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Received by the
CON Section

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Ms. Carol Hutchison, Project Analyst
Mr. Craig Smith, Section Chief
Certificate of Need Section
Division of Facility Services
NC Department of Health and Human Services
701 Barbour Drive
Raleigh, North Carolina 27626

RE: Comments on Competing ACH Bed Certificate of Need Applications Filed by:
Liberty Healthcare Properties of Mecklenburg County, LLC – Project ID# **F-8524-10**
Brookdale Place of South Charlotte, LLC – Project ID# **F-8518-10**
Mount Tabor Community Development Corporation – Project ID# **F-8526-10**
The Villages of Mecklenburg County Assisted Living, LLC – Project ID# **F-8517-10**
Queen City Health Investors, LLC – Project ID# **F-8523-10**
Preston House I, LLC – Project ID# **F-8522-10**

Dear Ms. Hutchison and Mr. Smith

On behalf of Waltonwood at Ballantyne, LLC and Waltonwood Management NC, LLC, Project ID# **F-8515-10**, thank you for the opportunity to comment on the above-referenced CON applications for a Certificate of Need for 80 Adult Care Home (ACH) beds in Mecklenburg County. I trust that you will take these comments into consideration during your review of the applications.

We recognize that the State of North Carolina's Certificate of Need award for the Adult Care Home (ACH) beds will be based upon the Certificate of Need health planning objectives, as outlined in GS 131E-183. Specifically, we request that the CON Section give careful consideration to the extent to which each applicant:

1. Brings the positive aspects of competition and increased consumer choice;
2. Demonstrates a high quality, value-based alternative;
3. Offers a proposal that supports quality of resident life and appropriate staffing levels;
4. Offers accessibility in payment structure; and
5. Offers to locate in a geographic area of Mecklenburg County with a need for the number of ACH beds proposed.

Waltonwood Ballantyne believes its proposal to own and operate an 80-bed adult care home facility in Mecklenburg County meets the statutory review criteria and promotes competition by offering high quality, value-based services in a cost-effective manner to a segment of the population that needs the service. Waltonwood Ballantyne's proposal demonstrates extensive analysis of the need for ACH beds in Mecklenburg County. Waltonwood facilities have a history of thoughtful investment in space and amenities, high resident satisfaction and high staffing levels.

Waltonwood Ballantyne is proposing to develop a senior living community with a continuum of care that allows residents to age in place. Waltonwood Ballantyne will offer independent living in addition to traditional adult care, and specialized Alzheimer's adult care. While the independent living portion of the project is not CON reviewable, it is worth noting. It separates Waltonwood from the other applicants and further demonstrates its commitment to quality services.

Competition

Competition among Mecklenburg County adult care providers will be enhanced if ACH beds are awarded to a provider that does not currently offer adult care home services in the county. Adequate competition creates an environment that supports tendencies toward higher quality care, innovations in facility design, more services for the underserved, lower private pay charges, and value-based, quality service. Waltonwood Ballantyne meets these criteria, and proposes the most competitive proposal. It features the second highest direct care hours per resident day, the second highest total FTEs per bed, the highest number of square feet per resident room, the lowest cost per square foot (among those building a new facility), a reasonable private pay charge, a Medicaid percentage above the Mecklenburg County average, and a location that has a need for the number of ACH beds proposed.

High Quality Value-Based Services

As stated on pages two and three of the 2010 SMFP, "North Carolina recognizes the importance of systematic ongoing improvement in the quality of health care services." High quality, value-based services are of major concern to the North Carolina State Health Coordinating Council (SHCC) as evidenced by the recent creation of work groups to review and study how best to evaluate these principles.

Both quantity and outstanding quality of nursing staff are vital to high value adult care home services. Waltonwood Ballantyne will build on the experience of its management of all other Waltonwood facilities, attracting and maintaining proficient nursing staff. Waltonwood staff are evaluated and rewarded for excellence in resident care. Staffing ratios are set high because owners understand that staff contact with residents optimizes care; staff policies and benefits are designed to attract and retain the most highly qualified employees. Waltonwood Ballantyne ranks second among competing applications in total direct care hours per resident day for both traditional adult care and specialized Alzheimer's care. Only Brookdale Place, an existing provider, ranks higher.

Direct Care Hours Per Resident Day

Applicant	Traditional ACH	SCU
Brookdale Place	2.80	4.80
Waltonwood Ballantyne	2.24	4.13
Preston House	N/A	4.13
Queen City	1.99	3.04
The Villages	1.95	3.57
Mount Tabor	1.62	2.19
Liberty	1.24	2.83

Source: Table VII.4 – Individual CON applications

Waltonwood Ballantyne is the only applicant who specifically calculated and accounted for the extra staff required to support personal paid time off (PTO). Hence, answers to questions VII.2, 3, and 4 in the other applications overstate the shift staffing on some days. To offer PTO with the staffing presented, the other facilities will work short on days when staff are using time off. This could result in a facility operating below licensure staffing minimums when staff is using PTO.

In addition to providing a high direct care staffing ratio, Waltonwood Ballantyne provides the second highest total FTEs per bed. This improves the level of staff interaction and attention for residents, which, in turn, promotes higher quality care and services. Again, because other applicants did not account for PTO, their staffing ratios may be inflated when employees use time off.

Total FTEs Per Bed

Applicant	Total FTEs per Bed	Included Paid Time Off
Waltonwood Ballantyne	0.74	Yes
Preston House	1.03	No
Brookdale Place	0.74	No
Queen City	0.73	No
The Villages	0.66	No
Liberty	0.37	No
Mount Tabor	0.17	No

Source: Table VI.1 – Individual CON applications

Investment in space is a critical variable for comparisons of adult care homes. Waltonwood Ballantyne capital and construction costs per bed are the highest among the competitors. Waltonwood costs incorporate a high quality, value-based proposal that “maximizes the health care benefit per dollar expended”. Waltonwood Ballantyne proposes 782 square feet per bed. The nearest competitor proposes only two-thirds of that.

Waltonwood owners believe that an adult care home should be just that, a home. As a result, Waltonwood has planned for a spacious neighborhood design that fosters the feeling of community while encouraging independence and facilitating proper care. The facility will feature generous amenities and a state-of-the-art wellness center. Waltonwood Ballantyne is also intent on offering all residents privacy and autonomy. This translates to a large percentage of private rooms (50 percent.) The facility will also include a coffee café, beauty spa salon, library, DVDs, daily paper, common computer, enclosed courtyards with gardens and walking trails. As such, Waltonwood Ballantyne proposes to construct the most square feet per bed.

Low total cost per square foot also benefits the resident because owners need fewer fees to cover fixed cost. Other than Liberty, Waltonwood Ballantyne proposes the lowest cost per square foot among applicants proposing construction. Liberty’s extremely low costs are questionable. See attached discussion of Liberty’s proposal. By contrast, as noted on page 18 of its application, Waltonwood Ballantyne is owned by a builder/developer that functions as its own general contractor.

A comparison of square feet per bed, square feet per room, cost per bed, cost per square foot, and percentage of private beds is shown in the table below.

Building Comparison

Applicant	Total ACH Beds Proposed	Total SF Proposed	Total Capital Cost	SF Per Bed	SF Per Private Room	Total Cost Per Bed	Total Cost Per SF	Percent Private Beds
Waltonwood Ballantyne	80	62,562	\$7,881,200	782	316	\$98,515	\$125.97	50%
The Villages	100	50,800	\$8,179,095	508	240	\$81,791	\$161.01	64%
Preston House	40	21,217	\$3,015,518	530	156	\$75,388	\$142.13	80%
Liberty	340	167,012	\$1,397,285	491	210	\$4,110	\$8.37	46%
Mount Tabor	130	42,000	\$8,170,000	323	N/A	\$62,846	\$194.52	35%
Queen City	90	33,483	\$5,676,200	372	222	\$63,069	\$169.52	16%
Brookdale Place	37	9,600	\$0	259	260	\$0	\$0.00	35%

Source: Individual CON applications

Waltonwood proposes more land per bed than any applicant. Waltonwood Ballantyne is proposing to purchase 10 acres of land in an accessible and attractive area. The additional acreage provides privacy, ample parking, outdoor activity space and space for future expansion, assuring that the surrounding area remains suitable for an adult care home facility.

Total Facility Acres Per Bed

Applicant	Total ACH Beds	Total Acres Primary Site	Acres per Bed
Waltonwood Ballantyne	80	10.00	12.50
Mount Tabor	130	15.00	11.54
The Villages of Mecklenburg	100	7.00	7.00
Preston House	40	2.25	5.63
Queen City Manor	90	5.00	5.56
Brookdale Place*	88	4.83	5.49
Liberty	340	7.75	2.28

*Total ACH Beds in Facility

Source: Section XI.2 – Individual CON applications

Along with quality, the economics of health-care services are of major importance to residents, payors, and the public. Waltonwood Ballantyne proposes high staffing ratios, high building investment, and a low capital expenditure per square foot. In others words, provides quality services efficiently. Waltonwood Ballantyne proposes to pass these efficiencies on to its residents in the form of reasonable private pay charges. Reasonable private pay charges ensure that middle income citizens, who do not qualify for Medicaid, have access to the proposed services. The table below compares private pay charges among the applicants. Waltonwood Ballantyne’s proposed private pay charges are reasonable and comparable to other applicants, ranking fourth lowest in both ACH private room and ACH semi-private room.

Comparison of Daily Private Pay Charge

Applicant	Private Pay Private Room ACH	Private Pay Semi-Private Room ACH
Liberty	\$99.00	\$89.00
Mount Tabor	\$115.07	\$72.33
Queen City	\$124.93	\$85.48
Waltonwood Ballantyne	\$127.59	\$99.15
The Villages	\$128.22	\$118.40
Brookdale Place	\$132.72	\$117.35
Preston House	N/A	N/A

Source: Table X.4 – Individual CON applications

Finally, Waltonwood Ballantyne proposes the second lowest private pay private room charge markup over it total costs per resident day. This metric has been used in previous CON competitive reviews (e.g. Project ID# P-8183-08 and Project ID# O-7934-07) to compare applicants. A lower markup measures the investment in the resident, or the value proposition

Private Pay Charge Mark-up

Applicant	Total Costs Per Resident Day	Private Pay Private Room Charge ACH	Percent Mark-up
Brookdale Place	\$147.23	\$132.72	-9.9%
Waltonwood Ballantyne	\$101.64	\$127.59	25.5%
Preston House	\$131.39	\$165.00	25.6%
Queen City	\$96.60	\$124.93	29.3%
The Villages	\$99.04	\$128.22	29.5%
Liberty	\$73.83	\$99.00	34.1%
Mount Tabor	Did not project resident days	Did not project resident days	Did not project resident days

Source: Table X.4 and Proformas – Individual CON applications

Accessibility

Waltonwood Ballantyne proposes to offer universal access to residents, and demonstrates this in the proportion of services offered to Medicaid beneficiaries. Waltonwood Ballantyne is the only applicant who documented the statistical need in Mecklenburg County for Medicaid ACH services; all other applicants speculated. As demonstrated on page 122 of Waltonwood Ballantyne’s CON application, the average days covered by Medicaid in Mecklenburg County is 33 percent. Waltonwood Ballantyne proposes more Medicaid days, at a total of nearly 39 percent. This is reasonable. Other applicants project as much as 80 percent Medicaid. Such high percentage of Medicaid days would place more pressure on the already fragile Mecklenburg County and North Carolina budget and would deny access to middle income citizens who do not qualify for Medicaid. Proposing to Medicaid days well below the County average is irresponsible. Brookdale Place is clearly not committed to providing access to the underserved populations of Mecklenburg County. Please see the table below.

Medicaid Percentage – Entire Facility

Applicant	Second Full FY
Waltonwood Ballantyne	38.7%
The Villages	51.5%
Preston House	56.8%
Mount Tabor	70.0%
Queen City	77.4%
Liberty	81.1%
Brookdale Place	10.0%

Source: Table VI.3 – Individual CON applications

Location

Geographic access is important to assure connection between ACH residents and their non-resident support. Transportation and driving distances are important. This makes the location of the proposed ACH beds of particular importance in a county as large as Mecklenburg County. According to the United States Census Bureau, Mecklenburg County occupies over 526 square miles¹.

Waltonwood Ballantyne application contains a through geographic analysis of the need for additional ACH beds in Mecklenburg County, breaking it down into accessible regions. It reveals that the need is spread throughout Mecklenburg County. Seven out of the eight identified regions need additional beds in 2013. To meet this need, ACH beds should be awarded to multiple providers located in different geographic areas. Waltonwood Ballantyne believes its geographic analysis is the most appropriate for this competitive review. Waltonwood Ballantyne divided Mecklenburg County's 29 zip codes and 144 census tracts into eight regions based on population, geography, traffic patterns and roadways.

The only other applicant who performed a through geographic analysis was Queen City². Queen City used similar geographical groupings. The major difference between the two analyses is that Queen City divided the County into only seven groups. This applicant grouped the Ballantyne and Matthews areas with Myers Park, Southpark, and Quail Hollow areas. This is not reasonable. Residents in the Myers Park, Southpark and Quail Hollow areas function independently of and do not identify with Ballantyne and Matthews. It is not reasonable to group areas in census tract 29.01 in near the intersection of Providence Road and Wendover Road in the heart of Myers Park with areas in South Ballantyne that are nearly 13 miles away and take 30 minutes to reach, in five o'clock traffic.

The following table shows the proposed locations of each of the competing applications. These locations can be compared by the need analysis presented in Waltonwood Ballantyne's application.

Proposed Facility Locations

Facility	Street Address	City / Town	Zip Code	Region (Based on Waltonwood Zip Code Analysis)
Queen City	7326 Belhaven Boulevard	Charlotte	28214	2
The Villages	1400 Hunton Lane Road	Huntersville	28078	1
Waltonwood Ballantyne	Providence Road	Charlotte	28105	8
Preston House	4910 Harris Woods Boulevard	Charlotte	28269	3
Mount Tabor	Matthews Township Parkway	Matthews	28105	8
Liberty	3700 Shamrock Drive	Charlotte	28215	6
Brookdale Place	5515 Rea Road	Charlotte	28226	7

Source: Individual CON applications

¹ <http://quickfacts.census.gov/qfd/states/37/37119.html>

² See discussion Queen City's geographic analyses in the attached noncompliance with CON Review Criteria

Applicants propose to locate ACH beds in six of the eight Regions. Based on the methodology described starting on page 87 of Waltonwood Ballantyne’s application, three of the applicants can be eliminated based on need in the proposed region; Liberty (Region 6), Brookdale Place (Region 7), and Mount Tabor (Region 8). These facilities propose to locate in Regions where there is not adequate need. Please see the table below.

Projected ACH Bed Need by Region

Facility	Region (Based on Waltonwood Zip Code Analysis)	Number of ACH Beds Proposed	2013 ACH Region Bed Need	Remaining Need Excess
Queen City	2	90	190	100
The Villages	1	100	188	88
Waltonwood Ballantyne	8	80	117	37
Preston House	3	40	51	11
Mount Tabor	8	130	117	(13)
Liberty	6	340	36	(304)
Brookdale Place	7	37	(512)	(549)

Source: Individual CON applications

Conclusion

Although all of the applicants are surely interested in providing quality services, it is our opinion that for different reasons, all the other competing applications offer less desirable alternatives, fall short of meeting the State of North Carolina’s objectives for the provision of quality health care in most effective manner, or fall short of being conforming with all the CON Section’s Review Criteria.

To summarize, we believe that Waltonwood Ballantyne best meets all the state review criteria and:

- Brings the positive aspects of competition and increased consumer choice;
- Demonstrates a high quality, value-based alternative;
- Offers a proposal that supports quality of resident life and appropriate staffing levels;
- Offers accessibility in payment structure; and
- Offers to locate in a geographic area of Mecklenburg County with a need for the number of ACH beds proposed.

We believe that Waltonwood Ballantyne is the only applicant that successfully addresses and is conforming to all of the CON Review Criteria in its application. Each competing application is discussed within the CON Review Criteria and applicable adult care home special rules framework in the attached observations, addressing only those criteria for which we believe the information provided is nonconforming. We appreciate your time and attention. Please feel free to contact me if you have any questions or concerns

Sincerely,

Mike Kahm / al

Mike Kahm
Vice President
Waltonwood at Ballantyne, LLC
Waltonwood Management NC, LLC

Attachment: Noncompliance with CON Review Criteria

Liberty Healthcare Properties of Mecklenburg County, LLC
Project ID# F-8524-10

NONCOMPLIANCE WITH CON REVIEW CRITERIA

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, ambulatory surgery operating rooms, or home health offices that may be approved.*

Liberty's proposed application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP). The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Therefore, Liberty fails to be consistent with Policy GEN-3: BASIC PRINCIPLES and is thus non-conforming to Review Criterion (1).

Additionally, the proposed project is not consistent with all the special rules in 10A NCAC 14C Section .1100 – Criteria and Standards for Adult Care Home Services, and is thus not conforming to Review Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate that the proposed project is the most effective alternative or that the proposed project has the availability of health manpower and ancillary services. Please see discussion in Review Criterion (4) and (7).

Access

Liberty's proposed Medicaid mix is unreliable. Please see Review Criterion (3) and (13c).

Value

It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the population to be served has a need for the services proposed. Please see discussion in Review Criterion (3). It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the most effective alternative has been proposed. Please see discussion in Review Criterion (4). It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative. Please see discussion in Review Criterion (12).

For these reasons, Liberty failed to demonstrate that its application is consistent with the applicable policies of the SMFP.

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.***

Geographic Analysis

- Liberty uses a township analysis to justify the statistical need for the location of its proposed ACH beds. In Mecklenburg County, unlike most North Carolina counties, a township analysis does not provide a through geographical evaluation of county need. Mecklenburg County has 15 townships. However, according to Claritas, a nationally recognized demographic source, the Charlotte township accounted for over 72 percent of the Mecklenburg County population in 2009. The map in Exhibit 36 of Waltonwood Ballantyne's CON application shows that the Charlotte township also accounts for most of the land area of Mecklenburg County. For these reasons, a township analysis is not effective for evaluating which areas of Mecklenburg County have the greatest need for ACH beds.
- The need analysis presented by Waltonwood Ballantyne starting on page 85 of its CON application shows that the need for 340 ACH beds in Mecklenburg County is dispersed throughout the county. Seven out of the eight defined Regions need additional ACH beds. Waltonwood Ballantyne believes that awarding all 340 beds to one provider, in one location, would not enhance competition that supports tendencies toward higher quality care, innovations in facility design, lower private pay charges, and value-based services. Additionally, Liberty proposes to locate in Region 6, which needs only 36 additional ACH beds. Please see the complete need methodology by Region starting on page 85 of Waltonwood Ballantyne's CON application.

Special Care Alzheimer’s Unit

- Liberty does not adequately document that it needs a special care unit. The application provides no statistical projection of Alzheimer’s cases in Mecklenburg County or how many of these can be served with existing Alzheimer’s beds. The application does not document the need for this service.

Medicaid Beds

- Liberty does not adequately document the need for its proposed Medicaid beds. Without an explanation, the applicant’s projection of approximately 81 percent Medicaid appears to be unreasonable when compared to the Mecklenburg County average of 33 percent documented on page 122 of the Waltonwood Ballantyne application. In fact, the proposal to provide 81 percent of days to Medicaid eligible residents may limit access to other groups of residents in Mecklenburg County.

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.*

Liberty proposes to locate 340 ACH beds in an existing building that previously held 289 nursing home beds. In 2007, Liberty filed two CON applications (Project ID#’s F-7910-07 and F-7911-07) to vacate the building and move the nursing beds to two new facilities. In those CON application’s Liberty stated that the reasons for the bed relocation were:

- “The building contains 289 beds which is not conducive to a home like atmosphere, but rather an institution.”
- “The size of the facility, 289 beds, and the six story structure does not lend itself to the provision of good quality care.”
- “Liberty is very limited in what can be accomplished relative to refurbishing the building.”
- “The facility is limited relative to energy and operational efficiencies.”

Now, Liberty plans to place 340 ACH beds in the same building and proposes to invest only \$8 per square foot in capital costs. The application provides no discussion or description of what types of up-fits will be involved or what improvements will be made to the existing building. Given the comments in the 2007 applications, and the paucity of information in this application, clearly, this plan does not demonstrate how the project will promote safety and quality in the delivery of health care. This application is therefore not the most effective alternative of those proposed. Please see the table below.

Liberty Healthcare

Applicant	Total Square Feet Proposed	Total Capital Cost	Total Cost Per Square Foot
Liberty	167,012	\$1,397,285	\$8.37

Additionally, the application is not conforming to other applicable statutory and regulatory Review Criteria. Therefore, Liberty did not demonstrate the least costly or most effective alternative has been proposed and thus the application is not conforming to this Review Criterion. See discussion in Review Criterion (1), (3), (5), (6), (7), (8), (12), (13c), and (18a).

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.***

Operational Projections

The applicant's operational projections are unsupported and unreliable for the following reasons:

- Liberty provides no detail to explain why its proposed fill-up methodology is reasonable. Liberty assumes a starting occupancy of 30 residents on the first day of operation. The only explanation provided for this assumption is that it is "based on the experience of the applicants." However, Liberty gives no specific references and provides no specific data to verify its statements. The Agency has found admitting 30 residents in one day to be unreasonable in prior decisions. Please see the Agency findings for Project ID# O-7945-07.
- Liberty provides no assumptions for its proposed payor mix. Liberty projects that 81 percent of its days will be used by Medicaid beneficiaries. However, the Mecklenburg County average is 33 percent. Liberty provides no documentation to show that Mecklenburg County needs 274 additional Medicaid ACH beds.

Financial Projections

The applicant's financial projections are unsupported and unreliable for the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower. See discussion in Review Criterion (7).

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project for the following reasons:

- Liberty's bank letter does not indicate willingness to consider financing for \$1,353,400 for the project. The letter simply states that that "Out client has informed the bank (BB&T), that a credit in the amount of \$1,353,400 may be needed to finance renovations" and that "Liberty Healthcare has a material banking relationship with BB&T." The letter does not "indicate a willingness to consider financing the proposed project" as instructed in Section VIII.3.
- Liberty's bank letter does not state the percentage of financing the bank would consider for the proposed project. In today's unstable economic environment, 100 percent financing is becoming increasingly rare. Liberty Healthcare does not document the availability of any equity. With no external offer to at minimum consider financing, and no equity proposed, funding for the project looks uncertain.
- Liberty's bank letter does not refer to Liberty Healthcare Properties of Mecklenburg County, LLC, the entity that will borrow the funds. The bank letter simply refers to "John and Ronald McNeill" and "Liberty Healthcare."
- Liberty's capital costs can not be verified. The fee sheet submitted with the application states that the lessee, Shamrock Village, will have \$1,504,555 in capital expenditure. Section VIII provides no documentation of these capital costs and no discussion of how these capital costs will be funded. Thus, it is impossible to demonstrate the availability of funds necessary to operate the proposed project.

In conclusion, the applicant's operational and financial projections are unreliable and the applicant did not adequately demonstrate the availability of sufficient funds for capital. Therefore, the application is nonconforming to Review Criterion (5).

6. *The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.*

The application failed to adequately demonstrate the need for the proposed adult care home facility. The application proposes to locate 340 ACH beds in a Region of the county (Region 6) that needs only 36 additional ACH beds. Additionally, the application does not document that it needs a special care unit or that residents cannot be served by existing special care beds in the county. Finally, the application does not document why it proposes to provide 81 percent of its resident days to Medicaid beneficiaries when the county average is 33 percent. Therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this Review Criterion.

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.***

In Section VII of its application, the applicant underestimated direct care staffing requirements. The applicant proposed staffing by shift in Table VII.2 and converted these to FTEs in Table VII.3. However, the applicant did not add FTEs to cover staff positions when employees utilize paid time off (PTO). Therefore, the applicant will either be understaffed when employees utilize PTO or will incur additional costs they did not document. Either way, the applicant has not provided resources needed to meet its proposed staffing plan. Therefore, the applicant does not show evidence of the availability of resources including health manpower and management personnel to meet its proposed shift staffing.

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.***

Liberty does not demonstrate that it will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant does not provide a letter or contract from a provider interested in providing chaplain, physician, dental, or skilled nursing services.

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.***

Liberty does not demonstrate that the cost of construction proposed represent the most reasonable alternative. As discussed in Review Criterion (4) above, Liberty submitted two CON applications to relocate 289 nursing home beds from the same building in which it now proposes to license 340 ACH beds. Because Liberty has documented the building's inadequacy in a prior CON application and did not explain why the building could now be salvaged or what improvements would be made to the building to make it inhabitable. Clearly, Liberty did not demonstrate that the construction proposed represented the most reasonable alternative.

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:*

(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*

Without an explanation, the applicant's projection of approximately 81 percent Medicaid appears to be unreasonable when compared to the Mecklenburg County average of 33 percent documented on page 122 of the Waltonwood Ballantyne application.

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 the service for which competition will not have a favorable impact.*

Though a new provider in the county, Liberty is nonconforming with Review Criterion (1), (3), (4), (5), (6), (7), (8), (12), and (13c) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is nonconforming with Review Criterion (18a). Please see discussions in Review Criterion (1), (3), (4), (5), (6), (7), (8), (12), and (13c).

SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES

10A NCAC 14C .1101 INFORMATION REQUIRED OF APPLICANT

(a) **An applicant proposing to establish new nursing facility or adult care home beds shall project an occupancy level for the entire facility for each of the first eight calendar quarters following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.**

The applicant's projections are based on undocumented assumptions. Please see the discussion in Review Criterion (5) above.

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- (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.**

The applicant's projections are based on undocumented assumptions. Please see the discussion in Review Criterion (5) above.

Brookdale Place of South Charlotte, LLC
Project ID# F-8518-10

NONCOMPLIANCE WITH CON REVIEW CRITERIA

- 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, ambulatory surgery operating rooms, or home health offices that may be approved.***

Brookdale Places's application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP). The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Therefore, Brookdale Place is not consistent with Policy GEN-3: BASIC PRINCIPLES and is non-conforming to Review Criterion (1).

Additionally, the proposed project is not consistent with all the special rules in 10A NCAC 14C Section .1100 – Criteria and Standards for Adult Care Home Services, and is thus not conforming to Review Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower and management staff and ancillary services. Please see discussion in Review Criterion (7) and (8).

Access

According to page 69 of its application, Brookdale Place has historically served no Medicaid residents. On page 70 of its application, Brookdale Place proposes to serve only ten percent Medicaid residents. This is well below the Mecklenburg County Medicaid average of 33 percent. Clearly, Brookdale Place is not committed to providing equitable access to the underserved population.

Value

It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate the population to be served has a need for the services proposed. Please see discussion in Review Criterion (3). It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the most effective alternative has been proposed. Please see discussion in Review Criterion (4).

For these reasons, Brookdale Place failed to demonstrate that its application is consistent with the applicable policies of the SMFP.

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.***

Brookdale Place did not adequately demonstrate the need the population to be served has for the proposed project for the following reasons:

- The applicant provides no independent assessment of Mecklenburg County's need for ACH beds. The applicant simply states, on application page 35, that there is a need for 340 ACH beds in Mecklenburg County, per the 2010 State Medical Facilities Plan. The applicant makes no attempt to project future bed need or demonstrate that it is located in an area that needs the 37 additional ACH beds it proposes.
- A more thorough geographical analysis performed by Waltonwood Ballantyne reveals that Brookdale Place is located in Region 7, which has a surplus of 512 ACH beds. Therefore, Brookdale Place did not adequately document that they propose to locate in an area that has a need for 37 additional ACH beds.
- Brookdale Place does not document that it will meet the Medicaid bed need of the population it proposes to serve. On page 70 of its application, Brookdale Place proposes to serve ten percent Medicaid residents. As documented on page 122 of Waltonwood Ballantyne's application, the Mecklenburg County Medicaid average is 33 percent. Additionally, Section III of the Brookdale Places's application provides no discussion of the need for additional Medicaid ACH beds or what plans Brookdale Place has for providing services to Medicaid residents.

In conclusion, Brookdale Place did not adequately demonstrate the need that the population to be served has for the services proposed and does not adequately demonstrate that all persons will have access to its proposed services. Thus, the application is non-conforming to Review Criterion (3).

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.***

In 2002, Brookdale Place had a total of 88 ACH beds and it de-licensed 37 and converted them to independent living beds. Now, Brookdale Place is proposing to re-license these same 37 beds. The application provides no assurance that, if awarded the beds, Brookdale will not again de-license the beds in the future.

Additionally, the application is not conforming to other applicable statutory and regulatory Review Criteria. Therefore, Brookdale Place did not demonstrate the least costly or most effective alternative has been proposed and thus the application is not conforming to this Review Criterion. See discussion in Review Criterion (1), (3), (5), (6), (7), (8), (13c), and (18a).

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.***

Operational Projections

The applicant's operational projections are unsupported and unreliable for the following reasons:

- Brookdale Place provides no assumptions for its proposed payor mix. Brookdale Place projects that only ten percent of its days will be used by Medicaid beneficiaries. However, as documented on page 122 of Waltonwood Ballantyne's application, the Mecklenburg County average is 33 percent.

Financial Projections

The applicant's financial projections are unsupported and unreliable following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower. See discussion in Review Criterion (7).

6. ***The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.***

The application failed to adequately demonstrate the need for the proposed adult care home facility. The application proposes to locate 37 ACH beds in a Region of the county (Region 7) that has a surplus of 512 ACH beds. Therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this Review Criterion.

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.***

In Section VII of its application, the applicant underestimated direct care staffing requirements. The applicant proposed staffing by shift in Table VII.2 and converted these to FTEs in Table VII.3. However, the applicant did not add FTEs to cover staff positions when employees utilize paid time off (PTO). Therefore, the applicant will either be understaffed when employees utilize PTO or will incur additional costs they did not document. Either way, the applicant has not provided resources needed to meet its proposed staffing plan. Therefore, the applicant does not show evidence of the availability of resources including health manpower and management personnel to meet its proposed shift staffing.

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.***

Brookdale Place does not demonstrate that it will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant does not provide a letter or contract from a provider interested in providing physical therapy, speech therapy, occupational therapy, beauty barber, chaplain, physician, or dental services.

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;***

According to Section VI of its application, Brookdale Place has historically served zero Medicaid beneficiaries. As documented on page 122 of Waltonwood Ballantyne's application, the Mecklenburg County average Medicaid percentage is 33 percent. Therefore, Brookdale Place has not historically served the medically underserved populations.

(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***

According to Section VI of its application, Brookdale Place projects to serve only ten percent Medicaid. As documented on page 122 of Waltonwood Ballantyne's application, the Mecklenburg County average Medicaid percentage is 33 percent. Therefore, Brookdale Place does not propose to serve the medically underserved populations.

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 the service for which competition will not have a favorable impact.***

Though a new provider in the county, Brookdale Place is nonconforming with Review Criterion (1), (3), (4), (5), (6), (7), (8), (13a), and (13c) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is nonconforming with Review Criterion (18a). Please see discussions in Review Criterion (1), (3), (4), (5), (6), (7), (8), (13a), and (13c).

SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES

10A NCAC 14C .1101 INFORMATION REQUIRED OF APPLICANT

- (a) **An applicant proposing to establish new nursing facility or adult care home beds shall project an occupancy level for the entire facility for each of the first eight calendar quarters following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.**

The applicant's projections are based on undocumented assumptions. Please see the discussion in Review Criterion (5) above.

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- (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.**

The applicant's traditional adult care home beds operated at only 83 percent occupancy during the last nine months.

- (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.**

The applicant's projections are based on undocumented assumptions. Please see the discussion in Review Criterion (5) above.

Mount Tabor Community Development Corporation
Project ID# F-8526-10

NONCOMPLIANCE WITH CON REVIEW CRITERIA

- 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, ambulatory surgery operating rooms, or home health offices that may be approved.*

The proposed application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP). The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Therefore, Mount Tabor fails to be consistent with Policy GEN-3: BASIC PRINCIPLES and thus, non-conforming to Review Criterion (1).

Additionally, the proposed project is not consistent with all the special rules in 10A NCAC 14C Section .1100 – Criteria and Standards for Adult Care Home Services, and is thus not conforming to Review Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower and management staff and ancillary services. Please see discussion in Review Criterion (7) and (8).

Access

Mount Tabor's proposed Medicaid mix is unreliable. Please see Review Criterion (3) and (13c).

Value

It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the population to be served has a need for the services proposed. Please see discussion in Review Criterion (3). It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the most effective alternative has been proposed. Please see discussion in Review Criterion (4). It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative. Please see discussion in Review Criterion (12).

For these reasons, Mount Tabor failed to demonstrate that its application is consistent with the applicable policies of the SMFP.

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.***

Population to be Served

Mount Tabor did not adequately identify the population to be served for the following reasons:

- On Mount Tabor application page 23, Section III.7. (a), the applicant states, without explanation, that five percent of its projected resident origin is unknown. Thus, the applicant does not identify all of the population to be served by the proposed project. The agency has found this methodology non-conforming in the past. Please see Agency findings for Project ID# O-7945-07.
- It is impossible to verify how many residents will actually be served by the proposed project. Please see discussion in Review Criterion (5).

Need for the Proposed Project

Mount Tabor did not adequately demonstrate the need the population to be served has for the proposed project for the following reasons:

- On application page 7, Mount Tabor proposes a special care unit to serve Alzheimer's and young adult males with disabilities. However, the application does not explain what disabilities they will serve. There is no discussion of the programs for these disabilities in Section II or elsewhere in the application. Furthermore, there is no documentation of the need for services for younger adult males with disabilities.

- Mount Tabor does not adequately document the need for its proposed Alzheimer's special care unit. The application provides no statistical projection of Alzheimer's cases in Mecklenburg County or how many of these cases can be served with existing Alzheimer's beds.
- Mount Tabor does not adequately document the need for its proposed Medicaid beds. Without an explanation, the applicant's projection of approximately 70 percent Medicaid appears to be unreasonable when compared to the Mecklenburg County average of 33 percent documented on page 122 of the Waltonwood Ballantyne application. In fact, the proposal to provide 70 percent of days to Medicaid eligible residents may limit access to other groups of residents in Mecklenburg County.
- Mount Tabor provides no statistical documentation that 130 beds are needed at its proposed location. The applicant simply states that there is a need in Mecklenburg County. This is not adequate documentation of the need at the proposed location. Furthermore, Waltonwood Ballantyne demonstrated in its application that Mount Tabor is located in Region 8, which has inadequate need to support the proposed project. Region 8 will need only 117 additional beds in 2013 and Mount Tabor is proposing 130 beds there. Consequently, Mount Tabor failed to document the need and Waltonwood has demonstrated that Mount Tabor proposes more beds than the area needs.

In conclusion, the applicant does not adequately identify the population to be served and does not adequately demonstrate the need that population has for the services proposed. Therefore, the application is non-conforming to Review Criterion (3).

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.*

The application is not conforming to other applicable statutory and regulatory Review Criteria. Therefore, Mount Tabor did not demonstrate the least costly or most effective alternative has been proposed and thus the application is not conforming to this Review Criterion. See discussion in Review Criterion (1), (3), (5), (6), (7), (8), (12), (13c), (14) and (18a).

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.*

Operational Projections

The applicant's operational projections are unsupported and unreliable for the following reasons:

- Mount Tabor did not project resident days as required in Section IV.2 and IV.3. Sections IV.2 and IV.3 of the Mount Tabor application are blank and no other place in the application provides resident day information.
- The applicant's utilization forecasts are inconsistent throughout the document. Mount Tabor application page 23, Section III, states that it will begin operation with 20 full special care unit beds and 40 full basic adult care beds. The applicant goes on to project a project year one utilization of 60 residents, a project year two utilization of 120 residents, and a project year three utilization of 130 residents. This contradicts Mount Tabor's assumptions provided on application page 26 and in the applicant's proformas. On application page 26, Mount Tabor states that it will begin operation with 12 full special care unit beds and 18 full basic adult care beds. Additionally, on application page 26, Mount Tabor states it will serve 100 residents in project year two and 127 residents in project year three. This is a direct contradiction to the statistics provided on application page 23. In Mount Tabor's proformas, on application pages 75-78, the applicant projects 90 residents in basic adult care beds and 40 residents in special care unit beds, in all three project years.
- Mount Tabor provides no explanation for why its proposed fill-up methodology is reasonable. As discussed above, Mount Tabor proposes to attract between 30 and 60 residents prior to opening. However, the application provides no documentation that this assumption is reasonable. The application simply states that "it will begin marketing the facility in the months prior to licensure." Furthermore, the Agency has found admitting a large number of residents in one day to be unreasonable in prior decisions. Please see the Agency findings for Project ID# O-7945-07.

Financial Projections

The applicant's financial projections are unsupported and unreliable for the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- Proformas do not include operating expenses for the special care unit.
- Despite instruction in the Pre-application conference, the applicant inflated charges each operating year. Consequently, revenues that are based on these charges are unreliable.
- In the proformas, the applicant calculates revenue for the special care unit and the traditional ACH beds on the unreasonable assumption that every bed is occupied every day of the year. Thus projections of net revenues are grossly overstated. It is impossible to tell whether or not this project would be financially feasible.

- The applicant's proformas are incorrect and incomplete. The applicant does not provide a Form C for the third project year. The applicant provides a Form A and a partial project year one Form B. It is unclear why the applicant provided either. It is unclear what data is portrayed in the applicant's Form A. Application question X.6 asks applicants to provide a Form A if the application is for the addition or conversion of beds in an existing facility. Mount Tabor's proposal is not for the addition or conversion of beds in an existing facility. It is unclear why the applicant provide a partial year one Form B. The applicant projects to begin operation October 1 and therefore would not have a partial year.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower and management personnel. See discussion in Review Criterion (7).

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project for the following reasons:

- On application page 48 Mount Tabor proposes to finance \$3,634,000 of the fixed capital cost of the proposed project through "personal commitments." The application provides no documentation that these individuals have access to \$3,634,000. The application simply relies on commitment letters.

Even if the "personal commitments" had verifiable assets, the applicants do not provide sufficient data to demonstrate availability of funds necessary to operate the proposed project for the following reasons:

- The applicant underestimated its construction costs. Application page 47, Table VIII.1, states that construction costs will be approximately \$110 per square foot. This is contradictory to the financing and architect letters provided in Mount Tabor application Exhibits 6 and 8, respectively. In Mount Tabor application Exhibit 6, Deane True, of Charlotte Metro Credit Union, states that construction costs will be approximately \$135 per square foot. In Mount Tabor application Exhibit 8, Paul Woody, of PWAi Architecture, states that construction costs will range between \$120 and \$135 per square foot. This is important because Mount Tabor's commitment letters offer insufficient funds to cover an increase in capital costs.
- The applicant's working capital needs are unverifiable. On Mount Tabor application page 51, the applicant projects a start-up cost of \$125,000 and an initial operating expense of \$660,380 which should equal total working capital of \$785,380 ($\$125,000 + \$660,380 = \$785,380$). However, on the same page, the applicant projects a total working capital need of \$2,560,000.

In conclusion, the applicant's operational and financial projections are unreliable and the applicant did not adequately demonstrate the availability of sufficient funds for capital. Therefore, the application is nonconforming to Review Criterion (5).

6. *The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.*

The application failed to adequately demonstrate the need for the proposed adult care home facility. The application proposes to locate 130 ACH beds in a Region of the county (Region 8) that needs only 117 additional ACH beds. Additionally, the application does not document that it needs a special care unit or that residents cannot be served by existing special care beds. Finally, the application does not document why it proposes to provide 70 percent of its resident days to Medicaid beneficiaries when the county average is 33 percent. Therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this Review Criterion.

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.*

The applicant does not show evidence of the availability of resources including health manpower and management personnel, for the provision of the services proposed for the following reasons:

- The applicant does not provide evidence of qualified management personnel. The applicant has no history of developing or operating an adult care home. Furthermore, the application provides contradictory information on who will manage the proposed facility. On application page 59, the applicant states that the facility will have a management contract. However, no contract is provided as an Exhibit and there is no other discussion of the management company, or contract, in the application.
- In Section VII of its application, the applicant underestimated direct care staffing requirements. The applicant proposed staffing by shift in Table VII.2 and converted these to FTEs in Table VII.3. However, the applicant did not add FTEs to cover staff positions when employees utilize paid time off (PTO). Therefore, the applicant will either be understaffed when employees utilize PTO or will incur additional costs they did not document. Either way, the applicant has not provided resources needed to meet its proposed staffing plan. Therefore, the applicant does not show evidence of the availability of resources including health manpower and management personnel to meet its proposed shift staffing. Furthermore, Mount Tabor proposes a low number of direct care hours per patient day, 1.62 in traditional ACH beds and 2.19 in special care ACH beds, while proposing a two million dollar profit in the third project year.

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.***

Mount Tabor does not demonstrate that it will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services for the following reasons:

- On application page 10, the applicant states that it will provide a dietician. However, the applicant does not provide a letter or contract from a provider interested in providing these services. This is important because, 10A NCAC 13F .0904 (c) (6) requires that menus for all therapeutic diets are planned or reviewed by a registered dietician.
- On application pages 11 and 12, the applicant states that it will provide beauty and barber and physical therapy/occupational therapy/speech therapy services. However, the applicant does not provide a letter or contract from a provider interested in providing these services.
- On application page 14, the applicant states that it will arrange for pharmacy and RN consultant services. However, the applicant does not provide a letter or contract from a provider interested in providing these services.

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.***

The applicant does not demonstrate that the cost of construction proposed represents the most reasonable alternative for the following reasons:

- On pages 60 and 63, the application states that site plan approval will be required to obtain appropriate zoning for the primary and secondary sites. The applicant provides no description of the special use permit process making it impossible to determine if appropriate costs are allocated in Table VIII.1. Please see also see discussion in 10A NCAC 14C .1101 (e).
- It is unclear clear how much construction will actually cost. On application page 47, Table VIII.1, the applicant states that construction costs will be approximately \$110 per square foot. This is contradictory to the financing and architect letters provided in Exhibits 6 and 8. In Exhibit 6, Deane True of Charlotte Metro Credit Union, states that construction costs will be approximately \$135 per square foot. In Exhibit 8, Paul Woody of PWAi Architecture, states that construction costs will range between \$120 and \$135 per square foot. The application contains no discussion of reasons for these differences.

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:*

(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*

Without an explanation, the applicant's projection of approximately 70 percent Medicaid appears to be unreasonable when compared to the Mecklenburg County average of 33 percent documented on page 122 of the Waltonwood Ballantyne application.

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

Mount Tabor does not demonstrate that *the proposed health services accommodate the clinical needs of health professional training programs in the area* . The application states that "the lack of time did not allow the applicant to reach that objective." Therefore, by its own admission, the application did not document that it will meet this criteria.

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 the service for which competition will not have a favorable impact.*

Though a new provider in the county, Mount Tabor is nonconforming with Review Criterion (1), (3), (4), (5), (6), (7), (8), (12), (13c), and (14) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is nonconforming with Review Criterion (18a). Please see discussions in Review Criterion (1), (3), (4), (5), (6), (7), (8), (12), (13c), and (14).

SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES

10A NCAC 14C .1101 INFORMATION REQUIRED OF APPLICANT

- (a) **An applicant proposing to establish new nursing facility or adult care home beds shall project an occupancy level for the entire facility for each of the first eight calendar quarters following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.**

The applicant is non-conforming to this Review Criterion. The applicant does not provide occupancy projections for each of the first eight calendar quarters following completion of the project. Please see discussion in Review Criterion (5).

- (b) **An applicant proposing to establish new nursing facility or adult care home beds shall project patient origin by percentage by county of residence. All assumptions, including the specific methodology by which patient origin is projected, shall be stated.**

The applicant is non-conforming to this Review Criterion. On Mount Tabor application page 23, Section III.7. (a), the applicant states that five percent of its resident origin is unknown. Thus, the applicant does not project resident origin by percentage by county of residents. Furthermore, the applicant's resident origin is based on undocumented assumptions. Please see discussion in Review Criterion (3).

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- (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.**

Projections are based on flawed assumptions and unreliable projections. Please see discussion in Review Criterion (5) above.

The Villages of Mecklenburg County Assisted Living, LLC
Project ID# F-8517-10

NONCOMPLIANCE WITH CON REVIEW CRITERIA

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, ambulatory surgery operating rooms, or home health offices that may be approved.*

The proposed application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP). The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Therefore, The Villages fails to be consistent with Policy GEN-3: BASIC PRINCIPLES and thus, non-conforming to Review Criterion (1).

Additionally, the proposed project is not consistent with all the special rules in 10A NCAC 14C Section .1100 – Criteria and Standards for Adult Care Home Services, and is thus not conforming to Review Criterion (1).

It is also important to note that the applicant did not utilize the correct application form. This applicant used the Nursing Home Application Form. Consequently, it is difficult to compare this application with others in the batch. Section reference will be specific to the application The Villages utilized.

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower and management staff and ancillary services. Please see discussion in Review Criterion (7) and (8).

Access

The Village's proposed Medicaid mix is unreliable. Please see Review Criterion (3) and (13c).

Value

It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate the population to be served has a need for the services proposed. Please see discussion in Review Criterion (3). It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the most effective alternative has been proposed. Please see discussion in Review Criterion (4). It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative. Please see discussion in Review Criterion (12).

For these reasons, The Villages failed to demonstrate that its application is consistent with the applicable policies of the SMFP.

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.***

The Villages did not adequately demonstrate the need the population to be served has for the proposed project for the following reasons:

- The Villages does not adequately document that it needs a special care unit. The application provides a qualitative discussion, but no statistical projection of Alzheimer's cases in Mecklenburg County. Nor does it demonstrate how many of these cases can be served with existing Alzheimer's beds.
- The Villages does not adequately document the need for its proposed Medicaid beds. Without an explanation, the applicant's projection of approximately 52 percent Medicaid appears to be unreasonable when compared to the Mecklenburg County average of 33 percent documented on page 122 of the Waltonwood Ballantyne application. In fact, the proposal to provide 52 percent of days to Medicaid eligible residents may limit access to other groups of residents in Mecklenburg County.
- The Village's need methodology, which starts on application page 87, is incomplete and impossible to recreate. It does not show the number of ACH beds needed outside its proposed area nor does the methodology make any attempt to project future bed need past the first project year.
- The applicant provides no independent assessment of Mecklenburg County's need for adult care home beds. The applicant simply states, on The Villages application page 85, that there is a need for 340 adult care home beds in Mecklenburg County, per the 2010 State Medical Facilities Plan.

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.***

The application is not conforming to other applicable statutory and regulatory Review Criteria. Therefore, The Villages did not demonstrate the least costly or most effective alternative has been proposed and thus the application is not conforming to this Review Criterion. See discussion in Review Criterion (1), (3), (5), (6), (7), (8), (12), (13c), and (18a).

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.***

Operational Projections

The applicant's operational projections are unsupported and unreliable for the following reasons:

- The Villages provides no explanation for why its proposed fill-up methodology is reasonable. Additionally, The Villages provides no assumptions or specific methodology for its proposed fill-up. The Agency has found this non-conforming in the past. Please see Agency findings Project ID# O-7942-07.
- Additionally, it is unclear if the management company has a history of starting adult care homes. The Villages application provides minimal information on the applicant and the management company.
- The Villages provides no assumptions for its proposed payor mix. The Villages projects that 52 percent of its days will be used by Medicaid beneficiaries. However, the Mecklenburg County average is 33 percent.

Financial Projections

The applicant's financial projections are unsupported and unreliable the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- It is impossible to verify The Village's revenue assumptions in Form B. On Form B, pages 170 through 172, the application shows revenue being received from Social Security and Supplemental Security. Neither in the proforma assumptions nor in information provided in Section X, does the applicant explain why it is projecting Social Security and Supplemental Security income.
- It is impossible to verify site costs provided in Table VIII.1. See discussion in Review Criterion (12).
- The applicant failed to budget adequate expenses for appropriate levels of health manpower. See discussion in Review Criterion (7).

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project for the following reasons:

- The applicant's capital costs can not be verified. It is impossible to verify if the applicant's site costs are correct. Thus, it is impossible to demonstrate the availability of funds necessary to operate the proposed project. Please see discussion in Review Criterion (12).
- If the Agency can verify the site costs as accurate, the applicant's capital costs are still underestimated. On page 158A of The Village's application, the applicant states its estimated primary site cost is \$591,000. On page 160 of The Village's application, the applicant states its estimated secondary site cost is \$600,000. However, the applicant used the cheaper site cost (\$591,000) in its capital costs estimate on page 137. This is important because the funding letter provided in The Villages application Exhibit 12 will not cover an increase in capital costs.

In conclusion, the applicant's operational and financial projections are unreliable and the applicant did not adequately demonstrate the availability of sufficient funds for capital. Therefore, the application is nonconforming to Review Criterion (5).

6. *The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.*

The application failed to adequately demonstrate the need for the proposed adult care home facility. The application's need methodology is incomplete and impossible to recreate. It does not show the number of ACH beds needed outside its proposed area nor does the methodology make any attempt to project future ACH bed need past the first project year. Additionally, the application does not document that it needs a special care unit or that residents cannot be served by existing special care beds. Finally, the application does not document why it proposes to provide 52 percent of its resident days to Medicaid beneficiaries when the county average is 33 percent. Therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this Review Criterion.

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.*

The applicant does not show evidence of the availability of resources including health manpower and management personnel, for the provision of the services proposed for the following reasons:

- The applicant does not provide evidence of qualified corporate management services. The applicant provides minimal information on the applicant's or the management company's prior history in operating adult care homes. In addition, the application does not explain what services the management company will provide.
- In Section VII of its application, the applicant underestimated direct care staffing requirements. The applicant proposed staffing by shift in Table VII.2 and converted these to FTEs in Table VII.3. However, the applicant did not add FTEs to cover staff positions when employees utilize paid time off (PTO). Therefore, the applicant will either be understaffed when employees utilize PTO or will incur additional costs they did not document. Either way, the applicant has not provided resources needed to meet its proposed staffing plan. Therefore, the applicant does not show evidence of the availability of resources including health manpower and management personnel to meet its proposed shift staffing.

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.***

The Villages does not demonstrate that it will make available or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant does not provide a letter or contract from a provider interested in providing dietician, pharmacy consulting, home health services, or nurse consulting services to the proposed facility. In The Village's application Exhibit 33, the applicant provides letters of interest for pharmacy consulting and home health services but the letters do not address the applicant or reference the proposed facility.

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.***

The applicant does not demonstrate that the cost of construction proposed represent the most reasonable alternative, It is impossible to verify the applicant's site costs. In Exhibit 36, the applicant provides letters documenting the availability of multiple land parcels. In Exhibit 24 the applicant provides a land deed for an additional land parcel. However, the applicant never explains which parcels of land make up the primary and secondary sites and it is therefore impossible to determine the cost of the site. Consequently, The Villages did not demonstrate that the construction proposed represented the most reasonable alternative.

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:***

- (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***

Without an explanation, the applicant's projection of approximately 52 percent Medicaid appears to be unreasonable when compared to the Mecklenburg County average of 33 percent documented on page 122 of the Waltonwood Ballantyne application.

- 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 the service for which competition will not have a favorable impact.***

Though a new provider in the county, The Villages is nonconforming with Review Criterion (1), (3), (4), (5), (6), (7), (8), (12), and (13c) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is nonconforming with Review Criterion (18a). Please see discussions in Review Criterion (1), (3), (4), (5), (6), (7), (8), (12), and (13c).

SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES

10A NCAC 14C .1101 INFORMATION REQUIRED OF APPLICANT

- (a) An applicant proposing to establish new nursing facility or adult care home beds shall project an occupancy level for the entire facility for each of the first eight calendar quarters following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.**

Projections are based on undocumented assumptions. Please see discussion in Review Criterion (5) above.

- (d) An applicant proposing to establish a new nursing facility or adult care home shall specify the site on which the facility will be located. If the proposed site is not owned by or under the control of the applicant, the applicant shall specify at least one alternate site on which the services could be operated should acquisition efforts relative to the proposed site ultimately fail, and shall demonstrate that the proposed and alternate sites are available for acquisition.**

The applicant is non-conforming to this Review Criterion. It is impossible to verify what site, or sites, will be used for the proposed facility. In The Villages application Exhibit 36, the applicant provides letters documenting the availability of multiple land parcels. In The Villages application Exhibit 24 the applicant provides a land deed for an additional land parcel. However, it is impossible to verify which land parcel, or parcels, will be utilized for the proposed facility. Please see full discussion in the discussion of Review Criterion (12) above.

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- (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.**

Projections are based on undocumented assumptions. Please see discussion in Review Criterion (5) above.

Queen City Health Investors, LLC
Project ID# F-8523-10

NONCOMPLIANCE WITH CON REVIEW CRITERIA

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, ambulatory surgery operating rooms, or home health offices that may be approved.*

The proposed application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP). The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Therefore, Queen City is not consistent with Policy GEN-3: BASIC PRINCIPLES and thus, non-conforming to Review Criterion (1).

Additionally, the proposed project is not consistent with all the special rules for adult care home services, in 10A NCAC Section 14C .1100 – Criteria and Standards for Adult Care Services, in II.1, thus, is not conforming to Review Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower and management staff and ancillary services. Please see discussion in Review Criterion (7) and (8).

Access

Queen City's proposed Medicaid mix is unreliable. Please see Review Criterion (3) and (13c).

Value

It is impossible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate the population to be served has a need for the services proposed. See discussion in Review Criterion (3). It is impossible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the most effective alternative has been proposed. See discussion in Review Criterion (4). For these reasons, Queen City failed to demonstrate that its application is consistent with the applicable policies of the SMFP.

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.***

Queen City did not adequately demonstrate the need the population to be served has for the proposed project for the following reasons:

- Queen City's independent assessment of Mecklenburg County's need for adult care home bed is incomplete. The applicant makes no attempt to project future ACH bed need past the first project year.
- Queen City does not adequately document the need for its proposed Alzheimer's special care unit. The application provides no statistical projection of how Mecklenburg County's projected Alzheimer's need translates to the need for Alzheimer's beds in an adult care home, in Mecklenburg County. Furthermore, the applicant projects the Mecklenburg County Alzheimer's need for only 2013. It fails to address the other project years.
- Queen City does not adequately document the need for its proposed Medicaid beds. Without an explanation, the applicant's projection of approximately 77 percent Medicaid appears to be unreasonable when compared to the Mecklenburg County average of 33 percent documented on page 122 of the Waltonwood Ballantyne application. In fact, the proposal to provide 77 percent of days to Medicaid eligible residents may limit access to other groups of residents in Mecklenburg County.

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.***

The application is not conforming to other applicable statutory and regulatory review criteria. Therefore, Queen City did not demonstrate the least costly or most effective alternative has been proposed and thus, the application is not conforming to this Review Criterion. See discussion in Criteria (1), (3), (5), (6), (7), (8), (13c), and (18a).

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.***

Operational Projections

The applicant's operational projections are unsupported and unreliable for the following reasons:

- Queen City provides no explanation for why its proposed fill-up methodology is reasonable. Queen City proposes to attract 20 residents prior to opening. However, the application provides no documentation to show that this assumption is reasonable. In a prior Decision, the Agency found admitting a large number of residents in one day to be unreasonable. Please see the Agency Findings for Project ID# O-7945-07.
- Queen City provides no assumptions for its proposed payor mix. Queen City projects that 77 percent of its days will be used by Medicaid beneficiaries. However, the Mecklenburg County average is 33 percent.

Financial Projections

The applicant's financial projections are unsupported and unreliable for the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- It is impossible to verify Queen City's revenue assumptions in Form B. On Form B, pages 94 through 96, the applicant shows revenue being received from Social Security. Neither in the proforma assumptions nor in information provided in Section X, does the applicant explain why it is projecting Social Security income.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower. See discussion in Review Criterion (7).
- Application question IX.7.(c) states that all applicants must complete Form B and C. The Queen City application provides proformas for only one of the two applicants. Without a balance sheet for the property owner, it is not possible to determine if the applicant will have adequate cash flows from rental income.

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project for the following reasons:

- The application fails to demonstrate availability of funds for capital needs. Page 63 of the Queen City application shows capital expenditures totaling \$5,676,200. In the same Section VIII, the application notes that all costs will be financed through a commercial loan. However, it is impossible to determine if the lending institution, NRF Healthcare Management, LLC, has the capacity to lend \$5,676,200. The application provides no documentation of NRF Healthcare Management, LLC's assets; and NRF Healthcare Management, LLC is not a verifiable public financial institution³. Because the availability of funds for capital costs cannot be evaluated, the application is nonconforming to this Review Criterion. The Agency has found this type of funding documentation unacceptable for Projects ID#'s O-7945-07, P-8175-08, and D-8377-09.
- It is also impossible to verify the availability of funds for initial working capital. Exhibit P states funding in the amount of \$276,510 will be provided by NRF Healthcare Management, LLC. As was the case with capital cost funding, it is impossible to determine if NRF Healthcare Management, LLC has the capacity to lend \$276,510 for initial working capital costs. The application provides no documentation of NRF Healthcare Management, LLC's assets and it is not a verifiable public financial institute. Because the availability of funds for initial working capital costs cannot be evaluated, the application is nonconforming to this Review Criterion.

In conclusion, the applicant's operational and financial projections are unreliable and the applicant did not adequately demonstrate the availability of sufficient funds for capital. Therefore, the application is nonconforming to Review Criterion (5).

³ On December 7, 2009, NorthStar Healthcare Investors, Inc. ("NorthStar Healthcare"), a subsidiary of NorthStar Realty Finance Corp. ("NRF"), filed a registration statement on Form S-11 with the Securities and Exchange Commission relating to a proposed initial public offering of NorthStar Healthcare common stock.

NorthStar Healthcare was formed to continue and expand NRF's existing senior housing business, which it has operated through Wakefield Capital, LLC. NorthStar Healthcare will be externally managed by NRF Healthcare Management, LLC, a subsidiary of NRF, and will seek to qualify as a real estate investment trust for federal income tax purposes.

6. ***The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.***

The application failed to adequately demonstrate the need for the proposed adult care home facility. The application's need methodology is incomplete. It makes no attempt to project future ACH bed need past the first project year. Additionally, the application does not document that it needs a special care unit or that residents cannot be served by existing special care beds. Finally, the application does not document why it proposes to provide 77 percent of its resident days to Medicaid beneficiaries when the county average is 33 percent. Therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this Review Criterion.

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.***

The applicant does not show evidence of the availability of resources including health manpower and management personnel for the provision of the services proposed.

- The applicant did not budget appropriate funds for dietician visits. On Queen City application page 56, the applicant states that dietician visits will be provided free of charge. However, the letter from Sysco in Exhibit X states that there will be costs associated with registered dietician consultation. The letter does state that costs will be predetermined and agreed upon, but the applicant provides no evidence that this service will be provided for free.
- In Section VII of its application, the applicant underestimated direct care staffing requirements. The applicant proposed staffing by shift in Table VII.2 and converted these to FTEs in Table VII.3. However, the applicant did not add FTEs to cover staff positions when employees utilize paid time off (PTO). Therefore, the applicant will either be understaffed when employees utilize PTO or will incur additional costs they did not document. Either way, the applicant has not provided resources needed to meet its proposed staffing plan. Therefore, the applicant does not show evidence of the availability of resources including health manpower and management personnel to meet its proposed shift staffing.

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.***

Queen City does not demonstrate that it will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant does not provide a letter or contract from a provider interested in providing beauty and barber or home health services to the proposed facility.

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:*

(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*

Without an explanation, the applicant's projection of approximately 77 percent Medicaid appears to be unreasonable when compared to the Mecklenburg County average of 33 percent documented on page 122 of the Waltonwood Ballantyne application.

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 the service for which competition will not have a favorable impact.*

Though a new provider in the county, Queen City is nonconforming with Review Criterion (1), (3), (4), (5), (6), (7), (8), and (13c) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is non-conforming with this Review Criterion. Please see discussions in Review Criterion (1), (3), (4), (5), (6), (7), (8), and (13c).

SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES

10A NCAC 14C .1101 INFORMATION REQUIRED OF APPLICANT

- (a) **An applicant proposing to establish new nursing facility or adult care home beds shall project an occupancy level for the entire facility for each of the first eight calendar quarters following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.**

Projections are based on unrealistic assumptions. Please see discussion in Review Criterion (5) above

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- (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.**

Projections are based on unrealistic assumptions. Please see discussion in Review Criterion (5) above.

Preston House I, LLC
Project ID# F-8522-10

NONCOMPLIANCE WITH CON REVIEW CRITERIA

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, ambulatory surgery operating rooms, or home health offices that may be approved.*

Overview

The proposed application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP). The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Therefore, Preston House fails to be consistent with Policy GEN-3: BASIC PRINCIPLES and thus, non-conforming to Review Criterion (1).

Additionally, the proposed project is not consistent with all the special rules in 10A NCAC 14C Section .1100 – Criteria and Standards for Adult Care Home Services, and is thus not conforming to Review Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower staff and ancillary services. Please see discussion in Review Criterion (7) and (8).

Access

Preston House's desire to truly achieve its proposed Medicaid mix is unreliable. Please see Review Criterion (3) and (13c).

Value

It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate the population to be served has a need for the services proposed. Please see discussion in Review Criterion (3). It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate that the most effective alternative has been proposed. Please see discussion in Review Criterion (4).

For these reasons, Preston House failed to demonstrate that its application is consistent with the applicable policies of the SMFP.

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.***

Population to be Served

Preston House did not adequately identify the population to be served for the following reasons:

- Preston House does not adequately identify the population to be served. On Preston House application page 61, Section III.7 (a), the applicant states that 85 percent of its residents will originate from Mecklenburg County and the remaining 15 percent will originate from Iredell, Rowan, and Cabarrus County. However, this information is inconsistent with the applicant's utilization assumptions in Section IV.2 (e). On Preston House application page 77, Section IV.2 (e), the applicant states that 85 percent of its residents will originate from Iredell County and the remaining 15 percent will originate from Mecklenburg, Rowan, and Cabarrus County.

Need for the Proposed Project

Preston House did not adequately demonstrate the need the population to be served has for the proposed project for the following reasons:

- Preston House proposes to add 40 ACH beds to its existing facility. However, Preston House provides no independent analysis of the need for 40 additional ACH beds in any area of Mecklenburg County.
- The Preston House methodology for projecting adult care home beds dedicated to Alzheimer's care is flawed. On Preston House application pages 72, 74, and 76, the applicant states that 30 percent of the service area's Alzheimer's residents will be cared for in a facility and applicant references an article from the North Carolina Division on Aging and Adult Services as the basis for the 30 percent. However, the article does not specify that 30 percent of people cared for in a facility are all cared for in adult care homes. The applicant inappropriately assumes that the 30 percent relates to only adult care home facilities. Nursing home facilities also care for residents with Alzheimer's.
- Preston House does not adequately document the need for its proposed Medicaid beds. Without an explanation, the applicant's projection of approximately 57 percent Medicaid appears to be unreasonable when compared to the Mecklenburg County average of 33 percent documented on page 122 of the Waltonwood Ballantyne application and Preston House's history of serving approximately 29 percent Medicaid. In fact, the proposal to provide 57 percent of days to Medicaid eligible residents may limit access to other groups of residents in Mecklenburg County.

In conclusion, the applicant does not adequately identify the population to be served and does not adequately demonstrate the need that its projected population has for the services proposed. Thus, the application is non-conforming to Review Criterion (3).

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.***

The application is not conforming to other applicable statutory and regulatory review criteria. Therefore, Preston House did not demonstrate the least costly or most effective alternative has been proposed and thus, the application is not conforming to this Review Criterion. See discussion in Criteria (1), (3), (5), (6), (7), (8), (13a), (13c), and (18a).

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.***

Operational Projections

The applicant’s operational projections are unsupported and unreliable for the following reasons:

- The applicant’s utilization projections are incorrect. On Preston House application pages 71 through 77, the applicant provides a detailed methodology to project its utilization in all three project years. However, the applicant utilizes incorrect county population estimates in all three project years. The tables below compare the applicant’s total projected county population estimates to actual estimates from the State Demographer.

Preston House Population Estimates, 65+

County	FY 2013	FY 2014	FY 2015
Cabarrus	24,012	25,131	26,318
Mecklenburg	22,864	23,735	24,670
Iredell	103,466	109,011	114,661
Rowan	21,519	22,136	22,758

Source: Preston House Application Pages 72, 74, 76

State Demographer Population Estimates, 65+

County	FY 2013	FY 2014	FY 2015
Cabarrus	21,608	22,387	23,246
Mecklenburg	93,783	98,336	103,023
Iredell	21,959	22,662	23,433
Rowan	21,415	21,918	22,433

Source: demog.state.nc.us

The differences are significant. Please see the table below.

Preston Woods less State Demographer Population Estimates, 65+

County	FY 2013	FY 2014	FY 2015
Cabarrus	2,404	2,744	3,072
Mecklenburg	-70,919	-74,601	-78,353
Iredell	81,507	86,349	91,228
Rowan	104	218	325

- Because the applicant's population estimates are incorrect, the applicant's estimates of need are also incorrect. Furthermore, project year one resident estimates cannot be recreated. The applicant provides no assumption to validate its basis for estimating project year one residents. On Preston House application page 77, the applicant states that it will maintain its current resident origin and double its residents from each county by project year two. However, the applicant provides no methodology or reasoning for its forecast of project year one residents.

Financial Projections

The applicant's financial projections are unsupported and unreliable the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower. See discussion in Review Criterion (7).

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project for the following reasons:

- On Preston House application page 99, Section VIII.2, the applicant states that \$85,000 of the projected capital costs will be financed by a developer. However, the applicant provides no documentation from a developer promising \$85,000 to develop the proposed project. The applicant provides a letter from a developer in Exhibit 15, but the letter does not commit to provide any amount of funding.
- Preston House application Exhibit 15 states that Preston House I, LLC will obligate and commit \$182,230 in cash currently on deposit at BB&T for the sole purpose of partially funding the development of the Preston House 40-bed expansion. However, the applicant provides no documentation that Preston House I, LLC has \$182,230 on deposit at BB&T. In Preston House application Exhibit 15, the applicant provides a letter from BB&T documenting available funds for Preston House, LLC; not Preston House I, LLC.

In conclusion, the applicant's operational and financial projections are unreliable and the applicant did not adequately demonstrate the availability of sufficient funds for capital. Therefore, the application is nonconforming to Review Criterion (5).

6. ***The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.***

The application failed to adequately demonstrate the need for the proposed adult care home facility. The application proposes to add 40 ACH beds to its existing facility. However, the application provides no independent analysis of the need for 40 additional ACH beds in any area of Mecklenburg County. Additionally, the application does not document why it proposes to provide 57 percent of its resident days to Medicaid beneficiaries when the county average is 33 percent and it has historically served 29 percent. Therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this Review Criterion.

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.***

In Section VII of its application, the applicant underestimated direct care staffing requirements. The applicant proposed staffing by shift in Table VII.2 and converted these to FTEs in Table VII.3. However, the applicant did not add FTEs to cover staff positions when employees utilize paid time off (PTO). Therefore, the applicant will either be understaffed when employees utilize PTO or will incur additional costs they did not document. Either way, the applicant has not provided resources needed to meet its proposed staffing plan. Therefore, the applicant does not show evidence of the availability of resources including health manpower and management personnel to meet its proposed shift staffing.

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.***

The applicant does not show evidence of the availability of resources including health manpower and management personnel, for the provision of the services proposed for the following reasons:

- On Preston House application page 36, the applicant states that it will provide beauty and barber, podiatry, and catering services. However, the applicant does not provide a letter or contract from a provider interested in providing these services.
- The applicant does not propose a relationship with a registered dietician. This is important because, 10A NCAC 13F .0904 (c) (6) requires that menus for all therapeutic diets are planned or reviewed by a registered dietician.

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;

According to Section VI of its application, Preston House has historically provided 29 percent of its patient days to Medicaid beneficiaries. As documented on page 122 of Waltonwood Ballantyne's application, the Mecklenburg County average is 33 percent. Furthermore, the applicant routinely turns Medicaid residents away. On Preston House application page 49, the applicant states that from January 1, 2009 through March 31, 2010 it turned away 97 Medicaid residents. According to information provided in its license renewal application and in Section IV of its application, it does not appear that Preston House was at 100 percent occupancy during this time period.

(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

Without an explanation, the applicant's projection of approximately 57 percent Medicaid appears to be unreasonable when compared to the Mecklenburg County average of 33 percent documented on page 122 of the Waltonwood Ballantyne application and Preston House's history of serving approximately 29 percent Medicaid.

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 the service for which competition will not have a favorable impact.

As an existing provider of adult care home services in Mecklenburg County, approval of Preston House's application will not enhance competition by adding a new provider option. It does not provide the lowest charges and it does not propose adequate staffing to meet its shift plan. Thus this applicant will not add positive competitive elements of the cost effectiveness, quality, and access to the services proposed, and thus, the application is nonconforming with this Review Criterion.

Additionally, Preston House is nonconforming with Review Criterion (1), (3), (4), (5), (6), (7), (8), (13a), and (13c) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is non-conforming with this Review Criterion. Please see discussions in Review Criterion (1), (3), (4), (5), (6), (7), (8), (13a), and (13c).

SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES

10A NCAC 14C .1101 INFORMATION REQUIRED OF APPLICANT

- (a) **An applicant proposing to establish new nursing facility or adult care home beds shall project an occupancy level for the entire facility for each of the first eight calendar quarters following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.**

Projections are based on flawed assumptions. Please see discussion in Review Criterion (5) above.

10A NCAC 14C .1102 PERFORMANCE STANDARDS

- (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.**

Projections are based on flawed assumptions. Please see discussion in Review Criterion (5) above.