



NC DEPARTMENT OF  
**HEALTH AND  
HUMAN SERVICES**

ROY COOPER • Governor  
MANDY COHEN, MD, MPH • Secretary  
MARK PAYNE • Director, Division of Health Service Regulation

**RESPONSE REQUIRED**

March 8, 2019

Hunter Trefzger  
P.O. Box 2568  
Hickory, NC 28603

**Conditional Approval**

Project ID #: D-11609-18  
Facility: The Gardens of Wilkesboro  
Project Description: Relocate entire 99 ACH bed facility, Wilkes County Adult Care, and change the name to The Gardens of Wilkesboro  
County: Wilkes  
FID #: 180504

Approved Capital Expenditure: \$4,895,000  
Conditions of Approval: See Attachment A  
Approved Timetable: See Attachment B  
Last Date to Appeal: April 8, 2019  
Required State Agency Findings: Enclosed

Dear Mr. Trefzger:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has conditionally approved the above referenced certificate of need application. This decision was made after review of the application or applications if the review was competitive, consideration of the Certificate of Need Law and regulations promulgated thereunder, the State Medical Facilities Plan, written comments if any, responses to comments if any, and other publicly applicable information.

The conditional approval is valid only for the approved capital expenditure shown above. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required based on N.C. Gen. Stat. §131E-176(16)(e).

The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Furthermore, the Agency shall not issue the certificate of need until all applicable conditions of approval have been met pursuant to N.C. Gen. Stat. §131E-187(a). **Response to the conditions in Attachment A should be submitted to the Agency no later than 35 days from the date of the decision. Failure to respond within this time period may result in the Agency making a determination not to issue a certificate of need for the project referenced above.**

The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the Agency because the review period was extended. The approved timetable for this project is found in Attachment B.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603  
MAILING ADDRESS: 2704 Mail Service Center, Raleigh, NC 27699-2704  
www.ncdhhs.gov/dhsr • TEL: 919-855-3873

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

The Certificate of Need law provides that any affected person has thirty (30) days after the date of the decision to file a petition for a contested case on this approval. Further, if you are aggrieved by any of the conditions you may file a petition for a contested case hearing in accordance with N.C. Gen. Stat. §150B, Article 3. This petition must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 within thirty (30) days of the date of this decision. Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to the OAH Clerk's Office (919-431-3000).

N.C. Gen. Stat. §150B-23 provides that a party filing a petition must also serve a copy of the petition on all parties to the petition. Therefore, if you file a petition for a contested case hearing, you must serve a copy of the petition on the Department of Health and Human Services by mailing a copy of your petition to:

Lisa G. Corbett  
Department of Health and Human Services,  
Office of Legal Affairs,  
Adams Building – Room 154  
2001 Mail Service Center  
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Agency.

The certificate of need will not be issued before the completion of thirty day appeal period which ends on the date shown above. If a contested case petition is filed with OAH within the thirty day appeal period, the certificate will not be issued until the appeal is resolved.

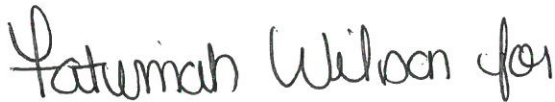
If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the certificate of need is issued. Please contact this office if any clarification of this decision is required.

Please refer to the Project ID # and Facility ID # (FID) in all correspondence.

Sincerely,



Ena Lightbourne  
Project Analyst



Martha J. Frisone  
Chief

Enclosures:

Attachment A: Conditions of Approval  
Attachment B: Approved Timetable  
Required State Agency Findings

cc: Adult Care Licensure Section, DHSR  
Melinda Boyette, Administrative Assistant, Healthcare Planning, DHSR

**Attachment A**  
**Conditions of Approval**

- 1. Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall relocate and replace no more than 99 adult care home beds.**
- 3. Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall execute the construction contract no later than 12/31/2020. In the event that Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC fail to execute the construction contract by 6/30/2021, the right to develop the project shall cease and Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall relinquish the Certificate of Need to develop this project.**
- 4. Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall provide care to recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.**
- 5. For the first two years of operation following completion of the project, Wilkesboro Opco Holdings, LLC and Wilkes Propco, 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.**
- 6. Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.**
- 7. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Wilkesboro Opco Holdings, LLC and Wilkes Propco, 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.**





**Project ID# D-11609-18 Page Cont.**

- 8. Wilkesboro Opco Holdings, LLC and Wilkes Propco, 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.**



**Attachment B**  
**Approved Timetable**

1. Financing Obtained \_\_\_\_\_ July 1, 2020
2. Drawings Completed \_\_\_\_\_ May 15, 2020
3. Land Acquired \_\_\_\_\_ July 1, 2020
4. Construction/Renovation Contract(s) Executed \_\_\_\_\_ August 30, 2020
5. 25% of Construction/Renovation Completed  
(25% of the cost is in place) \_\_\_\_\_ November 8, 2020
6. 50% of Construction/Renovation Completed \_\_\_\_\_ January 17, 2021
7. 75% of Construction/Renovation Completed \_\_\_\_\_ March 28, 2021
8. Construction/Renovation Completed \_\_\_\_\_ May 27, 2021
9. Equipment Ordered \_\_\_\_\_ April 27, 2021
10. Equipment Installed \_\_\_\_\_ May 12, 2021
11. Equipment Operational \_\_\_\_\_ July 21, 2021
12. Building/Space Occupied \_\_\_\_\_ August 25, 2021
13. Licensure Obtained \_\_\_\_\_ October 1, 2021
14. Services Offered \_\_\_\_\_ October 1, 2021
15. Medicare and/or Medicaid Certification Obtained \_\_\_\_\_ October 31, 2021
16. Final Annual Report Due \_\_\_\_\_ February 28, 2022



## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: March 8, 2019

Findings Date: March 8, 2019

Project Analyst: Ena Lightbourne

Chief: Martha J. Frisone

Project ID #: D-11609-18

Facility: The Gardens of Wilkesboro

FID #: 180504

County: Wilkes

Applicants: Wilkesboro Opco Holdings, LLC

Wilkes Propco, LLC

Project: Relocate entire 99-bed ACH facility, Wilkes County Adult Care, and change the name to The Gardens of Wilkesboro

### 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, Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC propose to relocate an existing 99-bed adult care home (ACH), located at 176 Rest Home Road, Wilkesboro (Wilkes County), to a new site at River Road and Liberty Grove Road, in North Wilkesboro (Wilkes County). The current name of the facility is Wilkes County Adult Care. The new name of the facility will be The Gardens of Wilkesboro.

Table 11A of Chapter 11 of the 2018 State Medical Facilities Plan (SMFP) lists Wilkes County Adult Care with 99 ACH beds in the inventory of Wilkes County ACH beds.

Therefore, following completion of the proposed project, Wilkes County Adult Care will no longer be licensed for any ACH beds, and the Gardens of Wilkesboro will be licensed for 99 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 2018 SMFP. Therefore, there are no need determinations applicable to this review.

### **Policies**

Policy LTC-2: Relocation of Adult Care Home Beds and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities are applicable to this review.

#### **Policy LTC-2: Relocation of Adult Care Home Beds states:**

*“Relocations of existing licensed adult care home beds are allowed only within the host county and to contiguous counties. Certificate of need applicants proposing to relocate licensed adult care home beds to contiguous counties shall:*

- 1. Demonstrate that the facility losing beds or moving to a continuous county is currently serving residents of that contiguous county; and*
- 2. Demonstrate that the proposal shall not result in a deficit, or increase and 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 Facilities Plan in effect at the time the certificate of need review begins; and*
- 3. 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 Facilities Plan in effect at the time the certificate of need review begins.”*

In Section B, page 17, the applicants explain why it believes its application is conforming to Policy LTC-2. On page 17, the applicants state:

*“The applicants do not propose to relocate licensed ACH Beds to a contiguous county. Rather, the applicants propose to relocate licensed ACH Beds within the same county (Wilkes). The 99 ACH Beds proposed for relocation would neither increase nor decrease the projected deficit of 14 ACH Beds for Wilkes County noted in the 2018 SMFP.”*

#### **Policy GEN-4**



Policy GEN-4 states:

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

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

*Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 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.”*

In Section B, pages 19-20, the applicants provide the required written statement regarding improved energy efficiency and water conservation.

### **Conclusion**

The Agency reviewed the:

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

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

- The applicants adequately demonstrate that the proposal is consistent with Policy LTC-2 and Policy GEN-4 for the following reasons:
  - The applicants propose to relocate the ACH beds within Wilkes County and that would neither increase nor decrease the projected deficit for Wilkes County.

- The applicants proved the written statement required by Policy GEN-4.
- (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 relocate the existing 99-bed facility known as Wilkes County Adult Care, to a new site where the facility will be known as The Gardens of Wilkesboro. Both sites are located in Wilkes County.

#### **Patient Origin**

On page 211, the 2018 SMFP defines the service area for ACH beds as “*the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.*” Thus, the service area for this project consists of Wilkes County. Facilities may also serve residents of counties not included in their service area.

The applicants state The Gardens of Wilkesboro will be a new replacement facility, therefore it has no historical patient origin to report. The facility has not had residents residing in the facility since 2016. In Exhibit C.3, the applicants provide the assumptions and methodology used to project the patient origin for the replacement facility. In Section C, page 24, the applicants state the project patient origin is based on information from another adult care home facility located in Wilkes County, Rose Glen Manor, which is managed by the applicants’ proposed management company, Affinity Living Group, LLC. In Section C.3, page 24, the applicants provide the projected patient origin for The Gardens of Wilkesboro, as illustrated below.

**The Gardens of Wilkesboro Projected Patient Origin**

County	Third Full FFY (10/01/2023 to 09/30/2024)	
	General ACH Beds	
	# of Patients	% of Total Patient Origin
Alexander	4	4.0%
Alleghany	1	1.0%
Ashe	1	1.0%
Burke	1	1.0%
Caldwell	1	1.0%
Catawba	2	2.0%
Davidson	2	2.0%
Gaston	1	1.0%
Guildford	1	1.0%
Haywood	1	1.0%
Iredell	1	1.0%
Pender	1	1.0%
Rockingham	1	1.0%
Surry	8	8.0%
Watauga	3	3.0%
Wilkes	64	65%
Yadkin	6	6.0%
<b>Total</b>	<b>99</b>	<b>100.0%</b>

Source: Section C, page 24

The applicants' assumptions, which are found on page 24 and Exhibit C.3, are reasonable and adequately supported.

**Analysis of Need**

In Section C, pages 25-29, the applicants explain why they believe the population projected to utilize the proposed services needs the proposed services, as summarized below:

- The applicants state that the projected deficit for Wilkes County would increase if the 99 ACH beds are not replaced. The 2018 SMFP projects need for 304 ACH beds and a deficit of 14 ACH beds by 2021. Without the 99 ACH beds, only 191 ACH beds would be available by 2021 (page 26).
- The applicants state the increase in the senior population of Wilkes County will increase the demand for ACH beds. Residents age 65 and over constitute most of the residents of ACH beds in North Carolina. The applicants rely on statements in the 2018 SMFP (pages 25 and 27).
- Without the replacement of the 99 ACH beds, Wilkes County residents needing adult care services are dependent on the 162 licensed beds located at the two other adult

care homes in Wilkes County. The applicants state this can result in waiting lists or residents traveling to another county for services (pages 26-27).

- The applicants state that there is strong community support for the relocation and reopening of the 99 ACH beds. The applicants provided letters of support from county officials and other adult care providers in Wilkes County (page 30, Exhibit C.8).

In Section C, page 26, the applicants state,

*“According to the 2018 SMFP, Wilkes County will need approximately 304 ACH Beds by 2021. Failure to relocate the beds of Wilkes County Adult Care effectively prevents the future utilization of those beds, leaving Wilkes County to face a projected need of 304 ACH beds with only 191 ACH beds.”*

In Section C, page 27, the applicants state,

*“According to data from the 2018 SMFP, utilization of adult care homes beds in North Carolina is almost completely attributable to residents aged 65 and over. Within that demographic, the vast majority of bed utilization is by those over the age of 85. According to projections by the North Carolina Office of State Budget and Management (“NCOSBM”), these to age groups-65 and over, and 85 and over-are the only age groups within Wilkes County that are expected to experience dramatic growth over the next two decades.”*

In Section C, page 30, the applicants state,

*“The planning Director of North Wilkesboro, Samuel G. Hinnant, echoed the same sentiments, noting that approval of the Applicant’s Project would increase care options for the medically underserved in Wilkes County. Approving the relocation would also, he note, permit more residents the ability to receive care locally.”*

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

- The 2018 SMFP shows a deficit of 14 ACH beds in Wilkes County.
- The applicants adequately demonstrate that except for two nursing facilities with ACH beds, all ACH beds in Wilkes County are reasonably well-utilized with utilization rates of 83% to 92%.
- The increase in the senior population of Wilkes County will increase the demand for ACH beds. The applicants demonstrate that based on North Carolina Office of State Budget and Management (NCOSBM) estimates, the segment of the population more likely to use ACH beds (age 85 and over) is expected to rise from 1,587 individuals in 2015 to 3,012 in 2037.



- The applicants communicated with Wilkes County officials and other ACH providers who support the proposed project and the applicants provide documentation in Exhibit C.8.

The applicants adequately demonstrate the need to relocate the existing 99-bed facility to a new site.

### Projected Utilization

The Gardens of Wilkesboro is a replacement facility and the existing facility has not served residents since 2016. In Section Q, page 68, the applicants provide projected utilization for the first three years of operation, as summarized in the table below:

<b>The Gardens of Wilkesboro Projected Utilization</b>			
	<b>1<sup>st</sup> Full Year FFY 2021</b>	<b>2<sup>ND</sup> Full Year FFY 2022</b>	<b>3<sup>RD</sup> Full Year FFY 2023</b>
Patient Days	11,498	24,638	32,483
Occupancy Rate	31.8%	68.2%	89.9%
Number of Beds	99	99	99

As shown in the table above, the applicants project the 99 ACH beds will operate at 89.9% of capacity  $[(32,483 / 365 \text{ days per year}) / 99 \text{ beds} = 0.890]$  in the third year of operation. In Section C, page 33, the applicants state that their assumptions are based on another adult care home similar in size and managed by Affinity Living Group, LLC. Affinity Living Group, LLC is the proposed manager for the Gardens of Wilkesboro. In Exhibit C.11, the applicants provide a letter from Affinity Living Group, LLC, documenting how Alamance House reached its target utilization. The applicants describe the assumptions as follows:

- *Facility begins operations with 15 reserved beds on October 1, 2021.*
- *Fill-up at the rate of an average of 3 residents per month until ACH fills.*
- *ACH considered full at 89.9% in Third Month of the Third Year (November 2023).*

In addition, the applicants explain how they will market The Gardens of Wilkesboro in order to meet projected utilization targets. Projected utilization is based on reasonable and adequately supported assumptions.

### Access

In Section C, page 33, the applicants state:

*“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 applicant also intend to admit a significant portion of individuals who rely on Medicaid or Special Assistance. Rose Glen Manor, an adult care home in Wilkes County that is*

*managed by the same management company that the applicants propose to engage for their project (Affinity Living Group), reported approximately 47% Medicaid/Special Assistance.”*

In Section L, pages 58-59, the applicants project the following payor mix during the third full fiscal year of operation following completion of the project, as illustrated in the following table.

The Gardens of Wilkesboro OY3 (FFY2023) 10/01/2023-9/30/2024						
Payor Source	Patient Days in ACH beds			Percentage of Total Days in ACH beds		
	General Beds	SCU Beds	Total NF Beds	General Beds	SCU Beds	Total NF Beds
Private Pay	13,084	0	0	40.28%	0	0
Insurance*	0	0	0	0%	0	0
Tricare	0	0	0	0%	0	0
County Assistance	19,398	0	0	59.72%	0	0
<b>Total</b>	<b>32,482</b>	<b>0</b>	<b>0</b>	<b>100.00%</b>	<b>0</b>	<b>0</b>

\*Including any managed care plans  
 Source: Section L, pages 58-59

The projected payor mix is reasonable and adequately supported.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

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

- The applicants adequately identify the population to be served.
- The applicants adequately demonstrate 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.

C

The applicants propose to relocate an existing 99-bed ACH which has been closed since 2016. There are no residents thus no residents will be transferred and no one will need alternate placement if they do not want to transfer to The Gardens of Wilkesboro. The application is conforming to this criterion.

- (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 an existing 99-bed ACH facility to a new site also in Wilkes County.

In Section E, pages 39-40, the applicants describe the one alternative they considered and explain why this alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The only other alternative considered was to renovate the existing facility. The applicants state renovating the existing facility would be cost prohibitive due to the level of deterioration and environmental liability associated with the building.

The applicants state relocating the 99 ACH beds was the most effective alternative method to meet the need. The replacement facility will be located in a more convenient, safe location and has no connection to the reputation of the facility in its current location.

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

- The relocation of the 99 ACH beds to a replacement facility will avoid utilization issues due to the facility's reputation of deterioration and poor management.
- The location of the replacement facility will more convenient and safe as opposed to the current location.

**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. Therefore, the application is approved subject to the following conditions:

- 1. Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall relocate and replace no more than 99 adult care home beds.**
- 3. Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall execute the construction contract no later than 12/31/2020. In the event that Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC fail to execute the construction contract by 6/30/2021, the right to develop the project shall cease and Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall relinquish the Certificate of Need to develop this project.**
- 4. Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall provide care to recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.**
- 5. For the first two years of operation following completion of the project, Wilkesboro Opco Holdings, LLC and Wilkes Propco, 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.**
- 6. Wilkesboro Opco Holdings, LLC and Wilkes Propco, LLC shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.**
- 7. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Wilkesboro Opco Holdings, LLC and Wilkes Propco, 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. Wilkesboro Opco Holdings, LLC and Wilkes Propco, 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 relocate an existing 99-bed ACH facility to a new site in Wilkes County.

**Capital and Working Capital Costs**

In Section Q, page 70, the applicants project the total capital cost of the project, as shown in the table below.

**The Gardens of Wilkesboro Project Capital Cost**

<b>Cost Category</b>	<b>Projected Capital Cost</b>
Purchase price of land	\$300,000
Closing Costs	\$75,000
Site Preparation	\$475,000
Construction/Renovation Contract(s)	\$2,520,000
Landscaping	\$25,000
Architect/Engineering fees	\$275,000
Non-Medical Equipment	\$200,000
Furniture	\$600,000
Financing Costs	\$175,000
Interest During Construction	\$250,000
<b>TOTAL CAPITAL COST</b>	<b>\$4,895,000</b>

Source: Section C, page 70

In Section F, page 42, the applicants projects that start-up costs will be \$0 and initial operating expenses will be \$488,726.69 for a total working capital of \$488,726.69. The applicants provide the assumptions and methodology used to project the working capital needs of the project in Exhibit Q.1.

**Availability of Funds**



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

Type	Wilkesboro Opcp Holdings	Wilkesboro Proco, LLC	Total
Loans	\$	\$4,950,000	\$4,950,000
Accumulated reserves or OE *	\$	\$	\$
Bonds	\$	\$	\$
Other (Specify)	\$	\$	\$
<b>Total Financing</b>	\$	\$4,950,000	\$4,950,000

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

Sources of Financing for Working Capital		Amount
(a)	Loans	\$488,726.69
(b)	Cash or Cash Equivalents, Accumulated Reserves or Owner's Equity	\$
(c)	Lines of credit	\$
(d)	Bonds	\$
(e)	<b>Total *</b>	\$488,726.69

Exhibits F.2 and F.4 contain letters dated September 28, 2018 from the Managing Director of Locust Point Capital stating their interested in financing the proposed project in the amount of \$4,950,000 and the working capital in the amount of \$488,726.69.

### **Financial Feasibility**

The applicants provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In the pro forma financial statement (Form F.5 Income Statement), the applicants project that operating expenses will exceed projected revenues in Operating Year 1 (OY1). The applicants project that revenues will exceed operating expenses in OY2 and OY3 of the project, as shown in the table below.

	1 <sup>st</sup> Full Fiscal Year 2021	2 <sup>nd</sup> Full Fiscal Year 2022	3 <sup>rd</sup> Full Fiscal Year 2023
Total Projected # of Patients	11,498	24,638	32,483
Total Revenues (Charges)	\$1,117,560	\$2,321,400	\$3,046,980
Total Adjustments to Revenues	\$11,176	\$23,214	\$30,470
Total Net Revenues	\$1,106,384	\$2,298,186	\$3,016,510
Total Operating Expenses (Costs)	\$1,451,137	\$1,811,412	\$2,031,388
Net Income	<b>(\$343,753)</b>	<b>\$486,774</b>	<b>\$985,122</b>

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 and Exhibits Q.1 and Q.2 of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

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

- The applicants adequately demonstrate that the capital and working capital costs are based on reasonable and adequately supported assumptions.
  - The applicants adequately demonstrate availability of sufficient funds for the capital and working capital needs of the proposal.
  - The applicants adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.
- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

### C

The applicants propose to relocate an existing 99-bed ACH facility to a new site in Wilkes County.

On page 211, the 2018 SMFP defines the service area for ACH beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.”* Thus, the service area for this project consists of Wilkes County. Facilities may also serve residents of counties not included in their service area.

Table 11A of the 2018 SMFP indicates that there are currently a total of five facilities in Wilkes County with licensed ACH beds. The table below is a summary of those facilities in Wilkes County, from the 2018 SMFP, Chapter 11, Table 11A and Table 11B. There is a projected deficit of 14 ACH beds in 2021 for Wilkes County.

<b>2018 ACH INVENTORY AND 2021 NEED PROJECTIONS FOR WILKES COUNTY</b>	
# ACH Facilities	5
# Beds in ACH Facilities	261
# Beds in Nursing Facilities	29
Total Licensed Beds	290
# CON Approved Beds (License Pending)	0
Total # Available	290
Total # in Planning Inventory	290
Projected Bed Utilization	304
Projected Bed Deficit	14

In Section G, page 46, the applicants explains why they believe their proposal would not result in the unnecessary duplication of existing or approved adult care home facilities in Wilkes. The applicants state:

*“The applicants’ proposed project does not seek to increase the number of ACH beds in the Wilkes County SMFP inventory. Rather, the applicants propose to relocate already existing ACH beds in the SMFP inventory that are currently not being utilized at all. Therefore, no new beds will be added to adult care home bed inventory in the SMFP.”*

The applicants adequately demonstrate their proposal would not result in the unnecessary duplication of existing or approved ACH services in Wilkes County for the following reasons:

- The 2018 SMFP shows a deficit of 14 ACH beds in Wilkes County.
- The proposal would not result in an increase in the number of ACH beds in Wilkes County.
- The applicants adequately demonstrate the need that the population projected to utilize the replacement facility has for the replacement facility.

### **Conclusion**

The Agency reviewed the:

- Applications
- Exhibits in 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 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 85, the applicants provide current and projected full-time equivalent (FTE) staffing for the proposed services, as illustrated in the following table.

<b>Position</b>	<b>1<sup>st</sup> Full Fiscal Year 2021</b>	<b>2<sup>nd</sup> Full Fiscal Year 2022</b>
Registered Nurses (RN)	0.5	0.5
Aides	9.5	15.9
Staff Development Coordinator	1.0	1.0
Clerical	1.3	1.4
Dietary	3.4	4.2
Activities	0.8	1.1
Transportation	0.6	0.9
Laundry & Linen	0.6	0.6
Housekeeping	1.6	2.1
Plant Operation & Maintenance	0.8	0.9
Administration	1.0	1.0
<b>TOTAL</b>	<b>21.1</b>	<b>29.7</b>

Source: Section Q, page 85

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 applicants are budgeted in Exhibit Q.2. In Section H.2 and H.3, pages 48-49, respectively, the applicants describe the methods to be used to recruit or fill new positions and their proposed training and continuing education programs. In Exhibit H.1, contains a letter from the Co-Founder and CEO of DMHC (Doctors Making House Calls) offering services to potential residents of the 99 ACH beds. The applicants state the facility is not currently operational, therefore no medical director has been established.

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

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and

support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

### C

In Section I, pages 50, the applicants describe the ancillary and support services that will be provided by the facility or made available through agreements with other providers. Exhibit C.8, contains letters of support from the Mayor of Town of North Wilkesboro, Rose Glen Manor Assisted Living and Memory Care facility and Broad River Rehabilitation.

In Section I, pages 50-51, the applicants describe their existing and proposed relationships with other local health care and social service providers and provide supporting documentation in Exhibit C.8.

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

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

### NA

The applicants do not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicants do not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The

availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:

- (i) would be available under a contract of at least 5 years duration;
- (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
- (iii) would cost no more than if the services were provided by the HMO; and
- (iv) would be available in a manner which is administratively feasible to the HMO.

NA

The applicants are not an HMO. Therefore, Criterion (10) is not applicable to this review.

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

C

In Section K, page 53, the applicants state that the project involves constructing 45,769 square feet of new space on land available for purchase at River Road and Liberty Grove Road. Line drawings are provided in Exhibits K.1 and K.2.

On pages 53-54, the applicants adequately explain how the cost, design and means of construction represent the most reasonable alternative for the proposal and provide supporting documentation in Exhibits K.3, Q.1 and Q.2.

On page 54, the applicants adequately explain why the proposal will not unduly increase the costs to the applicants of providing the proposed services or the costs and charges to the public for the proposed services and provide supporting documentation in Exhibits K.3, Q.1 and Q.2.

On page 54, the applicants identify any applicable energy saving features that will be incorporated into the construction plans. The applicants state all equipment will meet the requirements of the 2018 North Carolina Energy Conservation Code.

On pages 55-56, the applicants identify the proposed site and provide information about the current owner, zoning and special use permits for the site, and the availability of water, sewer

and waste disposal and power at the site. The applicants provide supporting documentation in Exhibits K.4 through K.6.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:
- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

The existing facility has not been operational since 2016, therefore, there is no historical payor mix to report. To the extent this criterion is applicable, the application is conforming.

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

C

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



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

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

In Section L, pages 58-59, the applicants provide the projected payor mix for ACH services at The Gardens of Wilkesboro during the third OY (FFY2023), as shown in the following table:

The Gardens of Wilkesboro OY3 (FFY2023) 10/01/2023-9/30/2024						
Payor Source	Patient Days in ACH beds			Percentage of Total Days in ACH beds		
	General Beds	SCU Beds	Total NF Beds	General Beds	SCU Beds	Total NF Beds
Private Pay	13,084	0	0	40.28%	0	0
Insurance*	0	0	0	0%	0	0
Tricare	0	0	0	0%	0	0
County Assistance	19,398	0	0	59.72%	0	0
<b>Total</b>	<b>32,482</b>	<b>0</b>	<b>0</b>	<b>100.00%</b>	<b>0</b>	<b>0</b>

\*Including any managed care plans  
 Source: Section L, pages 58-59

As shown in the table above, during the third OY, the applicants project that 40.28% of total services will be provided to private pay patients, and 59.72% to County Assistance patients.

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

- Approximately 60% of patient days will be provided to residents receiving state/county assistance.
- The applicants rely on the experience of the proposed management company, Affinity Living Group, for the projections.

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C

In Section L, page 59, the applicants adequately describe a range of means by which patients will have access to the proposed services. The applicants state:

*“The proposed project 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 proposed project will not be admitted.”*

The Agency reviewed the:

- Application
- Exhibits to the application

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

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

C

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

The Agency reviewed the:

- Application



- Exhibits to the application

Based on that review, the Agency concludes that the applicants 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 applicants propose to relocate an existing 99-bed ACH facility to a new site in Wilkes County.

On page 211, the 2018 SMFP defines the service area for ACH beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.”* Thus, the service area for this project consists of Wilkes County. Facilities may also serve residents of counties not included in their service area.

Table 11A of the 2018 SMFP indicates that there are currently a total of five facilities in Wilkes County with licensed ACH beds. The table below is a summary of those facilities in Wilkes County, from the 2018 SMFP, Chapter 11, Table 11A and Table 11B. There is a projected deficit of 14 ACH beds in 2021 for Wilkes County.

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Total # Available	290
Total # in Planning Inventory	290
Projected Bed Utilization	304
Projected Bed Deficit	14

In Section N, pages 61-62, 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 the cost-effectiveness, quality and access to the proposed services. On pages 61-62, the applicants state,

*“The proposed project anticipates offering rates that are competitive to ... [the] surrounding facilities, while still being within a reasonable range for private pay residents. The project has been planned so as to minimize construction costs in an effort to keep rates low while still offering premium services.*

...

*... the proposed project will be established with the intent to provide a home-like setting in a community of care. The applicants will also provide Quality Assurance Services in an effort to adhere to ‘Best Practices’, as it has been defined in Section C.1.*

*As it has been stated in Section C.8, the proposed project will allow admission only on the written order of a physician. ... 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 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 Sections C and N 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.

C

In Section O, page 63, the applicants state that the proposed project will be managed by Affinity Living Group, LLC. The applicants identify the adult care home facilities located in North Carolina managed by Affinity Living Group, LLC. The applicants identify a total of 85 of this type of facility in North Carolina and provide supporting documentation in Exhibit O.1. During the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in 12 of these facilities. In Section O, page 64, the applicants state that all of the problems have been corrected. After reviewing and considering information provided by the applicants and considering the quality of care provided at all 85 facilities, the applicants provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C

**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 are not proposing 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 are not proposing to establish a new nursing facility or add nursing facility beds to an existing facility.

*(c) An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*

**-NA-** The applicants are not proposing to add adult care home beds to an existing facility.

*(d) An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*

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