

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: July 28, 2023

Findings Date: July 28, 2023

Project Analyst: Terris Riley

Co-Signer: Lisa Pittman

Project ID #: J-12314-23

Facility: The Cardinal at North Hills

FID #: 080413

County: Wake

Applicant: The Cardinal at North Hills Healthcare, LLC

Project: Add 10 NF beds for a total of 25 NF beds pursuant to Policy NH-2

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 applicant, The Cardinal at North Hills Healthcare, LLC, (hereinafter referred to as “the applicant” or “CNH”) proposes to add 10 nursing facility (NF) beds, pursuant to Policy NH-2, to The Cardinal at North Hills (hereinafter referred to as “The Cardinal”), for a total of 25 NF beds. The NF beds are part of a licensed Continuing Care Retirement Community (CCRC) in Wake County.

Need Determination

There are no need determinations in the 2023 SMFP which are applicable to this review.

Policies

There is one policy in the 2023 SMFP which is applicable to this review: *Policy NH-2: Plan Exemption for Continuing Care Retirement Communities.*

Policy NH-2, on pages 23-24 of the 2023 SMFP, states:

“Qualified continuing care retirement communities (CCRC) may include from the outset or add or convert bed capacity for nursing care without regard to the nursing home bed need shown in Chapter 10: Nursing Home Facilities. To qualify for such exemption, the applicant shall document that the proposal meets all the following requirements:

- 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 home facility 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 home facility beds developed under this exemption shall be excluded from the inventory and the occupancy rate used to project nursing home 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, pages 26-27, the applicant provides responses that address all requirements of Policy NH-2. The applicant states:

“At its existing continuing care retirement community (CCRC) located in Raleigh’s North Hills Midtown District, CNH is expanding the independent living (IL) capacity at the community with development of an 18-story expansion (East Tower building) containing 151 additional IL apartments (for a total of 316 IL units).”

...

“The proposed 10 additional nursing home facility beds at CNH will thus be developed concurrently or subsequent to construction on the same site of the independent living accommodations.”

In Exhibit B.2, the applicant certifies that the proposed NF beds will be used exclusively by people with whom the CCRC has contracts for continuing care. The applicant adequately demonstrates conformance with the requirements of Policy NH-2.

In Section B, page 27, the applicant states:

“CNH currently has 165 IL residences, which are supported by 15 nursing home facility beds...”

“...the current 15-bed NF inventory is insufficient for the planned ILU residences.”

The applicant provides the following comparison table:

	ILU	Nursing Beds
Combined North Carolina CCRCs	13,472	4,282
Ratio of Available ILUs to Available Nursing Beds		3.15 : 1
CNH Current ILUs and Nursing Beds	165	15
Ratio of ILUs to Nursing Beds		11 : 1
CNH with Additional ILUs and Nursing Beds	316	25
Ratio of ILUs to Nursing Beds		12.64 : 1

Source: NC CCR data obtained from 2022 Continuing Care Retirement Communities Reference Guide, Appendix 3 Occupancy; Application, page 27

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion because the applicant adequately demonstrates that the proposal complies with Policy NH-2 as follows:

- 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 Cardinal at North Hills Healthcare, LLC, (hereinafter referred to as “the applicant” or “CNH”) proposes to add 10 nursing facility (NF) beds, pursuant to Policy NH-2, to The Cardinal at North Hills (hereinafter referred to as “The Cardinal”), for a total of 25 NF beds.

Patient Origin

On page 139, the 2023 SMFP defines the service area for nursing facility beds as:

“A nursing home facility’s service area is the county in which the bed is located. Each of the 100 counties in the state is a separate service area.”

Thus, the service area for this facility consists of Wake County. Facilities may also serve residents of counties not included in their service area.

On page 31, the applicant summarizes the historical and projected patient origin as shown in the table below.

Nursing Home Beds

County	Last Full FY 10/01/2021 to 09/30/2022		Third Full FY of Operation 10/01/2025 to 09/30/2026	
	Patients	% of Total	Patients	% of Total
Wake	45	100.0%	24	100.0%
Total	45*	100.0%	24	100.0%

Source: Pages 30-31

*Represents the number of patients admitted to NF beds throughout 2022

In Section C, page 31, the applicant provides the assumptions and methodology used to project its patient origin, as described below.

“100% of the patients served by the additional NF beds (and by the ACH beds) will be residents of CNH, who thus are residents of Wake County at the time of their need for healthcare services.”

The applicant’s assumptions are reasonable and adequately supported.

Analysis of Need

In Section C.4, pages 32-37, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services. On page 32 the applicant states:

“The need for the proposed project is based on and supported by the following:

- *Expansion of Independent Living residences at The Cardinal at North Hills*
- *High occupancy of existing NF beds at CNH, with steadily increasing days of care since the facility opened.*
- *High NF bed occupancy at Wake County CCRC facilities.*
- *Service area demographics.*

...

CNH currently has 165 residences, which are supported by 15 nursing home facility beds. During FF2022, the average daily census of the 15 NF beds at CNH was 13.70, which represents an average daily bed occupancy of 91.3% (13.7/15). ...CNH is currently expanding the IL residence count by 92%, increasing from 165 ILUs to a total of 316 residences. Thus, the current 15-bed NF inventory is insufficient for the 316 planned residences.”

The Cardinal at North Hills Historical Skilled Nursing Bed Days of Care, FFY2017 – FFY2022							
	FFY2017	FFY2018	FFY2019	FFY2020	FFY2021	FFY2022	4-YR CAGR
Days of Care	114	1,759	3,901	4,262	4,130	4,999	29.84%

Source: Form C.1a/b, page 91

On page 31, the applicant states:

“The 15 existing NF beds at CNH are well utilized. As shown above, the four-year compound average growth rate (since FFY2018) of skilled nursing days of care at CNH is 29.84%. During FFY2022, nursing bed utilization represented an average daily occupancy rate of 91.3% ($4,999/365 = 13.7/15 = 91.3\%$).

...

Adding NH beds at CNH would permit its CCRC residents to age in place and not worry about being transferred to another CCRC or to a skilled nursing facility due to lack of NF bed inventory, which is contrary to the purpose of a CCRC and contrary to the obligations a CCRC has to its residents.”

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

- Wake County population is projected to grow at a five-year compound annual growth rate (CAGR) of 5.17%.
- The highest percentage of growth is in the 65+ age segment, which is the age segment which most utilizes nursing facility services.
- The Cardinal NF beds currently operate at practical capacity.
- The Cardinal is adding more IL units which will increase the total number of residents at The Cardinal 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 3.15 IL units. 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%. (See page 34)

Projected Utilization

In Section Q, Form C, the applicant provides projected utilization for CNH as shown below. The applicant projects to begin offering services on October 1, 2023. The first three full Federal Fiscal Years (FFY) after completion of the project would be FFY 2024, 2025, and 2026.

Form C.1b Projected Health Service Facility Bed Utilization upon Project Completion				
	Last Full FFY 22	1st Full FFY 24	2nd Full FFY 25	3rd Full FFY 26
NF Beds				
# of Beds	15	25	25	25
Patient Days	4,999	8,114	8,284	8,454
Occupancy Rate	91.3%	88.9%	90.8%	92.7%
ACH Beds				
# of Beds	55	106	106	106
Patient Days	16,088	28,595	32,945	33,484
Occupancy Rate	80.1%	73.9%	85.2%	86.5%

Source: Form C.1.b, pages 89-90

The applicant provides its assumptions for the above projections on pages 91-97 of Section Q, as summarized below:

- The project’s fiscal year is based on the federal fiscal year of October 1 through September 30.
- The proposed additional NF beds will be licensed and operational October 1, 2023.
- The Cardinal projects utilization based on the most recent historical census.
- The Cardinal projects a sufficient net average fill-up rate.
- The Cardinal projects ACH occupancy of 91.9% by the end of the first project year.
- The development of the additional 151 IL units will support an increase in NF bed utilization.

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 one patient every week during the initial 9 weeks is reasonable based on the following:
 - The Cardinal’s NF beds are currently operating at 91.3%.
 - The increase in IL units will increase the need for NF beds as The Cardinal residents need to step up to skilled nursing care.

Access to Medically Underserved Groups

In Section C, page 43, the applicant states:

“CNH offers 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 additional NF beds at CNH will not be certified for participation in the Medicaid program, and will only be utilized by the continuing care resident population at CNH...”

The applicant provides the estimated percentage for each medically underserved group, as shown in the following table.

Medically Underserved Groups	Percentage of Total Patients
Low-income persons	Not available
Racial and ethnic minorities	Not available
Women	78.6%
Persons with Disabilities	Not available
Persons 65 and older	100.0%
Medicare beneficiaries	19.02%
Medicaid recipients	Not applicable

The applicant adequately describes the extent to which all residents of the service area, including underserved groups, are likely to have access to the proposed services.

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 described above.

- (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.

C

The applicant, The Cardinal at North Hills Healthcare, LLC, (hereinafter referred to as “the applicant” or “CNH”) proposes to add 10 nursing facility (NF) beds, pursuant to Policy NH-2, to The Cardinal at North Hills (hereinafter referred to as “The Cardinal”), for a total of 25 NF beds.

In Section E.2, page 51, the applicant states that it does not consider that any alternative method is available as discussed below:

- The applicant states that the addition of NF beds is needed to support the concurrent expansion of the IL units at CNH
- The applicant states that not adding the NF beds, is not a viable option due to the increasing elderly IL population at the facility and in the service area
- Expanding private rooms to semi-private rooms is not a good option because of resident reluctance

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the need because the addition of 10 NF beds to support the on-going IL expansion, with no associated construction or renovation cost, is the most effective and least costly alternative.

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 Cardinal at North Hills Healthcare, LLC, (hereinafter “certificate holder”), shall materially comply with all representations made in the certificate of need application.**

- 2. The certificate holder shall develop no more than 10 additional nursing facility beds pursuant to Policy NH-2 for a total of no more than 25 licensed nursing facility beds upon completion of the project.**
 - 3. The 10 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. Progress Reports:**
 - a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic progress reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.**
 - b. The certificate holder shall complete all sections of the Progress Report Form.**
 - c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.**
 - d. The first progress report shall be due on January 1, 2024.**
 - 6. 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.**
 - 7. The certificate holder shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant, The Cardinal at North Hills Healthcare, LLC, (hereinafter referred to as “the applicant” or “CNH”) proposes to add 10 nursing facility (NF) beds, pursuant to Policy NH-2,

to The Cardinal at North Hills (hereinafter referred to as “The Cardinal”), for a total of 25 NF beds.

Capital and Working Capital Costs

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

Projected Capital Cost	
Non Medical Equipment	\$5,000
Furniture	\$10,000
Consultant Fees	\$46,500
Other Costs	\$18,500
TOTAL CAPITAL COST	\$80,000

Although the applicant did not submit the assumptions used to project the capital cost in Form F.1a as requested in the application, the applicant submitted supporting documentation. The applicant states that The Cardinal is an existing facility; therefore, there will be no start-up expenses or initial operating expenses associated with the project.

Availability of Funds

The applicant states, on page 53, that the capital cost of this project will be funded with cash.

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 revenues will exceed expenses in the first three operating years of the project for NF and ACH beds as shown in the tables below.

Projected NF Bed Revenue and Expenses

	1st Full Fiscal Year 2024	2nd Full Fiscal Year 2025	3rd Full Fiscal Year 2026
Total Patient Days	8,114	8,284	8,458
Total Gross Revenue	\$4,235,533	\$4,422,754	\$4,618,479
Total Net Revenue	\$3,995,364	\$4,171,411	\$4,355,442
Average Net Revenue per Patient Day	\$492	\$504	\$515
Total Operating Expenses	\$3,200,180	\$3,301,095	\$3,405,471
Average Operating Expense per Patient Day	\$394	\$398	\$403
Net Income	\$795,184	\$870,316	\$949,971

Source: Form C.1b, Form F.2b, page 102

Projected ACH Bed Revenue and Expenses

	1 st Full Fiscal Year 2024	2 nd Full Fiscal Year 2025	3 rd Full Fiscal Year 2026
Total Patient Days	28,595	32,945	33,484
Total Gross Revenue	\$10,536,497	\$12,442,789	\$12,962,492
Total Net Revenue	\$10,536,497	\$12,442,789	\$12,962,492
Average Net Revenue per Patient Day	\$368	\$378	\$387
Total Operating Expenses	\$6,226,661	\$6,541,851	\$6,735,324
Average Operating Expense per Patient Day	\$218	\$199	\$201
Net Income	\$4,309,836	\$5,900,938	\$6,227,168

Source: Form C.1b, Form F.2b, page 102

The assumptions used by the applicant in preparation of the pro forma financial statements are provided in Forms F.2b. and F.3a. The applicant adequately demonstrates that the financial feasibility of the proposed is reasonable and adequately supported based on a letter from a Vice President of The Cardinal confirming the availability of funds for the 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 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

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On page 139, the 2023 SMFP defines the service area for nursing facility beds as:

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

The Cardinal is located in Wake County. Thus, the service area for this facility consists of Wake County. Facilities may also serve residents of counties not included in their service area.

On page 159 of the 2023 SMFP, Table 10A documents that there are a total of 31 existing or approved facilities in Wake County that offer or will offer NF services. The table below is a summary of those 31 facilities in Wake County, recreated from the 2023 SMFP, Chapter 10, Table 10A (pages 159-60) and Table 10C (page 168). There is a projected deficit of 451 NF beds in Wake County.

2022 NF Inventory and 2021 Need Projections for Mecklenburg County	
# Facilities with NF Beds	31
# Beds in Hospitals	157
# Beds in Nursing Facilities	2,433
Total # Licensed Beds	2,590
# CON Approved Beds (License Pending)	170
Total # NF Beds Available	2,760
Total # NF Beds in Planning Inventory	2,367
Projected Bed Utilization with Vacancy Factor*	2,818
Projected Bed Surplus (Deficit)	-451

*Calculated by dividing Projected Bed Utilization by 95%

In Section G, page 60, the applicant states that the Wake County NF bed occupancy rate is 71.9%.

The applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved services in Wake County. On page 60, the applicant states:

“...CNH is proposing to expand its NF bed capacity to accommodate care needs of its own independent living resident population. The inventory of CNH IL residences is increasing by 92%, from 165 to a total of 316 residences...”

On page 60, the applicant further states, *“The proposed NF bed project will serve CNH residents with whom CNH has a continuing care contract and will not accept outside residents. The proposed project does not seek to increase the number of NF beds in Wake County SMFP inventory.”*

The applicant adequately demonstrates that the proposal would not result in an unnecessary duplication of existing or approved services in the service area because the proposed 10 NF beds are needed in addition to the existing or approved beds. There is a projected deficit of 451 beds in Wake County.

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.

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

**Current and Projected FTE Positions
 The Cardinal at North Hills**

Staff Position For Nursing Facility Beds	Current As of 10/1/22	First Full Fiscal Year	Second Full Fiscal Year	Third Full Fiscal Year
RNs	1.40	1.40	1.40	1.40
LPNs	2.80	2.80	2.80	2.80
CNAs	14.00	16.80	16.80	16.80
Director of Nursing	1.00	1.00	1.00	1.00
Assistant Director of Nursing	0.00	0.50	0.50	0.50
MDS Nurse	0.50	0.50	0.50	0.50
Alzheimer's Coordinator	0.00	0.00	0.00	0.00
Staff Development Coordinator	0.50	0.50	0.50	0.50
Cooks	1.40	1.40	1.40	1.40
Dietary Aides	0.50	1.00	1.00	1.00
Social Workers	0.25	0.50	0.50	.50
Activities Director	1.00	1.00	1.00	1.00
Medical Records	0.00	0.00	0.00	0.00
Laundry & Linen	0.25	0.50	0.50	0.50
Housekeeping	1.00	1.00	1.00	1.00
Maintenance/Engineering	0.25	0.25	0.25	0.25
Administrator/CEO	0.25	0.25	0.25	0.25
Business Office	0.25	0.25	0.25	0.25
Clerical	0.25	0.50	0.50	0.50
Other	0.00	0.00	0.00	0.00
Total FTE Positions*	25.60	30.15	30.15	30.15

*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, page 62, and in Section Q, Form H, on page 112. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements in Section Q, Form F.3b.

In Section H, pages 63-64, 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 I.1.1, 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 Exhibit I.1.2, pdf page 24 and Section I.1, pages 65-66, 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
- Marketing
- Information Technology
- Social Services
- Housekeeping
- Food & Nutrition Services
- Human Resource Staff Training
- Facility Maintenance
- Medical Supplies
- Linen Services
- Building & Equipment Maintenance
- Purchasing
- Discharge Planning

On pages 65-66, the applicant explains how each ancillary and support service is made available and provides supporting documentation in Exhibit I.1.2.

In Section I, page 66, the applicant describes its history of providing health care service in North Carolina and its well-established relationships with local healthcare and social services providers in Wake 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.

- (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

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In Section K, page 69, the applicant states that the project does not include any new construction or renovation in the healthcare center at CNH. Exhibit K.1 provides a facility line drawing showing the 15 existing NF and 55 ACH beds.

On page 70, the applicant further states:

“CNH will utilize existing available facility spaces, which represents the most reasonable and cost effective alternative for adding NF beds at CNH. And specifically, this project will not increase the charges or projected reimbursement for these services, which are established by the existing facility resident agreement.”

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, page 73, the applicant states that The Cardinal's payor mix for FY2022 was 78.96% private pay; 19.02% Medicare; and 2.02% other government. In Section L.1(a), page 73, the applicant provides the following comparison.

**The Cardinal at North Hills
Last Full Fiscal Year (FFY 2022)**

	Percent of Total Patients Served	Percent of Service Area Population
Female	78.6%	51.1%
Male	21.4%	48.9%
64 and Younger	0.0%	87.4%
65 and Older	100.0%	12.6%
American Indian	Not available	0.8%
Asian	Not available	8.3%
Black or African-American	Not available	21.0%
Native Hawaiian or Pacific Islander	Not available	0.1%
White or Caucasian	Not available	67.1%
Other Race	Not available	2.8%

The Agency reviewed the:

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

Based on that review, the Agency concludes that the applicant adequately 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, page 75, the applicant states:

“CNH has no requirements to provide uncompensated care, community service, or access by minorities and persons with disabilities. Nonetheless, CNH offers equal treatment and access to its services for all people, without discrimination due to race, color, religion, sex, age, marital status, national origin, sexual orientation, ancestry, or disability.”

The applicant further confirms that no patient civil rights equal access violations have been filed against The Cardinal in the past 18 months.

The agency reviewed the:

- application
- exhibits to the application
- 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, page 76, the applicant projects that in the third year of operation, FFY2026, 78.96% of its residents will be private pay and 21.04% will be Medicare. Policy NH-2 of the 2023 SMFP 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.

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 certified;
- the proposed Policy NH-2 beds are prohibited from participation in the Medicaid 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, page 76, the applicant adequately describes the range of means by which patients will have access to The Cardinal's 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, page 79, 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 M.1, which contains a copy of a clinical training agreement with Care One Health Training Institute.

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 Cardinal at North Hills Healthcare, LLC, (hereinafter referred to as “the applicant” or “CNH”) proposes to add 10 nursing facility (NF) beds, pursuant to Policy NH-2, to The Cardinal at North Hills (hereinafter referred to as “The Cardinal”), for a total of 25 NF beds.

Policy NH-2 requires that the beds 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 and Rules) who have lived in a non-nursing unit of the CCRC for a period of at least 30 days.

On page 139, the 2023 SMFP defines the service area for nursing facility beds as:

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

The Cardinal is in Wake County. Thus, the service area for this facility consists of Wake County. Facilities may also serve residents of counties not included in their service area.

On page 159 of the 2023 SMFP, Table 10A documents that there are a total of 31 existing or approved facilities in Wake County that offer or will offer NF services. The table below is a summary of those 31 facilities in Wake County, recreated from the 2023 SMFP, Chapter 10, Table 10A (pages 159) and Table 10C (page 168). There is a projected deficit of 451 NF beds in 2022 for Wake County.

2022 NF Inventory and 2021 Need Projections for Mecklenburg County	
# Facilities with NF Beds	31
# Beds in Hospitals	157
# Beds in Nursing Facilities	2,433
Total # Licensed Beds	2,590
# CON Approved Beds (License Pending)	170
Total # NF Beds Available	2,760
Total # NF Beds in Planning Inventory	2,367
Projected Bed Utilization with Vacancy Factor*	2,818
Projected Bed Surplus (Deficit)	-451

*Calculated by dividing Projected Bed Utilization by 95%.

In Section N, pages 80-82, 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 80, the applicant states:

“... The proposed NF bed expansion project will promote cost-effectiveness, quality, and access to services...and therefore will promote competition in the CNH service area...”

On page 80-82, the applicant further explains 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:

“All CNH resident rooms and common spaces meet handicapped-accessibility requirements, including turning spaces, clear floor spaces in bedrooms and accessible plumbing fixtures, roll-in showers, grab bars, accessible storage spaces, etc.

...

The additional NF spaces have handicap-accessible parking, ramps and stairways.”

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, page 83, the applicant states “a quality assurance program is in place to systematically monitor and evaluate patient care and clinical performance.” The applicant further states on page 86:

“None of the facilities listed in Form O Facilities has ever been determined by the Division of Health Service Regulation to have had any situations resulting in a finding of substandard quality of care (Level 4) during the 18 month look-back period (determination).”

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 Cardinal at North Hills, 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 10 NF beds pursuant to Policy NH-2. The Criteria and Standards for Nursing Facility or Adult Care Home Services promulgated in 10-A 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.