

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: July 6, 2018

Findings Date: July 6, 2018

Project Analyst: Celia C. Inman

Team Leader: Gloria C. Hale

Assistant Chief: Lisa Pittman

Project ID #: F-11507-18

Facility: The Pines at Davidson

FID #: 923498

County: Mecklenburg

Applicant: The Pines at Davidson, Inc.

Project: Add 24 NF beds to The Pines at Davidson pursuant to Policy NH-2 for a total of 75 NF beds and 30 ACH beds

### 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.

CA

The applicant, The Pines at Davidson, Inc., proposes to add 24 nursing facility (NF) beds, pursuant to Policy NH-2, to The Pines at Davidson (The Pines), for a total of 75 NF beds and 30 adult care home (ACH) beds. The NF and ACH beds are part of a licensed continuing care retirement community (CCRC), in Davidson, Mecklenburg 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 2018 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

## **Policies**

There are two policies in the 2018 SMFP which are applicable to this review: *Policy NH-2: Plan Exemption for Continuing Care Retirement Communities* and *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*.

Policy NH-2, on pages 23-24 of the 2018 SMFP, states:

*“Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for nursing care without regard to the nursing care bed need shown in Chapter 10: Nursing Care Facilities. To qualify for such exemption, applications for certificates of need shall show that the proposed nursing care bed capacity:*

- 1. Will only be developed concurrently with or subsequent to construction on the same site of facilities for both of the following levels of care:*
  - a. 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;*
  - b. licensed adult care home beds for use by people who, because of age or disability, require some personal services, incidental medical services, and room and board to assure their safety and comfort.*
- 2. 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 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 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.*
- 3. Reflects the number of nursing care 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 nursing care.*
- 4. Will not be certified for participation in the Medicaid program.*

*One hundred percent of the nursing care beds developed under this exemption shall be excluded from the inventory and the occupancy rate used to project nursing care bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the 1985 State Medical Facilities Plan are automatically amended to conform to the provisions of this policy at the effective date of this policy. Certificates of need awarded*

*pursuant to the provisions of Chapter 920 Session Laws 1983 or Chapter 445, Session Laws 1985 shall not be amended.”*

In Section B.3, pages 14-18, the applicant states:

*“The proposed new nursing facility beds will be developed on the Pines at Davidson CCRC campus.*

...

*The Pines certifies that the proposed new nursing facility beds will be used exclusively by people with whom The Pines at Davidson CCRC has contracts for continuing care. 100 percent of the residents served by the new nursing facility beds will come from The Pines’ pool of IL residents, with whom The Pines has continuing care contracts.*

...

*There are periodic occurrences when the facility operates above 100% of its nursing bed capacity. ... Therefore, the proposed project is needed 1) to decompress capacity constraints in the nursing unit serving The Pines’ current complement of independent living units and assisted living beds and 2) to support the Phase I expansion of independent living units at The Pines CCRC from 250 to 291, and 3) support the future increase from 291 to 339.*

...

*The need for the proposed additional 24 nursing facility beds is both reasonable and conservative in response to the recent and planned impact of additional independent living units. As seen in the table [page 17], the current statewide NF / ILU ration is 2.9 independent living units for every one nursing facility bed, or 34 percent. ... If The Pines were to develop additional nursing facility beds based on the statewide ratios, the facility would need a total of 100 nursing facility beds. Instead, the projected number of nursing facility beds is a lower, yet adequate, ratio.*

...

*The Pines makes use of all feasible alternatives to institutional nursing care when possible and will continue to do so upon completion of the proposed project.*

...

*Consistent with the existing NH-2 beds at The Pines, the proposed new nursing facility beds will not participate in the Medicaid program or serve State-County Special Assistance recipients.”*

The applicant adequately demonstrates conformance with the requirements of Policy NH-2.

Policy GEN-4, on page 33 of the 2018 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 is required to submit a plan of 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; therefore, Policy GEN-4 is applicable to this review. In Section B.10, page 25, the applicant states that the proposed building addition will be constructed using energy efficiency materials and methods, in compliance with all applicable federal, state, and local requirements for energy efficiency and water conservation. The applicant further includes a written statement as to what the architectural and contracting team will strive to do to improve energy efficiency and water conservation.

The applicant adequately demonstrates that the application includes a written statement describing the project’s plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4, subject to Condition (6) of Criterion (4).

### **Conclusion**

The Agency reviewed the:

- application,
- exhibits to the application, and
- information publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicant adequately demonstrates that the proposal is consistent with Policy NH-2 and Policy GEN-4 such that:

- the applicant adequately documents its plan for developing the proposed nursing facility beds on the same site as the independent living (IL) and ACH beds,
- the applicant adequately documents its plan for developing the proposed nursing facility beds to be used exclusively to meet the needs of its IL and ACH patients,
- the applicant adequately documents the number of NF beds required to meet the current and projected needs of residents with whom the facility has an agreement to provide continuing care, after making use of all feasible alternatives to institutional nursing care,
- the applicant adequately documents that the proposed additional NF beds will not be certified for participation in the Medicaid program, and
- the applicant provides a written statement that demonstrates that the project includes a plan for energy efficiency and water conservation.

(2) Repealed effective July 1, 1987.

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

## C

The applicant, The Pines at Davidson, Inc., proposes to add 24 NF beds to its existing nursing facility, pursuant to Policy NH-2, for a total of 75 NF beds and 30 ACH beds. The NF and ACH beds are licensed by the Division of Health Service Regulation as The Pines at Davidson and are a part of an existing CCRC, which is licensed by the North Carolina Department of Insurance, as The Pines at Davidson.

In Section C.4, page 31, the applicant provides the history of the development of The Pines, beginning in 1987 with the central building apartments, the Schramm Health Center and twelve detached cottages. Over time, additional cottages were added and apartments were renovated and combined to create larger units, resulting in the current 250 IL units. The Schramm Health Center includes the existing 51 NF beds and the 30 ACH beds in the Assisted Living and Wellness Center.

On page 32, the applicant states it proposes the addition of 24 NF beds, along with the expansion and renovation of the Schramm Health Center. As part of the Schramm Health Center renovation and expansion, 16 NF beds will be replaced with a two-story addition to the existing facility. The addition will consist of two 20-bed NF neighborhoods. Thirty-five NF beds will remain in the renovated Health Center ( $51 - 16 = 35$ ) and 40 NF beds will be located

in the new addition, for a total of 75 NF beds. The net increase of the project is 24 new NF beds, as proposed.

In addition to the proposed project, the applicant states that The Pines is engaged in the development of three cottages and two new villas which will contain 38 new IL units and are Phase I of a new master facility expansion plan approved by the Town of Davidson. The second phase includes the development of 48 more IL units, bringing the number of The Pines total IL units to 339 (250 + 3 + 38 + 48). The addition of the proposed NF beds is the only certificate of need (CON) regulated component of the expansion.

### **Patient Origin**

On page 183, the 2018 SMFP defines the service area for nursing facility beds as:

*“A nursing care bed’s service area is the nursing care bed planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”*

The Pines at Davidson is located in Mecklenburg County. Thus, the service area for this project consists of Mecklenburg County. Facilities may serve residents of counties not included in their service area.

In Sections C.2 and C.3, pages 28 and 30, respectively, the applicant states that the current FY2017, and projected, CY2023, patient origin for the nursing facility beds at The Pines at Davidson is Mecklenburg County because the NF beds are restricted for use to provide care to CCRC residents who have already entered into a residency agreement with The Pines. On page 29, the applicant identifies the counties and states that they reflect the IL residents’ place of residence prior to coming to The Pines at Davidson and becoming Mecklenburg County residents.

On page 30, the applicant states:

*“No changes in patient origin are expected as a result of the proposed project.*

*100% of the residents served by the additional nursing facility beds will come from the pool of The Pines IL residents, who will be residents of Mecklenburg County at the time of their need for these services.”*

The applicant’s assumptions are reasonable and adequately supported.

### **Analysis of Need**

In Section C.4, pages 33-39, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services. On page 33, the applicant describes the key factors which it states drive the need for the proposed project, as listed below:

- demographic factors (page 34);

- historical occupancy at The Pines (pages 35-37); and
- impact of adding IL units (page 37-39).

The information is reasonable and adequately supported for the following reasons:

- Mecklenburg County population is projected to grow at a five-year compound annual growth rate (CAGR) of 1.9%, reaching 1.2 million by 2023.
- The highest percentage of growth is in the 75+ age segment, which is the age segment which most utilizes nursing facility services.
- The Pines NF beds currently operate at practical capacity.
- The Pines is adding more IL units which will increase the total number of residents at The Pines who will need future nursing facility services on site.
- Current statewide NF bed to IL unit ratio in North Carolina CCRCs is one NF bed for every 2.9 IL units or 34%. The Pines' current ratio is one NF bed for every 4.9 IL units or 20%. The applicant is proposing the addition of NF beds and Phase I IL units to achieve a ratio of one NF bed for every 3.9 IL units or 26%. The applicant's proposed ratio of 26% is conservative compared to the statewide CCRC ratio of 34%.

Projected Utilization

In Section Q, the applicant provides the historical and projected utilization for the facility's NF and ACH beds. Section C. 7 requires the completion of Form C Utilization, which is found in Section Q and asks for the projected annual utilization data for the first three full federal fiscal years (FFY) after completion of the proposed project. The applicant projects that the project will be complete and begin offering services on January 1, 2021; therefore the first three full FFY after completion of the project would be October 1, 2021 – September 30, 2022, October 1, 2022 – September 30, 2023, and October 1, 2023 – September 30, 2024. In Section Q, Form C, the applicant provides projected utilization for The Pines at Davidson Schramm Health Center by calendar years, January through December 2021, 2022, and 2023, which results in reporting operations a full 10-months early; therefore, the projection would be considered conservative, as compared to the required time period for reporting. The applicant's projected utilization (Form C) is summarized below.

**The Pines at Davidson  
 Form C Utilization**

	Prior Full Yr CY2017	Interim Yr CY2018	Interim Yr CY2019	Interim Yr CY2020*	1st Full Op Yr CY2021	2nd Full Op Yr CY2022	3rd Full Op Yr CY2023
<b>NF Beds</b>							
# of Beds	51	51	51	51	75	75	75
Patient Days	17,618	17,618	17,618	17,618	22,421	26,006	26,006
Occupancy Rate	94.6%	94.6%	94.6%	94.6%	81.9%	95.0%	95.0%
<b>ACH Beds</b>							
# of Beds	30	30	30	30	30	30	30
Patient Days	9,661	9,855	9,855	9,855	9,855	9,855	9,855
Occupancy Rate	88.2%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%

\*CY2020 is a Leap Year. The projected utilization is irrespective of the extra day that year.

The applicant provides its assumptions for the above projections on pages 89-90 of Section Q, as summarized below:

- The project’s fiscal year is based on January 1 through December 31.
- The proposed additional NF beds will be licensed and operational January 1, 2021.
- The Pines projects utilization based on the most recent CY2017 average daily census of 48 patients (51 beds x 94.6% occupancy = 48.2 patients).
- The Pines projects a net average fill-up rate of two patients per month until the unit achieves 95% occupancy during Quarter 4 of the first operating year, as summarized in the following table.

**The Pines at Davidson  
 Form C Utilization  
 OY1 (CY2021)**

	Available Days	Patient Days	Average Daily Census (ADC)	Percent Occupancy
January	31	1,550	50	66.7%
February	28	1,456	52	69.3%
March	31	1,674	54	72.0%
Quarter 1 Total	90	4,680	52	69.3%
April	30	1,680	56	74.7%
May	31	1,798	58	77.3%
June	30	1,800	60	80.0%
Quarter 2 Total	91	5,278	58	77.3%
July	31	1,922	62	82.7%
August	31	1,984	64	85.3%
September	30	2,044	68	90.8%
Quarter 3 Total	92	5,950	65	86.2%
October	31	2,174	70	93.5%
November	30	2,134	71	94.8%
December	31	2,205	71	94.8%
Quarter 4 Total	92	6,513	71	94.4%
Year One	365	22,421	61	81.9%

- The Pines assumes occupancy of 95% in the second and third operating years for the expanded NF unit.
- The Pines projects ACH occupancy of 90% based on The Pines’ historical ACH bed occupancy over the past four years. The development of the additional 41 Phase I IL units would support an increased ACH bed utilization; therefore, the ACH bed projection is conservative.

Projected utilization is reasonable and adequately supported for the following reasons:

- Projected utilization is based upon historical utilization, combined with projected facility growth.
- The fill-up rate of two patients per month is reasonable based on the following:
  - The Pines NF beds are currently operating at practical capacity.

- Phase I of The Pines IL expansion project will increase the number of IL units by 41 to a total of 291 IL units at completion of Phase I. The increase in IL units will increase the need for NF beds as The Pines CCRC future residents need to step up to skilled nursing care.

### Access

In Section C, pages 41-42, the applicant states:

*“The Pines affords equal treatment and access to its services for all persons, without discrimination due to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability. The Pines will continue to provide nursing services to all residents regardless of racial / ethnic origin, gender, physical or mental conditions, [sic] age.*

*The project will accommodate physically handicapped persons and persons who are in need of supervision.”*

In Section L.1 (b), pages 75-76, the applicant states that The Pines’ payor mix for CY2017 was 100% private pay. In Section L.3 (b), page 77, the applicant states:

*“The Pines projects the SNF and ACH bed payor mixes based on the existing payor mix at the Schramm Health Center, because SNF and ACH beds will continue to be filled by The Pines private-pay independent living residents who need to step up to skilled care or assisted living. The Pines does not participate in the Medicare or Medicaid programs.”*

The projected payor mix is reasonable and adequately supported.

### Conclusion

The Agency reviewed the:

- application,
- exhibits to the application, and
- information publicly available during the review and used by the Agency.

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

- the applicant adequately identifies the population to be served,
- the applicant adequately explains why the population to be served needs the services proposed in this application,
- Projected utilization is reasonable and adequately supported, and

- The applicant projects the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports its assumptions.

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

NA

The applicant is not proposing a reduction or elimination of a service, or the relocation of a facility or a service. Therefore, Criterion (3a) is not applicable to this review.

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

CA

The applicant, The Pines at Davidson, Inc., proposes to add 24 NF beds to its existing nursing facility, pursuant to Policy NH-2, for a total of 75 NF beds and 30 ACH beds at The Pines CCRC.

In Section E.2, pages 49-50, the applicant describes the alternatives considered and explains why maintaining the status quo is less effective than the alternative proposed in the application. The alternatives considered were:

- Maintain the Status Quo
- Develop the Nursing Facility Beds as Proposed

On pages 49-50, the applicant states that its proposal is the most effective alternative because maintaining the status quo would be detrimental to ongoing access to skilled nursing services for The Pines' existing and prospective residents because:

- The Pines NF bed CY2017 occupancy was at practical capacity, operating at 93.7%, with regular occurrences of operating above 100%.
- The Pines is undergoing an IL expansion of 41 units (Phase I) and plans another expansion of 48 IL units in the future (Phase II).
- The Pines has received deposits from 1,225 prospective residents that desire to enter the CCRC.
- The Pines proposes a reasonable and conservative complement of new NF beds based on management experience for the industry and compared to statewide CCRC ratios.

- The proposed new NF beds are needed to support the healthcare needs of The Pines' present and future IL residents.

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

- the applicant adequately demonstrates the need for the project, as proposed, and provides adequate documentation regarding the development of the proposed project, including all related costs,
- the applicant uses reasonable and adequately supported assumptions to project utilization, and
- the data cited is reasonable to support the assumptions made with regard to the most effective alternative for development of the proposed project.

### **Conclusion**

The Agency reviewed the:

- application,
- exhibits to the application, and
- information publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is conforming to this criterion and approved subject to the following conditions:

- 1. The Pines at Davidson, Inc. shall materially comply with all representations made in the certificate of need application.**
- 2. The Pines at Davidson, Inc. shall develop no more than 24 nursing facility beds pursuant to Policy NH-2 for a total of no more than 75 licensed nursing facility beds and 30 licensed adult care home beds upon completion of the project.**
- 3. The 24 additional Policy NH-2 nursing facility beds shall not be certified for participation in the Medicaid program.**
- 4. The Policy NH-2 nursing facility beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.**

- 5. The new Policy NH-2 nursing facility beds shall be developed on the same site with the independent living units and licensed adult care home beds.**
  - 6. The Pines at Davidson, Inc. shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.**
  - 7. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, The Pines at Davidson, Inc. shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
    - a. Payor mix for the services authorized in this certificate of need.**
    - b. Utilization of the services authorized in this certificate of need.**
    - c. Revenues and operating costs for the services authorized in this certificate of need.**
    - d. Average gross revenue per unit of service.**
    - e. Average net revenue per unit of service.**
    - f. Average operating cost per unit of service.**
  - 8. The Pines at Davidson, Inc. shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant, The Pines at Davidson, Inc., proposes to add 24 NF beds to its existing nursing facility for a total of 75 NF beds and 30 ACH beds at The Pines CCRC. The NF beds are currently housed in what the applicant refers to as the Schramm Health Center. As part of the project under review, the applicant proposes the expansion and renovation of the Schramm Health Center, along with the construction of a new 2-story addition. Thirty-five NF beds will remain in the renovated Schramm Health Center and 40 NF beds will be housed in the 2-story building connecting to the original Schramm Health Center.

**Capital and Working Capital Costs**

In Section Q, Form F.1a, the applicant projects the capital cost, as follows:

**Projected Capital Cost**

Site Costs	\$4,008,072
Construction Costs	\$13,896,512
Miscellaneous Costs	\$7,758,991
<b>TOTAL CAPITAL COST</b>	<b>\$25,630,575</b>

In Section Q, the applicant provides the assumptions used to project the capital cost. Exhibit 11 contains the architect's cost estimate for the site prep and construction contract, as listed above.

In Section F.3, page 54, the applicant states that The Pines is an existing facility; therefore, there will be no start-up expenses or initial operating expenses associated with the project.

**Availability of Funds**

In Section F.2, pages 52-53, the applicant, The Pines at Davidson, Inc., states that it anticipates funding the total project capital costs as shown in the table below.

**Sources of Capital Cost Financing**

Type	Total
Loans	
Accumulated reserves or OE *	
Bonds (Tax Exempt)	\$25,630,575
Other (Specify)	
<b>Total Financing</b>	

\* OE = Owner's Equity

**Financial Feasibility**

The applicant provides pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.5, the applicant projects that operating expenses will exceed revenues in the first operating year of the project and revenues will exceed operating expenses in the second and third operating years for NF beds and the total facility, as shown in the table below.

**The Pines at Davidson  
 Projected NF and ACH Bed Revenue and Expenses**

	<b>OY1, CY2021</b>		
	<b>NF</b>	<b>ACH</b>	<b>Total Facility</b>
Patient Days	22,421	9,855	32,276
Patient Revenue	\$5,950,114	\$1,811,916	\$7,762,030
Average Revenue /Patient Day	\$265	\$184	\$240
Operating Expenses	\$6,080,245	\$1,926,777	\$8,007,023
Average Operating Expenses/Patient Day	\$271	\$196	\$248
<b>Net Income</b>	<b>(\$130,131)</b>	<b>(\$114,861)</b>	<b>(\$244,992)</b>

	<b>OY2, CY2022</b>		
	<b>NF</b>	<b>ACH</b>	<b>Total Facility</b>
Patient Days	26,006	9,855	35,861
Patient Revenue	\$7,074,028	\$1,857,214	\$8,931,242
Average Revenue /Patient Day	\$272	\$188	\$249
Operating Expenses	6394293	1954194	8,348,487
Average Operating Expenses/Patient Day	\$246	\$198	\$233
<b>Net Income</b>	<b>\$679,735</b>	<b>(\$96,980)</b>	<b>\$582,755</b>

	<b>OY3, CY2023</b>		
	<b>NF</b>	<b>ACH</b>	<b>Total Facility</b>
Patient Days	26,006	9,855	35,861
Patient Revenue	\$7,250,879	\$1,903,644	\$9,154,523
Average Revenue /Patient Day	\$279	\$193	\$255
Operating Expenses	\$6,539,653	\$1,996,677	\$8,536,330
Average Operating Expenses/Patient Day	\$251	\$203	\$238
<b>Net Income</b>	<b>\$711,226</b>	<b>(\$93,033)</b>	<b>\$618,193</b>

The assumptions used by the applicant in preparation of the pro forma financial statements are 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 utilization projections found in Criterion (3) is incorporated herein by reference.

**Conclusion**

The Agency reviewed the:

- application,
- exhibits to the application, and
- information publicly available during the review and used by the Agency.

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

- The applicant adequately demonstrates that the capital costs are based on reasonable and adequately supported assumptions.
  - The applicant adequately demonstrates availability of sufficient funds for the capital needs of the proposal.
  - The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.
- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

C

The applicant, The Pines at Davidson, Inc., proposes to develop 24 additional NF beds, pursuant to Policy NH-2, for a total of 75 NF beds and 30 ACH beds at The Pines CCRC, upon project completion.

On page 183, the 2018 SMFP defines the service area for nursing care beds as the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area. Thus, the service area for this project consists of Mecklenburg County. Facilities may serve residents of counties not included in their service area.

On pages 192-193 of the 2018 SMFP, Table 10A documents that there are a total of 31 existing or approved facilities in Mecklenburg County that offer or will offer NF services. The table below is a summary of those 31 facilities in Mecklenburg County, recreated from the 2018 SMFP, Chapter 10, Table 10A (pages 192-193) and Table 10C (page 205). There is a projected deficit of 395 ACH beds in 2021 for Mecklenburg County.

<b>2017 NF Inventory and 2021 Need Projections for Mecklenburg County</b>	
# Facilities with NF Beds	31
# Beds in Hospitals	16
# Beds in Nursing Facilities	3,264
Total # Licensed Beds	3,280
# CON Approved Beds (License Pending)	30
Total # NF Beds Available	3,310
Total # NF Beds in Planning Inventory	2,957
Projected Bed Utilization with Vacancy Factor*	3,352
Projected Bed Surplus (Deficit)	(395)

\*Calculated by dividing Projected Bed Utilization by 95%.

Table 10C of the 2018 SMFP shows that the occupancy rate for Mecklenburg County nursing facility beds is 84.6%, which indicates they are reasonably well-utilized. However, the

applicant is applying for Policy NH-2 beds to serve only existing residents of The Pines CCRC; thus, the utilization of other Mecklenburg County nursing facilities is not relevant to this review.

In Section G, pages 58-61, the applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved NF services in Mecklenburg County. On page 60, the applicant states:

*“The 24 additional nursing facility beds are proposed to be “closed beds” and will be used exclusively by people with whom The Pines at Davidson CCRC has contracts for continuing care. 100 percent of the residents served by the new nursing facility beds will come from The Pines’ pool of IL residents, with whom The Pines’ has continuing care contracts, and who are residents of Mecklenburg county at the time of their need for these services, who have lived in a non-nursing unit or adult care unit of the continuing care retirement community for a period of at least 30 days. The proposed project will not have any impact on existing facilities with nursing facility beds in Mecklenburg County.*

The applicant adequately demonstrates that the addition of the Policy NH-2 beds at The Pines will not result in an unnecessary duplication of the existing or approved services in Mecklenburg County for the following reasons:

- the applicant adequately demonstrates the need that current and projected IL and assisted living residents at The Pines have for the 24 additional Policy NH-2 beds at the CCRC,
- the applicant adequately documents that the additional 24 beds will be used exclusively by people who already reside at The Pines CCRC, and
- the applicant adequately demonstrates that the proposed NF beds are needed in addition to the existing or approved nursing facility beds.

### **Conclusion**

The Agency reviewed the:

- application,
- exhibits to the application, and
- information publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

In Section Q, Form H, the applicant provides current and projected staffing for the proposed services, as summarized below.

**Current and Projected FTE Positions  
 The Pines at Davidson**

<b>Staff Position</b>	<b>Current As of 1/1/18</b>	<b>OY1 CY2021</b>	<b>OY2 CY2022</b>	<b>OY3 CY2023</b>
RNs	9.26	11.40	11.40	11.40
LPNs	9.60	11.70	11.70	11.70
CNAs	32.46	38.79	38.79	38.79
Director of Nursing	1.00	1.00	1.00	1.00
Assistant Director of Nursing	1.00	1.00	1.00	1.00
Nursing Office Manager	1.04	1.04	1.04	1.04
Clerical	1.10	1.10	1.10	1.10
Medical Records	1.02	1.02	1.02	1.02
Medical Director	1.00	1.00	1.00	1.00
Licensed Dietitian	1.04	1.04	1.04	1.04
Food Service Supervisor	1.00	1.00	1.00	1.00
Cooks	2.48	3.48	3.48	3.48
Dietary Aides	3.14	4.44	4.44	4.44
Admissions Coordinator	0.25	0.50	0.50	0.50
Asst. Admissions Coordinator	1.01	1.01	1.01	1.01
Activity Director	0.10	0.20	0.20	0.20
Asst. Activity Director	1.00	1.00	1.00	1.00
Activities Aide	4.41	5.01	5.01	5.01
Director Environmental Services	0.10	0.10	0.10	0.10
Housekeeping Aides	2.83	4.23	4.23	4.23
Sr. Maintenance Director	0.10	0.10	0.10	0.10
Plant Services Office Manager	0.11	0.11	0.11	0.11
Maintenance Worker	0.69	0.99	0.99	0.99
<b>Total FTE Positions*</b>	<b>75.72</b>	<b>91.24</b>	<b>91.24</b>	<b>91.24</b>

\*Totals may not sum due to rounding  
 Source: Form H in Section Q of the application

The assumptions and methodology used to project staffing are provided in Section H.1, page 62, and in Section Q, Form F.4. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements in Section Q.

In Section H, pages 62-63, the applicant describes the methods used to recruit or fill new positions. In Section H, Page 63, and Exhibit 7, the applicant describes its existing and continuing education program. In Exhibit 5, the applicant provides a letter from the current

Medical Director confirming his support for the project and his intent to continue to serve in that capacity.

The applicant adequately demonstrates the availability of adequate health manpower and management personnel for the provision of the proposed services.

### **Conclusion**

The Agency reviewed the:

- application,
- exhibits to the application, and
- information publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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 I.1, pages 66-67, the applicant states that the following ancillary and support services are necessary for the proposed services:

- Administration
- Business Office
- Medical Records
- Nursing
- Housekeeping
- Medical Director
- Pharmacy
- Dentist
- Home Health
- Food & Nutrition Services
- Hospice
- Facility Maintenance
- Medical Supplies
- Linen Services
- Podiatry

On page 67, the applicant explains how each ancillary and support service is made available and provides supporting documentation in Exhibit 5.

In Section I.2, page 67, the applicant describes its long history of providing health care service in North Carolina and its well-established relationships with local healthcare and social services providers in Mecklenburg County.

The applicant adequately demonstrates that necessary ancillary and support services are available and that the proposed services will be coordinated with the existing healthcare system.

## **Conclusion**

The Agency reviewed the:

- application,
- exhibits to the application, and
- information publicly available during the review and used by the Agency.

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

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

NA

The applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review. Therefore, Criterion (9) is not applicable to this review.

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

NA

The applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review.

- (11) Repealed effective July 1, 1987.

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

### C

The applicant, The Pines at Davidson, Inc., proposes to add 24 NF beds to its existing nursing facility for a total of 75 NF beds and 30 ACH beds at The Pines CCRC. The NF beds are currently housed in what the applicant refers to as the Schramm Health Center. Thirty-five NF beds will remain in the renovated Schramm Health Center and 40 NF beds will be housed in the new 2-story building addition connecting to the original Schramm Health Center.

In Section K, page 69, the applicant states that the project involves the renovation of 2,386 square feet in the existing Schramm Health Center, along with the construction of a 37,215 square foot, 2-story addition. Line drawings of the existing facility and the proposed expansion are provided in Exhibit 10.

On pages 69-70, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal and provides supporting documentation in Exhibit 11.

In Section K.3(b), page 70, the applicant adequately explains why the project will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services and provides supporting documentation in Exhibits 9 and 10.

In Section K.3, pages 70-71, the applicant describes methods that will be explored for incorporation into the construction plans to maintain energy efficiency and water conservation operations and contain the costs of utilities, stating that they plan to implement several techniques and policies.

### **Conclusion**

The Agency reviewed the:

- application,
- exhibits to the application, and
- information publicly available during the review and used by the Agency.

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

- (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 L.1(b), pages 75-76, the applicant provides the historical payor mix during CY2017 for NF beds and ACH beds at The Pines as 100% private pay. The Pines, a CCRC, is 100% private pay and is not Medicaid or Medicare certified.

In Section L.1(a), page 75, the applicant provides the following comparison.

**The Pines at Davidson  
Last Full FFY**

	<b>Percent of Total Patients Served</b>	<b>Percent of Service Area Population</b>
Female	53.1%	52.0%
Male	46.9%	48.0%
64 and Younger	0.0%	89.4%
65 and Older	100.0%	10.6%
American Indian	0.0%	0.8%
Asian	0.0%	5.8%
Black or African-American	1.4%	32.7%
Native Hawaiian or Pacific Islander	0.0%	0.1%
White or Caucasian	98.6%	58.2%
Other Race	0.0%	2.3%

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application documents 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. 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

Regarding any obligation to provide uncompensated care, community service or access by minorities and persons with disabilities, in Section L.1, page 76, the applicant states:

*“The Pines has no obligation under federal regulations to provide uncompensated care or community service, or access by minorities and handicapped persons. However, The Pines offers equal treatment and access to its services for all people, without discrimination due to race, color, religion, gender, marital status, national origin, sexual orientation, ancestry, or disability.”*

In Section L.2(d), page 77, the applicant states that no civil rights access complaints have been filed against The Pines. In Section O.3, page 86, the applicant states that it does not own or operate any other facilities in North Carolina.

The agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

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

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

C

In Section L.3, page 78, the applicant projects that in the third year of operation, CY2023, 100% of its residents will be private pay. The Pines at Davidson, a CCRC, is 100% private pay and is not Medicaid or Medicare certified. Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicant to use the proposed additional NF 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 Policy also prohibits the applicant from participation in the Medicaid program and serving State-County Special Assistance recipients in the Policy NH-2 beds.

The projected payor mix is reasonable and adequately supported for the following reasons:

- the projected payor mix is comparable to the historical payor mix,
- the CCRC is not Medicaid or Medicare certified, and
- the proposed Policy NH-2 beds are prohibited from participation in the Medicaid program or the State-County Special Assistance program.

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

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

- (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 L.5, page 79, the applicant adequately describes the range of means by which patients will have access to The Pines nursing care beds.

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

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

- (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 M.1, page 81, the applicant describes the extent to which area health professional training programs will have access to the facility for training purposes. Supporting documentation is provided in Exhibit 6, which contains copies of clinical training agreements with North Carolina Central University, University of North Carolina at Charlotte, Western Carolina University and Mitchell Community College.

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the applicant adequately demonstrates that the proposed services will accommodate the clinical needs of health professional training programs in the area; therefore, 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, The Pines at Davidson, Inc., proposes to develop 24 additional NF beds at The Pines, an existing CCRC in Mecklenburg County for a total of 75 NF beds and 30 ACH beds at project completion. The beds are being added pursuant to Policy NH-2, which requires that the beds 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 of the continuing care retirement community for a period of at least 30 days.

On page 183, the 2018 SMFP defines the service area for nursing care beds as the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area. The Pines is located in Mecklenburg County. Thus, the service area consists of Mecklenburg County. Facilities may serve residents of counties not included in their service area.

On pages 192-193 of the 2018 SMFP, Table 10A documents that there are a total of 31 existing or approved facilities in Mecklenburg County that offer or will offer NF services. The table below is a summary of those 31 facilities in Mecklenburg County, recreated from the 2018 SMFP, Chapter 10, Table 10A (pages 192-193) and Table 10C (page 205). There is a projected deficit of 395 ACH beds in 2021 for Mecklenburg County.

<b>2017 NF Inventory and 2021 Need Projections for Mecklenburg County</b>	
# Facilities with NF Beds	31
# Beds in Hospitals	16
# Beds in Nursing Facilities	3,264
Total # Licensed Beds	3,280
# CON Approved Beds (License Pending)	30
Total # NF Beds Available	3,310
Total # NF Beds in Planning Inventory	2,957
Projected Bed Utilization with Vacancy Factor*	3,352
Projected Bed Surplus (Deficit)	(395)

\*Calculated by dividing Projected Bed Utilization by 95% .

Table 10C of the 2018 SMFP shows that the occupancy rate for Mecklenburg County nursing facility beds is 84.6%, which indicates they are reasonably well-utilized. However, the applicant is applying for Policy NH-2 beds to serve only existing residents of The Pines CCRC; thus, the utilization of other Mecklenburg County nursing facilities is not relevant to this review.

In Section N, pages 82-83, the applicant describes the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition will promote the cost-effectiveness, quality and access to the proposed services. On page 82, the applicant states the proposed nursing care bed expansion project will:

*“... promote competition in The Pines’ service area because the addition will enable The Pines to attract new residents to its IL residences, which thus results indirectly in increased competition among Mecklenburg County CCRCs. And through the nursing bed expansion The Pines will be better able to meet the needs of its resident population, and to ensure the timely provision of nursing services to its own residents.”*

On page 83, the applicant lists numerous ways that it believes the nursing bed addition will enhance the quality of care at the CCRC, including more timely admissions, enhanced work space, and private rooms and baths. The applicant also addresses access, stating:

*“The facility expansion will improve access to services for the elderly and handicapped. . . . The renovations and expansion will incorporate design features for handicap accessibility, safety and security. This will enable the facility to provide excellent care to residents with physical disabilities and/or cognitive impairment.”*

The applicant adequately describes the expected effects of the proposed services on competition in the service area and adequately demonstrates:

- the cost-effectiveness of the proposal (see Sections F and Q),
- quality services will be provided (see Section O of the application and any exhibits), and
- access will be provided to underserved groups (see Section L of the application and any exhibits).

### **Conclusion**

The Agency reviewed the:

- application,
- exhibits to the application, and
- information which was publicly available during the review and used by the Agency.

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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 O.3, page 86, the applicant states that it does not own or operate any other facilities in North Carolina or in any other states. The applicant further states :

*“The Pines has not had any licensure sanctions or been out of compliance with licensure requirements during the 18 months immediately preceding submission of this CON application. The Pines had a deficiency-free facility survey in 2018.”*

According to the files in the Nursing Home Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, there have been no incidents related to quality of care at The Pines at Davidson. After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section and considering the quality of care provided at The Pines at Davidson, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

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

NA

The applicant proposes to add NF beds pursuant to Policy NH-2. The Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10A NCAC 14C .1100 are not applicable to this review because beds added pursuant to Policy NH-2 are used exclusively to meet the needs of people with whom the facility has continuing care contracts who have lived in a non-nursing unit of the center for a period of at least 30 days.