

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: May 27, 2020

Findings Date: May 27, 2020

Project Analyst: Gregory F. Yakaboski

Team Leader: Fatimah Wilson

Project ID #: F-11852-20

Facility: WillowBrooke Court SC Ctr at Plantation Estates

FID #: 923412

County: Mecklenburg

Applicant(s): Acts Retirement-Life Communities, Inc.

Project: Cost overrun for Project ID #F-11294-17 (add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 for a total of no more than 90 NF beds and 100 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

Acts Retirement-Life Communities, Inc. (“Acts”, or “the applicant”) proposes a cost overrun for Project ID #F-11294-17 (add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 for a total of no more than 90 NF beds and 100 ACH beds upon project completion).

A certificate of need was issued on June 27, 2017 for Project I.D. #F-11294-17 and authorized a capital cost of \$32,167,686. The current application proposes a capital cost increase of \$5,832,314 over the previously approved capital cost for a total combined capital cost of \$38,000,000. The cost overrun application is necessary due to increased costs for construction

labor and material. The applicant proposes no material change in scope from the originally approved project in this application.

### Need Determination

There were no need determinations in the 2017 State Medical Facilities Plan (SMFP) applicable to Project I.D. #F-11294-17 and the applicant proposes no changes in the current application which would affect that determination. The applicant does not propose to increase the number of licensed beds in any category, add any new health services, or acquire equipment for which there is a need determination in the 2020 SMFP. Therefore, there are no need determinations applicable to this review.

### Policies

Project I.D. #F-11294-17 was found to be consistent with *Policy NH-2: Plan Exemption for Continuing Care Retirement Communities*, *Policy NH-8: Innovations in Nursing Facility Design Policy*, *Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities* as published in the 2017 SMFP. The applicant proposes no changes in the current application which would affect that determination. There are no policies in the 2020 SMFP that are applicable to this review.

### Conclusion

In Project I.D. #F-11294-17, the applicant was previously approved to add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 for a total of no more than 90 NF beds and 100 ACH beds upon project completion. In the original review, the application was conforming to this criterion. The applicant proposes no changes in the current application which would affect that determination. Therefore, the application is 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 applicant proposes a cost overrun for Project ID #F-11294-17 (add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 for a total of no more than 90 NF beds and 100 ACH beds upon project completion).

A certificate of need was issued on June 27, 2017 for Project I.D. #F-11294-17 and authorized a capital cost of \$32,167,686. The current application proposes a capital cost increase of

\$5,832,314 over the previously approved capital cost for a total combined capital cost of \$38,000,000. The cost overrun application is necessary due to increased costs for construction labor and material. The applicant proposes no material change in scope from the originally approved project in this application.

Patient Origin

On page 175, the 2020 SMFP defines the service area for nursing facility (NF) beds as “*the nursing care bed planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

On page 205, the 2020 SMFP defines the service area for adult care home (ACH) beds as “*An adult care home bed’s service area is the county in which the adult care home bed is located. Each of the 100 counties is a separate service area.*” Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

The application for Project I.D. #F-11294-17 adequately identified the current and projected patient origin for the facility at the time of the application. No changes are proposed in this application which would affect that determination.

Analysis of Need

The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.

<b>WillowBrooke Court SC Ctr at Plantation Estates Previously Approved and Proposed Capital Cost</b>			
	<b>Previously Approved Capital Cost (F-11294-17)</b>	<b>Projected Changes to Capital Cost (F-11852-20)</b>	<b>Total Projected Capital Cost</b>
Site Preparation	\$1,580,998	\$2,101,852	\$3,682,850
Construction/Renovation Contract(s)	\$24,262,795	\$388,754	\$24,651,549
Medical Equipment	\$1,650,000	\$266,107	\$1,916,107
Architect/Engineering Fees			
Furniture			
Consultant Fees	\$2,000,000	\$0	\$2,000,000
Financial Costs	\$300,000	\$0	\$300,000
Interest during Construction	\$1,400,000	\$0	\$1,400,000
Other (contingency)	\$973,893	\$3,075,601	\$4,049,494
<b>Total Capital Costs</b>	<b>\$32,167,686</b>	<b>\$5,832,314</b>	<b>\$38,000,000</b>

In Section C.10, pages 26-27, the applicant states the increase in capital expenditure is necessary because construction costs for both labor and material have risen significantly since the time the prior CON application was submitted.

The applicant's representations regarding the need for an additional capital expenditure to develop the proposed facility are reasonable and adequately supported for the following reasons:

- The applicant adequately explains the necessity of the increased capital expenditure to develop the project as approved in Project I.D. #F-11294-17.
- The applicant does not propose to change the scope of services offered or to change the patients projected to be served by the proposed project.

#### Projected Utilization

The application for Project I.D. #F-11294-17 adequately demonstrated projected utilization was based on reasonable and adequately supported assumptions regarding continued growth in the patient population that utilized the services proposed in the application. The applicant proposes no changes in the current application which would affect that determination.

#### Access

The application for Project I.D. #F-11294-17 adequately demonstrated the extent to which all residents of the area, including underserved groups, were likely to have access to the proposed services. The applicant proposes no changes in the current application which would affect that determination.

#### 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 application for Project I.D. #F-11294-17 adequately identified the population to be served, and there are no changes proposed in this application which would affect that determination.
- The applicant adequately explains why the increased capital expenditure is necessary to provide the population to be served with the services proposed in this application.

- Projected utilization was deemed reasonable and adequately supported in Project I.D. #F-11294-17 and there are no changes proposed in this application which would affect that determination.
  - The application for Project I.D. #F-11294-17 adequately identified the extent to which all residents, including underserved groups, would have access to the proposed services (payer mix), and there are no changes proposed in this application which would affect that determination.
- (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 applicant is not proposing a reduction or elimination of a service, or the relocation of a facility or a service. Therefore, Criterion (3a) is not applicable to this review.

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

CA

The applicant proposes a cost overrun for Project ID #F-11294-17 (add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 for a total of no more than 90 NF beds and 100 ACH beds upon project completion).

In Section E, page 30, the applicant states there is no other alternative to the one proposed in this application.

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

- The applicant proposes to develop the project as approved in Project I.D. #F-11294-17.
- The application is conforming to all statutory and regulatory review criteria.
- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.

### 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. Acts Retirement-Life Communities, Inc. shall materially comply with all representations made in the certificate of need application.**
- 2. The total combined capital expenditure for both projects is \$38,000,000, an increase of \$5,832,314 over the capital expenditure of \$32,167,686 previously approved in Project I.D. #F-11294-17.**
- 3. Acts Retirement-Life Communities, Inc. shall develop no more than 10 Policy NH-2 nursing facility beds and 40 Policy LTC-1 adult care home beds for a facility total of no more than 90 NF beds and 100 ACH beds upon completion of Project I.D. #F-11294-17 and the proposed project.**
- 4. The 10 Policy NH-2 nursing facility beds shall not be certified for participation in the Medicaid program.**
- 5. The 10 Policy NH-2 nursing facility beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring the nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
- 6. The 40 Policy LTC-1 adult care home beds shall not participate in the Medicaid program or serve State-County Special Assistance recipients.**
- 7. The 40 Policy LTC-1 adult care home beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing or adult care unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
- 8. The 10 new Policy NH-2 nursing facility beds and the 40 new Policy LTC-1 adult care home beds shall be developed on the same site with the independent living units.**

- 9. Acts Retirement-Life Communities, Inc. 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.**
  
  - 10. 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, Acts Retirement-Life Communities, Inc. 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.**
  
  - 11. Acts Retirement-Life Communities, Inc. shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the 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 applicant proposes a cost overrun for Project ID #F-11294-17 (add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 for a total of no more than 90 NF beds and 100 ACH beds upon project completion).

Capital and Working Capital Costs

The applicant projects the total capital cost to add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 approved in Project I.D. #F-11294-17 will be \$38,000,000, an increase of \$5,832,314 over the previously approved capital expenditure, which exceeds the 115 percent statutory limit for capital expenditures. The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.

<b>WillowBrooke Court SC Ctr at Plantation Estates Previously Approved and Proposed Capital Cost</b>			
	<b>Previously Approved Capital Cost (F-11294-17)</b>	<b>Projected Changes to Capital Cost (F-11852-20)</b>	<b>Total Projected Capital Cost</b>
Site Preparation	\$1,580,998	\$2,101,852	\$3,682,850
Construction/Renovation Contract(s)	\$24,262,795	\$388,754	\$24,651,549
Medical Equipment	\$1,650,000	\$266,107	\$1,916,107
Architect/Engineering Fees			
Furniture			
Consultant Fees	\$2,000,000	\$0	\$2,000,000
Financial Costs	\$300,000	\$0	\$300,000
Interest during Construction	\$1,400,000	\$0	\$1,400,000
Other (contingency)	\$973,893	\$3,075,601	\$4,049,494
<b>Total Capital Costs</b>	<b>\$32,167,686</b>	<b>\$5,832,314</b>	<b>\$38,000,000</b>

In Section C.10, pages 26-27, the applicant states the increase in capital expenditure is necessary because construction costs for both labor and material have risen significantly since the time the prior CON application was submitted.

In Section F.5, page 35, the applicant does not propose any changes to the start-up expenses or initial operating expenses approved in Project I.D. #F-11294-17.

Availability of Funds

A certificate of need was issued on June 27, 2017 for Project I.D. #F-11294-17 and authorized a capital cost of \$32,167,686. In Project I.D. #F-11294-17, the Agency determined that the applicant adequately demonstrated that it had sufficient funds available for capital needs of the project in the amount of \$32,167,686. The current application proposes a capital cost increase of \$5,832,314 over the previously approved capital cost for a total combined capital cost of \$38,000,000.

In Exhibit F.5 (Tab 4) the applicant provides a copy of a letter dated December 4, 2019, from the Senior Vice President of Branch Banking and Trust Company which states,

*“The Bank continues to enjoy a long-term banking relationship with ACTS Retirement. Specific to this project, the Bank is familiar with the financial position of ACTS Retirement. Based on this knowledge, the Bank is willing to continue to provide ACTS with a \$65,000,000 revolving credit facility for this project ... I can confirm that the revolving credit line has sufficient capacity to accommodate the projected project capital cost overrun of approximately \$5,832,314 (total project capital cost of \$38,000,000).”*

The applicant adequately demonstrates that sufficient funds will be available for the additional capital needs of the project.



### Financial Feasibility

In Project I.D. #F-11294-17, the applicant projected revenues would exceed operating expenses in the second full fiscal year of operation following project completion, and the applicant projects no changes in this application to those projections.

### Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

- The applicant adequately demonstrates the increased capital costs are based on reasonable and adequately supported assumptions.
  - The applicant adequately demonstrates availability of sufficient funds for the increased capital needs of the proposal.
  - The applicant projects no changes to the assumptions and methodology in Project I.D. #F-11294-17 which demonstrated projected capital costs were reasonable and adequately supported and which adequately demonstrated the availability of sufficient funds for the working capital costs.
  - The applicant projects no changes to the assumptions and methodology in Project I.D. #F-11294-17 which demonstrated sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal was based upon reasonable projections of costs and charges.
- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

### C

The applicant proposes a cost overrun for Project ID #F-11294-17 (add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 for a total of no more than 90 NF beds and 100 ACH beds upon project completion).

On page 175, the 2020 SMFP defines the service area for NF beds as “*the nursing care bed planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

On page 205, the 2020 SMFP defines the service area for ACH beds as “*An adult care home bed’s service area is the county in which the adult care home bed is located. Each of the 100 counties is a separate service area.*” Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

Project I.D. #F-11294-17 adequately demonstrated that the project would not result in unnecessary duplication of existing or approved services in the service area and no changes are proposed in this application which would affect that determination.

### 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 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

The applicant proposes a cost overrun for Project I.D. #F-11294-17. That application adequately demonstrated the availability of sufficient health manpower and management personnel to provide the proposed services and no changes are proposed in this application which would affect that determination.

### 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

Project I.D. #F-11294-17 adequately demonstrated the availability of the ancillary and support services necessary to the provision of the proposed services and adequately demonstrated the proposed services would be coordinated with the existing healthcare system.

The application for Project I.D. #F-11294-17 was found conforming to this criterion, and the applicant proposes no changes in the current application which would affect that determination.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

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

NA

The applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. 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 applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review.

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

C

The applicant proposes a cost overrun for Project ID #F-11294-17 (add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 for a total of no more than 90 NF beds and 100 ACH beds upon project completion).

A certificate of need was issued on June 27, 2017 for Project I.D. #F-11294-17 and authorized a capital cost of \$32,167,686. The current application proposes a capital cost increase of \$5,832,314 over the previously approved capital cost for a total combined capital cost of \$38,000,000. The cost overrun application is necessary due to increased costs for construction labor and material. The applicant proposes no material change in scope from the originally approved project in this application.

The following table compares the previously approved capital cost and the proposed capital cost, as reported on Form F.1b in Section Q.

<b>WillowBrooke Court SC Ctr at Plantation Estates Previously Approved and Proposed Capital Cost</b>			
	<b>Previously Approved Capital Cost (F-11294-17)</b>	<b>Projected Changes to Capital Cost (F-11852-20)</b>	<b>Total Projected Capital Cost</b>
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Medical Equipment	\$1,650,000	\$266,107	\$1,916,107
Architect/Engineering Fees			
Furniture			
Consultant Fees	\$2,000,000	\$0	\$2,000,000
Financial Costs	\$300,000	\$0	\$300,000
Interest during Construction	\$1,400,000	\$0	\$1,400,000
Other (contingency)	\$973,893	\$3,075,601	\$4,049,494
<b>Total Capital Costs</b>	<b>\$32,167,686</b>	<b>\$5,832,314</b>	<b>\$38,000,000</b>

In Section C.10, pages 26-27, the applicant states the increase in capital expenditure is necessary because construction costs for both labor and material have risen significantly since the time the prior CON application was submitted.

The discussion regarding the need for the increased capital expenditure found in Criterion (3) is incorporated herein by reference. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicant adequately demonstrates that the cost, design, and means of construction represent the most reasonable alternative, and that the construction cost will not unduly increase costs and charges for health 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.

- (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

Project I.D. #F-11294-17 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

### 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.

- (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

Project I.D. #F-1294-17 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

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.

- (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

Project I.D. #F-11294-17 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

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.

- (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

Project I.D. #F-121294-17 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

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

C

Project I.D. #F-11294-17 was conforming to this criterion and the applicant proposes no changes in the current application which would affect that determination.

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.

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

C

The applicant proposes a cost overrun for Project ID #F-11294-17 (add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 for a total of no more than 90 NF beds and 100 ACH beds upon project completion).

On page 175, the 2020 SMFP defines the service area for NF beds as “*the nursing care bed planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.*” Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

On page 205, the 2020 SMFP defines the service area for ACH beds as “*An adult care home bed’s service area is the county in which the adult care home bed is located. Each of the 100 counties is a separate service area.*” Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

The applicant proposes a cost overrun for Project I.D. #F-11294-17. That application adequately demonstrated the expected effects of the proposed services on competition and how any enhanced competition would have a positive impact on cost-effectiveness, quality, and access to the services proposed. The applicant proposes no changes in this application which would affect that determination.

### Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is not applicable 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 Q, Form A.7(a), the applicant identifies the nursing facilities located in North Carolina owned, operated or managed by the applicant or a related entity. The applicant identifies a total of two nursing facilities located in North Carolina.

In Section O, pages 54-55, the applicant states that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred in neither of the two nursing facilities. According to the files in the Nursing Home Licensure and



Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in neither of the two facilities. After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at both facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

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

NA

In Project I.D. #F-11294-17, the Criteria and Standards for Nursing Facility or Adult Care Home Facility Services, promulgated in 10A NCAN 14C .1100 were determined to be not applicable to the review because they are not applicable to a Continuing Care Retirement Community developing either new Policy NH-2 nursing facility beds and/or new Policy LTC-1 adult care home beds. The applicant proposes no changes in this application which would affect that determination.