

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: May 24, 2017

Findings Date: May 24, 2017

Project Analyst: Gloria C. Hale

Team Leader: Lisa Pittman

Project ID #: F-11296-17

Facility: The Barclay of SouthPark

FID #: 170065

County: Mecklenburg

Applicants: Barclay Properties of SouthPark, LLC, Barclay Senior Living SouthPark, LLC, Liberty Healthcare Properties of Matthews, LLC, Liberty Commons Nursing and Rehabilitation Center, Liberty Healthcare Properties of Ballantyne, LLC, and Liberty Commons Nursing and Rehabilitation Center of Ballantyne, LLC

Project: Develop a new combination NF as part of a new CCRC by relocating 22 NF beds (12 from Pavilion Health Center, 10 from Royal Park of Matthews), relocating 20 ACH beds from Wilora Lake Healthcare Center, and developing 80 Policy LTC-1 ACH beds. Twenty-four of the ACH beds will be in a memory care unit.

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

C

The applicants, Barclay Properties of SouthPark, LLC, Barclay Senior Living SouthPark, LLC, Liberty Healthcare Properties of Matthews, LLC, Liberty Commons Nursing and Rehabilitation Center, Liberty Healthcare Properties of Ballantyne, LLC, and Liberty

Commons Nursing and Rehabilitation Center of Ballantyne, LLC propose to develop a new continuing care retirement community (CCRC), The Barclay of SouthPark (SouthPark), with 169 independent living units, 22 nursing facility (NF) beds, and 100 adult care home (ACH) beds, including a 24-bed memory care unit, to be located at 6010 Fairview Road in Charlotte, Mecklenburg County. All 22 NF beds will be “open” beds, 10 to be relocated from Royal Park Rehabilitation & Health Center (Royal Park) and 12 to be relocated from Pavilion Health Center at Brightmore (Pavilion). Royal Park and Pavilion are both located in Mecklenburg County. Eighty ACH beds will be “closed” ACH beds and 20 will be “open” ACH beds. The 20 “open” ACH beds will be relocated from Wilora Lake Healthcare Center (Wilora Lake).

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 2017 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

Policies

There are five policies in the 2017 SMFP 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*, *Policy NH-6: Relocation of Nursing Facility Beds*, *NH-8: Innovations in Nursing Facility Design*, and *GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

Policy LTC-1, on pages 25-26 of the 2017 SMFP, 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 North Carolina 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 or adult care unit of the continuing care retirement community 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 participate in the Medicaid program or serve State-County Special Assistance recipients.”*

The applicants state, in Section III.4, page 53, that 80 of the proposed 100 ACH beds will be consistent with all five requirements of *Policy LTC-1*.

The applicants adequately demonstrate conformance with the requirements of *Policy LTC-1*.

Policy LTC-2, on page 26 of the 2017 SMFP, states:

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

1. *Demonstrate that the facility losing beds or moving to a contiguous county is currently serving residents of that contiguous county; and*
2. *Demonstrate that the proposal shall not result in a deficit, or increase an existing deficit in the number of licensed adult care*

home beds in the county that would be losing adult care home beds as a result of the proposed project, as reflected in the North Carolina State 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, or increase an existing surplus of licensed adult care home beds in the county that would gain adult care home beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

In Section III.1, page 43, and Section III.4, page 53, the applicants state that they plan to relocate 20 ACH beds from Wilora Lake, located in Mecklenburg County, to SouthPark, which will also be located in Mecklenburg County. Therefore, the proposal will not result in a net change in ACH beds in Mecklenburg County. Exhibit 7 contains a copy of a letter of intent to acquire 20 licensed ACH beds from Wilora Lake.

The applicants adequately demonstrate conformance with the requirements of *Policy LTC-2*.

Policy NH-6, on page 25 of the 2017 SMFP, states:

“Relocations of existing licensed nursing facility beds are allowed. Certificate of need applicants proposing to relocate licensed nursing facility beds shall:

- 1. Demonstrate that the proposal shall not result in a deficit, or increase an existing deficit in the number of licensed nursing facility beds in the county that would be losing nursing facility beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins; and*
- 2. Demonstrate that the proposal shall not result in a surplus, or increase an existing surplus of licensed nursing facility beds in the county that would gain nursing facility beds as a result of the proposed project, as reflected in the North Carolina State Medical Facilities Plan in effect at the time the certificate of need review begins.”*

In Section III.4, page 52, the applicants state that they will relocate 22 NF beds within Mecklenburg County, 12 from Pavilion and 10 from Royal Park. Both Pavilion and Royal

Park are located in Mecklenburg County. Therefore, there will be no net change in licensed NF beds in Mecklenburg County.

The applicants adequately demonstrate conformance with the requirements of *Policy NH-6*.

Policy NH-8 states:

“Certificate of need applicants proposing new nursing facilities and replacement nursing facilities shall pursue innovative approaches in environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.”

In Section III.4, page 53, the applicants state that the facility will be designed to have home-like features and be less institutional, and will include patient care practices, workplace practices, and facility design elements to increase privacy, resident choice, satisfaction, and convenience. In addition, the applicants state, on page 53, that they are *“actively involved in the effort towards ‘culture change’ in nursing homes, described by The National Citizens Coalition for Nursing Home Reform...”*

The applicants adequately demonstrate conformance with the requirements of *Policy NH-8*.

Policy GEN-4, on page 33 of the 2017 SMFP, states:

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

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

Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 are required to submit a plan 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 \$5 million. In Section III.4, page 52, the applicants state that they will implement several techniques and policies to address energy efficiency and water conservation, including, but not limited to, the following:

- *"Energy Star rated appliances*
- *High-efficiency HVAC systems with HEPA filters for residents' rooms*
- *Thermal pan windows*
- *Natural lighting through the use of strategically designed windows and solar tubes*
- *Cold water ozone laundry system for water and energy conservation*
- *Rainwater reclamation system for landscaping irrigation for water conservation."*

The applicants adequately demonstrate conformance with the requirements of *Policy GEN-4*.

Conclusion

In summary, the application is conforming to *Policies LTC-1, LTC-2, NH-6, NH-8 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.

NC

The applicants, Barclay Properties of SouthPark, LLC, Barclay Senior Living SouthPark, LLC, Liberty Healthcare Properties of Matthews, LLC, Liberty Commons Nursing and

Rehabilitation Center, Liberty Healthcare Properties of Ballantyne, LLC, and Liberty Commons Nursing and Rehabilitation Center of Ballantyne, LLC propose to develop a new CCRC, SouthPark, with 169 independent living units, 22 NF beds, and 100 ACH beds, including a 24-bed memory care unit, to be located at 6010 Fairview Road in Charlotte, Mecklenburg County. Twenty-two licensed NF beds and 20 licensed ACH beds to be relocated to SouthPark will be “open” or available to the general public. Eighty ACH beds to be developed will be “closed” or available only to residents of the SouthPark Independent Living community of the CCRC and to those qualifying under *Policy LTC-1*. In Section III.1, page 45, the applicants state that all of the proposed NF beds and ACH beds will be in private rooms.

The applicants state, in Section I.9, page 8, that SouthPark will be managed by Senior Living Management Services, LLC. Exhibit 2 contains a copy of the proposed management contract with Senior Living Management Services, LLC.

Patient Origin

On page 191, the 2017 SMFP defines the service area for NF beds as the county in which the bed is located. On page 219, the 2017 SMFP defines the service area for ACH beds as the county in which the bed is located. Thus, the service area for the proposed NF and ACH beds is Mecklenburg County. However, facilities may serve residents of counties not included in their service area.

In Section III.9, page 56, the applicants project that 100% of NF admissions and 100% of ACH admissions will be from Mecklenburg County upon completion of the project. The applicants provide the assumptions used to project patient origin in Section III.9, page 57.

The applicants adequately identify the population to be served.

Analysis of Need

In Section III.1(a) and (b) of the application, the applicants describe the need for the proposed 22 NF beds and 100 ACH beds of the project, summarized as follows:

- The 2017 SMFP shows a deficit of 167 skilled NF beds in Mecklenburg County (page 43).
- There is an underutilization of the 10 NF beds from Royal Park and an underutilization of the 12 NF beds from Pavilion. Relocation of these 22 NF beds will bring the beds back into service and provide Mecklenburg County residents with an option for continuum of care (pages 46 – 48).

- The relocation of NF beds from Royal Park and Pavilion will allow these facilities to create additional private rooms, increase operational efficiency, and allow the facilities to better serve their residents (page 43).
- The relocation of 20 ACH beds from Wilora Lake will allow for “*more effective bed distribution*” and provide a continuum of care option for Mecklenburg County residents (p. 48).
- There is a need for “*a new, non-institutional, state-of-the-art facility in the area that is able to provide a continuum of care to its residents*” since the two CCRC’s within five miles of the proposed facility are over 30 years old and have high occupancy levels (page 49).

However, based on a review of the information provided by the applicants in Section III, the applicants do not adequately demonstrate the need to develop 80 Policy LTC-1 beds, relocate 22 NF beds (12 Pavilion and 10 from Royal Park), and relocate 20 ACH beds from Wilora Lake.

Projected Utilization

In Section IV.2, pages 60-61, the applicants provide projected utilization for SouthPark for Operating Year One (OY1), fiscal year (FY) 2021, and Operating Year Two (OY2), FY 2022, following completion of the project, as summarized below:

**SouthPark
 Projected Utilization
 Operating Years One and Two**

	OY1 10/1/2020 – 9/30/2021	OY2 10/1/2021 – 9/30/2022
NF Beds		
Patient Days	7,572	7,665
# of Beds	22	22
Occupancy Rate	94%	95%
ACH Beds		
Patient Days	14,298	32,108
# of Beds	100	100
Occupancy Rate	39%	88%
Total Facility		
Patient Days	21,870	39,773
# of Beds	122	122
Occupancy Rate	49%	89%

As shown in the above table, the applicants project that the average annual occupancy rate for the proposed NF beds will be 94% and 95% in OY1 and OY2, respectively. For ACH beds, they project that the average annual occupancy rate will be 39% and 88% for OY1 and OY2, respectively. The average annual occupancy rates for the NF beds and ACH beds combined are projected to be 49% and 89% for OY1 and OY2, respectively.

Need for “closed” ACH beds

In Section III, pages 43-44, the applicants discuss the results of an actuarial study that was conducted to project the number of NF and ACH beds needed at SouthPark. See Exhibit 11 for actuarial study results. The applicants state that the actuarial study projects that the CCRC will need a total of 83 healthcare beds (46 SNF beds and 37 ACH beds), but does not account for “open” beds. However, on page 44, the applicants provide a quote from the caveats of the actuarial study as follows,

‘...it is reasonable to adjust our projected aggregate healthcare needs to better match management’s expectation for the case mix of healthcare services based on their anecdotal experience observed in other CCRCs in their management portfolio.’

The applicants state, on page 44,

“A related entity opened a CCRC in Wilmington, NC in June (Carolina Bay). Carolina Bay has a similar bed ratio, as it currently is licensed for 70 ACH and 30 SNF [skilled nursing facility] beds, but only 124 IL [independent living] units. The applicants used this experience to help calculate the projected ‘closed’ beds needed.”

However, the projected bed ratio for SouthPark is not similar to Carolina Bay or to the actuarial study. Moreover, the applicants do not provide any other methodology for projecting bed need at SouthPark.

According to the 2017 License Renewal Application (LRA) for Carolina Bay, the facility has 70 ACH beds and 30 NF beds. According to the Certificates of Need (CONs) issued for the development of Carolina Bay, (Project ID #s: O-10088-13, O-10086-13, O-10087-13, and O-11070-15), Carolina Bay has 52 “open” and 18 “closed” ACH beds, and 18 “open” and 12 “closed” NF beds. Therefore, it is unclear how the applicants used the total number of ACH and NF beds at Carolina Bay to project the “closed” beds needed at SouthPark. The ratio of “closed” ACH beds to “closed” NF beds for Carolina Bay is 18:12, whereas the ratio for closed ACH and NF beds for SouthPark is 80:0. In addition, Carolina Bay has 124 independent living units (ILUs) and SouthPark has 169 ILUs. Therefore, the ratio of “closed” ACH beds to the number of ILUs for Carolina Bay is 1 per 0.14 ILU. The ratio of “closed” ACH beds to the number of ILUs for SouthPark is 1 per 0.47. Therefore, the ratios of “closed” ACH beds to the number of ILUs for Carolina Bay and SouthPark are, in fact, dissimilar. It is

unclear why SouthPark would need .47 “closed” ACH beds to serve each ILU. Therefore, the applicants do not adequately demonstrate the need for 80 “closed” ACH beds.

Need for “open” ACH beds

In Section III.5, page 54, the applicants state that they have entered into a letter of intent with FC Encore to acquire Wilora Lake Healthcare Center and to relocate 20 ACH beds to SouthPark. The applicants state, “*The 20 ACH beds were determined through the letter of intent.*” The applicants do not adequately demonstrate the need for the 20 “open” ACH beds.

Need for “open” NF beds

On page 44, the applicants state that the average occupancy for Carolina Bay’s total ACH beds is 44% and that the average occupancy for Carolina Bay’s total NF beds is 20% for the facility’s initial seven months of operation, June 2016 through December 2016. However, the applicants’ projected average annual occupancy rates for SouthPark are lower for all ACH beds (39%) and higher for all NF beds (94%) in OY1.

The applicants’ projected utilization for NF beds at SouthPark is not based on their experience at Carolina Bay. Moreover, the applicants do not provide any other methodology for projecting occupancy at SouthPark. Therefore, projected utilization is not reasonable or adequately supported.

Therefore, the applicants do not adequately demonstrate that the assumptions and methodology used to project utilization of the proposed ACH and NF beds are reasonable and adequately supported. Therefore, the applicants’ projected utilization is not reasonable and adequately supported.

Access

In Section VI.5, pages 69-70, the applicants state that SouthPark will not be restrictive with respect to social, racial, ethnic, or gender-related issues and that admissions will occur on a first come, first served basis. In addition, on page 70, the applicants state that both the proposed 20 “open” ACH beds and the proposed 22 “open” NF beds will be available to any person over the age of 18 who qualifies for and is in need of ACH or NF levels of service and for whom appropriate care can be provided by the facility. In addition, the applicants state, in Section III.4, page 53, and Section VI.5, page 70, that the proposed 80 “closed” ACH beds will be used exclusively to meet the needs of people with whom the facility has continuing care contracts or for those persons who would qualify under *Policy LTC-1*.

The applicants state, in Section VI.3, page 69, that 3.4% of SouthPark’s ACH patient days will be reimbursed by State-County Special Assistance. The Project Analyst notes that ACH patient days reimbursed by State-County Special Assistance would necessarily be patient days from the 20 “open” ACH beds because the applicants are precluded from

participating in State-County Special Assistance for the 80 “closed” ACH beds developed under *Policy LTC-1*. In addition, the applicants state, in Section VI.3, page 69, that 81% of SouthPark’s NF patient days will be reimbursed by Medicare. However, all 22 of the applicants’ proposed NF beds will be “open” beds available to the general public, including low income persons. Therefore, the applicants do not adequately demonstrate the extent to which all residents of the area, including underserved groups, will have access to the services proposed.

Conclusion

In summary, the applicants adequately identify the population to be served by the proposed project, however the applicants do not demonstrate the need the population has for the services proposed, or the extent to which all residents of the area, and, in particular, low income persons, are likely to have access to the services proposed. Therefore, the application is not 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

In Section III.1, pages 46-47, the applicants state that both Royal Park and Pavilion are underutilized. On pages 46-47, the applicants provide monthly census tables for 2015 and 2016 for Royal Park. The applicants state, on page 46, that Royal Park’s current NF bed census is 142 residents. Royal Park has 169 licensed NF beds. Therefore, it is reasonable to assume that the relocation of 10 NF beds to SouthPark will not have an effect on the ability of underserved persons to obtain services at Royal Park. Similarly, on page 47, the applicants provide monthly census tables for 2015 and 2016 for Pavilion. The applicants state, on page 47, that Pavilion’s current NF bed census is “*approximately*” 95 residents. Royal Park has 120 licensed NF beds. Therefore, it is reasonable to assume that the relocation of 12 NF beds to SouthPark will not have an effect on the ability of underserved persons to obtain services at Pavilion.

In Section III.1, page 48, the applicants state that they have a letter of intent with FC Encore Properties A, LLC to acquire Wilora Lake Healthcare Center and its 20 ACH beds. Exhibit 7 contains a copy of the letter of intent. According to the 2017 LRA for Wilora Lake, the facility had two residents from October 1, 2015 through September 30, 2016. However, the LRA also indicates that both residents were discharged, and as of September 30, 2016 there were no ACH residents. All of Wilora Lake’s ACH beds will be

relocated to SouthPark. Therefore, there will be no ACH residents at Wilora Lake at the completion of the project.

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.

NC

In Section III.2, pages 50-51, the applicants describe the alternatives considered prior to submitting this application for the proposed project, which include:

- Maintain the status quo –The applicants state that maintaining the status quo is not an effective alternative due to their obligation to relocate 20 ACH beds from Wilora Lake and due to unutilized beds at their existing Royal Park and Pavilion facilities.
- Construct a CCRC with no licensed healthcare beds available to the public – The applicants state that this alternative would not address the issue of unutilized beds at existing facilities and would result in operating losses due to having to staff and operate the healthcare facility while the independent living facility fills up.

After considering these alternatives, the applicants state that the alternative proposed in the application is the most effective alternative because it allows them *“to build an operationally efficient facility that can take advantage of economies of scale and that can also admit residents starting on Day 1.”*

However, the application is not conforming to all other statutory and regulatory review criteria, and thus, is not approvable. See Criteria (3), (5), (6), (13c), and (18a). An application that cannot be approved cannot be an effective alternative.

In summary, the applicants do not adequately demonstrate that the proposal is the least costly or most effective alternative to meet the identified need. Therefore, the application is not conforming to this criterion.

- (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.

NC

The applicants propose to develop a new CCRC, SouthPark, with 169 independent living units, 22 NF beds, and 100 ACH beds, including a 24-bed memory care unit, to be located at 6010 Fairview Road in Charlotte, Mecklenburg County.

Capital and Working Capital Costs

In Section VIII.1, page 83, the applicants state the total capital cost of the proposed project, excluding the independent living units, is projected to be \$41,803,856, summarized as follows:

SouthPark Projected Capital Costs	
Costs	Total Costs, ACH and NF Beds
Site, inc. land purchase and contingency	\$ 5,055,532
Construction	\$ 32,585,572
Equipment and furniture	\$ 1,220,000
Consultant Fees	\$ 1,706,868
Commercial loan	\$ 283,976
Interest during construction	\$ 951,908
Total Capital Costs	\$ 41,803,856

In Section IX, page 88, the applicants state that they will have \$282,638 in start-up costs and \$589,990 in initial operating costs, for a total of \$872,628 in working capital costs. The applicants provide the assumptions for start-up costs and operating costs on page 88 and in the pro formas, respectively.

Availability of Funds

In Section VIII.2, page 84, the applicants document that they intend to finance the CCRC, including the development of the ACH and NF beds with a \$103,533,597 commercial loan and \$44,371,541 with owner's equity, for total financing available of \$147,905,138.

In Exhibit 20, the applicants provide a letter, dated February 6, 2017, from the Senior Vice President of Wells Fargo stating that it will consider lending \$103,533,597 for the proposed project.

In Section IX.5, pages 91-92, the applicants state that the total working capital costs of \$872,628 will be financed with owner's equity. In Exhibit 22, the applicants provide a letter, dated February 3, 2017, from the Certified Public Accountant of the owners, John A. McNeill, Jr. and Ronald McNeill, stating that each has in excess of \$25,000,000 in assets in order to fund the proposed project, including working capital costs.

The applicants adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project.

Financial Feasibility

In Section X.4, page 98, the applicants project that the private pay charge for a private room for an NF bed will be \$310 per day and that the private pay charge for a private room for an ACH bed will be \$250 per day. The applicants state, on page 99, that the ACH private pay charge per day is a blended rate based on differing levels of care. The applicant does not provide a private pay charge for a semi-private room for either NF beds or ACH beds because all of the rooms proposed will be private.

The applicants provide pro forma financial statements for the first two operating years of the project following completion. In the pro forma financial statements (Form B), the applicants project that operating costs will exceed revenues in the first operating year of the project, and revenues will exceed operating costs in the second operating years of the project, as shown in the table below.

SouthPark

ACH Beds	OY1 10/1/20 – 9/30/21	OY2 10/1/21 – 9/30/22
Projected # of Patient Days	14,298	32,108
Projected Average Charge (Gross Patient Revenue / Projected # of Patient Days)	\$235	\$243
Gross Patient Revenue	\$3,360,343	\$7,799,990
Deductions from Gross Patient Revenue	\$0	\$0
Other Revenue	\$30,741	\$69,032
Total Net Revenue	\$3,391,084	\$7,869,022
Total Expenses	\$4,877,872	\$5,686,501
Net Income	\$(1,486,788)	\$2,182,521
NF Beds		
Projected # of Patient Days	7,572	7,665
Projected Average Charge (Gross Patient Revenue / Projected # of Patient Days)	\$465	
Gross Patient Revenue	\$3,520,380	\$3,555,100
Deductions from Gross Patient Revenue	\$246,832	\$249,864
Other Revenue	\$275,848	\$279,236
Total Net Revenue	\$3,549,396	\$3,584,472
Total Expenses	\$3,168,605	\$3,052,593
Net Income	\$380,791	\$531,879
Total Licensed Beds (NF and ACH)		
Projected # of Patient Days	21,870	39,773
Gross Patient Revenue	\$6,880,723	\$11,355,090
Deductions from Gross Patient Revenue	\$246,832	\$249,864
Other Revenue	\$306,589	\$348,268
Total Net Revenue	\$6,940,480	\$11,453,494
Total Expenses	\$8,046,476	\$8,739,093
Net Income	\$(1,105,997)	\$2,714,401

However, the assumptions used by the applicants in preparation of the pro forma financial statements are not reasonable, including projected utilization, costs and charges. See the financial section of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicants adequately demonstrate sufficient funds for the operating needs of the proposal, however the applicants do not adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of costs and charges. Therefore, the application is not 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.

NC

The applicants propose to develop a new CCRC, SouthPark, with 169 independent living units, 22 NF beds, and 100 ACH beds, including a 24-bed memory care unit, to be located at 6010 Fairview Road in Charlotte, Mecklenburg County.

On page 191, the 2017 SMFP defines the service area for NF beds as the county in which the bed is located. On page 219, the 2017 SMFP defines the service area for ACH beds as the county in which the bed is located. Thus, the service area for the proposed NF and ACH beds is Mecklenburg County. However, facilities may serve residents of counties not included in their service area.

The applicants do not propose to develop additional NF beds. Rather, the applicants propose to relocate 22 existing NF beds, 10 from Royal Park and 12 from Pavilion, to a new CCRC, SouthPark, pursuant to *Policy NH-6*. All three facilities are in Mecklenburg County. The applicants project an average occupancy rate of 94% for OY1 and an average occupancy rate of 95% for OY2 for the 22 NF beds. In addition, the applicants propose to relocate 20 ACH beds from Wilora Lake to SouthPark, pursuant to *Policy LTC-2*, and to develop 80 “closed” ACH beds, pursuant to *Policy LTC-1*. Wilora Lake is located in Mecklenburg County. The applicants project an average occupancy rate of 39% for OY1 and 88% for OY2 for the 100 ACH beds. The 2017 SMFP reports a need for 164 NF beds and a surplus of 311 ACH beds for 2020. However, the NF and ACH beds to be relocated will not have an effect on the inventory of NF or ACH beds in Mecklenburg County. However, the applicants’ 80 proposed “closed” ACH beds will have an effect on the inventory of ACH beds in Mecklenburg County. The 2017 SMFP states, on page 218, that one-half of the beds developed by a qualified CCRC are excluded from the planning inventory in the methodology for determining need. Of the applicants’ proposed 80 “closed” ACH beds, 40 additional beds would be added to the planning inventory, thereby increasing the surplus of ACH beds in Mecklenburg County. There are 52 ACH facilities in Mecklenburg County, with a total licensed and CON-approved inventory of 3,354 beds, as shown in the following table:

ACH Facility	Licensed Beds in Nursing Homes	Licensed Beds in ACH Facilities	Total Licensed Beds	CON Approved/ Transferred	CCRC Beds Excluded From Planning Inventory	Total Beds in Planning Inventory
Atria Merrywood	0	20	20			20
Brighton Gardens of Charlotte		125	125			125
Brookdale Carriage Club Providence I		77	77	-6		71
Brookdale Carriage Club Providence II		34	34			34
Brookdale Charlotte East		50	50			50

Brookdale Cotswold		104	105			104
Brookdale Place Weddington Park		83	83			83
Brookdale South Charlotte		82	82	6		88
Brookdale South Park		56	56			56
Carillon Assisted Living of Huntersville		96	96			96
Carillon Assisted Living of Mint Hill		0	0	96		96
Carmel Hills		38	38			38
Carrington Place	10	0	10			10
Charlotte Manor		40	40	-40		0
Charlotte Square		125	125			125
Cuthbertson Village at Aldersgate		61	61		8	53
East Towne		120	120			120
Elmcroft of Little Avenue		62	62			62
Hunter Village		68	68			68
Hunter Woods Nursing & Rehabilitation	10	0	10			10
Lawyers Glen Retirement Living Center		82	82			82
Legacy Heights Senior Living Community		122	122			122
Northlake House		48	48			48
Parker Terrace		53	53			53
Pineville Rehabilitation and Living Center	10		10			10
Preston House		40	40	40		80
Queen City Assisted Living		120	120			120
Radbourne Manor III		12	12	-12		0
Radbourne Manor Village		0	0	12		12
Ranson Ridge at the Villages of Mecklenburg		100	100			100
Regency Retirement Village		119	119			119
Saturn Nursing and Rehabilitation Center	20		20			20
Sharon Towers	40		40			40
Southminster	25		25			25
St. Margaret's of Trevi Village	0		0	52	26	26
Summit Place of Southpark		120	120			120
Sunrise on Providence		95	95			95
The Crossings at Steele Creek		90	90			90
The Haven in Highland Creek		60	60			60
The Haven in the Village at Carolina Place		60	60			60
The Laurels in Highland Creek		105	105			105
The Laurels in the Village at Carolina Place		104	104			104
The Little Flower Assisted Living		49	49			49
The Parc at Sharon Amity		64	64			64
The Pines at Davidson	30		30		5	25
The Terrace at Brightmore of South Charlotte			30			30
University Place Nursing and Rehabilitation	10		10			10
Waltonwood at Providence		80	80			80
Waltonwood Cotswold			125			125
Willow Ridge Assisted Living		52	52			52
WillowBrooke Court SC Center at Plantation Estates	60		60		10	50
Wilora Lake Healthcare Center	20		20			20
Total	235	2,846	3,081	273	49	3,305

Source: Table 11A, 2017 SMFP

According to the 2017 SMFP, there will be a surplus of 311 ACH beds in Mecklenburg

County in 2020, as shown in the table below.

**ACH Bed Need Projections for 2020
Mecklenburg County**

Total ACH Bed Need Projected in 2020	Currently Licensed	Planning Inventory	Surplus	Additional Beds Needed
2,994	3,081	3,305	311	0

Source: Table 11B, 2017 SMFP

In Section III.5(d), page 55, the applicants state that the proposal will have a minimal impact on existing facilities with ACH beds in Mecklenburg County due to the high occupancy rate at many of them. In addition, the applicants state that SouthPark “*may encourage existing providers to maintain high quality and standards in the care provided*” due to the facility being a new competitor in the county, offering spacious rooms, all private rooms, and state of the art amenities.

In Sections III.4, page 53, the applicants state that 80 of the 100 ACH beds proposed will be available exclusively to residents of the SouthPark Independent Living community, pursuant to *Policy LTC-1*. However, the applicants do not adequately demonstrate the need the population to be served has for 80 “closed” ACH beds. The discussion regarding analysis of need found in Criterion (3) is incorporated herein by reference. Therefore, the applicants do not adequately demonstrate that the proposed project will not unnecessarily duplicate existing or approved health service capabilities or facilities. Therefore, the application is not 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

In Section VII.3, pages 78-79, the applicants project the number of full-time equivalent (FTE) positions for SouthPark in the second full fiscal year of operation (FY2022), as shown in the following table:

**SouthPark
 Proposed Staffing, OY2**

Position	Number of FTEs for NF Beds	Number of FTEs for ACH Beds	Total Facility FTEs
Routine Services			
Medical Director*			
Director of Nursing	0.18	0.82	1.00
Assistant Director of Nursing	0.00	1.00	1.00
Staff Development Coordinator	0.09	0.41	0.50
MDS Nurse	1.00	0.00	1.00
RNs	3.36	0.84	4.20
LPNs	4.20	0.00	4.20
Certified Nursing Assistant	11.81	28.88	40.69
Ward Secretary	2.00	0.00	2.00
Medical Records Consultant	1.00	0.00	1.00
Pharmacy Consultant*			
Medical Technicians	0.00	11.20	11.20
Dietary**			
Social Work Services	0.18	0.82	1.00
Activity Services	0.36	1.64	2.00
Housekeeping/Laundry Services	2.11	9.59	11.70
Ancillary Services			
Physical Therapy Staff	3.00	0.00	3.00
Occupational Therapy Staff	1.00	0.00	1.00
Speech Therapist	0.80	0.00	0.80
Operations & Maintenance[^]	0.18	0.82	1.00
Administration & General	0.72	3.28	4.00
TOTAL	32.99 [31.99]	59.29	91.28

*The Medical Director and Pharmacy Consultant are contractual positions and are not employees of the facility.

**According to the applicants' pro formas, Form C, Dietary Services will be provided under a contractual agreement.

[^]The applicants underreport the FTEs needed for Operations & Maintenance in the table above. The applicants list a Maintenance Supervisor and Janitors in Section VII.3, page 79, with corresponding annual salaries, however no FTEs are listed for Janitors. The Project Analyst assumes the total FTEs for this Operations & Maintenance would be higher based on the applicants' pro formas which project higher costs than those calculated from salary cost per FTE provided in Section VII.3, page 79.

As shown in the table above, the applicants propose to staff SouthPark's 22 NF beds and 100 ACH beds with 91.28 FTEs. In Section VII.2, page 75, the applicants state that a total of 45.0 FTEs, including 14.4 FTEs nursing staff and 30.6 FTEs ACH staff, will provide direct care. Salaries per FTE for the health manpower and management positions proposed by the applicants are provided in Section VII.3, pages 78-79. The Project Analyst notes that the staffing costs in the applicants' pro formas, Form C, for several

staff positions are greater than the costs calculated by the Project Analyst using staffing FTEs and corresponding annual salaries provided by the applicants in Section VII.3, page 79. However, adequate costs for health manpower and management positions are budgeted in the pro forma financial statements provided in Section XII. In addition, the applicants provide a letter in Exhibit 19 from Dr. Reddy, the Medical Director at Pavilion, expressing her willingness to serve as Medical Director at SouthPark.

The applicants adequately demonstrate 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.

C

In Section II.4, pages 37-38, the applicants describe the proposed providers of the necessary ancillary and support services. The applicants state, in Section II.4, page 38, that they will contract with the same providers providing ancillary and support services at their skilled nursing and assisted living facilities in the area. Exhibit 4 contains copies of existing agreements with providers for these facilities. Exhibit 16 contains copies of letters from a representative of the applicants to Carolinas Healthcare System and Novant Health Presbyterian Medical Center expressing interest in developing patient transfer agreements with their respective medical facilities. Exhibit 18 of the application contains copies of letters from area healthcare providers expressing support for the proposed project and a willingness to refer patients to the proposed facility. The applicants adequately demonstrate that necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing healthcare 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 applicants propose to develop the 22 NF beds and 100 ACH beds in a new 144,630 square foot facility to be located at 6010 Fairview Road in Charlotte. Exhibit 29 contains a letter from an architect that estimates that the construction costs will be \$29,623,248, which corresponds to the projection of construction costs provided by the applicants in Section VIII.1, page 83, of the application. Line drawings of the facility are provided in Exhibit 28. In Section XI.14, pages 110-111, the applicants describe methods that will be explored to maintain efficient energy operations and contain the costs of utilities, stating that they plan to implement several techniques and policies. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicants adequately demonstrate 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

The applicants propose to relocate 22 NF beds, 10 NF beds from Royal Park and 12 NF beds from Pavilion, to SouthPark. Both Royal Park and Pavilion are owned by related entities of the applicants. In addition, the applicants propose to relocate 20 ACH beds from Wilora Lake, however the applicants will be new owners of Wilora Lake and thus, are not existing providers of the facility. According to the 2017 LRAs for Royal Park and Pavilion, 64.7% of Royal Park’s patient days and 28.2% of Pavilion’s patient days were reimbursed by Medicaid.

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 applicants’ service area.

Percent of Population						
County	% 65+	% Female	% Racial and Ethnic Minority*	% Persons in Poverty**	% < Age 65 with a Disability	% < Age 65 without Health Insurance**
	2014 Estimate	2014 Estimate	2014 Estimate	2010-2014	2010-2014	2014 Estimate
Mecklenburg	10%	52%	51%	15%	6%	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 applicants’ 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 applicants adequately demonstrate that their current facilities provide 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;

C

The applicants state, in Section VI.6(b), that there have been no civil rights access complaints filed against the applicants or any related entities. 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

NC

Under *Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds*, the applicants will develop 80 of the proposed 100 ACH beds to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at the CCRC for at least 30 days. *Policy LTC-1* also prohibits the applicant from participation in the Medicaid program and serving State-County Special Assistance recipients for the 80 proposed ACH beds.

However, the applicants propose to relocate 22 existing NF beds, pursuant to *Policy NH-6*, and 20 existing ACH beds, pursuant to *Policy LTC-2*, from other facilities to SouthPark. The 22 NF beds and the 20 ACH beds will remain “open” to the general public. In Section VI.3, page 69, the applicants project the payor mix for SouthPark’s second operating year, as follows:

**SouthPark Projected Payor Mix
OY2 (October 1, 2021 – September 30, 2022)**

Payor Category	NF Beds	ACH Beds
Private Pay	19.05%	96.59%
Medicare	80.95%	N/A
Medicaid	0.00%	0.00%
State-County Special Assistance	N/A	3.41%
Total	100.00%	100.00%

As shown in the table above, the applicants project that 0% of SouthPark’s NF patient days will be covered by Medicaid and that 3.41% of SouthPark’s ACH

patient days will be covered by State-County Special Assistance. In Section V.6, page 67, the applicants state,

“...SouthPark will be all private pay and Medicare residents, due to the nature and financial structure of the project. However, Liberty has always and will continue to serve the medically underserved at its existing facilities in Mecklenburg County. The additional licensed private rooms at Royal Park and the Pavilion will improve the quality of life and care for residents of all payor sources.”

The applicants propose to relocate NF beds from Royal Park and Pavilion, both of which serve patients receiving services reimbursed by Medicaid. The proposed decreases in the percentage of NF patient days to be paid by Medicaid at SouthPark, from 64.7% at Royal Park to 0% at SouthPark, and from 28.2% at Pavilion to 0% at SouthPark, decreases access to NF beds for the medically underserved population in the county as a whole.

Therefore, the applicants do not adequately demonstrate that medically underserved populations would have access to the proposed NF services. Consequently, the application is not 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.7, page 71, the applicants state that referrals are anticipated from hospitals, physician groups, other healthcare and social services providers, and by word of mouth. Exhibit 18 of the application contains copies of letters from area healthcare providers stating their willingness to refer patients to the proposed facility. In addition, in regard to 80 of 100 proposed ACH beds, *Policy LTC-I: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds* requires the applicants to use the 80 ACH beds exclusively to meet the needs of people with whom the facility has continuing care contracts and who have lived at the CCRC for at least 30 days.

The applicants adequately demonstrate 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 Exhibit 15, the applicants provide copies of correspondence with area colleges and healthcare training programs offering to accommodate their respective health professional training programs at SouthPark. 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.

NC

The applicants propose to develop a new CCRC, SouthPark, with 169 independent living units, 22 NF beds, and 100 ACH beds, including a 24-bed memory care unit, to be located at 6010 Fairview Road in Charlotte, Mecklenburg County.

On page 191, the 2017 SMFP defines the service area for NF beds as the county in which the bed is located. On page 219, the 2017 SMFP defines the service area for ACH beds as the county in which the bed is located. Thus, the service area for the proposed NF and ACH beds is Mecklenburg County. However, facilities may serve residents of counties not included in their service area.

The table below provides a summary of the 52 facilities with licensed or license-pending ACH beds in Mecklenburg County.

ACH Facility	Licensed Beds in Nursing Homes	Licensed Beds in ACH Facilities	Total Licensed Beds	CON Approved/ Transferred	CCRC Beds Excluded From Planning Inventory	Total Beds in Planning Inventory
Atria Merrywood	0	20	20			20

Brighton Gardens of Charlotte		125	125			125
Brookdale Carriage Club Providence I		77	77	-6		71
Brookdale Carriage Club Providence II		34	34			34
Brookdale Charlotte East		50	50			50
Brookdale Cotswold		104	105			104
Brookdale Place Weddington Park		83	83			83
Brookdale South Charlotte		82	82	6		88
Brookdale South Park		56	56			56
Carillon Assisted Living of Huntersville		96	96			96
Carillon Assisted Living of Mint Hill		0	0	96		96
Carmel Hills		38	38			38
Carrington Place	10	0	10			10
Charlotte Manor		40	40	-40		0
Charlotte Square		125	125			125
Cuthbertson Village at Aldersgate		61	61		8	53
East Towne		120	120			120
Elmcroft of Little Avenue		62	62			62
Hunter Village		68	68			68
Hunter Woods Nursing & Rehabilitation	10	0	10			10
Lawyers Glen Retirement Living Center		82	82			82
Legacy Heights Senior Living Community		122	122			122
Northlake House		48	48			48
Parker Terrace		53	53			53
Pineville Rehabilitation and Living Center	10		10			10
Preston House		40	40	40		80
Queen City Assisted Living		120	120			120
Radbourne Manor III		12	12	-12		0
Radbourne Manor Village		0	0	12		12
Ranson Ridge at the Villages of Mecklenburg		100	100			100
Regency Retirement Village		119	119			119
Saturn Nursing and Rehabilitation Center	20		20			20
Sharon Towers	40		40			40
Southminster	25		25			25
St. Margaret's of Trevi Village	0		0	52	26	26
Summit Place of Southpark		120	120			120
Sunrise on Providence		95	95			95
The Crossings at Steele Creek		90	90			90
The Haven in Highland Creek		60	60			60
The Haven in the Village at Carolina Place		60	60			60
The Laurels in Highland Creek		105	105			105
The Laurels in the Village at Carolina Place		104	104			104
The Little Flower Assisted Living		49	49			49
The Parc at Sharon Amity		64	64			64
The Pines at Davidson	30		30		5	25
The Terrace at Brightmore of South Charlotte			30			30
University Place Nursing and Rehabilitation	10		10			10
Waltonwood at Providence		80	80			80
Waltonwood Cotswold			125			125
Willow Ridge Assisted Living		52	52			52
WillowBrooke Court SC Center at Plantation Estates	60		60		10	50

Wilora Lake Healthcare Center	20		20			20
Total	235	2,846	3,081	273	49	3,305

Source: Table 11A, 2017 SMFP

As the table above shows, there are 52 facilities with licensed or license-pending ACH beds in Mecklenburg County. The applicants propose to relocate a total of 22 NF beds, 12 from Royal Park and 10 from Pavilion, relocate 20 ACH beds from Wilora Lake, and develop 80 additional ACH beds pursuant to *Policy LTC-1*. The relocated NF and ACH beds will not change the inventory of NF or ACH beds in Mecklenburg County. Of the 80 “closed” beds, 40 will be excluded from the planning inventory because they will be exclusively serving the residents of the CCRC.

In Section III.5(d), page 55, the applicants state that the proposal will have a minimal impact on existing facilities with ACH beds in Mecklenburg County due to the high occupancy rate at many of them. In addition, the applicants state that SouthPark “*may encourage existing providers to maintain high quality and standards in the care provided*” due to the facility being a new competitor in the county, offering spacious rooms, all private rooms, and state of the art amenities. In addition, in Section V.6, pages 66-67, the applicants state that the proposed project “*will improve the cost effectiveness of existing facilities by relocated unutilized beds and allowing for additional licensed private rooms, which are highly preferable for residents.*”

See also Sections II, III, V, VI and XII where the applicants discuss the impact of the project on cost-effectiveness, quality and access to the proposed services.

However, the information provided by the applicants is not reasonable and does not adequately demonstrate that any enhanced competition in the service area includes a positive impact on access to the proposed services and on cost-effectiveness. This determination is based on the information in the application and the following analysis:

- The applicants do not adequately demonstrate that the proposed project will have a positive impact on access for medically underserved populations. The discussions regarding access found in Criteria (3) and (13c) are incorporated herein by reference.
- The applicants do not adequately demonstrate that the proposed project is a cost-effective alternative. The discussions regarding need found in Criterion (3), alternatives found in Criterion (4), and financial feasibility found in Criterion (5) are incorporated herein by reference.

Consequently, the application is not 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

The applicants or related entities of the applicants own or manage 25 NFs in the state. Of these, two incidents occurred at two facilities within the 18 months immediately preceding the submission of the application through the date of this decision related to quality of care. As of the date of this decision, the problems have been corrected and the facilities are back in compliance. After reviewing and considering information provided by the applicants and by the Nursing Home Licensure and Certification Section, and considering the quality of care provided at all affiliated facilities, the applicants provide 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.

NC

The proposal is conforming with all applicable Criteria and Standards for Nursing Facility or Adult Care Home Services in 10A NCAC 14C Section .1100, as indicated below.

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

.1102 PERFORMANCE STANDARDS

- (a) *An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of*

the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.

- NA- The applicants are not proposing to add nursing facility beds to an existing facility.
- (b) *An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be clearly stated.*
- NC- The applicants are proposing to establish a combination NF which will be a CCRC consisting of both ACH and NF beds. In Section IV.2, page 61, the applicants project an average annual occupancy rate of 95% for the NF beds in OY2. However, the applicants' assumptions and methodology for projecting utilization of the NF beds are not reasonable or adequately supported. Therefore, the application is not conforming to this criterion.
- (c) *An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.*
- NA- The applicants are not proposing to add ACH beds to an existing facility.
- (d) *An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.*
- NA- The applicants are not proposing to establish a new ACH facility or add ACH beds to an existing facility.