 13.

In Section K.3(a), pages 67-68, the applicants adequately explain how the cost, design and means of construction represent the most reasonable alternative for the proposal and provides supporting documentation in Exhibit 13.

In Section K.3(b), page 68, the applicants adequately explain why the project will not unduly increase the costs to the applicants of providing the proposed services or the costs and charges to the public for the proposed services and provides supporting documentation in Exhibit 13.

In Section K.3, pages 68-69, the applicants describe methods that will be incorporated into the construction plans to maintain energy efficiency and water conservation operations and contain the costs of utilities, stating that they plan to implement several techniques and policies.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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.

(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 L.1(b), page 74, the applicants provide the historical payor mix during CY2017 for ACH beds at CNH as 100% private pay, based on utilization of the 45 operational ACH beds at CNH from May 2017 to December 2017. CNH's 45 operational ACH beds were approved pursuant to LTC-1 (Project I.D. # J-8150-08), and are restricted to use by residents with whom the CCRC has contracts.

In Section L.1(a), page 73, the applicants provide the following comparison.

**The Cardinal at North Hills
CY2017**

| | Percent of Total Patients Served | Percent of Service Area Population |
|-------------------------------------|---|---|
| Female | 57.9% | 51.3% |
| Male | 42.1% | 49.7% |
| 64 and Younger | 0.0% | 89.3% |
| 65 and Older | 100.0% | 10.7% |
| American Indian | 0.0% | 0.8% |
| Asian | 0.0% | 6.9% |
| Black or African-American | 5.2% | 21.2% |
| Native Hawaiian or Pacific Islander | 0.0% | 0.1% |
| White or Caucasian | 94.8% | 68.5% |
| Other Race | 0.0% | 02.5% |

- Application
- Exhibits to the application
- Remarks made at the public hearing

- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application documents 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. 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;

Regarding any obligation to provide uncompensated care, community service or access by minorities and persons with disabilities, in Section L.1, page 74, the applicants state:

“CNH has no obligation under federal regulations to provide uncompensated care or community service, or access by minorities and handicapped persons. However, Kisco affords equal treatment and access to its services for all persons, without discrimination due to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability, or any other factor that would classify a resident as underserved.”

In Section L.2(d), page 75, the applicants state that no civil rights access complaints have been filed against any of the applicants' facilities in North Carolina.

The agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 L.3, page 76, the applicants project that 100% of patients in CNH's ACH beds will be private pay in the third year of operation (CY2023). Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities requires the applicants to use the proposed additional ACH beds exclusively to meet the needs of people with whom the facility has continuing care contracts and who have lived at the CCRC for at least 30 days. The Policy also prohibits the applicants from participation in the Medicaid program and serving State-County Special Assistance recipients in the Policy LTC-1 beds.

The projected payor mix is reasonable and adequately supported for the following reasons:

- The projected payor mix is based on the historical payor mix.
- The proposed Policy LTC-1 beds are prohibited from participation in the Medicaid program or the State-County Special Assistance program.

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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 L.5, page 78, the applicants adequately describe the range of means by which patients will have access to CNH adult care home beds.

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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.

C

In Section M.1, page 79, the applicants describes the extent to which area health professional training programs will have access to the facility for training purposes. Supporting documentation is provided in Exhibit 9, which contains a copy of a letter sent to Wake Tech Community College expressing the applicants' willingness to establish a clinical training agreement.

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the applicants adequately demonstrate that the proposed services will accommodate the clinical needs of health professional training programs in the area; therefore, the application is conforming to this criterion.

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

C

The applicants, CNH, propose to add 51 adult care home beds pursuant to Policy LTC-1 for a total of 106 adult care home beds and 15 nursing facility beds. The existing healthcare facility operates 55 adult care home beds and 15 nursing facility beds, and is part of a licensed continuing care retirement community (CCRC) in Raleigh (Wake County).

On page 219, the 2018 SMFP defines the service area for ACH beds as the county in which the bed is located. Thus, the service area for the proposed ACH beds is Wake County. However, facilities may serve residents of counties not included in their service area.

According to the 2018 SMFP, there are currently a total of 50 existing facilities in Wake County that have ACH beds. The table below provides a summary of the 50 facilities in Wake County. The 2018 SMFP projects a surplus of 319 ACH beds in Wake County in 2021, as shown in the table below.

| 2018 SMFP ACH Inventory & 2021 Need Projections Wake County | |
|--|-------|
| # Facilities with ACH Beds | 50 |
| # Beds in Nursing Homes | 280 |
| # Beds in ACH Facilities | 2,929 |
| Total Licensed Beds | 3,209 |
| # CON Approved | 110 |
| Total # Available | 3,319 |
| Total # in Planning Inventory | 3,292 |
| Projected Bed Surplus | 319 |

In Section N, pages 80-81, the applicants describe the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition will promote the cost-effectiveness, quality and access to the proposed services. On page 82, the applicants state,

“The proposed ACH bed expansion project will promote cost-effectiveness, quality, and access to services, as explained in Section N.2 below, and therefore will promote competition in the CNH service area because it will enable CNH to better meet the needs of its rapidly growth resident population, and to ensure the timely provision of assisted living services to its own residents. ... There will be no adverse effect on other facilities in Wake County because CNH is an existing and expanding CCRC with an established reputation in the local marketplace. The proposed additional ACH beds will be via Policy LTC-1, and therefore will be closed beds and not competing with existing assisted living facilities in Wake County. ... The proposal to obtain additional ACH beds via Policy LTC-1 is cost-effective because CNH can achieve greater economies of scale by leveraging staff and infrastructure.”

The applicants adequately describe the expected effects of the proposed services on competition in the service area and adequately demonstrate:

- The cost-effectiveness of the proposal (see Sections F and Q),
- Quality services will be provided (see Section O of the application and any exhibits), and
- Access will be provided to underserved groups (see Section L of the application and any exhibits).

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Remarks made at the public hearing
- 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.

- (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 A.10, page 11, the applicants state that Kisco Senior Living, which manages, CNH, also manages four other facilities with ACH beds in North Carolina. In Section O.3, page 86, the applicants state, "*None of the facilities identified in Section A.10(b) have had any licensure sanctions or been out of compliance with licensure requirements during the 18 months immediately preceding submission of this CON application.*" According to the files in the Adult Care Licensure and Nursing Home Licensure and Certification Sections, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, there have been no incidents related to quality of care at CNH or any of the facilities managed by the applicants. After reviewing and considering information provided by the applicant and by the Adult Care Licensure and Nursing Home Licensure and Certification Sections and considering the quality of care provided at CNH, 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.

The applicants propose to add ACH beds pursuant to Policy LTC-1. The Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100 are not applicable to this review because beds added pursuant to Policy LTC-1 are used exclusively to meet the needs of people with whom the facility has continuing care contracts who have lived in a non-nursing unit of the center for a period of at least 30 days.