

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: December 18, 2019

Findings Date: December 18, 2019

Project Analyst: Gregory F. Yakaboski

Assistant Chief: Lisa Pittman

Project ID #: A-11734-19

Facility: The Landings of Franklin

FID #: 190316

County: Macon

Applicants: Macon Opco, LLC

Macon Propco, LLC

Project: Develop a new 70-bed adult care home facility pursuant to the need determination in the 2019 SMFP

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, Macon Opco, LLC and Macon Propco, LLC, propose developing a new 70-bed adult care home (ACH) facility in Macon County pursuant to the need determination in the 2019 State Medical Facilities Plan (SMFP). The facility, The Landings of Franklin, is proposed to be in Franklin. The facility would be managed by Affinity Living Group, LLC (Affinity Living Group).

Need Determination

Table 11D in the 2019 SMFP, on page 253, shows there is a need determination for 70 ACH beds in Macon County. This application proposes to develop 70 ACH beds in Macon County. The application is consistent with the need determination.

Policies

There are three policies in the 2019 SMFP which are applicable to this review: Policy LTC-3: Certification of Beds for Special Assistance, Policy GEN-3: Basic Principles, and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities.

Policy LTC-3: Certification of Beds for Special Assistance, on page 24 of the 2019 SMFP, states:

“Certificate of need applicants proposing to develop new adult care home beds pursuant to a need determination shall demonstrate that the proposed beds will be certified for special assistance and that at least 5 percent of the projected days of care in the third full fiscal year of operation shall be provided to residents receiving State-County Special Assistance.”

In Section B, pages 17-18, the applicants state that “at least 60%” (42) of the 70 ACH beds proposed to be developed at The Landings of Franklin will be reserved for State/County Special Assistance residents. The applicants further state:

“This ratio of Medicaid/Special Assistance beds to private pay bed beds greatly exceeds the required 5% of projected days of care required by Policy LTC-3 and will provide access to quality and affordable assisted living services to underserved populations in Macon County.”

In Section L.3, page 58, the applicants project that 59.70% of the total ACH days of care in the third full fiscal year will be provided to residents receiving County Assistance.

The applicants adequately demonstrate that at least 5% of the projected days of care will be provided to residents receiving State-County Special Assistance. The application is consistent with Policy LTC-3.

Policy GEN-3: Basic Principles, on page 31 of the 2019 SMFP, states:

“A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area.”

Promote Safety and Quality - The applicants describe how they believe the proposed project would promote safety and quality in Section B.10(a), pages 18-19 and Section O, pages 63-65; and referenced exhibits. The information provided by the applicants is reasonable and adequately supports the determination that the applicants' proposal would promote safety and quality.

Promote Equitable Access – The applicants describe how they believe the proposed project would promote equitable access in Section B.10(b), page 19; Section L, pages 57-59; and referenced exhibits. The information provided by the applicants is reasonable and adequately supports the determination that the applicants' proposal would promote equitable access.

Maximize Healthcare Value – The applicants describe how they believe the proposed project would maximize healthcare value in Section B.10(c), page 20; Section K, pages 53-54, and Section N, pages 61-62. The information provided by the applicants is reasonable and adequately supports the determination that the applicants' proposal would maximize healthcare value.

The applicants adequately demonstrate how the projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the need for Macon County ACH beds. The application is consistent with Policy GEN-3.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities, on page 31 of the 2019 SMFP, states:

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

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

Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 are required to submit a plan 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 \$2 million; therefore, Policy GEN-4 is applicable to this review. In Section B.11, pages 21-22, the applicants provide a written statement assuring improved energy efficiency and water conservation in its construction project. The applicants state that the proposed new facility, The Landings of Franklin, will be constructed to utilize the latest technologies to assure maximum energy efficiency. The applicants further state that the energy efficient design will allow for the fulfillment of the 2019 SMFP Policy GEN-4.

In Section K, page 54, the applicants provide examples of strategies to be incorporated as energy saving features into the construction plans. The applicants adequately demonstrate that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation. The application is consistent with Policy GEN-4.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- 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 do not propose to develop more ACH beds than are determined to be needed in the service area.
- The applicants adequately demonstrate that the proposal is consistent with the applicable policies for the following reasons:
 - The applicants adequately demonstrate how the projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the need for Macon County ACH beds.
 - The applicants adequately demonstrate that at least 5% of the projected days of care will be provided to residents receiving State-County Special Assistance.
 - The applicants adequately demonstrate that the application includes a written statement describing the project's plan to assure improved 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.

The applicants propose developing a new 70-bed ACH facility in Macon County to be known as The Landings at Franklin.

Patient Origin

On page 219, the 2019 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The Landings of Franklin is proposed to be in Macon County; thus, the service area for this project is Macon County. Facilities may also serve residents of counties not included in their service area.

The Landings of Franklin is not an existing facility and thus has no historical utilization. However, the management company proposed for this project, Affinity Living Group, LLC, manages and operates Franklin House, a 70-bed ACH facility, which is also located in Franklin. For comparison, the historical patient origin for the last full fiscal year of Franklin House is provided in the table below:

**Franklin House
Last Full Fiscal Year**

Last Full Fiscal Year: 6/1/2018 to 6/1//2019		
County or State	Number of Patients	Percent of Total
Macon	81	72.97%
Jackson	6	5.41%
Buncombe	5	4.50%
Haywood	3	2.70%
Cherokee	2	1.80%
Carteret	1	0.90%
Moore	1	0.90%
Northampton	1	0.90%
Rockingham	1	0.90%
Wake	1	0.90%
Watauga	1	0.90%
Outside NC	8	7.21%
Total	111	100.00%

Source: Section C, pages 25-26
Totals may not sum due to rounding

The following table illustrates projected patient origin.

**The Landings of Franklin
Third Full Fiscal Year
Projected: 10/1/24-9/30/25**

County or State	Number of Patients	Percent of Total
Macon	51	72.97%
Buncombe	3	4.28%
Jackson	3	4.28%
Carteret*	1	1.43%
Cherokee*	1	1.43%
Haywood*	1	1.43%
Moore*	1	1.43%
Northampton*	1	1.43%
Rockingham*	1	1.43%
Wake*	1	1.43%
Watauga*	1	1.43%
Outside NC	5	7.14%
Total	70	100.00%

Source: Section C, page 26

Totals may not sum due to rounding

*The application had the percent of total listed as “0.90” which is incorrect. The correct percent of total for 1 patient is 1.43% [$1/70 = 0.01428$]. The project analyst put the correct percent of total in the table above. The difference is insignificant.

In Section C, page 27, the applicants provide the assumptions and methodology used to project its patient origin, stating that the resident population to be served in the new 70 ACH beds at the proposed facility will “*closely trend*” to the resident population served by Franklin House during the past full fiscal year. Additional county details are provided in Exhibit C.3. The applicants’ assumptions are reasonable and adequately supported.

Analysis of Need

In Section C, pages 27-32, the applicants explain why they believe the population projected to utilize the proposed services needs the proposed services. The applicants state:

- There is a need determination in the 2019 SMFP for 70 ACH beds in Macon County.
- The applicants state that the North Carolina Division of Health Benefits reports that in Macon County, 24.7% of the population was eligible for Medicaid with 15.5% of that Medicaid eligible group being seniors.
- The population of Macon County in general is projected to continue growing for the next two decades.
- The 65+ age group, the group most likely to need assisted living services is projected to continue to rapidly increase. (See pages 27-28 of the application.)

- There is a lack of affordable, high-quality assisted living options for residents of Macon County which shortage is projected to increase over time. (See pages 28-31 of the application.)
- The proposed project is projected to add 42 ACH beds dedicated to those on State/County Special Assistance.
- Macon County officials, health agencies, businesses, and individuals support the development of the 70 new ACH beds. (Exhibit C.4)

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

- The 2019 SMFP projects a 73 ACH bed deficit for Macon County and identifies a need for 70 additional ACH beds.
- The North Carolina Office of State Budget and Management (OSBM) projects that Macon County's population is growing and will continue to grow for the next two decades. Further, during the same time period residents in the 65-74 age bracket will increase by 14.28%, residents in the 75-84 age bracket will increase by 50.56% and residents in the 85+ age bracket will increase by 85.75%, exacerbating the existing shortage of assisted living placement options for seniors in Macon County.
- Macon County has a low inventory of available and affordable ACH beds. From 2017-2019 there were 194,910 total possible ACH bed days of which only 48,031 or 24.64% of those ACH beds days were utilized by residents on Medicaid or Special Assistance.
- The applicants state that only 42 out of a total of 178 beds in Macon County are available for Medicaid and Special Assistance residents. The Landings of Franklin, which proposes to have 42 ACH beds devoted to Medicaid and Special Assistance residents, would double the number of ACH beds available to Medicaid/Special Assistance ACH beds in Macon County.
- The applicants provide documentation of broad community support for the proposed project in Exhibit C.4.

Projected Utilization

In Section Q, Form C, the applicants provide projected utilization, as illustrated in the following table.

The Landings of Franklin: Projected Utilization

	FY2025 (10/1/2024-9/30/2025)	FY2026 (10/1/2025-9/30/2026)	FY2027 (10/1/2026-9/30/2027)
# General ACH Beds	70	70	70
Days of Care	12,866	23,634	24,455
Occupancy Rate	50.4%	92.5%	95.7%
#SCU ACH Beds	na	na	na
Days of Care	na	na	na
Occupancy Rate	na	na	na
Total # ACH Beds	70	70	70
Days of Care	12,866	23,634	24,455
Occupancy Rate	50.4%	92.5%	95.7%

In Exhibits Q.1 and Q.2, the applicants provide the assumptions and methodology used to project utilization, which are summarized below.

- Operations begin October 1, 2024 with 15 reserved beds.
- Fill-up rate is equal to 4 residents per month until ACH fills.
- Facility considered full at 95.7% occupancy in the sixth month of the second year, which is March 2026 of FY2026.

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

- Affinity Living Group’s familiarity with Macon County based on its experience operating the existing 70-bed ACH facility, Franklin House, which is in the same town as the proposed The Landings of Franklin.
- Projected utilization is based on Affinity Living Group’s overall experience with operating and managing over eighty ACH facilities in North Carolina.

Access

In Section C.8, page 33, the applicants describe the access low-income people, racial and ethnic minorities, women, disabled people, the elderly, and underserved groups will have to the proposed services, and state that admissions will only be on written order of a physician. On pages 33-34, the applicants state:

“The Landings of Franklin [italicized in the original] will allow admission only on the written order of a physician. Persons whose health, habilitative, or rehabilitative needs cannot be met by the services offered in the facility will not be admitted.

Otherwise, all persons will be admitted to the facility without regard to their race, color, creed, age, national origin, handicap, sex, or source of payment.

. . . The Applicants intend to serve those with financial need with the proposed development of a 70 ACH bed facility. The Applicants intend for approximately 60%

of the available beds at The Landings of Franklin [italicized in the original] to be devoted to Medicaid/Special Assistance residents.”

In Section L, page 58, the applicants project the following payor mix during the third full fiscal year of operation following completion of the project, as illustrated in the following table.

Payor Category	Services as Percent of Total
County Assistance	59.70%
Private Pay	40.30%
Total	100.00%

Source: Table on page 58 of the application.

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 do not propose to reduce, eliminate or relocate a facility or 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.

NC

The applicants propose developing a new 70-bed ACH facility in Macon County to be known as The Landings at Franklin.

In Section E, pages 39-40, the applicants fail to describe any alternatives they considered or explain why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need.

History of Project Development

The applicants for the proposed project, Macon Opco, LLC and Macon Propco, LLC, are new limited liability companies whose manager is Charles E. Trefzger, Jr. Mr. Trefzger is also a manager of Affinity Living Group, LLC, the operator of approximately 85 adult care homes (ACH) in North Carolina. Projects affiliated with Affinity and Mr. Trefzger have taken much longer to develop than initially proposed in their applications, with inadequate reasons to justify the length of the delays, and some certificates of need (CONs) have been withdrawn by the Agency because of unacceptable project delays. The following table summarizes eight projects that have had significant delays or which resulted in the withdrawal of a CON by the Agency:

Facility	Date CON Issued	CON Proj. Offering of Svcs	Revised Offering of Svcs	CON Withdrawn?	Appeal?	Settlement?	Licensure Date	Time Since 1 st Proj. Offering of Svcs*
Alexander Youth Services	12/5/14	3/1/16	3/1/17 10/1/18	- 4/30/18	- No	- -	NA – CON withdrawn	NA – never developed
Alleghany House	11/28/11	11/1/13	7/10/17 11/3/18 10/31/20	- - 4/30/18	- - Yes	- - Yes**		7 years (if no further changes to timetable)
Franklin House	9/30/08	10/1/10	-	11/7/13	Yes	Yes	10/24/14	6 years, 1 month
Lake Lure Assisted Living	5/11/12 1/24/18	8/1/14 11/1/19	7/10/17 1/1/21	11/1/13 -	Yes -	Yes -		
Lakeview Village	12/29/16	10/1/18	11/15/18 6/30/21	- -	- -	- -		2 years, 9 months (if no further changes to timetable)
Murphy House	9/30/08	10/1/10	10/15/13 7/10/17 -	7/8/11 12/20/13 7/25/17	Yes Yes No	Yes Yes -	- - -	NA – never developed
Reidsville House	3/29/11	10/1/12	7/10/17 12/1/18 5/1/20 5/15/21	12/20/13 - - -	Yes - - -	Yes - - -	- - - -	8 years, 7 months (if no further changes to timetable)
Taylorsville House	1/22/10	7/1/10	-	11/19/12	No	-	-	NA – never developed

*Amount of time between original projected date to offer services and most recent projected date to offer services.

**Obtain financing by 4/1/2019; the applicants have not yet provided sufficient information to demonstrate compliance with this requirement.

Below is a written summary of key events in the timetable for each application.

- **Alexander Youth Services** (Alexander County)

A CON for **Alexander Youth Services** (Project I.D. #E-10289-14) was issued December 5, 2014 to develop a 15-bed child/adolescent substance use disorder facility pursuant to the 2014 SMFP Need Determination for the Western Region. The application listed March 1, 2016 as the projected date for offering of services. Three progress reports were submitted for this project; each progress report requested a timetable extension, with the final approved extension projecting to offer services November 1, 2019 – three years and seven months after the projected offering of services listed in the application. After learning through a news report that the site for the proposed facility was for sale, the Agency sent a Notice of Intent to Consider Withdrawal of a Certificate of Need on December 20, 2017. This Notice included a request for a comprehensive progress report. On January 19, 2018, the Agency received an email from AYS which stated:

“Given that nothing has transpired on this project and CON section {sic} has recommended withdrawal, do I still need to submit a progress report?”

The Agency never received any further information about the status of the project. On September 18, 2018, the Agency withdrew the CON. The applicants appealed but then withdrew the appeal with prejudice; the CON no longer exists.

- **Alleghany House** (Alleghany County)

An application for **Alleghany House** (Project I.D. # D-8377-09) was denied, settled, and a CON was issued November 28, 2011 to develop a new 40-bed ACH, pursuant to the need determination in the 2009 SMFP, with all 40 beds designated as special care unit (SCU) beds. The settlement agreement listed November 1, 2013 as the projected date for offering of services. Between December 10, 2013 and April 30, 2018, the Agency sent three Notices of Intent to Consider Withdrawal of a Certificate of Need, and granted two timetable extensions, before ultimately withdrawing the CON on April 30, 2018 for failure to develop the project and not demonstrating a good faith effort to develop the project in accordance with approved timetables. The applicants appealed the withdrawal and settled with the Agency on January 2, 2019, with the following conditions and timetable included in the settlement agreement:

1. *The certificate holders shall complete the Progress Report form provided by the Healthcare Planning and Certificate of Need Section.*
2. *Progress reports will be due on the first day of every other month. The first progress report shall be due on May 1, 2019. The second progress report shall be due on July 1, 2019 and so forth.*
3. *Each progress report shall describe in detail all steps taken to develop the project since the last progress report and shall include documentation to substantiate each step taken.*

4. *Progress reports should be received by the due date but in no case shall they be received more than one week after the due date.*
5. *Timetable milestones shall be completed no later than three months after the projected date on the timetable subject to reasonable extensions due to conditions beyond the certificate holders' control such as act of God, fire, flood, or other natural disaster, malicious injury, strikes, lock outs, or other labor troubles, riots, insurrection, war, government delays, or other reason of like nature not the fault of the certificate holders.*
6. *There will be no further extensions of the timetable milestone dates except for reasonable extensions described in Condition #5.*
7. *In the event that the project is not developed in accordance with the timetable, including any reasonable extensions described in Condition #5, the Healthcare Planning and Certificate of Need Section may impose a civil monetary penalty of \$1,000 per day for each day the project is delayed beyond the 90th day following the milestone date on the timetable.*

Timetable

<i>Obtain financing</i>	<i>April 1, 2019</i>
<i>Construction contract executed</i>	<i>April 1, 2019</i>
<i>25% of construction completed (25% of the contract amount)</i>	<i>November 30, 2019</i>
<i>50% of construction completed.....</i>	<i>February 27, 2020</i>
<i>75% of construction completed.....</i>	<i>May 31, 2020</i>
<i>Construction completed</i>	<i>August 31, 2020</i>
<i>Licensure obtained.....</i>	<i>October 31, 2020</i>
<i>Services offered.....</i>	<i>October 31, 2020</i>
<i>State County Special Assistance certification obtained....</i>	<i>October 31, 2021</i>
<i>Final Annual Report due.....</i>	<i>January 31, 2024</i>

The Agency received the first progress report pursuant to the settlement agreement dated May 1, 2019. The second progress report was dated July 1, 2019. The Agency did not receive a progress report September 1, 2019 as stipulated in the Settlement Agreement above. The next progress report was received October 25, 2019, with unsupported documentation regarding financing.

On November 5, 2019, the Agency requested additional information regarding capital costs and loan documents. The 40 ACH beds from the 2009 need determination in Alleghany County could have been awarded to other applicants who might have developed the beds and provided services to the residents of Alleghany County during the last six years (between the original projected date to offer services and the date of these findings).

- **Franklin House (Macon County)**

A CON for **Franklin House** (Project I.D. #A-8082-08) was issued September 30, 2008, to develop a 70-bed adult care home facility pursuant to the need determination in the 2008 SMFP. The application listed October 1, 2010 as the projected date for offering of services. The CON was withdrawn January 11, 2012, because the applicants had not adequately documented that they were making a good faith effort to develop the project in accordance with representations in the application. The applicants appealed the withdrawal and later settled with the Agency, and the Agency rescinded the withdrawal. The CON was again withdrawn November 7, 2013, because the applicants again had not adequately documented that they were making a good faith effort to develop the project in accordance with representations in the application. The applicants appealed the withdrawal and later settled with the Agency, and the Agency rescinded the withdrawal. The facility was licensed October 24, 2014, four years after the projected initial occupancy date.

- **Lake Lure Assisted Living (Rutherford County)**

A CON for **Lake Lure Assisted Living** (Project I.D. #C-8626-11 – previously listed as Ruth Manor) was issued May 11, 2012, to relocate a 46-bed adult care home facility. The application listed August 1, 2014 as the projected date for offering of services. The CON was withdrawn November 1, 2013, because the applicants had not adequately documented they were making a good faith effort to develop the project in accordance with representations in the application. The applicants appealed the withdrawal and settled with the Agency on June 18, 2014, and the Agency rescinded the withdrawal. The revised timetable indicated that services would be offered July 10, 2017.

On September 15, 2016, a change of scope application (Project I.D. #C-11244-16) was filed with the Agency to relocate 16 beds from Oak Grove Healthcare Center to Lake Lure Assisted Living for a total of 62 ACH beds (48+16). The application was disapproved February 27, 2017, the disapproval was appealed by the applicants, and ultimately the applicants settled with the Agency on December 21, 2017. A CON for the change of scope application was issued effective January 24, 2018, with the following condition:

3. *Rutherfordco LLC and Bostic Health Holdings, LLC shall begin constructing the building no later than December 31, 2018. In the event that Rutherfordco LLC and Bostic Health Holdings, LLC fail to begin constructing the building by December 31, 2018, the right to develop the projects (for both Project I.D. #s C-8626-11 and C-11244-16) shall cease.*

The timetable projected that services would be offered November 1, 2019. A progress report dated May 1, 2019, was received by the Agency requesting an extension of the timetable extending the execution of the construction contract to August 1, 2019 and

offering of services to January 1, 2021. On October 14, 2019, a Project Analyst with the Agency acknowledged receipt of the May 1, 2019 progress report via email and provided a due date of February 3, 2020 for the next progress report. The Agency did not address the timetable in its email response. As of the date of these findings, the applicants are not in compliance with Condition #3 in its CON.

- **Lakeview Village** (Halifax County)

A CON for **Lakeview Village** (Project I.D. #L-11186-16) was issued December 29, 2016 to relocate and replace a 60-bed ACH facility. The application listed October 1, 2018 as the projected date for offering of services. After its first progress report submitted on March 31, 2017, the applicants did not submit another progress report, despite multiple requests from the Agency, until almost two and a half years later (October 18, 2019). In that progress report, the applicants requested a timetable extension, with the new projected date to offer services being June 30, 2021. In the three years since the CON was issued, the applicants have purchased the land and gotten drawings approved by the Construction Section but have not executed a construction contract and have not yet secured financing despite repeated attempts. Even if the applicants do not request further timetable extensions, the applicants will not be able to offer services to Halifax County residents for at least two years and nine months past the original date the applicants projected to offer services.

- **Murphy House** (Cherokee County)

A CON for **Murphy House** (Project I.D. #A-8084-08) was issued September 30, 2008 to develop a 70-bed ACH pursuant to the need determination in the 2008 SMFP. The application listed October 1, 2010 as the projected date for offering of services. The CON was withdrawn July 8, 2011, because the applicants had not adequately documented they were making a good faith effort to develop the project in accordance with representations in the application. The applicants appealed the withdrawal and settled with the Agency on April 18, 2012, and the Agency rescinded the withdrawal. The revised timetable indicated services would be offered October 15, 2013. The CON was again withdrawn December 20, 2013, because the applicants had not adequately documented they were making a good faith effort to develop the project in accordance with representations in the application. The applicants appealed the withdrawal and settled with the Agency on June 16, 2014, and the Agency rescinded the withdrawal. The revised timetable indicated services would be offered July 10, 2017. The CON was withdrawn a third time on July 25, 2017, because no meaningful progress toward developing the project had been made since it was approved nine years earlier. The withdrawal was not appealed. The 70 ACH beds from the 2008 Need Determination in Cherokee County were unavailable to other applicants who might have developed the beds and provided services to the residents of Cherokee County for seven years after the occupancy date projected in the application. Additionally, due to changes in population and methodology, those 70 ACH beds from the 2008 Need Determination no longer exist and cannot be developed to provide services to Cherokee County residents.

- **Reidsville House** (Rockingham County)

A CON for **Reidsville House** (Project I.D. #G-8600-10) was awarded March 29, 2011 to relocate a 43-bed ACH and convert all 43 beds to SCU beds. The application listed October 1, 2012 as the projected date for offering of services. The CON was withdrawn December 20, 2013 because the applicants had not adequately documented they were making a good faith effort to develop the project in accordance with representations in the application. The applicants appealed the withdrawal and settled with the Agency on June 16, 2014, and the Agency rescinded the withdrawal. The revised timetable indicated services would be offered July 10, 2017. The applicants requested and received Agency approval to change the site of development on March 13, 2017. In the five and a half years since the withdrawal was settled and rescinded, the applicants have requested three additional timetable extensions, with the most recent extension projecting to offer services on May 1, 2021. In the same five and a half years, the applicants have purchased the land and gotten drawings approved by the Construction Section but have not executed a construction contract and have not yet secured financing despite repeated attempts. In its original application, the applicants emphasized the need the community has for special care unit beds; however, the applicants have now denied the residents of Rockingham County access to needed special care unit beds for the last seven years and will likely be unable to offer services to Rockingham County residents for another one and a half years. Even if the applicants do not request further timetable extensions, the residents of Rockingham County will have been denied access to special care unit beds for eight and a half years past the original date the applicants projected to offer services.

- **Taylorsville House** (Alexander County)

A CON for **Taylorsville House** (Project I.D. #E-8375-09) was issued January 22, 2010 to add 10 ACH beds in a Special Care Unit (SCU) pursuant to the need determination in the 2009 SMFP. The application listed July 1, 2010 as the projected date for offering of services. The CON was withdrawn November 19, 2012 because the applicants had not adequately documented that they were making a good faith effort to develop the project in accordance with representations in the application. The CON no longer exists.

Since 1996, the Agency has withdrawn CONs for 10 projects where the CON no longer exists. Of those 10, three are projects affiliated with Charles E. Trefzger, Jr. (Project I.D. #s A-8084-08, E-8375-09, and E-10289-14). None of the remaining seven CONs that no longer exist have any applicants with common ownership or affiliation with any other applicants with withdrawn CONs. Additionally, since 2012, CONs affiliated with Charles E. Trefzger, Jr. have been withdrawn 10 times for failure to develop the project in a timely manner or in accordance with representations in the CON application.

The current proposed project, The Landings of Franklin, is not unlike the projects

discussed above. Not developing the above projects, as approved, has left Alexander, Alleghany, Cherokee, Halifax, Macon, Rockingham, and Rutherford County residents without the proposed adult care homes, additional ACH beds/facilities, and a child/adolescent substance use disorder facility.

- Alexander County residents were denied access to 10 approved ACH beds in an SCU because the CON was withdrawn by the Agency after applicants failed to develop the project in a timely manner.
- Alexander County residents were denied access to a 15-bed child/adolescent substance use disorder facility because the CON was withdrawn by the Agency after the applicants failed to develop the project in a timely manner.
- Cherokee County residents were denied access to a 70-bed ACH facility because the CON was withdrawn (multiple times) by the Agency after the applicants failed to develop the project in a timely manner.
- Halifax County residents have been denied access to a 60-bed ACH facility since the original projected occupancy date of October 1, 2018 and are still being denied access.
- Macon County residents were denied access to a 70-bed ACH facility for four additional years because the applicants failed to develop the project in a timely manner.
- Rockingham County residents have been denied access to 43 SCU beds since the original projected occupancy date of October 1, 2012 and are still being denied access.
- Rutherford County residents have been denied access to a 46-bed ACH facility since the original occupancy date of August 14, 2014 and are now being denied access to an additional 16 beds at the same facility since the projected occupancy for the additional beds was November 1, 2019.

Thus, the history of undeveloped CON-approved projects affiliated with Charles E. Trefzger makes additional affiliated projects an ineffective alternative with regard to history of project development.

History of Statutory Compliance and Compliance with Settlement Agreements

Projects affiliated with Charles E. Trefzger, Jr. have a history of violating legally binding settlement agreements with the Agency or attempting to change legally binding settlement agreements soon after making them; violating conditions imposed on the project in the CON; or failing to submit progress reports to the Agency as required by N.C.G.S. §131E-189(a). Listed below are projects affiliated with Charles E. Trefzger, Jr. which have such a history:

- **Alleghany House** (Alleghany County) – as discussed in the narrative above, the applicants have missed deadlines to submit progress reports; despite requests by the Agency, the applicants have still not submitted requested information regarding project development and as of the date of these findings are in violation of the legally binding settlement agreement.
- **Cabarrus Senior Living** (Cabarrus County)

On July 14, 2017, an application was submitted (Project I.D. #F-11368-17), proposing to develop **Cabarrus Senior Living** by relocating 66 beds from Cabarrus Manor and leaving 67 ACH beds at Cabarrus Manor (Cabarrus Manor was originally approved in Project I.D. #F-10263-14 and subsequent change of scope applications; see Project I.D. #s F-10311-14 and F-11101-15). The application was denied and subsequently settled by the Agency. A CON for Cabarrus Senior Living was issued December 21, 2018, with the following condition:

3. *Cabarrus Propco, LLC and Cabarrus Opco, LLC shall execute the construction by July 4, 2019. In the event that Cabarrus Propco, LLC and Cabarrus Opco, LLC fail to execute the construction contract by October 9, 2019, the right to develop the project shall cease and Cabarrus Propco, LLC and Cabarrus Opco, LLC shall relinquish the Certificate of Need to develop this project.*

The settlement agreement listed February 1, 2021 as the projected date for offering of services. In both of the first two progress reports submitted by the applicant subsequent to the issuance of the CON (June 28, 2019 and September 6, 2019), the applicants requested changes to the proposed timetable which would violate the settlement agreement. The Agency denied each request. On November 13, 2019, the applicants provided the Agency with a copy of a construction contract executed on October 7, 2019; however, the contract contains a provision that work will not begin until financing sufficient to fund the entire project has been secured. The Agency has requested information from the applicant regarding its proposed financing and revised timetable, to be provided to the Agency no later than December 13, 2019; as of the date of these findings, the Agency has not yet received such information from the applicants.

- **Hampton Manor** (Northampton County)

A CON for **Hampton Manor** (Project I.D. #L-11280-16) was awarded May 23, 2017, to relocate 33 ACH beds from The Oaks at Pleasant Hills to the existing 82-bed ACH facility for a total of 115 ACH beds. The application listed October 1, 2019 as the projected date for offering of services. The first due date for a progress report was January 31, 2018. After repeated requests from the Agency, the first progress report was submitted November 8, 2019 stating that the applicants plan to file an

additional application to move the 33 beds to an undeveloped facility in Moore County.

- **Lake Lure Assisted Living** (Rutherford County) – as discussed in the narrative above, the CON was subject to a condition requiring the applicants to begin construction of the building by December 31, 2018; as of the date of these findings, there is no evidence the applicants have executed a construction contract, let alone begun construction of the building. As of the date of these findings, the applicants appear to be in violation of Condition #3 of the CON.
- **Lakeview Village** (Halifax County) – as discussed in the narrative above, the applicants submitted their first progress report but did not submit a second progress report until two and a half years later, despite multiple requests from the Agency.
- **New Hanover Senior Living** (New Hanover County)

A CON for **New Hanover Senior Living** (Project I.D. #O-11279-16) was awarded January 1, 2018, to relocate 40 ACH beds from Sherwood Manor to the existing 61-bed New Hanover House for a total of 101 ACH beds. The application listed October 1, 2019 as the projected date for offering of services. The first due date for a progress report was September 30, 2018; as of the date of these findings, the applicants have not yet submitted a progress report, despite repeated requests from the Agency.

- **Rich Square Villa** (Northampton County)

A CON for **Rich Square Villa** (Project I.D. #L-11281-16) was awarded May 23, 2017, to relocate 33 ACH beds from The Oaks at Pleasant Hills to the existing 38-bed ACH facility for a total of 71 ACH beds. The application listed October 1, 2019 as the projected date for offering of services. The first due date for a progress report was January 31, 2018. After repeated requests from the Agency, the first progress report was submitted November 8, 2019 stating that the applicants plan to file an additional application to instead move 11 of the 33 ACH beds approved to be relocated in Project I.D. #L-11281-16 to an undeveloped facility in Moore County.

- **The Landings of Brunswick** (Brunswick County)

A CON for **The Landings of Brunswick** (Project I.D. #O-11065-15) was awarded July 1, 2016, after a competitive review, to develop an 80-bed ACH pursuant to the need determination in the 2015 SMFP. The CON listed October 1, 2017 as the projected date for offering of services. The first due date for a progress report was October 31, 2016; the applicants did not submit a progress report until July 2018. When the Agency responded to the July 2018 progress report with a request for further information, the applicants did not respond to the Agency until more than a year later, despite repeated requests by the Agency. The applicants have since filed

a change of scope application (Project I.D. #O-11817-19) to relocate the proposed facility.

Thus, the history of violating legally binding settlement agreements with the Agency or attempting to change legally binding settlement agreements soon after making them; violating conditions imposed on the project in the CON; or failing to submit progress reports to the Agency as required by N.C.G.S. §131E-189(a) makes additional affiliated projects an ineffective alternative with regard to history of statutory compliance and compliance with settlement agreements.

There is a history of certain projects associated with Charles E. Trefzger, Jr. taking far longer to develop than projected, if they are developed at all. There is also a history of violating legally binding settlement agreements with the Agency or attempting to change legally binding settlement agreements soon after making them; violating conditions imposed on the project in the CON; or failing to submit progress reports to the Agency as required by N.C.G.S. §131E-189(a). The Agency cannot determine whether the proposed project will be one of the projects that will take far longer to develop than projected, or whether the applicants will comply with statutory requirements, and the applicants provide no other information in the application as submitted to adequately demonstrate that developing the proposed project is a more effective alternative than maintaining the status quo. Therefore, due to the history of failure to develop certain projects at all, the history of failure to develop certain projects in a timely manner, and the history of failure to comply with statutory requirements and failure to comply with settlement agreements, developing the project as proposed is an ineffective alternative.

Therefore, the applicants do not adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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. Therefore, the application is not approved.

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

The applicants propose developing a new 70-bed ACH facility in Macon County to be known as The Landings at Franklin.

Capital and Working Capital Costs

In Section Q, Form F.1a, the applicants project the total capital cost of the project as shown in the table below.

Site Costs	\$550,000
Construction Costs	\$4,292,400
Miscellaneous Costs	\$1,425,000
Total	\$6,267,400

In Section Q, the applicants provide the assumptions used to project the capital cost.

In Section F, pages 42-43, the applicants project that start-up costs and initial operating expenses will be \$565,874 for a total working capital of \$565.874. In Exhibits Q.1 and Q.2, the applicants provide the assumptions and methodology used to project the working capital needs of the project.

Availability of Funds

In Section F, page 41, the applicants state that the capital cost will be funded as shown in the table below.

Type	Macon Propco, LLC	Total
Loans	\$6,267,400	\$6,267,400
Accumulated reserves or OE *	\$	\$
Bonds	\$	\$
Other (Specify)	\$	\$
Total Financing	\$6,267,400	\$6,267,400

* OE = Owner's Equity

In Section F, page 43, the applicants state that the working capital needs of the project will be funded as shown in the table below.

Sources of Financing for Working Capital		Amount
(a)	Loans	\$565,874
(b)	Cash or Cash Equivalents, Accumulated Reserves or Owner's Equity	\$
(c)	Lines of credit	\$
(d)	Bonds	\$
(e)	Total *	\$565,874

In Section F, page 41, the applicants state that the capital costs for the project will be funded by a loan to Macon Propco, LLC. On page 43 and in Exhibit F.3, the applicants show that the working capital for the project will be funded by a loan to Macon Opco, LLC.

Exhibits F.1 and F.3 contain letters dated June 28, 2019, from the Managing Director of Locust Point Capital, confirming a willingness to provide funding to Macon Propco, LLC and Macon Opco, LLC for the capital needs and the working capital needs of the proposed project. Exhibits F.2 and F.4 contain amortization schedules for each proposed loan.

Financial Feasibility

The applicants provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.5, pages 83-84, the applicants project that revenues will exceed operating expenses in the second and third operating years of the project, as shown in the table below.

	1st Full Fiscal Year	2nd Full Fiscal Year	3rd Full Fiscal Year
Total patient days	12,866	23,634	24,455
Total Gross Revenues (Charges)	\$1,125,360	\$2,064,240	\$2,138,400
Total Net Revenue	\$1,114,106	\$2,043,598	\$2,117,016
Average Net Revenue per patient day	\$86.60	\$86.47	\$86.57
Total Operating Expenses (Costs)	\$1,544,480	\$1,809,452	\$1,830,295
Average Operating Expense per day	\$120.04	\$76.56	\$74.84
Net Income	(\$430,374)	\$234,146	\$286,721

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section Q 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

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 and working capital costs are based on reasonable and adequately supported assumptions.
- The applicants adequately demonstrate availability of sufficient funds for the capital and working 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 propose developing a new 70-bed ACH facility in Macon County to be known as The Landings at Franklin.

On page 219, the 2019 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The Landings of Franklin is proposed to be in Macon County; thus, the service area for this project is Macon County. Facilities may also serve residents of counties not included in their service area.

Table 11A on page 234 of the 2019 SMFP lists three ACH facilities with ACH beds totaling 178 ACH beds in Macon County. Table 11C, page 250, shows Macon County with an occupancy rate of 83.15% and a projected deficit of 73 ACH beds in 2022.

Facility	# of ACH Beds	Occupancy Rate
Chestnut Hill of Highlands	26	
Franklin House	70	
Grandview Manor Care Center	82	
Total	178	83.15%

Source: 2019 SMFP Tables 11A and 11C.

In Section G, page 46, the applicants explain why they believe their proposal would not result in the unnecessary duplication of existing or approved ACH services in Macon County. The applicants state that the 2019 SMFP identifies a need for 70 ACH beds in Macon County; therefore, the proposal to develop 70 new ACH beds will not result in unnecessary duplication of existing or approved ACH beds.

The applicants 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:

- There is a need determination in the 2019 SMFP for the proposed 70 ACH beds.
- The applicants adequately demonstrate the need for that the proposed 70-bed ACH facility is needed in addition to the existing or approved ACH beds.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 applicants provide current and projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

Position	Current FTE Staff	Projected FTE Staff
	New Facility	3rd Full Fiscal Year 10/1/2026 to 9/30/2027
RNs	0.0	0.5
Aides	0.0	15.4
Alzheimer's Coordinator	0.0	1.0
Staff Development Coordinator	0.0	1.0
Clerical	0.0	1.4
Dietary	0.0	3.7
Activities	0.0	1.0
Transportation	0.0	0.9
Laundry and Linen	0.0	0.6
Housekeeping	0.0	1.8
Plant Operation & Maintenance	0.0	0.9
Administration	0.0	1.0
TOTAL	0.0	29.2

The assumptions and methodology used to project staffing are provided in Sections Q.1 and Q.2, however, the staffing data in Q.1 is unreadable. Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in Form F.4, which is found in Section Q. In Section H.2 and H.3, page 48, the applicants describe the methods to be used to recruit or fill new positions and its proposed training and continuing education programs. On pages 48-49, the applicants discuss the physicians who will admit residents and provide medical services, as well as the facility administrator.

In Exhibit H.1, the applicants provide supporting documentation.

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

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 I.1, page 50, the applicants state that rehabilitative and other support care will be provided through existing relationships and provide letters of support from providers of support services in Exhibits C.1, C.2, and C.4. Exhibits C.1 and C.2 document support from providers of food and pharmacy services, mental health and primary care, respectively. C.4 documents support from providers of rehabilitation and social services.

In Section I, pages 50-51, the applicants describe the existing relationships they and their proposed management company, Affinity Living Group, LLC, have with other local health care and social service providers.

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

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 HMOs. 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 propose developing a new 70-bed ACH facility in Macon County to be known as The Landings at Franklin.

In Section K, page 53, the applicants state that the project involves constructing 26,850 square feet of new space. Line drawings and a site plan are provided in Exhibits K.1 and K.2, respectively, however, the line drawings are unreadable.

On pages 53-54, the applicants adequately explain how the cost, design and means of construction represent the most reasonable alternative for the proposal.

On page 54, the applicants adequately explain why the proposal 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 Exhibits K.3, Q.1 and Q.2.

In Section B.11, pages 21-22 and in Section K, page 54, the applicants identify any applicable energy saving features that will be incorporated into the construction plans.

On pages 55-56, the applicants identify the proposed site and provide information about the current owner, zoning and special use permits for the site, and the availability of water, sewer and waste disposal and power at the site and provide supporting documentation in Exhibits K.4-6.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

The Landings of Franklin is not an existing facility and thus has no historical utilization. However, the management company proposed for this project, Affinity Living Group, LLC, manages and operates Franklin House, a 70-bed ACH facility, which is also located in Franklin. For comparison, the historical population statistics for the last full fiscal year of Franklin House is provided in the table below

In Section L, pages 57-58, the applicants provide the following comparison.

	Percentage of Total Patients Served by the Franklin House Facility during the Last Full FY	Percentage of the Population of the Service Area
Female	78.57%	51.50%
Male	21.43%	48.50%
Unknown	0.00%	0.00%
64 and Younger	2.68%	71.50%
65 and Older	97.32%	28.50%
American Indian	0.89%	0.80%
Asian	0.00%	1.00%
Black or African-American	0.00%	1.60%
Native Hawaiian or Pacific Islander	0.00%	0.10%
White or Caucasian	81.52%	95.30%
Other Race	0.00%	1.20%
Declined / Unavailable	16.96%	0.00%

The Agency reviewed the:

- Application
- Exhibits to the application
- 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 applicant's 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

Regarding any obligation to provide uncompensated care, community service or access by minorities and persons with disabilities, in Section L, page 58, the applicants state that they are not obligated to provide uncompensated care, community service, or access by minorities and handicapped persons.

In Section L, page 58, the applicants state that during the last five years no patient civil rights access complaints have been filed against the facility or any similar facilities owned by the applicants or a related entity and located in North Carolina.

The Agency reviewed the:

- Application
- Exhibits to the application

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, page 58, the applicants project the following payor mix for the proposed services during the third full fiscal year of operation following completion of the project, as shown in the table below.

Payor Category	Services as Percent of Total
County Assistance	59.70%
Private Pay	40.30%
Total	100.00%

Source: Table on page 58 of the application.

As shown in the table above, during the third full fiscal year of operation, the applicants project that 59.70% of total services will be provided to County Assistance patients.

In Exhibits Q.1 and Q.2, the applicants provide the assumptions and methodology used to project payor mix during the third full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported for the following reasons:

- The projected payor mix is based on the historical payor mix in the service area and needs of the existing and projected patient population of the service area.
- The applicants incorporate the experience of its management group, Affinity Living Group in its projections.

The Agency reviewed the:

- Application
- Exhibits to the application

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, page 59, the applicants adequately describe the range of means by which patients will have access to the proposed services.

The Agency reviewed the:

- Application
- Exhibits to the application

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, page 60, the applicants describe the extent to which health professional training programs in the area will have access to the facility for training purposes.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicants adequately demonstrate that the proposed services will accommodate the clinical needs of area health professional training programs, and 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 propose developing a new 70-bed ACH facility in Macon County to be known as The Landings at Franklin.

On page 219, the 2019 SMFP defines the service area for ACH beds as “*the county in which the adult care home bed is located.*” The Landings of Franklin is proposed to be in Macon County; thus, the service area for this project is Macon County. Facilities may also serve residents of counties not included in their service area.

Table 11A on page 234 of the 2019 SMFP lists three ACH facilities with ACH beds totaling 178 ACH beds in Macon County. Table 11C, page 250, shows Macon County with an occupancy rate of 83.15% and a projected deficit of 73 ACH beds in 2022.

Facility	# of ACH Beds	Occupancy Rate
Chestnut Hill of Highlands	26	
Franklin House	70	
Grandview Manor Care Center	82	
Total	178	83.15%

Source: 2019 SMFP Tables 11A and 11C.

In Section N, pages 61-62, the applicants describe the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services. On page 61, the applicants state:

“The proposed project will have a positive effect on competition in the area, as the demand for these 70 ACH Beds may encourage other facilities with poor utilization in Macon County to improve their current situations in order to compete with the proposed project, thereby encouraging greater efficiencies and better quality. It will also allow for additional options within Macon County, as there are only three adult care homes currently operating in Macon County. This is particularly true with regard to Medicaid/Special Assistance beds.”

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

- The cost-effectiveness of the proposal (see Sections F and Q of the application and any exhibits)
- Quality services will be provided (see Section O of the application and any exhibits)
- 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
- 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.7(b), page 11, the applicants state that they do not own or manage any ACH facilities in North Carolina. The applicants further state that they have entered into a management agreement with Affinity Living Group, LLC, which operates over eighty adult care homes in North Carolina. The applicants provide a list of those facilities in Exhibit A.3.

In Exhibit O.1, the applicants provide a listing of the facilities managed by Affinity Living Group which have received Type A and B violations and penalties during the 18 months immediately preceding the submittal of the application. Twenty-five facilities had one or more incidents related to quality of care. In Section O.3(b)(ii), page 64, the applicants state:

“All violations received by said facilities have been resolved successfully with DHSR. It is the Applicants and the management company’s (Affinity Living Group, LLC) foremost goal and intent to comply with any [sic] all licensure requirements imposed by DHSR.”

After reviewing and considering information provided by the applicants and by the Adult Care Licensure Section and considering the quality of care provided at all 80 facilities, the applicants provide 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.

C

The application is conforming with all applicable Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100. The specific criteria are discussed below.

SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES

10A NCAC 14C .1102 PERFORMANCE STANDARDS

(a) An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.

-NA- The applicants do not propose to add nursing facility beds to an existing facility

(b) An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.

NA- The applicants do not propose to establish a new nursing facility or add nursing facility beds to an existing facility.

(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 do not propose 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.

- C- In Section Q, on Form C, the applicants project that the proposed facility will have an occupancy rate of at least 85 percent by the end of the second operating year following project completion. The applicants provide the assumptions and methodology to project utilization in Exhibits Q.1 and Q.2. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.