

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: December 20, 2019

Findings Date: December 20, 2019

Project Analyst: Ena Lightbourne

Team Leader: Lisa Pittman

Project ID #: C-11733-19

Facility: The Gardens of Columbus

FID #: 190318

County: Polk

Applicant(s): Polk Opco Holdings, LLC
Polk Propco Holdings, LLC

Project: Develop a new 50-bed ACH 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, Polk Opco Holdings, LLC and Polk Propco Holdings, LLC, collectively referred to hereinafter as “the applicant”, propose to develop a new adult care home (ACH) facility located in Polk County pursuant to the 2019 State Medical Facilities Plan (SMFP) need determination for a total of 50 beds (50 ACH beds and 0 Special Care Unit (SCU) beds) upon project completion.

Table 11D in the 2019 SMFP, on page 253, shows there is a need determination for 50 ACH beds in Polk County. This application proposes to develop 50 ACH beds in Polk 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, page, 17, the applicant states that Affinity Living Group, LLC, retained by the applicant to manage The Gardens of Columbus, has many years’ experience managing adult care homes that qualify for State-County Special Assistance. The applicant states that they are committed to reserving at least 60% of the ACH beds as Medicaid and Special Assistance.

In Section L.3, page 58, the applicants project that 59.18% of the total ACH days of care in the third full fiscal year will be provided to residents receiving County Assistance.

The applicant adequately demonstrates 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 applicant describes how it believes the proposed project would promote safety and quality in Section B.10(a), pages 18-19; Section N, page 60; Section O, page 62; and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant’s proposal would promote safety and quality.

Promote Equitable Access – The applicant describes how it believes the proposed project would promote equitable access in Section B.10(b), page 19; Section, C, pages 32-33; Section

L, pages 56-58; Section N, page 60; and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote equitable access.

Maximize Healthcare Value – The applicant describes how it believes the proposed project would maximize healthcare value in Section B.10(c), page 20; Section K, pages 52-53, and Section N, page 60. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would maximize healthcare value.

The applicant adequately demonstrates how the projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the need for Polk 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 and less than \$5 million; therefore, Policy GEN-4 is applicable to this review. In Section B.11, page 21, the applicant provides a written commitment assuring improved energy efficiency and water conservation in its construction project. The applicant states that The Gardens of Columbus will be constructed to utilize the latest technologies to assure maximum energy efficiency. The applicant further states that the energy efficient design will allow for the fulfillment of the 2019 SMFP Policy GEN-4.

In Section K, page 53, the applicant provides examples of strategies to be incorporated as energy saving features into the construction plans. The applicant adequately demonstrates 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 applicant does not propose to develop more ACH beds than are determined to be needed in the service area.
- The applicant adequately demonstrates 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 Polk 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.

C

The applicant proposes to develop a new adult care home (ACH) facility located in Polk County pursuant to the 2019 State Medical Facilities Plan (SMFP) need determination for a total of 50 beds (50 ACH beds and 0 Special Care Unit (SCU) beds) upon project completion.

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 Gardens of Columbus will be located in Polk County; thus, the service area for this project is Polk County. Facilities may also serve residents of counties not included in their service area.

In Section C, page 25, the applicant states they are unable to provide historical patient origin for the 50 ACH beds since the proposed project is for a new facility that does not currently exist. The applicant states that Affinity Living Group, the proposed management company, does not manage any facilities in Polk County, therefore the applicant does not have access to patient origin data for Polk County.

However, the applicant projects that the large majority of residents who will reside in the proposed facility will originate from Polk County. The following table illustrates projected patient origin.

County	Third Full FFY (10/1/2024 to 9/30/25)	
	General ACH beds	
	# of Patients	% of Total
Polk County	50	100.00%
Total	50	100.00%

Source: Section C, page 26

In Section C, page 26, the applicant provides the assumptions and methodology used to project its patient origin. The applicant's assumptions are reasonable and adequately supported.

Analysis of Need

In Section C, pages 27-31, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services. The applicant states:

- There is a need determination in the 2019 SMFP for 50 ACH beds in Polk County. (page 27)
- The Polk County population is expected to grow 11.60% in the next 20 years, while the senior population (75 and older) is expected to grow by 51.55%. (pages 27-28)
- There is a lack of access to Medicaid/Special Assistance beds in Polk County. According to the 2017-2019 License Renewal Applications (LRA) for the only two ACH facilities in Polk county, only 15.3% of the total ACH bed inventory in the Polk County was occupied by residents on State/County Special Assistance. (pages 28-30)
- Polk County healthcare providers and the senior community support the addition of the 50 beds. (pages 30-31 and Exhibit C.3.)

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

- The 2019 SMFP projects a 51-bed deficit for Polk County and identifies a need for 50 additional ACH beds.
- The North Carolina Office of State Budget and Management (OSBM) projects that Polk County residents age 65 to 74 will increase by 5.71% between 2018 and 2038, residents 75 to 84 will increase by 51.55% and, most significantly, residents age 85 and over will increase by 77.04%.

- As of July 31, 2017, of the available 72 ACH beds in Polk County, only 11 were occupied by residents on State/County Special Assistance.

Projected Utilization

In Section Q.1, the applicant provides the projected utilization, as illustrated in the following table.

The Gardens of Columbus Projected Utilization			
	FFY2024 (10/1/2024- 9/30/2025)	FFY2025 (10/1/2025- 9/30/2026)	FFY2026 (10/1/2026- 9/30/2027)
# General ACH Beds	50	50	50
Days of Care	12,075	17,794	17,885
Occupancy Rate	66.2%	97.5%	98.0%
#SCU ACH Beds	0	0	0
Days of Care	0	0	00
Occupancy Rate	n/a	n/a	n/a
Total # ACH Beds	50	50	50
Days of Care	12,075	17,794	17,885
Occupancy Rate	66.2%	97.5%	98.0%

In Exhibit Q.1, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

- Facility begins operations with 15 reserved beds on October 1, 2024 (first month of operation in FY2024)
- Fill-up rate is equal to 4 residents per month until ACH fills to 98.0% occupancy in the third month of the Second Year (December 2025 of FY2025).

Projected utilization is reasonable and adequately supported because Projected utilization is based on Affinity Living Group’s experience with occupancy and relocation of beds.

Access

In Section C, pages, 32-33 the applicant states:

“The Gardens of Columbus 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.”

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

**ACH Beds
Third Full FFY
(10/01/2026-09/30/2027)**

Payor Source	Patient Days in ACH beds		% of Total Beds in ACH beds	
	General Beds	Total ACH beds	General Beds	Total ACH Beds
Private Pay	7,300	7,300	40.82%	40.82%
County Assistance	10,585	10,585	59.18%	59.18%
Total	17,885	17,885	100.00%	100.00%

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 applicant adequately identifies the population to be served.
- The applicant adequately explains why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicant projects 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 a reduction or elimination of a service.

- (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 applicant proposes to develop a new adult care home (ACH) facility located in Polk County pursuant to the 2019 State Medical Facilities Plan (SMFP) need determination for a total of 50 beds (50 ACH beds and 0 Special Care Unit (SCU) beds) upon project completion.

In Section E, pages 38-39, the applicant fails to describe any alternatives it considered or explains why any 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, Polk Opco Holdings, LLC and Polk Propco Holdings, 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	8/1/14	7/10/17	11/1/13	Yes	Yes		
	1/24/18	11/1/19	1/1/21	-	-	-		
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	7/8/11	Yes	Yes	-	NA – never developed
			7/10/17	12/20/13	Yes	Yes	-	
			-	7/25/17	No	-	-	
Reidsville House	3/29/11	10/1/12	7/10/17	12/20/13	Yes	Yes	-	8 years, 7 months (if no further changes to timetable)
			12/1/18	-	-	-	-	
			5/1/20	-	-	-	-	
			5/15/21	-	-	-	-	
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 Gardens of Columbus project 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, 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. The first progress report was submitted November 8, 2019 stating that the applicants plan to file an additional application to move the 11 of the 33 beds 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 applicant does 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.

C

The applicant proposes to develop a new adult care home (ACH) facility located in Polk County pursuant to the 2019 State Medical Facilities Plan (SMFP) need determination for a total of 50 beds (50 ACH beds and 0 Special Care Unit (SCU) beds) upon project completion.

Capital and Working Capital Costs

In Section Q, page 69, the applicant projects the total capital cost of the project as shown in the table below.

Capital Cost	
Purchasing Price of the Land	\$625,000
Closing Costs	\$75,000
Site Preparation	\$475,000
Construction/Renovation Contract (s)	\$3,356,700
Landscaping	\$25,000
Architect/Engineering Fees	\$275,000
Non-Medical Equipment	\$200,000
Furniture	\$450,000
Financing Costs	\$175,000
Interest during Construction	\$250,000
Total	\$5,906,700

In Section F, pages 41-42, the applicant projects that initial operating expenses (including start-up costs) will be \$482,321.17 for a total working capital of \$482,321,17. The applicants provide the assumptions and methodology used to project the working capital needs of the project in Section Q and Exhibits Q.1 and Q.2.

Availability of Funds

In Section F, page 40, the applicant states that the capital cost will be funded as shown in the table below.

Sources of Capital Cost Financing

Type	Polk Opco Holdings, LLC	Polk Propco Holdings, LLC	Total
Loans	\$	\$5,906,700	\$5,906,700
Accumulated reserves or OE *	\$	\$	\$
Bonds	\$	\$	\$
Other (Specify)	\$	\$	\$
Total Financing	\$	\$5,906,700	\$5,906,700

* OE = Owner's Equity

In Section F, page 42, the applicant states 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	\$482,321.17
(b)	Cash or Cash Equivalents, Accumulated Reserves or Owner's Equity	\$
(c)	Lines of credit	\$
(d)	Bonds	\$
(e)	Total	\$482,321.17

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 Polk Propco Holdings, LLC for the capital needs and to Polk Opco Holdings, LLC for the working capital needs of the proposed project. Exhibits F.2 and F.4 contain amortization schedules for each proposed loan.

Financial Feasibility

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.4, the applicant projects that revenues will exceed operating expenses in operating years two and three of the project, as shown in the table below.

**The Gardens of Columbus
 Revenue and Expenses**

	OY1 FY2024	OY2 FY2025	OY3 FY2026
ACH Beds	50	50	50
Total Gross Revenues (Charges)	\$1,107,140	\$1,620,750	\$1,628,040
Total Net Revenue	\$1,096,069	\$1,604,543	\$1,611,760
Average Net Revenue per Bed	\$21,921.38	\$32,090.86	\$32,235.20
Total Operating Expenses (Costs)	\$1,442,890	\$1,558,858	\$1,559,875
Average Operating Expense per Bed	\$28,857.80	\$31,177.16	\$31,197.50
Net Income	(\$346,821)	\$45,685	\$51,884

The assumptions used by the applicant 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 applicant adequately demonstrates that the capital and working capital costs are based on reasonable and adequately supported assumptions.
 - The applicant adequately demonstrates availability of sufficient funds for the capital and working capital needs of the proposal.
 - The applicant adequately demonstrates 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 applicant proposes to develop a new adult care home (ACH) facility located in Polk County pursuant to the 2019 State Medical Facilities Plan (SMFP) need determination for a total of 50 beds (50 ACH beds and 0 Special Care Unit (SCU) beds) upon project completion.

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 Gardens of Columbus will be located in Polk County; thus, the service area for this project is Polk County. Facilities may also serve residents of counties not included in their service area.

Table 11A on page 239 of the 2019 SMFP shows there are two ACH facility in Polk County. Table 11C, page 251, shows Polk County with an occupancy rate of 90.83% and a projected deficit of 51 ACH beds.

Inventory of ACH Beds –Polk County	
Facility Name	# of Beds
Laurelwoods	60
Ridge Rest	12
Totals	72

Source: 2019 SMFP, Table A

In Section G, page 45, the applicant explains why it believes their proposal would not result in the unnecessary duplication of existing or approved ACH bed services in Polk County. The applicant states that the 2019 SMFP identifies a need for 50 ACH beds in Polk County; therefore, the proposal to add 50 ACH beds will not result in unnecessary duplication of existing or approved ACH beds.

The applicant adequately demonstrates 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 50 ACH beds in Polk County.
- The applicant adequately demonstrates the need for the proposed 50 new beds in addition to the existing ACH beds.

Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- 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, page 84, the applicant provides projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

Projected Staffing-The Gardens of Columbus			
Position	1ST Full Fiscal (10/1/2024- 9/30/2025)	2nd Full Fiscal (10/1/2025- 9/30/2026)	3RD Full Fiscal (10/1/2026- 9/30/2027)
Register Nurse	0.5	0.5	0.5
Aides	9.7	11.2	11.2
Alzheimer's Coordinator	1.0	1.0	1.0
Staff Development Coordinator	1.0	1.0	1.0
Clerical	1.3	1.4	1.4
Dietary	3.4	3.7	3.7
Activities	0.8	0.8	0.8
Transportation	0.6	0.6	0.6
Laundry and Linen	0.6	0.6	0.6
Housekeeping	1.6	1.8	1.8
Plant Operation and Maintenance	0.8	0.9	0.9
Administration	1.0	1.0	1.0
TOTAL	22.4	24.5	24.5

The assumptions and methodology used to project staffing are provided in Exhibit Q.1. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form A, however, the staffing table in Exhibit Q.2 page 140 is unreadable. In Section H.2 and H.3, page 47, the applicant describes the methods to be used to recruit or fill new positions and its proposed training and continuing education programs. In Section H, page 48, the applicant states that there is no proposed medical director because the new facility does not exist but once the facility has been established it will obtain staff to fill the position.

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

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, page 49, the applicant states that Affinity Living Group’s preexisting relationship with local and state healthcare providers will be able to readily provide ancillary and other supporting services. The applicant states that they already have a pre-existing relationship with a number of physicians and rehabilitative services operating in the Polk County area. In Exhibit C.3, the applicant provides letters of support, but not agreements to provide, such services from the following providers of support services.

Provider	Ancillary and Support Services
Life Source	Mental Health Services
Smoky Ridge Health and Rehabilitation	Physical and Occupational Services
Bowen Primary and Urgent Care	Medical Care

Furthermore, in Section H and Form H, the applicant provides the proposed staff which includes providers of necessary ancillary and support services. The applicant adequately demonstrates 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 applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered.

- (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

In Section K, page 52, the applicant states that the project involves constructing 26,850 square feet of new space. Line drawings are provided in Exhibits K.1 and K.2, however the drawings are unreadable.

On pages 52-53, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal.

On page 53, the applicant adequately explains why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services and provides supporting documentation in Exhibit K.3, Q.1 and Q.2. Exhibit Q.2 is unreadable.

On page 53, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

On pages 54-55, the applicant identifies the proposed site and provides 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.

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;

NA

Neither the applicant nor any related entities own, operate or manage an existing health service facility located in the service area. Therefore, Criterion (13a) is not applicable to this review.

- (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;

NA

Neither the applicant nor any related entities own, operate or manage an existing health service facility located in the service area. Therefore, Criterion (13b) is not applicable to this review.

- (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 applicant projects 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.

**ACH Beds
 Third Full FFY
 (10/01/2026-09/30/2027)**

Payor Source	Patient Days in ACH beds		% of Total Beds in ACH beds	
	General Beds	Total ACH beds	General Beds	Total ACH Beds
Private Pay	7,300	7,300	40.82%	40.82%
County Assistance	10,585	10,585	59.18%	59.18%
Total	17,885	17,885	100.00%	100.00%

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 41% of total services will be provided to private-pay patients and 59% to County Assistance patients.

In Exhibit Q.1 and Section B, page 17, the applicant provides 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 because the applicant incorporates 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 58, the applicant adequately describes the range of means by which patients will have access to 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.

- (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 59, the applicant describes 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 applicant adequately demonstrates 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 applicant proposes to develop a new adult care home (ACH) facility located in Polk County pursuant to the 2019 State Medical Facilities Plan (SMFP) need determination for a total of 50 beds (50 ACH beds and 0 Special Care Unit (SCU) beds) upon project completion.

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 Gardens of Columbus will be located in Polk County; thus, the service area for this project is Polk County. Facilities may also serve residents of counties not included in their service area.

Inventory of ACH Beds –Polk County	
Facility Name	# of Beds
Laurelwoods	60
Ridge Rest	12
Totals	72

Source: 2019 SMFP, Table A

In Section N, page 60, the applicant describes 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 60, the applicant states:

“The proposed project will have a positive effect on competition in the area, as the demand for these 50 ACH beds may encourage other facilities with poor utilization in Polk 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 Polk County, as there are only two adult care homes currently operating in Polk County, only one of which accepts Medicaid residents.”

The applicant adequately describes 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, K, N and Q of the application and any exhibits)
- Quality services will be provided (see Section B, N, and O of the application and any exhibits)
- Access will be provided to underserved groups (see Sections B, C, N, and L of the application and any exhibits)

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.

- (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.

In Exhibit O.1, the applicant identifies the adult care homes located in North Carolina managed by the applicant or a related entity. The applicant identifies a total of 85 of this type of facility located in North Carolina.

In Exhibit O.1, the applicant states that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in 25 of these facilities. The applicant states that all of the problems have been corrected. According to the files in the Adult Care Licensure Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in 25 of these facilities. After reviewing and considering information provided by the applicant and by the Adult Care Licensure Section and considering the quality of care provided at all 85 facilities, the applicant 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.

C

The Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100 are applicable to this review. 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 applicant does 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 applicant does 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.*

- C- The applicant does not propose to add adult care home bed 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, Form C, the applicant projects 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 applicant provides the assumptions and methodology to project utilization in Exhibits Q.1 and Q.2.