

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: August 2, 2016

Findings Date: August 2, 2016

Project Analyst: Celia C. Inman

Team Leader: Fatimah Wilson

Project ID #: F-11177-16

Facility: Lutheran Retirement Center-Salisbury

FID #: 931257

County: Rowan

Applicant: Lutheran Retirement Center-Salisbury, Inc.

Project: Relocate 13 adult care home beds from Lutheran Home at Trinity Oaks, Inc. and develop five adult care home beds pursuant to Policy LTC-1 for a total of 38 adult care home beds upon project completion

### REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

C

The applicant, Lutheran Retirement Center-Salisbury, Inc., proposes to relocate 13 existing adult care home (ACH) beds from Lutheran Home at Trinity Oaks, Inc. (Trinity Oaks), a combination nursing facility/adult care home licensed for 25 ACH beds, to Lutheran Retirement Center-Salisbury (LRC-Salisbury) and develop five additional ACH beds pursuant to Policy LTC-1 in the 2016 State Medical Facilities Plan (SMFP) for a total of 38 ACH beds upon completion of the project. Trinity Oaks and LRC-Salisbury are located on the same continuing care retirement community (CCRC) campus in Rowan County.

## **Need Determination**

The proposed project does not involve the addition of any new health service facility beds, services or equipment for which there is a need determination in the 2016 SMFP. Therefore, there are no need determinations applicable to this review.

## **Policies**

There are three policies in the 2016 SMFP that are applicable to this review: Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds, Policy LTC-2: Relocation of Adult Care Home Beds, and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities.

Policy LTC-1 states:

*“Qualified continuing care retirement communities may include from the outset, or add or convert bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes. To qualify for such exemption, applications for certificates of need shall show that the proposed adult care home bed capacity:*

- 1. Will only be developed concurrently with, or subsequent to construction on the same site, of independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages, and rooms;*
- 2. Will provide for the provision of nursing services, medical services, or other health related services as required for licensure by the N.C. Department of Insurance.*
- 3. Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing unit or adult care unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.*
- 4. Reflects the number of adult care home beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care, after making use of all feasible alternatives to institutional adult care home care.*

5. *Will not be certified for participation in the Medicaid program or serve State-County Special Assistance recipients.”*

With regard to Policy LTC-1, in Section III.4, page 27, the applicant states that the five additional ACH beds involved in this application are being requested consistent with the requirements in the policy. Specifically, the five beds 1) are being developed subsequent to the construction of independent living accommodations on the same site ... , 2) will provide for the provision of ACH services, 3) will be used exclusively to meet the needs of people with continuing care contracts at the facility and have lived in independent living (IL) units for at least 30 days ... , 4) is consistent with the number of beds required to meet projected needs for existing independent living residents ... , and 5) will not participate in the Medicaid program or the State-County Special Assistance program.

The application is consistent with Policy LTC-1 relative to the five additional ACH beds requested.

Policy LTC-2 states:

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

1. *Demonstrate that the facility losing beds or moving to a contiguous county is currently serving resident of that contiguous county; and*
2. *Demonstrate that the proposal shall not result in a deficit in the number of licensed adult care home beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the State Medical Facilities Plan in effect at the time the certificate of need review begins, and*
3. *Demonstrate that the proposal shall not result in a surplus of licensed adult care home beds in the county that would gain adult care home beds as a result of the proposed project, as reflected in the State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

Both facilities are located in Rowan County; therefore the number of licensed adult care home beds in Rowan County does not change with the proposed relocation of the beds. The application is consistent with Policy LTC-2.

Policy GEN-4 states:

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

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

*Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 are required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy-GEN 4. The plan shall not adversely affect patient or resident health, safety, or infection control.”*

The proposed capital expenditure for this project is greater than \$2 million and less than \$5 million. In Section III.4, page 29, the applicant provides a written statement describing the proposed project’s plan to assure improved energy efficiency and water conservation. The application is consistent with Policy GEN-4.

### **Conclusion**

In summary, the applicant adequately demonstrates that its proposal is consistent with Policies LTC-1, LTC-2 and GEN-4. Therefore, the application is conforming to this criterion.

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

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The applicant, Lutheran Retirement Center-Salisbury, Inc., proposes to relocate 13 existing ACH beds from Trinity Oaks to LRC-Salisbury and develop five additional ACH beds pursuant to Policy LTC-1 in the 2016 SMFP for a total of 38 ACH beds at LRC-Salisbury upon completion of the project.

LRC-Salisbury, a licensed, 20-bed ACH facility, and Trinity Oaks, a combination nursing/ACH facility with 25 licensed ACH beds, are located on the same CCRC campus in Rowan County. Lutheran Services for the Aging, Inc. (LSA) is the parent company of both entities.

**Population to be Served**

On page 223, the 2016 SMFP defines the service area for adult care home beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.”* Thus, the service area for this project consists of Rowan County. Facilities may also serve residents of counties not included in their service area.

In Section III.6 and III.7, pages 30-31, the applicant provides the historical and projected patient origin as shown in the table below.

<b>County</b>	<b>Historical % of Total ACH Admissions</b>	<b>Projected % of Total ACH Admissions</b>
Rowan	95.0%	95.0%
Richmond	5.0%	5.0%
Total	100.0%	100.0%

On page 31, the applicant states that the projected patient origin is based on the existing patient origin.

The applicant adequately identifies the population to be served.

**Analysis of Need**

In Section III.1, pages 22-26, the applicant describes the need to replace and relocate the 13 existing Trinity Oaks ACH beds and add five new ACH beds to the LRC-Salisbury facility.

On page 22, relative to the need for the relocation of 13 beds, the applicant states:

*“The need for the relocation of the thirteen beds is driven by a desire to provide adult care home services to this specific patient population in an environment that is more*

*appropriate given the services being provided, a free standing adult care home with a private room.”*

The applicant further states that the relocation will prevent the ACH residents from being exposed to the higher acuity residents and related issues present in a combination nursing/ACH facility and allow them to maintain their dignity and privacy by being housed in a private room in a more “home like” environment.

The Trinity Oaks CCRC currently has 45 adult care home beds on campus: 20 licensed in the free-standing LRC-Salisbury ACH facility and 25 licensed at the Trinity Oaks combination nursing/ACH facility. The occupancy rate of the ACH beds in the combination facility was 86.85% based on the most recent license renewal application (LRA).

The following table summarizes the data presented by the applicant in Section IV.1, page 32, and shows that LRC-Salisbury is currently operating at 98.6% of capacity.

**LRC-Salisbury ACH Resident Days of Care  
 July 2015 through March 2016**

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Total
ACH Resident Days	620	598	595	601	588	619	601	580	620	5,422
# of Beds	20	20	20	20	20	20	20	20	20	20
Occupancy Rate	100.0%	96.5%	99.2%	96.9%	98.0%	99.8%	96.9%	100.0%	100.0%	98.6%

As the table above shows, LRC-Salisbury is currently operating above 98% capacity. In Section III.1, page 22, the applicant states that although there are vacant adult care home beds in the combination facility, there is a waiting list for entrance to LRC-Salisbury due to the fact that individuals want to be in private rooms in the free-standing ACH environment. All rooms in the combination facility are semi-private rooms and all the rooms in LRC-Salisbury are private. The applicant further states that prospective residents would rather delay entry into LRC-Salisbury than be admitted to the combination facility.

The applicant states that there are residents in all of the 13 beds being re-located from the combination facility, and “*virtually all of these*” residents have expressed a desire to be relocated to LRC-Salisbury.

On page 23, relative to the need to add five ACH beds, the applicant states:

*“The need to add five additional adult care home beds to the inventory of beds on this campus stems from the increase in Independent Living (IL) residents over the past several years. ... As is evidenced by the existence of a waiting list for entry into the free standing adult care home, and the marked increase in IL occupancy over the past three years, five additional adult care home beds is a very conservative number needed to meet the demand of the existing CCRC residents.”*

The graph in Exhibit 7 shows the IL occupancy at LRC-Salisbury has increased from 64% in 2012 to 84% in March 2016.

The applicant adequately demonstrates the need to replace and relocate the 13 ACH beds from Trinity Oaks and develop five additional ACH beds for a total of 38 ACH beds at LRC-Salisbury.

Projected Utilization

In Section IV, pages 35-37, the applicant provides projected utilization as summarized in the following tables.

**LRC-Salisbury Assisted Living Projected Utilization  
 First Project Year (October 2017 – September 2018)**

	<b>1<sup>ST</sup> QUARTER 10/1/16– 12/31/16</b>	<b>2<sup>ND</sup> QUARTER 1/1/17 – 3/31/17</b>	<b>3<sup>RD</sup> QUARTER 4/1/17-6/30/17</b>	<b>4<sup>TH</sup> QUARTER 7/1/17-9/30/17</b>	<b>TOTAL</b>
ACH Resident Days	2,760	2,970	3,276	3,312	12,318
# Beds	38	38	38	38	38
Occupancy Rate	78.9%	86.8%	94.7%	94.7%	88.8%

**LRC-Salisbury Assisted Living Projected Utilization  
 Second Project Year (October 2018 – September 2019)**

	<b>1<sup>ST</sup> QUARTER 10/1/17– 12/31/17</b>	<b>2<sup>ND</sup> QUARTER 1/1/18– 3/31/18</b>	<b>3<sup>RD</sup> QUARTER 4/1/18-6/30/18</b>	<b>4<sup>TH</sup> QUARTER 7/1/18-9/30/18</b>	<b>TOTAL</b>
ACH Resident Days	3,312	3,240	3,276	3,312	13,140
# Beds	38	38	38	38	38
Occupancy Rate	94.7%	94.7%	94.7%	94.7%	94.7%

**LRC-Salisbury Assisted Living Projected Utilization  
 Third Project Year (October 2019 – September 2020)**

	<b>1<sup>ST</sup> QUARTER 10/1/18– 12/31/18</b>	<b>2<sup>ND</sup> QUARTER 1/1/19– 3/31/19</b>	<b>3<sup>RD</sup> QUARTER 4/1/19-6/30/19</b>	<b>4<sup>TH</sup> QUARTER 7/1/19-9/30/19</b>	<b>TOTAL</b>
ACH Resident Days	3,312	3,240	3,276	3,312	13,140
# Beds	38	38	38	38	38
Occupancy Rate	94.7%	94.7%	94.7%	94.7%	94.7%

As shown above, for the second and third years following completion of the proposed project, the applicant projects the 38 ACH beds will operate at 95.0% of capacity [13,140/365/38 = 0.947 or 95.0%]

In Section IV, page 33, and summarized below, are the assumptions and methodology, based on operational history, which the applicant used to project utilization:

- Because the existing LRC-Salisbury facility is essentially fully occupied with minimal vacancies, it is assumed that 19 of the existing 20 beds will be occupied upon project completion.

- Although all 13 beds being relocated are currently filled, it is assumed that only 10 of the 13 residents will transfer.
- The net 29 (19 + 10) beds will remain stable for the first four weeks after project completion through October 2017.
- Beginning in November 2017, occupancy will increase by one resident per four-week period through March. In April, two residents will be added for a total of 36, reaching the projected 94.7% occupancy.

Projected utilization is based on reasonable and adequately supported assumptions.

### Access

In Section IV.3, page 37, the applicant states that the LRC-Salisbury beds were established to meet the needs of the residents of the CCRC and as such, all beds have been and will continue to be occupied by private pay patients. In Section VI, page 45, the applicant states:

*“Halls in the existing building are large enough to accommodate physically handicapped persons and persons in need of supervision. Rooms will be available that are handicapped accessible.”*

The applicant further states:

*“All of the residents of Lutheran Retirement Center-Salisbury, Inc. are anticipated to have sufficient funding to cover their entire stay. The combination nursing facility/adult care home on the CCRC campus will maintain 12 adult care home beds which will be available to accommodate residents whose source of payment is Special Assistance funding.*

*Although no Special Assistance days are projected for Lutheran Retirement Center-Salisbury, Inc., should a resident happen to spend down all of their funds, they will be allowed to transfer to the combination facility based on availability as a Special Assistance resident.”*

Thus, the applicant adequately demonstrates the extent to which all residents of the area, including underserved groups, are likely to have access to the services.

## Conclusion

In summary, the applicant adequately identifies the population to be served; adequately demonstrates the need the population to be served has for the proposed services; and demonstrates the extent to which all residents of the area, including underserved groups, are likely to have access to the services. Therefore, the application is conforming to this criterion.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

### C

The applicant proposes to relocate 13 existing ACH beds from Trinity Oaks combination nursing/ACH facility to the existing, separately licensed LRC-Salisbury 20-bed ACH facility on the same CCRC campus in Rowan County. In Section III.1, page 22, the applicant discusses the need for the relocation of the 13 beds and states:

*“The need for the relocation of the thirteen beds is driven by a desire to provide adult care home services to this specific patient population in an environment that is more appropriate given the services being provided, a free standing adult care home with a private room.”*

The applicant further states that the relocation will prevent the ACH residents from being exposed to the higher acuity residents and related issues present in a combination nursing/ACH facility and allow them to maintain their dignity and privacy by being housed in a private room in a more “home like” environment.

On page 29, the applicant states that the residents in the existing beds that are proposed to be relocated will all be afforded the opportunity to transfer to the new addition to be constructed at LRC-Salisbury. On page 30, the applicant states:

*“...this application will have virtually no impact on the ability of residents in the county to obtain the same services in the future since total adult care home bed inventory will not change relative to its availability to all residents of the county.”*

The adult care home beds at Trinity Oaks were developed prior to the 2001 legislation regulating the development of adult care homes. The beds at Trinity Oaks were not developed pursuant to a certificate of need, and thus, no representations were made regarding access by the medically underserved in those beds.

The applicant demonstrates that the needs of the population presently served will be adequately met and that the proposal will not adversely affect the ability of medically underserved groups to obtain needed health care. Therefore, the application is conforming to this criterion.

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

CA

In Section III.2, pages 24-26, the applicant describes the alternatives considered, including maintaining the status quo, as discussed below.

- 1) Maintain the Status Quo –The applicant states that leaving the 13 beds in the existing combination facility would not allow the applicant to achieve its goal of having these residents placed in an environment more conducive to the type of care required. Furthermore, not adding the five ACH beds would not always allow the applicant to provide this service to its independent living residents when needed. Therefore, the applicant states that maintaining the status quo would not be an effective alternative.
- 2) Construct a New Adult Care Home on a Different Site – The applicant states that this alternative was rejected because it would necessitate the purchase of additional land and would eliminate the possibility of adding five beds pursuant to Policy LTC-1.
- 3) Relocate 13 Beds from Trinity Oaks and Add Five ACH Beds at LRC-Salisbury – The applicant states that this alternative provides the quickest access to free-standing ACH accommodations and will allow immediate access to ACH services for the existing independent living residents. Therefore, the applicant states this alternative is the most effective alternative.

Furthermore, the application is conforming to all other applicable statutory and regulatory review criteria, and thus, is approvable. An application that cannot be approved cannot be an effective alternative.

In summary, the applicant adequately demonstrates that the proposed alternative is the most effective or least costly alternative to meet the need identified. The application is conforming to this criterion and approved subject to the following conditions.

- 1. Lutheran Retirement Center-Salisbury, Inc. shall materially comply with all representations made in the certificate of need application.**
- 2. Lutheran Retirement Center-Salisbury, Inc. shall relocate 13 adult care home beds from Lutheran Home at Trinity Oaks, Inc. to Lutheran Retirement Center-Salisbury, Inc. and add five adult care home beds, pursuant to Policy LTC-1, for**

**a total of 38 adult care home beds at Lutheran Retirement Center-Salisbury upon project completion.**

- 3. Lutheran Home at Trinity Oaks, Inc. shall take steps to delicense 13 adult care home beds for a total of 12 licensed ACH beds at Lutheran Home at Trinity Oaks upon project completion.**
  - 4. The five new ACH beds shall not be certified for participation in the Medicaid program or participate in the state or county special assistance programs.**
  - 5. The five new ACH beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
  - 6. The five new ACH beds shall be developed on the same site with the independent living units.**
  - 7. For the first two years of operation following completion of the project, Lutheran Retirement Center-Salisbury, Inc. shall not increase actual private pay charges more than 5% of the projected private pay charges provided in Section IX of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations made in the certificate of need application.**
  - 8. Lutheran Retirement Center-Salisbury, Inc. shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant proposes to relocate 13 existing ACH beds from Trinity Oaks and develop five additional ACH beds pursuant to Policy LTC-1, for a total of 38 ACH beds at LRC-Salisbury, upon project completion. The applicant states the project will be developed in a newly constructed addition to the existing facility.

### **Capital and Working Capital Costs**

In Section VIII, page 54, the applicant projects the total capital cost of the proposed project will be \$2,691,280, including:

<b>Costs</b>	<b>Total Costs</b>
Site	\$ 250,000
Construction	\$ 1,771,280
Equipment / Furniture	\$ 300,000
Consultant Fees	\$ 95,000
Other (contingency)	\$ 275,000
<b>Total Capital Costs</b>	<b>\$ 2,691,280</b>

In Section IX.1-3, page 58, the applicant states that LRC-Salisbury is an existing ACH facility and therefore there will be no start-up or initial operating expenses.

### **Availability of Funds**

In Section VIII.2, page 55, and Exhibit 15, the applicant documents that it intends to fund the project through fundraising (bequests and endorsements) and cash reserves. The applicant states that it has fundraising capacity and a history of successful campaigns, with the most recent capital campaign raising in excess of \$5 million.

In Exhibit 15, the applicant provides a letter dated May 9, 2017 [2016] from LSA's Chief Financial Officer/Treasurer, which states:

*“Beyond the public campaign and bequests & endorsements outlined in the Certificate of Need for Lutheran Retirement Center-Salisbury, funds could be made available for completion of the construction project housing the 18 Adult Care Home beds through Lutheran Services for the Aging and affiliates. Please see the attached balance sheet for the 2015 audited financial statements.”*

Exhibit 15 also contains LSA's September 30, 2015 consolidated balance sheet which shows cash and cash equivalents of \$11,652,975. Exhibit 16 contains Lutheran Services for the Aging, Inc. and Lutheran Family Services in the Carolinas and Affiliates Consolidated Financial Statements which shows an aggregate cash and cash equivalents of \$12,161,419, and net assets (total assets – total liabilities) of \$168,326,684, as of September 30, 2015.

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

### **Financial Feasibility**

In the tables in Section X.4, pages 67-68, the applicant projects that the charge will be \$163 per day for private rooms at LRC-Salisbury.

The applicant proposes to expand the existing LRC-Salisbury facility by 18 licensed beds (13 relocated ACH beds from Trinity Oaks and five new ACH beds, pursuant to Policy LTC-1) for a total of 38 beds; and delicense 13 ACH beds at the Trinity Oaks combination facility.

The pro forma financials show data for the LRC-Salisbury ACH facility and the total CCRC. In the projected revenue and expense statement (Form B), the applicant projects revenues will exceed operating expenses in Project Years 1 and 2 following completion of the proposed project, for the ACH beds and for the entire CCRC, as shown in the table below.

	Project Year 1		Project Year 2	
	ACH	Total CCRC	ACH	Total CCRC
Total Revenues	\$ 2,093,183	\$ 8,203,043	\$ 2,230,558	\$ 8,340,418
Total Operating Expenses	\$ 2,053,809	\$ 7,260,513	\$ 2,060,304	\$ 7,267,008
Net Profit	\$ 39,374	\$ 942,530	\$ 170,254	\$ 1,073,410

As shown in the table above, both the LRC-Salisbury ACH project and the entire CCRC show revenues exceed expenses in the first two full fiscal years following project completion. The financial assumptions are provided in Exhibit 17.

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable including projected utilization, costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

**Conclusion**

In summary, the applicant adequately demonstrates that sufficient funds will be available for the capital needs of the project. Furthermore, the applicant adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and charges. Therefore, the application is conforming to this criterion.

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

C

The applicant proposes to relocate 13 existing ACH beds from Trinity Oaks to LRC-Salisbury and add five new ACH beds, pursuant to Policy LTC-1, for a total of 38 ACH beds upon project completion.

On page 223, the 2016 SMFP defines the service area for adult care home beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are*

*considered a combined service area*". Thus, the service area for this project consists of Rowan County. Facilities may also serve residents of counties not included in their service area.

The 2016 SMFP documents that there are currently a total of 11 existing ACH facilities and five nursing facilities in Rowan County that offer ACH services. The table below is a summary of the 16 facilities in Rowan County. The table is recreated from the 2016 SMFP, Chapter 11, Table 11A, pages 243-244 and Table 11B, page 252. There is a projected surplus of 384 ACH beds in 2019 for Rowan County.

<b>2016 SMFP ACH Inventory &amp; 2019 Need Projections Rowan County</b>	
# ACH Facilities	11
# Nursing Facilities with ACH Beds	5
# ACH Beds in ACH Facilities	702
# ACH Beds in Nursing Homes	204
Total Licensed ACH Beds	906
# CON Approved ACH Beds (License Pending)	-5
Total 2019 Projected ACH Bed Utilization	517
Total # ACH Beds in Planning Inventory	901
Projected ACH Bed Surplus	384

Source: 2016 SMFP

The applicant proposes to replace and relocate 13 ACH beds, currently operated at Trinity Oaks, an existing combination nursing/ACH facility, located on the same CCRC campus. The applicant also proposes to add five ACH beds pursuant to Policy LTC-1. In Section III.4, page 27, the applicant states that the Policy LTC-1 beds will be available exclusively to persons with continuing care contracts with Trinity Oaks CCRC, pursuant to Policy LTC-1. Furthermore, the applicant adequately demonstrates the need the population to be served has for the additional five Policy LTC-1 beds. The discussion regarding the need for the proposed beds found in Criterion (3) is incorporated herein by reference. Consequently, the applicant adequately demonstrates that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities. Therefore, the application is conforming to this 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.

C

The applicant proposes to provide personal care staff twenty-four hours per day, seven days per week. In Section VII.3, page 51, the applicant states that by FFY2018 (the second full fiscal year) the LRC-Salisbury ACH facility will be staffed by 34.4 full-time equivalent (FTE) staff positions, including 20.8 FTE direct care staff positions (Section VII.4, page 52).

Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements.

In Section VII.6, page 52, the applicant describes LSA's experience and process for recruiting and retaining staff. The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the application is conforming to this criterion.

- (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.

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In Section II.2, pages 16-20, the applicant describes the ancillary and support services that will be provided by the facility or made available through agreements with other providers including dietary, medical transportation, dentistry, physician, therapy, recreation, personal care, pastoral, and respite services. Exhibit 12 contains copies of letters from various providers, including the Medical Director Agreement. In Section V.2, page 42, the applicant states that LRC-Salisbury has developed positive relationships with local healthcare providers and its staff visits local physicians, skilled nursing facilities, and hospitals on a routine basis. The applicant adequately demonstrates that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming to this criterion.

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

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
  - (i) would be available under a contract of at least 5 years duration;
  - (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
  - (iii) would cost no more than if the services were provided by the HMO; and

(iv) would be available in a manner which is administratively feasible to the HMO.

NA

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

C

The applicant proposes to relocate 13 existing ACH beds from Trinity Oaks and develop five additional ACH beds for a total of 38 ACH beds to be developed at the LRC-Salisbury free-standing ACH facility on the Trinity Oaks CCRC campus upon project completion.

Exhibit 22 contains a letter from the architect that estimates site preparation costs, construction costs and architectural fees will total \$2,106,280, which corresponds to the project cost projections provided by the applicant in Section VIII, page 54. Line drawings of the 18-bed addition are provided in Exhibit 21. In Section XI.14, page 79, the applicant describes the methods that will be used by the facility to maintain efficient energy operations and contain the costs of utilities. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicant adequately demonstrates that the cost, design and means of construction represent the most reasonable alternative, and that the construction cost will not unduly increase costs and charges for health services. Therefore, the application is conforming to this criterion.

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

C

In Section VI, the applicant states that all residents will be private pay. The adult care home beds specifically serve the independent living residents at the CCRC that have progressed in need to a level of assisted living care. In Section IV.3, page 37, the applicant states that LRC-Salisbury was established to meet the needs of the residents of the CCRC and as such, all beds have been and will continue to be occupied by private pay patients. In Section VI, page 45, the applicant states:

*“Halls in the existing building are large enough to accommodate physically handicapped persons and persons in need of supervision. Rooms will be available that are handicapped accessible.”*

The United States Census Bureau provides demographic data for North Carolina and all counties in North Carolina. The following table contains relevant demographic statistics for the applicant’s service area.

<b>Percent of Population</b>						
<b>County</b>	<b>% 65+</b>	<b>% Female</b>	<b>% Racial and Ethnic Minority*</b>	<b>% Persons in Poverty**</b>	<b>% &lt; Age 65 with a Disability</b>	<b>% &lt; Age 65 without Health Insurance**</b>
	<b>2014 Estimate</b>	<b>2014 Estimate</b>	<b>2014 Estimate</b>	<b>2010-2014</b>	<b>2010-2014</b>	<b>2014 Estimate</b>
Rowan	16%	51%	27%	18%	12%	19%
Statewide	15%	51%	36%	17%	10%	15%

<http://www.census.gov/quickfacts/table>

Latest Data as of 12/22/15

\*Excludes "White alone" who are "not Hispanic or Latino"

\*\*\*This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates. Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable...The vintage year (e.g., V2015) refers to the final year of the series (2010 thru 2015). Different vintage years of estimates are not comparable."

However, a direct comparison to the applicant’s current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities, women or handicapped persons utilizing health services.

The applicant demonstrates that it currently provides adequate access to medically underserved populations. Therefore, the application is conforming to this criterion.

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

In Section VI.4, the applicant states:

*“Admission is accepted utilizing an FL-2 and all other supporting information that supports that an assisted living facility can appropriately meet the needs of the potential resident. Many factors are taken into consideration such as diagnoses, compliance with medical direction and any noted behaviors.”*

A copy of the Admissions Packet, including billing policies and procedures, is in Exhibit 14. In Section VI.5, page 45, the applicant states that the facility is not aware of any civil rights access complaints or violations filed against it. The applicant further states: *“No civil rights access complaints have been filed against Lutheran Home Retirement-Salisbury, Inc.”* The application is conforming to this criterion.

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

C

In Section VI.2, page 44, the applicant projects the following payor mix during its second operating year.

<b>Payor Source</b>	<b>ACH Beds</b>
Private Pay	100.0%
Total	100.0%

As shown in the table above, the applicant projects 100% of the LRC-Salisbury's ACH beds will be private pay. In Section IV.3, page 37, the applicant states that LRC-Salisbury was established to meet the needs of the residents of the CCRC and as such, all beds have been and will continue to be occupied by private pay patients. In Section VI, page 45, the applicant states:

*“Halls in the existing building are large enough to accommodate physically handicapped persons and persons in need of supervision. Rooms will be available that are handicapped accessible.”*

The applicant further states:

*“All of the residents of Lutheran Retirement Center-Salisbury, Inc. are anticipated to have sufficient funding to cover their entire stay. The combination nursing facility/adult care home on the CCRC campus will maintain 12 adult care home beds which will be available to accommodate residents whose source of payment is Special Assistance funding.”*

*Although no Special Assistance days are projected for Lutheran Retirement Center-Salisbury, Inc., should a resident happen to spend down all of their funds, they will be allowed to transfer to the combination facility based on availability as a Special Assistance resident.”*

The applicant demonstrates that medically underserved populations would have adequate access to the proposed ACH services. Therefore, the application is conforming to this criterion.

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

C

In Section VI.4, page 45, the applicant states independent living residents will be admitted to the ACH beds when “*an assisted living facility can appropriately meet the needs of the potential resident.*” See the Admissions Packet in Exhibit 14. In Section VI.6, page 46, in describing the range of means by which a person will have access to the proposed services, the applicant states:

*“In addition, the applicant has developed long standing relationships within the healthcare community based on their operation of adult care homes for nearly forty five years in North Carolina, and specifically the Trinity Oaks community has already in place long standing relationships with the healthcare community of Rowan County.”*

The applicant provides a partial list of the agencies from which the applicant anticipates receiving referrals on page 46 of the application. The applicant adequately demonstrates that the facility will offer a range of means by which patients will have access to the proposed services. Therefore, the application is conforming to this criterion.

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

C

In Section V.1, page 42, the applicant describes how the facility will accommodate the clinical needs of area health professional training programs, as follows:

*“As a CCRC campus, Lutheran Retirement Center-Salisbury, Inc. and Lutheran Home at Trinity Oaks, Inc. do allow for onsite training programs for health professionals.”*

Exhibit 11 contains copies of existing training agreements between the Lutheran CCRC and Rowan-Cabarrus Community College, North Rowan High School, Jesse Carson High School, and The American Red Cross.

The information provided is reasonable and adequately supports a determination that the application is conforming to this criterion.

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

### C

The applicant proposes to relocate 13 existing ACH beds from Trinity Oaks to LRC-Salisbury and develop five additional ACH beds pursuant to LTC-1 in the 2016 SMFP for a total of 38 ACH beds at LRC-Salisbury upon completion of the project.

On page 223, the 2016 SMFP defines the service area for adult care home beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area.”* Thus, the service area for this project consists of Guilford County. Facilities may also serve residents of counties not included in their service area.

The 2016 SMFP documents that there are currently a total of 11 existing ACH facilities and five nursing facilities in Rowan County that offer ACH services. The table below is a summary of the 16 facilities in Rowan County. The table is recreated from the 2016 SMFP, Chapter 11, Table 11A, pages 243-2344 and Table 11B, page 252. There is a projected surplus of 384 ACH beds in 2019 for Rowan County.

<b>2016 SMFP ACH Inventory &amp; 2019 Need Projections Rowan County</b>	
# ACH Facilities	11
# Nursing Facilities with ACH Beds	5
# ACH Beds in ACH Facilities	702
# ACH Beds in Nursing Homes	204
Total Licensed ACH Beds	906
# CON Approved ACH Beds (License Pending)	-5
Total 2019 Projected ACH Bed Utilization	517
Total # ACH Beds in Planning Inventory	901
Projected ACH Bed Surplus	384

Source: 2016 SMFP

The applicant proposes to replace and relocate 13 ACH beds, currently operated at Trinity Oaks, an existing combination nursing/ACH facility on the same CCRC campus. The applicant also proposes to add five ACH beds pursuant to Policy LTC-1. In Section III.4, page 27, the applicant states that the Policy LTC-1 beds will be available exclusively to persons with continuing care contracts with Trinity Oaks CCRC, pursuant to Policy LTC-1. Furthermore, the applicant adequately demonstrates the need the population to be served has for the additional five Policy LTC-1 beds.

In Section V.4, page 43, the applicant discusses how the project will promote the cost-effectiveness, quality and access to the proposed services.

See also Sections II, III, V, VI and VII where the applicant discusses the impact of the project on cost-effectiveness, quality and access to the proposed services

The information in the application is reasonable and adequately demonstrates that any enhanced competition in the service area includes a positive impact on cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following analysis:

- The applicant adequately demonstrates the need for the proposed project and that it is a cost-effective alternative. The discussions regarding analysis of need, including projected utilization, and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- The applicant adequately demonstrates that it will provide quality services. The discussion regarding quality found in Criterion (20) is incorporated herein by reference.
- The applicant demonstrates that it will provide adequate access to medically underserved populations. The discussions regarding access found in Criteria (3) and (13) are incorporated herein by reference.

Therefore, the application is conforming to this criterion.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

In Section I.12, page 11, the applicant states that LRC-Salisbury's parent company, LSA, owns multiple facilities throughout North Carolina and LSA Management, Inc. d/b/a Lutheran Services Carolinas (LSC) is the management company for every facility, as listed below:

Nursing Homes

- Trinity Elms Health & Rehab-Clemmons, Forsyth County
- Trinity Glen-Winston-Salem, Forsyth County
- Trinity Grove-Wilmington, New Hanover County
- Trinity Oaks Health & Rehab-Salisbury, Rowan County (SNF & ACH)
- Trinity Place-Albemarle, Stanly County (SNF & ACH)
- Trinity Ridge-Hickory, Catawba County
- Trinity Village-Hickory, Catawba County (SNF & ACH)

Adult Care Homes

- Trinity Elms Assisted Living-Clemmons, Forsyth County
- Trinity View-Arden, Buncombe County
- Trinity Oaks-Salisbury, Rowan County

In Section II.6, page 21, the applicant states, "*LSC facilities have not experienced any of these types of violations in the past 18 months.*" According to the files in the Adult Care Licensure and Nursing Home Licensure and Certification Sections, DHSR, no incidents occurred within the eighteen months immediately preceding submission of the application through the date of this decision, for which any sanctions or penalties related to quality of care were imposed by the State on any facility owned, operated or managed by the applicant or its parent company. After reviewing and considering information provided by the applicant and by the Adult Care Licensure and Nursing Home Licensure and Certification Sections and considering the quality of care provided at all five facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of

health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C

The application is conforming with all applicable Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100. The specific criteria are discussed below.

**SECTION .1100 - CRITERIA AND STANDARDS FOR NURSING FACILITY SERVICES or ADULT CARE HOME SERVICES**

**10A NCAC 14C .1102 PERFORMANCE STANDARDS**

(a) *An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.*

-NA- The applicant is not proposing to add nursing facility beds.

(b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*

-NA- The applicant is not proposing to add nursing facility beds.

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

-C- In Section IV.1, page 32, the applicant provides the average occupancy of 98.6% during the preceding nine months, July through March 2016.

- (d) *An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*
- C- In Section II.1, page 16, the applicant states that the occupancy rate is anticipated to reach 98% prior to the end of year two. However, that appears to be a typographical error, based on the data provided by the applicant in Section IV.2, pages 36-37, showing that the applicant will operate the 38 beds at 94.7% occupancy during the second and third full federal fiscal years following project completion. The assumptions and methodology for the projections are provided in Section IV.3, page 37. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.