

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: March 28, 2023

Findings Date: March 28, 2023

Project Analyst: Tanya M. Saporito

Co-Signer: Micheala Mitchell

Project ID #: O-12295-22

Facility: The Luminance at Riverlights

FID #: 160565

County: New Hanover

Applicants: New Hanover Opco, LLC

New Hanover Propco, LLC

Project: Relocate no more than 20 ACH beds from Castle Creek Memory Care to The Luminance at Riverlights which is a change of scope to Project ID# O-11964-20 (relocate 40 ACH beds from New Hanover House) for a total of no more than 60 ACH beds

REVIEW CRITERIA

G.S. 131E-183(a): The Department 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.

NA

New Hanover Opco, LLC and New Hanover Propco, LLC (hereinafter collectively referred to as “the applicant”) proposes a change of scope (COS) and cost overrun (COR) to Project ID #O-11964-20.

A certificate of need was issued on April 23, 2021, for Project ID #O-11964-20 (Develop a new 40-bed ACH by relocating no more than 40 undeveloped ACH beds from New Hanover House). That application was a change of scope for Project ID #O-11279-16 (Relocate 40 ACH beds from Sherwood Manor to the existing 61-bed New Hanover House for a total of 101 ACH beds and rename facility to New Hanover Senior Living).

This application proposes another COS in which the applicant proposes to relocate no more than 20 existing ACH beds from Castle Creek Memory Care to the previously approved New Hanover House, locate the proposed facility on a new site and rename facility to The Luminance at Riverlights. Upon project completion, The Luminance at Riverlights will be licensed for a total of no more than 60 ACH beds. This application also proposes a COR due to the increase in the number of ACH beds proposed to be relocated, the change in site, and the increase in materials and other associated project costs.

Need Determination

The original project did not involve a need determination pursuant to any of the applicable State Medical Facilities Plans (SMFP) and the current COS application does not involve the addition of any new health service facility beds, services, or equipment for which there is a need determination in the 2022 SMFP. Therefore, there are no need determinations applicable to this review.

Policies

There are no policies in the 2022 SMFP that apply to this review.

- (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, persons with disabilities, the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicant proposes a COR/COS for Project ID# O-11964-20, which was a COS for Project ID #O-11279-16. The projects are summarized as follows:

- Project ID #O-11279-16 proposed a relocation of 40 existing ACH beds from Sherwood Manor to an existing facility, New Hanover House, for a total of 101 ACH beds upon project completion. The project also proposed a name change for New Hanover House to New Hanover Senior Living. That project was awarded a certificate of need (CON) effective January 24, 2018.
- Project ID #O-11964-20 proposed a COS for Project ID #O-11279-16, by relocating 40 undeveloped ACH beds from New Hanover House to develop a new 40-bed ACH facility, New Hanover Senior Living.

The current application proposes a COR/COS by proposing to relocate no more than 20 existing ACH beds from Castle Creek Memory Care to New Hanover Senior Living, for a total

of 60 ACH beds (20 in this application and 40 in the previous applications). The current application also proposes to change the name of the proposed facility from New Hanover Senior Living to The Luminance at Riverlights and locate the facility on a different site than what was originally approved.

In Section C, pages 53-58, the applicant describes the reason for the current project, stating:

“The essential character of the [p]roject proposed in the [a]pplication is largely unchanged since the project was described in the application for Project ID #O-11964-20, except for (1) the increase in the number of ACH beds from 40 to 60 ACH beds and (2) the change of the proposed site for the [p]roject. ... The essential vision for The Luminance at Riverlights, however, remains unchanged; the [a]pplicants propose to develop the [p]roject with the same objectives of affordability and quality, as well as equitable service to recipients of Medicaid and Special Assistance in New Hanover County.”

The applicant also states that Castle Creek Memory Care is a 1984 facility that is in need of upgrades, including developing private rather than semi-private rooms. Additionally, the applicant states the relocation of 20 ACH beds from that facility will help it to achieve and maintain operational efficiencies, and the addition of those 20 beds to the proposed Luminance at Riverlights will likewise allow for operational efficiencies at the new facility.

Patient Origin

On page 177, the 2022 SMFP defines the service area for ACH beds as “...*the county in which the bed is located.*” Thus, the service area for this facility is New Hanover County. Facilities may also serve residents of counties not included in their service area.

The proposed facility is not an existing facility and thus has no current patient origin.

In Section C, page 58, the applicant states the current application projects a change in projected patient origin from what was originally projected in Project ID #O-11964-20, for the following reasons:

- The new application form (revised after Project ID #O-11964-20 was submitted) requests projections of population to be served for three project years rather than one project year,
- The updated projections account for the difference in census due to the proposed increase in ACH beds from 40 to 60,
- This project proposes a new site for the proposed facility, and
- Market changes since the last application was submitted.

The following table, from Section C page 59 illustrates projected patient origin for the first three full fiscal years (FFY) of operation, December 1, 2026-November 30, 2028:

The Luminance at Riverlights Projected Patient Origin

County	1 st Full FY 12/1/25-11/30/26		2 nd Full FY 12/1/26-11/30/27		3 rd Full FY 12/1/27-11/30/28	
	# Pts.	% of Total	# Pts.	% of Total	# Pts.	% of Total
New Hanover	33	70%	40	70%	40	70%
Pender	2	5%	3	5%	3	5%
Brunswick	5	10%	6	10%	6	10%
Columbus	1	2%	1	2%	1	2%
Bladen	1	2%	1	2%	1	2%
Onslow	1	2%	1	2%	1	2%
Other/Unknown	4	9%	5	9%	5	9%
Total	47	100%	57	100%	57	100%

In Section C, pages 60-69, the applicant provides the assumptions and methodology used to project the revised patient origin. The applicant began with the assumptions used in Project ID #O-11964-20 but modified those projections, accounting for the new location and adjustments for the applicant’s experience at its existing facilities during the COVID-19 pandemic. The applicant’s assumptions are reasonable and adequately supported based on the following:

- The applicant adjusted patient origin projections based on the new proposed location of The Luminance at Riverlights.
- The applicant accounted for the change in ACH bed placement among the involved facilities and the impact that would have on residents and their families.
- The applicant closely examined population statistics in New Hanover county and those counties that are close to New Hanover County.
- The applicant relied on data from License Renewal Applications (LRAs) to study patient origin at existing facilities.

Analysis of Need

In Section C, pages 53-58, the applicant describes the reasons for the change in the proposal that led to this COR/COS application. The applicant states Castle Creek Memory Care, the facility from which the 30 beds proposed in this application to be relocated to The Luminance at Riverlights, is an outdated facility currently licensed for 84 ACH beds. Because of the facility upgrades needed at Castle Creek Memory Care and the facility’s struggle with census (which the applicant states is largely due to the aging facility), the applicant states the decision to relocate 20 ACH beds will decrease the capacity of that facility and help with increasing census, particularly when the physical plant upgrades are complete. Additionally, the applicant states that its experience with owning and operating ACH facilities indicates that an ACH facility with between 60-70 beds is *“ideal for maximizing efficiency and achieving and maintaining financial stability in an ACH.”*

The applicant states that the proposal to relocate 20 ACH beds to The Luminance at Riverlights will ultimately benefit New Hanover County and other service area residents with updated,

safe and attractive ACH choices. The proposal will also increase access to ACH services in the service area for Medicaid recipients.

The information is reasonable and adequately supported based on the following:

- The applicant is in the best position to know which of its existing ACH beds should be relocated based on costs and utilization.
- Project ID# O-11279-16 and Project ID #O-11964-20 were conforming to this criterion with regard to the demonstration of need to relocate ACH beds, and the applicant proposes no changes in the application as submitted which would affect that determination.

Projected Utilization

In Section C, page 69, the applicant states the current application represents a change in projected utilization from what was originally projected in Project ID #O-11964-20. In Section Q, Form C.1b, the applicant provides projected utilization, as shown below:

	1 ST FULL FY 12/1/25-11/30/26	2 ND FULL FY 12/1/26-11/30/27	3 RD FULL FY 12/1/27-11/30/28
Number of ACH Beds	60	60	60
Total Admissions	37	10	--
Number of Pt. Days	10,828.33	20,440.00	20,832.00
ALOS*	292.66	2,044.00	--
Occupancy Rate	49.4%	93.3%	95.3%

*Average Length of Stay

In Section Q, pages 119-123, the applicant provides the assumptions and methodology used to project utilization, as summarized below:

- The applicant relies on the historical experience of ALG Senior, the management company that operates the facilities owned by the applicant or a related entity in developing and operating ACH facilities in North Carolina.
- The applicant studied historical move-in rates for 14 new ACH facilities opened by ALG Senior in North Carolina from 2013-2020 and determined that it was able to fill all communities (urban and rural) by an average of 4.4 net move ins per month, and even the communities that filled at a slower rate filled at an average of 2 net move ins per month.
- The applicant accounts for the decrease in both fill in rates and overall occupancy during the COVID-19 pandemic, acknowledging that the decrease was an anomaly and not indicative of actual census.
- The applicant projects a lower average growth rate for The Luminance at Riverlights, accounting for the COVID-19 anomalous decrease in its projections.

Projected utilization is reasonable and adequately supported based on the following:

- The applicant relies on its historical experience with similarly sized ACH facilities managed by the same management company that will manage this facility.
- The applicant explains how the historical data and the management company's experience could project utilization at the proposed facility.

Access to Medically Underserved Groups

In Section C, page 70, the applicant states the current application does project a change in access by medically underserved groups from what was originally projected in Project ID# O-11964-20, and on page 70 the applicant also states: "*The [a]pplicants believe that access by medically underserved groups will remain unchanged.*" The applicant states:

"... the [a]pplicants expect access to medically underserved individuals to be improved by the changes in the [p]roject proposed in this [a]pplication, in that additional ACH beds will be made available in new, private, comfortable surroundings."

The applicant adequately describes the extent to which all residents of the service area, including underserved groups, are likely to have access to the proposed services because the applicant states the project as proposed in this application will likely increase access by medically underserved groups in the service area. The applicant states it will reserve approximately 25% of the beds at The Luminance at Riverlights for Medicaid recipients and will provide access to all underserved groups as is its practice.

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:

- In Project ID# O-12279-16 and Project ID #O-11964-20 the applicant adequately identified the population to be served and there are no changes proposed in this application as submitted that would affect that determination.
- The applicant adequately explains why it is necessary to relocate ACH beds from Castle Creek Memory Care to The Luminance at Riverlights.

- Projected utilization was deemed reasonable and adequately supported in the application for Project ID# O-12279-16 and Project ID #O-11964-20 and there are no changes proposed in this application that would affect that determination.
 - Project ID# O-12279-16 and Project ID #O-11964-20 adequately identified the extent to which all residents, including underserved groups, were likely to have access to the proposed services, and there are no changes proposed in this application as submitted that 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, persons with disabilities, and other underserved groups and the elderly to obtain needed health care.

C

The applicant proposes a COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

In Section D, page 77, the applicant states Castle Creek Memory Care is an aging and dated building with 44 residential rooms and 84 licensed ACH beds. The applicant states that the following issues have forced the facility to temporarily cease operations as of April 2022:

- Inability to connect to municipal water and sewer, forcing the operator to manage drinking and wastewater plants, including issues with effluence;
- Recurring moisture issues under the existing foundation, causing mold and other excessive moisture issues;
- An excess of semi-private rooms, as was the norm in the early 1980s.

The applicant states the existing beds at Castle Creek Memory Care have been unavailable since April 2022 and remain unoccupied. Therefore, the relocation of 20 ACH beds as proposed in this application will more effectively serve the residents of the service area. When renovations to Castle Creek Memory Care are complete, the applicant states that facility will remain licensed for 64 ACH beds which will more effectively serve the residents who choose to receive care at that facility.

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 all the reasons described above.

- (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 COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

In Section E, pages 81-82, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- Maintain the status quo and leave the 20 ACH beds proposed in this application to be relocated at Castle Creek Memory Care – The applicant states Castle Creek Memory Care not only temporarily ceased operations in April 2022, but also was only able to achieve a maximum occupancy of approximately 60 residents in the years preceding the COVID-19 pandemic, largely because the rooms are semi-private and the facility is outdated and in need of repair. To do nothing would ignore the needs of the residents these facilities serve and the present condition of the building.
- Relocate the 20 ACH beds to a different facility – The applicant states this is not an effective alternative because the only other affiliate ACH facility in New Hanover County is New Hanover House, which cannot accommodate an additional 20 ACH beds.
- Construct two separate new facilities, one with 20 ACH beds and one with 40 ACH beds – The applicant states this alternative is not financially feasible because neither a 20-bed facility nor a 40-bed facility is an effective alternative to both serve residents and become profitable.

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

- The applicant provides reasonable information to explain why it believes the proposed project is the most effective alternative.
- The application is conforming to all other statutory and regulatory review criteria. Therefore, the application can be approved.

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

- 1. New Hanover Opco, LLC, and New Hanover Propco, LLC (hereinafter certificate holder) shall materially comply with the representations in this application and the representations in Project ID# O-11964-20. Where representations conflict, the certificate holder shall materially comply with the last made representation.**
- 2. The certificate holder shall relocate a total of no more than 20 adult care home beds from Castle Creek Memory Care to The Luminance at Riverlights upon completion of this project, Project I.D. # O-11279-16 and Project ID #O-11964-20.**
- 3. Upon completion of this project and Project ID# O-11964-20, The Luminance at Riverlights shall be licensed for no more than 60 adult care home beds.**
- 4. The certificate holder shall delicense 20 adult care home beds at Castle Creek Memory Care, for a total of 64 adult care home beds at Castle Creek Memory Care.**
- 5. For the first two years of operation following completion of the project, the certificate holder 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 made in the certificate of need application.**
- 6. The certificate holder shall certify at least 25% of the total number of licensed adult care home beds in the facility for recipients of State/County Special Assistance with Medicaid and provide care to those recipients commensurate with representations made in this application and Project ID #O-11964-20.**
- 7. Progress Reports:**
 - a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.**
 - b. The certificate holder shall complete all sections of the Progress Report form.**

- c. **The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.**
 - d. **The first progress report shall be due on September 1, 2023.**
 8. **No later than three months after the last day of each of the first three full fiscal years of operation following initiation of the services authorized by this certificate of need, the certificate holder 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.**
 9. **The certificate holder 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 applicant proposes a COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

Capital and Working Capital Costs

A certificate of need was issued on April 23, 2021, for Project ID# O-11964-20 and authorized a capital cost of \$6,017,875. The current application proposes a capital cost increase of \$3,235,125 over the previously approved capital cost for a total new combined capital cost of \$9,253,000. The COR/COS application is necessary due to a change in site and increased construction and material costs since the original project was approved.

The following table compares the previously combined approved capital costs and the proposed capital cost for this project, as reported by the applicant in Section Q, Form F.1(b):

PREVIOUSLY APPROVED AND PROPOSED CAPITAL COST			
CATEGORY	PROJECT ID # O-11964-20	NEW COST	PROJECT ID # O-12295-22
Site Costs (Cost of Land)	\$550,000	\$1,050,000	\$500,000
Construction Costs	\$3,542,875	\$5,888,000	\$2,345,125
Miscellaneous Costs	\$1,925,000	\$2,315,000	\$390,000
Total	\$6,017,875	\$9,253,000	\$3,235,125

In Section Q, following Form F.1b, the applicant provides the assumptions used to project the capital cost for this COR/COS project. The applicant adequately demonstrates that the projected capital cost is based on reasonable and adequately supported assumptions because it is based on the applicant's experience with similar projects in North Carolina and a review of current market conditions.

In Section F, page 89, the applicant states the current application proposes an increase in working capital costs from what was originally projected in Project ID# O-11964-20, because this project proposes an additional 20 ACH beds for a total of 60 ACH beds. Additionally, the increase in market costs and materials also impacts working capital costs. On page 89, the applicant projects that start-up costs will be \$135,500 and initial operating expenses will be \$1,038,430 for a total working capital of \$1,173,930. This represents an increase of \$741,062 in total working capital from what was approved in Project ID #O-11964-20. On page 89, the applicant provides the assumptions and methodology used to project the working capital needs of the project. The applicant adequately demonstrates that the projected working capital needs of the project are based on reasonable and adequately supported assumptions because the increased costs reflect the increase in the number of beds to be relocated, as well as materials price increases and current market conditions.

Availability of Funds

In Exhibit F.5, the applicant states that the capital and working capital costs will be funded via two loans from Locust Point Capital. Exhibit F.5 contains the following two letters:

- Letter dated September 27, 2022 signed by the Managing Director of Locust Point Capital, confirming an intent to consider financing in the amount of \$9,253,000 for the capital needs of the project.
- Letter dated September 27, 2022 signed by the Managing Director of Locust Point Capital, confirming an intent to consider financing in the amount of \$1,173,930.15 for the working capital costs of the project.

The applicant adequately demonstrates the availability of sufficient funds for the capital and working capital needs of the project because the applicant provides documentation that confirms the availability of loans sufficient to cover those costs.

Financial Feasibility

In Section F, page 90, the applicant states the current application proposes an increase in operating costs from what was originally projected in Project ID# O-11964-20, representing an increase in staffing, furnishings and supplies because of the increase in the number of ACH beds proposed for the facility.

The applicant provided pro forma financial statements for the first three full fiscal years (FY) of operation (December 1, 2025-November 30, 2028) following project completion. In Form F.2b, the applicant projects that revenues will exceed operating expenses in the second and third full fiscal years following project completion, as shown in the following table:

	1ST FULL FY (12/1/25-11/30/26)	2ND FULL FY (12/1/26-11/30/27)	3RD FULL FY (12/1/27-11/30/28)
Total Patient Days of Care (DOC)*	10,828	20,440	20,862
Total Gross Revenues (Charges)	\$1,545,082	\$3,129,672	\$3,191,832
Total Net Revenue	\$1,529,631	\$3,098,376	\$3,159,913
Average Net Revenue per DOC	\$141	\$152	\$151
Total Operating Expenses (Costs)	\$2,554,642	\$2,928,601	\$2,943,992
Average Operating Expense per DOC	\$236	\$143	\$141
Net Income	(\$1,025,011)	\$169,775	\$215,921

*The days of care were rounded by project analyst.

The assumptions used by the applicant in preparation of the pro forma financial statements are provided in Section Q. The applicant adequately demonstrates that the financial feasibility of the proposal is reasonable and adequately supported for the following reasons:

- The applicant accounts for the increase in projected operating expenses, such as salaries, consistent with projections elsewhere in the application.
- The applicant accounts for increases in other expenses consistent with representations made in the application based on the increase in the number of ACH beds and related costs.
- Projected utilization is based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization in Criterion (3) which is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

- The applicant adequately demonstrates that the capital costs are based on reasonable and adequately supported assumptions.
 - The applicant adequately demonstrates availability of sufficient funds for the 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 applicant proposes a COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

On page 177, the 2022 SMFP defines the service area for ACH beds as “...*the county in which the bed is located.*” Thus, the service area for this facility is New Hanover County. Facilities may also serve residents of counties not included in their service area.

The applicant proposes to increase the number of ACH beds to be developed at the proposed facility, The Luminance at Riverlights, by relocating an additional 20 ACH beds from a facility that no longer serves residents because it has temporarily ceased operations. Both facilities, Castle Creek Memory Care and The Luminance at Riverlights, previously approved in Project are located in New Hanover County. The applicant proposes to develop ACH beds that were previously approved for development in the county and proposes to relocate existing beds that are not being used in the county. Project ID #O-11964-20 was conforming to this criterion and the applicant proposes no changes in the current application that 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 all the reasons described 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 COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

In Section H, page 94, the applicant states increasing the number of ACH beds at the proposed facility necessitates increases in staffing from what was approved in Project ID #O-11964-20, but states the changes are quantitative rather than qualitative, in order to comply with regulatory requirements. The applicant proposes to increase staffing in the second and third project years by 3.7 and 4.0 full time equivalent (FTE) positions, respectively. The assumptions and methodology used to project staffing are provided in Section H and Section Q.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to increase the staffing to accommodate the proposed COS application.

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 all the reasons described 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

The applicant proposes a COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

In Section I, page 96, the applicant states there are no changes to the provision of necessary ancillary and support services or changes to coordination with the existing health care system than approved in Project ID# O-11964-20. The information is reasonable and adequately supported because the applicant proposes only to relocate an additional 20 ACH beds that are currently not utilized to The Luminance at Riverlights. Project ID# O-11964-20 was

conforming to this criterion and the applicant proposes no changes in the current application as submitted that 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 all the reasons described above.

- (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 COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

In Section K, page 101, the applicant states this project proposes construction of 25,600 square feet of new construction. The previously approved application proposed construction of 21,582 square feet to accommodate 40 ACH beds. The additional square footage proposed in this application will accommodate the additional 20 ACH beds proposed to be relocated in this application. Additionally, the site proposed for the development of the facility is different than the originally approved site, though it is still in Wilmington in New Hanover County.

In Section K, page 102, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal and provides a certified construction cost estimate in Exhibit K.3 and provides line drawings in Exhibit K.1.

In Section K, pages 102-103, the applicant adequately explains why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services. The applicant states it remains committed to the provision of ACH services to the Medicaid and Special Assistance population in New Hanover County, and the increase in construction costs will be offset by the provision of needed ACH services in the county, particularly since the beds at Castle Creek Memory Care are currently not utilized.

In Section K, page 103, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

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 all the reasons described 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 persons with disabilities, 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 ID# O-11964-20 was conforming to this criterion and the applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, the application is conforming to this criterion.

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

C

Project ID# O-11964-20 was conforming to this criterion and the applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, the application is conforming to this criterion.

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

C

In Section L, page 109, the applicant states there are no changes to projected access by medically underserved groups to what was approved in Project ID# O-11964-20. The information is reasonable and adequately supported because the applicant proposes no change to the type of beds being relocated within New Hanover County. Project ID# O-11964-20 was conforming to this criterion and the applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, 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 ID# O-11964-20 was conforming to this criterion and the applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, 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

The applicant proposes a COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

In Section M, page 110, the applicant states there are no changes to accommodating the clinical needs of area health professional training programs as part of this COR/COS application. Project ID# O-11964-20 was conforming to this criterion and the applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, the application is conforming to this criterion.

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 all the reasons described above.

- (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 COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

On page 177, the 2022 SMFP defines the service area for ACH beds as “...*the county in which the bed is located.*” Thus, the service area for this facility is New Hanover County. Facilities may also serve residents of counties not included in their service area.

In Section N, page 111, the applicant states there are no changes to the expected effects of the proposal on competition in the proposed service area. In Section N, page 112 the applicant states there are changes to the impact of enhanced competition on the cost-effectiveness, quality, and access by medically underserved groups to what was approved in Project ID# O-11964-20. The applicant states relocating existing but unused ACH beds and providing increased ACH capacity in a newer facility to Medicaid recipients would have a positive effect on access by medically underserved groups and quality of services, because the applicant proposes new ACH beds in the same county to serve a greater number of residents, particularly Medicaid and Special Assistance recipients. Therefore, the application is conforming to this criterion.

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 based on all the reasons described 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

The applicant proposes a COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

On Form O in Section Q, the applicant identifies the nursing home facilities located in North Carolina owned, operated, or managed by the applicant or a related entity. The applicant identifies a total of 105 of this type of facility located in North Carolina.

In Section O, page 114, the applicant states that, during the 18 months immediately preceding the submittal of the application, *“the vast majority of the 105 communities ... have been without State Administrative Action...”*. In Exhibit O.4, the applicant provides documentation that 22 of the 105 facilities received some type of violation over the 18 month look back period. The applicant provides documentation in the same exhibit that all facilities are currently back in compliance with CMS Conditions of Participation. After reviewing and considering information provided by the applicant and considering the quality of care provided at all 105 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.

G.S. 131E-183 (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

The applicant proposes a COR/COS for Project ID# O-11964-20 by relocating 20 existing ACH beds from Castle Creek Memory Care to The Luminance at Riverlights, for a total of no more than 60 ACH beds at The Luminance at Riverlights upon project completion.

The Criteria and Standards for Nursing Facility or Adult Care Home Services, promulgated in 10A NCAC 14C .1100, were not applicable to Project ID# O-11964-20 because the rules do not apply to a proposal to relocate existing licensed adult care home beds. The applicant proposes no changes in the current application as submitted that would affect that determination. Therefore, the administrative rules are not applicable to this review.