

## REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: June 7, 2019

Findings Date: June 7, 2019

Project Analyst: Celia C. Inman

Team Leader: Gloria C. Hale

Project ID #: H-11694-19

Facility: Seven Lakes Assisted Living

FID #: 920529

County: Moore

Applicants: West End Holdings, LLC

HP6 West End Health Investors, LLC

Project: Acquire and relocate no more than 20 ACH beds from Country Time Inn pursuant to Policy LTC-2 for a total of no more than 80 ACH beds upon project completion

### 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, West End Holdings, LLC and HP6 West End Health Investors, LLC, own and operate Seven Lakes Assisted Living (Seven Lakes), a 60-bed adult care home (ACH) facility located in Moore County. The applicants propose to acquire and relocate 20 ACH beds from Country Time Inn in Gaston County to Seven Lakes for a total of 80 ACH beds. The 20 ACH beds were approved to be developed at Country Time Inn in Project ID #F-8658-11 (Relocate 20 ACH beds from Belaire Health Care Center [Belaire]). Belaire subsequently closed. Both Country Time Inn and Belaire were located in Gaston County. For unforeseen reasons, the 20 beds will not be developed at Country Time Inn. Upon completion of the proposed project, Seven Lakes will be licensed for 80 ACH beds, Country Time Inn will be licensed for a total of 59 ACH beds, and Belaire will be licensed for 0 ACH beds.

## **Need Determination**

The proposed project does not involve the addition of any new health service facility beds, services, or equipment for which there is a need determination in the 2019 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

## **Policies**

There are two policies in the 2019 SMFP which are applicable to this review: *Policy LTC-2: Relocation of Adult Care Home Beds* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

*Policy LTC-2: Relocation of Adult Care Home Beds*, on page 24 of the 2019 SMFP, states:

*“Relocations of existing licensed adult care home beds are allowed to another service area. Certificate of need applicants proposing to relocate licensed adult care home beds to another service area shall:*

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

Seven Lakes is located in Moore County. Country Time is located in Gaston County. According to the 2019 SMFP, Gaston County has a surplus of 142 ACH beds and Moore County has a deficit of 37 ACH beds. Relocating 20 ACH beds from Gaston County will not create a deficit or increase an existing deficit of ACH beds in the county losing ACH beds. Likewise, relocating 20 ACH beds to Moore County will not create a surplus or increase an existing surplus in the county gaining ACH beds. Therefore, the application is conforming with Policy LTC-2.

*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, pages 20-21, the applicants provide a written commitment assuring improved energy efficiency and water conservation in its construction project. The applicants state that the addition to Seven Lakes Assisted Living 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 53, the applicants list 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.

### **Conclusion**

The Agency reviewed the:

- application, and
- exhibits to the application.

Based on that review, the Agency concludes that the application is conforming to Policy LTC-2 and Policy GEN-4, and is therefore conforming to this criterion.

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic

minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

## C

The applicants propose to acquire and relocate 20 ACH beds from Country Time Inn to Seven Lakes for a total of 80 ACH beds. Once the proposed project is complete, Seven Lakes will have 80 ACH beds, Country Time Inn will have 59 ACH beds, and Belaire will have zero ACH beds.

### **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.*” Seven Lakes is located in Moore County, thus, the service area for this project is Moore County. Facilities may also serve residents of counties not included in their service area.

In Section C.2, pages 24-25, the applicants provide the historical and projected patient origin at Seven Lakes, as summarized in the following tables.

**Seven Lakes Assisted Living  
 Historical Patient Origin  
 Last Full Fiscal Year  
 3/1/18-3/1/19**

<b>County or State</b>	<b>General ACH Beds Percent of Patients*</b>	<b>SCU ACH Beds Percent of Patients*</b>	<b>Total ACH Beds Percent of Patients</b>
Anson	0.00%	2.56%	2.56%
Avery	1.28%	0.00%	1.28%
Bladen	0.00%	1.28%	1.28%
Brunswick	0.00%	1.28%	1.28%
Catawba	1.28%	1.28%	2.56%
Cleveland	1.28%	0.00%	1.28%
Columbus	1.28%	0.00%	1.28%
Cumberland	1.28%	1.28%	2.56%
Davidson	1.28%	0.00%	1.28%
Durham	1.28%	0.00%	1.28%
Guilford	1.28%	1.28%	2.56%
Harnett	1.28%	0.00%	1.28%
Hoke	0.00%	1.28%	1.28%
Lee	1.28%	1.28%	2.56%
Mecklenburg	1.28%	0.00%	1.28%
Montgomery	2.56%	0.00%	2.56%
Moore	19.23%	25.64%	44.87%
New Hanover	1.28%	1.28%	2.56%
Onslow	1.28%	0.00%	1.28%
Orange	0.00%	1.28%	1.28%
Randolph	2.56%	0.00%	2.56%
Richmond	2.56%	2.56%	5.13%
Robeson	0.00%	8.97%	8.97%
Scotland	0.00%	1.28%	1.28%
Vance	1.28%	0.00%	1.28%
Wake	1.28%	1.28%	2.56%
<b>Total</b>	<b>46.15%</b>	<b>53.85%</b>	<b>100.00%</b>

Source: Section C, pages 24-25

Totals may not sum due to rounding

\*The applicants provide percent of general and SCU patients as a percent of total patients

**Seven Lakes Assisted Living  
 Projected Patient Origin for 20 Relocated General ACH Beds  
 Third Full Fiscal Year  
 10/1/25-9/30/26**

<b>County or State</b>	<b>General ACH Beds Percent of Patients</b>	<b>General ACH Beds Percent of Patients</b>
Avery	1	5.00%
Catawba	1	5.00%
Cumberland	1	5.00%
Guilford	1	5.00%
Harnett	1	5.00%
Lee	1	5.00%
Montgomery	1	5.00%
Moore	8	40.00%
New Hanover	1	5.00%
Onslow	1	5.00%
Randolph	1	5.00%
Richmond	1	5.00%
Wake	1	5.00%
<b>Total</b>	<b>20</b>	<b>100.00%</b>

Source: Section C, page 25

Totals may not sum due to rounding

\*The applicants provide percent of the 20 relocated general ACH patients only

In Section C, pages 25-26, the applicants provide the assumptions and methodology used to project its patient origin, stating that the resident population to be served in the 20 ACH beds to be relocated will “*closely trend*” to the general ACH resident population served by Seven Lakes. The applicants further state that the percentage was obtained by converting the FY2019 statistics for general ACH beds in Seven Lakes from 46.15% to 100.00% and then applying the percentage to the 20 ACH beds to be relocate. The applicants’ assumptions are reasonable and adequately supported.

**Analysis of Need**

In Section C, pages 26-30, the applicants explain why they believe the population projected to utilize the proposed services needs the proposed services. The applicants state:

- There is a deficit of 37 ACH beds in Moore County, creating a lack of placement options in Moore County.
- The senior population (65 and older) is the fastest growing age group in Moore County, which will increase the existing shortage of affordable and high-quality assisted living placement options for seniors in Moore County.
- Placement options are especially limited for seniors in Moore County who rely on Medicaid or other Special Assistance.

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

- The 2019 SMFP projects a 37-bed deficit for Moore County and a 142-bed surplus for Gaston County in 2022.
- The North Carolina Office of State Budget and Management (OSBM) projects that Moore County residents under the age of 64 will increase by 25.48% between 2018 and 2038, while residents 65 and over will increase by 45.89% during the same time period, exacerbating the existing shortage of assisted living placement options for seniors in Moore County.
- 2019 License Renewal Applications (LRAs) for adult care homes in Moore County show that only 26% of the total available bed days were reserved for or devoted to residents who are on Medicaid or Special Assistance. Seven Lakes' LRA shows that approximately 61% of its total available bed days were Medicaid bed days, thus providing more placement options for seniors relying on Medicaid and Special Assistance.
- The applicant provides documentation of broad community support for the proposed project.

Projected Utilization

In Section Q, the applicants provide the historical (FY2018), interim (FY2019 only), and projected utilization (FY2024-FY2016), as shown in the table below.

**Seven Lakes Assisted Living Utilization**

	Historical	Interim	Projected		
	FY2018	FY2019	FY2024	FY2025	FY2026
# General ACH Beds	32	32	52	52	52
Days of Care	8,038	8,233	13,862	18,524	18,615
Occupancy Rate	68.8%	70.5%	73.0%	97.6%	98.1%
#SCU ACH Beds	28	28	28	28	28
Days of Care	9,315	9,325	9,562	9,855	9,855
Occupancy Rate	91.1%	91.2%	93.6%	96.4%	96.4%
Total # ACH Beds	60	60	80	80	80
Days of Care	17,353	17,558	23,424	28,379	28,470
Occupancy Rate	79.2%	80.2%	80.2%	97.2%	97.5%

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

- Historical utilization represents actual utilization for the last full fiscal year.
- October 1, 2023 (first month of operations in FY2024) begins operations with 49 of 80 beds filled.
- Fill-up rate is equal to 3 residents per month until ACH fills to 97.5% occupancy in the third month of the second year, December 2024 of FY2025.

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

- Projected utilization is based on the applicants' experience with occupancy at the existing facility. In FY2018, the facility was at 79.2% occupancy with 47 of 60 beds filled.
- Projected utilization is based on Affinity Living Group's experience with occupancy and relocation of beds.

### **Access**

In Section C.8, pages 31-32, 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 page 31, the applicants state:

*“Seven Lakes Assisted Living 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 continue serving those with financial need with the proposed addition of 20 ACH Beds to Seven Lakes Assisted Living [emphasis in original], and intend to maintain approximately 60% of the available beds as Medicaid/Special Assistance beds. . . .”*

In Section L, page 58, the applicants project that 32.05% of total ACH bed days will be private pay and 67.9% will be covered by County Special Assistance in the third full fiscal year (FY2026) following completion of the project. The table on page 58 correctly names the data as representing the third full fiscal year, but incorrectly labels the table with the date of the first fiscal year. The projected payor mix is reasonable and adequately supported.

### **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 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 support their 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 propose to acquire and relocate 20 ACH beds that were approved to be developed at County Time Inn in Gaston County (Project ID #F-8658-11) after being relocated from Belaire Health Care Center, which subsequently closed. The 20 beds were never developed at Country Time Inn and have not been available for the public to utilize; therefore, the proposed project is not reducing existing services.

(4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

CA

The applicants propose to relocate 20 ACH beds from Country Time Inn in Gaston County to Seven Lakes for a total of 80 ACH beds.

In Section E, pages 38-39, the applicants state that the only alternative for the development of the 20 beds approved to be developed at Country Time (Project ID #F-8658-11) is to relocate them to another facility because of unforeseen issues at Country Time. The applicants discuss the alternatives considered for the relocation of the beds and explain why each alternative is either more costly or less effective than the alternative proposed in this application. The alternatives considered were:

- Maintain the Status Quo – The applicants state that the addition of the 20 beds at Country Time is no longer feasible; therefore, this alternative is not an effective alternative.
- Relocate the beds within Gaston County – the applicants state that while this alternative is feasible, it would be extremely challenging to demonstrate the need for the beds because Gaston County has a surplus of 142 ACH beds. Furthermore, because Gaston County has a surplus of ACH beds and Moore County has a deficit, relocating the beds within Gaston County is a less effective alternative for the use of the beds.
- Relocate the beds from Gaston County to a county which has a deficit of ACH beds – the applicants state that of the nine counties with a deficit of ACH beds, Moore County is the only county that did not have a need determination for additional beds

and which the applicants' sister management company, Affinity Living Group, manages a facility that meets the criteria of at least 85% utilization over the last nine months.

On page 39, the applicants state:

*“Therefore, Moore County was selected to receive the 20 ACH Beds from Country Time Inn [emphasis in original] given that (1) the proposed relocation will not create a deficiency in Gaston County, (2) the proposed relocation will not create a surplus in Moore County, (3) there is an already existing facility in Moore County, Seven Lakes Assisted Living [emphasis in original], that is consistently well utilized and needs additional ACH Beds and (4) Seven Lakes Assisted Living [emphasis in original] met the criteria of 85% plus utilization over the last nine (9) months.”*

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

- The application is conforming to all statutory and regulatory review criteria.
- The applicants provide credible information to explain why they believe the proposed project is the most effective alternative.

### **Conclusion**

The Agency reviewed the:

- application, and
- exhibits to the application.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is approved subject to the following conditions:

- 1. West End Holdings, LLC and HP6 West End Health Investors, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. West End Holdings, LLC and HP6 West End Health Investors, LLC shall acquire and relocate no more than 20 adult care home beds from Country Time Inn for a total of no more than 80 adult care home beds at Seven Lakes Assisted Living upon completion of the project.**
- 3. Prior to issuance of the CON, American Country Time Inn, LLC and Belaire Health Care Center, Inc. shall take appropriate steps to relinquish the CON for Project ID #F-8658-11 (relocate 20 ACH beds from Belaire for a total of 79 ACH beds upon completion).**

4. **Upon completion of the project, Seven Lakes Assisted Living shall be licensed for no more than 80 adult care home beds and Country Time Inn shall be licensed for no more than 59 adult care home beds.**
  5. **Seven Lakes Assisted Living shall provide care to recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.**
  6. **For the first two years of operation following completion of the project, West End Holdings, LLC and HP6 West End Health Investors, LLC shall not increase private pay charges more than 5% of the projected private pay charges provided in Section Q of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
  7. **No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, West End Holdings, LLC and HP6 West End Health Investors, LLC shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
    - a. **Payor mix for the services authorized in this certificate of need.**
    - b. **Utilization of the services authorized in this certificate of need.**
    - c. **Revenues and operating costs for the services authorized in this certificate of need.**
    - d. **Average gross revenue per unit of service.**
    - e. **Average net revenue per unit of service.**
    - f. **Average operating cost per unit of service.**
  8. **West End Holdings, LLC and HP6 West End Health Investors, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicants propose to acquire and relocate 20 ACH beds from Country Time Inn to Seven Lakes for a total of 80 ACH beds.

**Capital and Working Capital Costs**

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

Closing Costs/Site Prep/ Construction/ Landscaping/Architect Fees	\$2,610,000
Equipment/Furniture	\$650,000
Financing Costs/Interest during Construction	\$425,000
<b>Total</b>	<b>\$3,685,000</b>

In Section F, pages 41-42, the applicants project there will be no start-up costs and initial operating expenses will be \$173,888 for a total working capital of \$173,888. On pages 41-42, the applicants provide the assumptions and methodology used to project the working capital needs of the project.

### **Availability of Funds**

In Section F, page 40, the applicants state that the capital costs for the project will be funded by a loan to HP6 West End Health Investors, LLC. On page 42 and in Exhibit F.3, the applicants show that the working capital for the project will be funded by a loan to West End Holdings, LLC.

Exhibits F.1 and F.3 contain letters dated April 3, 2019, from the Managing Director of Integrated Asset Advisors, confirming a willingness to provide funding to HP6 West End Health Investors, LLC for the capital needs and to West End 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**

In Section Q, the applicants provide pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.5, pages 82-83, the applicants project that revenues will exceed operating expenses in the first three operating years of the project, as summarized in the table below.

**Seven Lakes Assisted Living  
Revenue and Expenses**

	<b>PY1 FY2024</b>	<b>PY2 FY2025</b>	<b>PY3 FY2026</b>
ACH Beds	80	80	80
Total Gross Revenues (Charges)	\$2,204,125	\$2,640,618	\$2,648,598
Total Contractual Adjustments*	\$22,041	\$26,406	\$26,486
Total Net Revenue	\$2,182,084	\$2,614,212	\$2,622,112
Average Net Revenue per Bed	\$27,276	\$32,678	\$32,776
Total Operating Expenses (Costs)	\$2,064,962	\$2,226,110	\$2,232,797
Average Operating Expense per Bed	\$25,812	\$27,826	\$27,910
Net Income	\$117,122	\$388,102	\$389,315

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, and
- 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 to acquire and relocate 20 ACH beds from Country Time Inn to Seven Lakes for a total of 80 ACH beds.

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.*” Thus, the service area for this project is Moore County. Facilities may also serve residents of counties not included in their service area.

Table 11A on page 236 of the 2019 SMFP lists six ACH facilities and two nursing facilities with ACH beds for a total of 535 ACH beds in Moore County. Table 11C, page 251, shows Moore County with an occupancy rate of 80.19% and a projected deficit of 37 ACH beds.

**Moore County 2019 SMFP ACH Bed Inventory**

<b>Facility</b>	<b># of ACH Beds</b>	<b>Occupancy Rate</b>
Brookdale Pinehurst	76	
Elmcroft of Southern Pines	94	
Fox Hollow Senior Living Community	85	
KingsWood Nursing Center	10	
Magnolia Gardens	110	
Peak Resources - Pinelake	20	
Seven Lakes Assisted Living	60	
Tara Plantation of Carthage	80	
<b>Total</b>	<b>535</b>	<b>80.19%</b>

Source: 2019 SMFP

In Section G, pages 45-46, the applicants explain why they believe their proposal would not result in the unnecessary duplication of existing or approved ACH bed services in Moore County. The applicants state that Moore County has a deficit of 37 ACH beds and relocating the 20 beds to Moore County will not create a surplus of ACH beds in Moore County; therefore, the project 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:

- The proposal would not result in a surplus of ACH beds in Moore County.
- The applicants adequately demonstrate the need for the 20 relocated 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, Form H, the applicants provide current and projected staffing for the proposed services in full-time equivalent (FTE) positions, as illustrated in the following table.

Position	Current FTEs	1 <sup>st</sup> FFY FTEs	2 <sup>nd</sup> FFY FTEs	3 <sup>rd</sup> FFY FTEs
RNs	0.5	0.5	0.5	0.5
Personal Care Aides	20.0	23.0	25.7	25.9
Alzheimer's Coordinator	1.0	1.0	1.0	1.0
Staff Development Coordinator	1.0	1.0	1.0	1.0
Clerical	1.0	1.4	1.5	1.5
Dietary	5.5	4.1	4.9	4.9
Activities	1.0	1.0	1.1	1.1
Transportation	1.0	0.9	1.0	1.0
Laundry and Linen	0.5	0.6	0.6	0.6
Housekeeping	2.5	2.1	2.6	2.6
Plant Operation & Maintenance	1.0	0.9	1.0	1.0
Administration	1.0	1.0	1.0	1.0
<b>TOTAL</b>	<b>36.0</b>	<b>37.6</b>	<b>42.0</b>	<b>42.2</b>

Source: Form H in Section Q of the application  
 Totals may not sum due to rounding

The assumptions and methodology, including worksheets, used to project staffing are provided in Exhibits Q.1 and Q.2. 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, page 47, the applicants describe the methods used to recruit or fill new positions and their existing training and continuing education programs. On pages 47-48, the applicants discuss the physicians who will admit residents and provide medical services, as well as the facility administrators. The applicants provide supporting information in Exhibits H.1, H.2 and H.3.

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

**Conclusion**

The Agency reviewed the:

- application, and
- 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 49, the applicants state that rehabilitative 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 services and pharmacy services, respectively. C.4 documents support from providers of the following ancillary and support services are necessary for the proposed services:

- Primary and Urgent Care,
- Home Health, and
- Hospice.

In Section I, page 49, the applicants describe their existing relationships 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, and
- 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 to acquire and relocate 20 ACH beds from Country Time Inn to Seven Lakes for a total of 80 ACH beds.

In Section K.1, page 52, the applicants propose to construct an 8,561 square foot addition to the existing facility. Line drawings and a site plan are provided in Exhibits K.1 and K.2, respectively.

On page 52, the applicants adequately explain how the cost, design, and means of construction represent the most reasonable alternative for the proposal.

In Section K.3(b), page 53, the applicants adequately explain 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.

In Section B.11, pages 20-21 and Section K.3(d), page 53, the applicants identify any applicable energy saving features that will be incorporated into the construction plans and provide supporting documentation in Exhibit K.1.

## **Conclusion**

The Agency reviewed the:

- application, and
- 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

In Section L, page 57, the applicants state that 13.54% of Seven Lakes' total paid bed days were private pay and 86.46% of total paid bed days were covered by County Special Assistance during the last full fiscal year (CY2018) prior to submission of the application.

The applicants further state that 14.08% of Country Time's total paid bed days were private pay and 85.92% of total paid bed days were covered by County Special Assistance during the last full fiscal year (CY2018) prior to submission of the application.

In Section L, page 56, the applicants provide the following comparison.

	<b>Percentage of Total Patients Served by the Seven Lakes Facility during the Last Full FY</b>	<b>Percentage of the Population of the Service Area</b>
Female	51.3%	51.9%
Male	48.7%	48.1%
Unknown	0.0%	0.0%
64 and Younger	34.6%	76.2%
65 and Older	65.4%	23.8%
American Indian	3.8%	1.0%
Asian	0.0%	1.5%
Black or African-American	26.9%	12.4%
Native Hawaiian or Pacific Islander	0.0%	0.2%
White or Caucasian	59.0%	82.9%
Other Race	10.3%	7.7%
Declined / Unavailable	0.0%	0.0%

**Conclusion**

The Agency reviewed the:

- application, and
- exhibits to the application.

Based on that review, the Agency concludes that the application documents the extent to which medically underserved populations currently use the applicants' existing services in comparison to the percentage of the population in the applicants' service area which is medically underserved. Therefore, the application is conforming to this criterion.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

**C**

Regarding any obligation to provide uncompensated care, community service, or access by minorities and persons with disabilities, in Section L, page 57, the applicants state that they are not obligated to provide uncompensated care, community service, or access by minorities and persons with disabilities.

In Section L, page 57, the applicants state that during the last five years, there have been no patient civil rights access complaints filed against the facility or any similar facilities owned by the applicants or a related entity and located in North Carolina.

**Conclusion**

The Agency reviewed the:

- application, and
- 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 that 32.05% of total paid bed days will be private pay and 67.95% of total paid bed days will be covered by County Special Assistance in the third full fiscal year (FY2026) following completion of the project. The applicant's table on page 58 mistakenly shows the date of the third full fiscal year as FY2024. The discussion related to payor mix in Criterion (3) is incorporated herein by reference.

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 adjusted for future expectations.
- The applicants incorporate the experience of its management group, Affinity Living Group in its projections.

**Conclusion**

The Agency reviewed the:

- application, and
- 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 applicants adequately describe the range of means by which patients will have access to the proposed services.

**Conclusion**

The Agency reviewed the:

- application, and
- 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 applicants adequately describe the extent to which area health professional training programs will have access to the facility for training purposes.

**Conclusion**

The Agency reviewed the:

- application, and
- 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 to acquire and relocate 20 ACH beds from Country Time Inn to Seven Lakes for a total of 80 ACH beds.

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.*” Seven Lakes is located in Moore County; thus, the service area for this project is Moore County. Facilities may also serve residents of counties not included in their service area.

Table 11A on page 236 of the 2019 SMFP lists six ACH facilities and two nursing facilities with ACH beds for a total of 535 ACH beds in Moore County. Table 11C, page 251, shows Moore County with an occupancy rate of 80.19% and a projected deficit of 37 ACH beds.

**Moore County 2019 SMFP ACH Bed Inventory**

<b>Facility</b>	<b># of ACH Beds</b>	<b>Occupancy Rate</b>
Brookdale Pinehurst	76	
Elmcroft of Southern Pines	94	
Fox Hollow Senior Living Community	85	
KingsWood Nursing Center	10	
Magnolia Gardens	110	
Peak Resources - Pinelake	20	
Seven Lakes Assisted Living	60	
Tara Plantation of Carthage	80	
<b>Total</b>	<b>535</b>	<b>80.19%</b>

Source: 2019 SMFP

In Section N, pages 60-61, the applicants describe the expected effects of the proposed services on competition in the service area and discuss how any enhanced competition in the service area will promote cost-effectiveness, quality, and access to the proposed services. On page 60, the applicants state:

*“The proposed project will have a positive effect on competition in the area, as the demand for these 20 ACH Beds may encourage other facilities with poor utilization in Moore County to improve their current situations in order to compete with the proposed project. It will also allow for additional options for seniors within Moore County, especially those that depend on Medicaid and Special Assistance.”*

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

- The cost-effectiveness of the proposal (see Sections F and Q 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, 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.

- (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, page 11, the applicants state that they do not own or manage any ACH facilities in North Carolina, other than Seven Lakes. 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.3, 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. Eighteen facilities had one or more incidents related to quality of care. In Section O.3(b)(ii), pages 63-64, 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 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 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.*



- C- In Section C, pages 33-34, the applicants adequately demonstrate that the average occupancy of Seven Lakes over the nine months immediately preceding the submittal of the application was at least 85 percent.
  
- (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.