



COMMONWEALTH of VIRGINIA

Karen Shelton, MD
State Health Commissioner

Department of Health
P O BOX 2448
RICHMOND, VA 23218

TTY 7-1-1 OR
1-800-828-1120

August 20, 2025

Frank Peck
Premier Consulting Services, Inc.
Post Office Box 21133
Roanoke, Virginia 24018

RE: COPN No. VA-04946 (COPN Request No. VA-8812)
Bennett's Creek RE Group, LLC
Suffolk, Virginia
Establish a 100 Bed Nursing Home by Relocation

Dear Mr. Peck:

In accordance with Chapter 4, Article 1.1 of Title 32.1 of the Code of Virginia of 1950 (the Code), as amended, I reviewed the application and all supporting documents submitted by Bennett's Creek RE Group, LLC to establish a 100-bed nursing home in Suffolk, Virginia through relocation from five existing nursing homes, also in Planning District 20.

As required by Section 32.1-102.3B of the Code, I have considered all factors that must be taken into account in a determination of public need, and I have concluded that **approval** of the request is warranted based on the following findings:

1. The proposal to establish Bennett's Creek Health and Rehab Center is generally consistent with the applicable criteria and standards of the State Medical Facilities Plan and the Eight Required Considerations of the Code of Virginia.
2. The project does not add nursing home beds to the inventory of PD 20 but relocates 100 underutilized beds to an area of the PD that has relatively fewer nursing home beds.
3. Consistent with industry trends, the proposed project would enable the addition of 146 private nursing home rooms.
4. No reasonable alternatives have been identified that are preferable to the proposed project.
5. The capital cost of the proposed project is reasonable and comparable to similar projects.

Mr. Frank Peck
Bennett's Creek RE Group, LLC
August 20, 2025
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6. The proposed project is feasible.
7. There is no documented opposition to the proposed project.

This certificate is valid for the period August 20, 2025 through August 19, 2026.
The total authorized capital and financing cost of the project is \$33,336,700

Please file two copies of the application for a certificate extension with the Department no later than 30 days before the expiration date of the certificate. Part VIII of the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations identifies the filing requirements and review procedure for certificate extension requests.

Sincerely,



Karen Shelton, MD
State Health Commissioner

Enclosure

cc: Charis A. Mitchell, Assistant Attorney General, Commonwealth of Virginia
Erik Bodin, Director, Division of Certificate of Public Need
James Jenkins, Acting Director, VDH, Office of Licensure and Certification
Deborah K. Waite, Chief Operating Officer, Virginia Health Information
Angela Y. Tillery, MBA, District Director, Suffolk City Health District

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH

MEDICAL CARE FACILITIES CERTIFICATE OF PUBLIC NEED

THIS CERTIFIES THAT Bennett's Creek RE Group, LLC is authorized to initiate the proposal as described below.

NAME OF FACILITY: Bennett's Creek Health and Rehab Center

LOCATION: 1931 and 1975 Bridge Road, Suffolk, Virginia 23436

OWNERSHIP AND CONTROL: Bennett's Creek RE Group, LLC

SCOPE OF PROJECT: Establish a 100-bed nursing home by relocating beds from five existing nursing homes also in Planning District 20 (2 from Autumn Care in Norfolk; 14 from Autumn Care in Portsmouth; 8 from Portside Health & Rehab in Portsmouth; 6 from Rosemont Health & Rehab in Virginia Beach and 70 from Waterside Health and Rehab in Norfolk), each of which will forbear use of the number of beds relocated. Capital costs authorized for this project total \$18,936,700 and up to \$14,400,000 in financing costs for a total of \$33,336,700 in capital and financing costs. The project is expected to be completed by August 20, 2028.



Pursuant to Chapter 4, Article 1:1 of Title 32.1, Sections 32.1-102.1 through 32.1-102.12 of the Code of Virginia (1950), as amended and the policies and procedures promulgated thereunder, this Medical Care Facilities Certificate of Public Need is issued contingent upon substantial and continuing progress towards implementation of the proposal within twelve (12) months from the date of issuance. A progress report shall be submitted to the State Health Commissioner within twelve (12) months from the date of issuance along with adequate assurance of completion within a reasonable time period. The Commissioner reserves the right not to renew this Certificate in the event the applicant fails to fulfill these conditions. This Certificate is non-transferable and is limited to the location, ownership, control and scope of the project shown herein.

Certificate Number: VA-04946

Date of Issuance: August 20, 2025

Expiration Date: August 19, 2026

Karen Shelton, MD, State Health Commissioner

VIRGINIA DEPARTMENT OF HEALTH

Office of Licensure and Certification

Division of Certificate of Public Need

Staff Analysis

July 21, 2025

COPN Request No. VA-8812

Bennett's Creek RE Group, LLC

Suffolk, Virginia

Establish a 100 Bed Nursing Home by Relocation

Applicant

The applicant is Bennett's Creek RE Group, LLC, a Virginia limited liability company, a single purpose entity established to own the real estate property. WWBV Holdings, LLC owns 100% of the applicant. The project is to be operated by a related partner, Bennett's Creek Health and Rehab, LLC, also a Virginia limited liability company. The applicant is affiliated through a common owner with Saber Healthcare Group, LLC and Saber Healthcare Holdings, LLC. The facility is Bennett's Creek Health and Rehab Center, to be located in Suffolk, Virginia in Planning District (PD) 20, Health Planning Region (HPR) V.

Background

There were 37 nursing facilities reported to VHI in PD 20 for 2023, including three continuing care retirement communities (CCRCs) and two acute care facilities with certified long term care beds. In total, there were 4,306 nursing facility beds, 86% occupied in 2023 (**Table 1**). No changes to the nursing home inventory have occurred in the PD since the reporting of beds and utilization to VHI, so **Table 1** is consistent with the current PD 20 inventory of nursing home beds.

Table 1. PD 20 Nursing Home Inventory and Utilization, 2023

Facility Name	Licensed Nursing Beds	Patient Days	Bed Available Days	Occupancy Rate
Autumn Care of Chesapeake	117	39,154	42,705	91.7%
Autumn Care of Norfolk	120	39,663	43,800	90.6%
Autumn Care of Portsmouth	105	34,703	38,325	90.5%
Autumn Care of Suffolk	110	37,753	40,150	94.0%
Bay Pointe Rehabilitation and Nursing	112	36,591	40,880	89.5%
Bayside Health and Rehabilitation Center	60	20,021	21,900	91.4%
Beth Sholom Home of Eastern Virginia	120	39,562	43,800	90.3%
Birchwood Park Rehabilitation and Nursing	150	46,686	54,750	85.3%
Bon Secours Southampton Memorial Hospital - LTCU	129	33,230	47,085	70.6%
Chesapeake Health and Rehabilitation Center	180	60,777	65,700	92.5%
Colonial Health & Rehab Center	90	30,326	32,850	92.3%
Consulate Health Care of Norfolk	222	70,753	81,030	87.3%
Consulate Healthcare of Windsor	114	39,799	41,610	95.6%
Courtland Operating LLC	90	30,545	32,850	93.0%
Cypress Pointe Rehabilitation and Nursing	90	28,267	32,850	86.0%
Greenbrier Regional Medical Center	120	31,793	43,800	72.6%
Harbors Edge Norfolk (C0074)	33	9,971	12,045	82.8%
Harbour Pointe Healthcare and Rehabilitation Center	169	50,033	61,685	81.1%
Kempsville Health & Rehab Center	90	30,313	32,850	92.3%
Lake Prince Woods (C0065)	40	8,711	14,600	59.7%
Lake Taylor Transitional Care Hospital LTCU	192	55,432	70,080	79.1%
Nansemond Pointe Rehabilitation and Nursing	148	52,190	54,020	96.6%
Norfolk Health and Rehabilitation Center	180	60,504	65,700	92.1%
Northern Cardinal Rehabilitation and Nursing	120	36,730	43,800	83.9%
Norview Heights Rehabilitation and Nursing	60	19,915	21,900	90.9%
Oak Grove Health & Rehab Center	120	41,867	43,800	95.6%
Our Lady of Perpetual Help Center, Inc	30	10,601	10,950	96.8%
Portside Health and Rehab Center	132	40,462	48,180	84.0%
Portsmouth Health and Rehab	120	33,859	43,800	77.3%
Princess Anne Health and Rehabilitation Center	120	41,261	43,800	94.2%
Riverside Healthy Living Community - Smithfield	34	10,920	12,410	88.0%
Rosemont Health & Rehab Center	116	39,179	42,340	92.5%
Seaside Health Center	50	13,600	18,250	74.5%
Thalia Gardens Rehabilitation and Nursing	138	42,977	50,370	85.3%
Virginia Beach Healthcare and Rehabilitation Center	180	60,632	65,700	92.3%
Waterside Health and Rehab Center	197	41,037	71,905	57.1%
Westminster-Canterbury on Chesapeake Bay (C0038)	108	32,108	39,420	81.5%
Planning District Volumes and Average Utilization	4,306	1,351,925	1,571,690	86.0%

Source: 2023 VHI & DCOPN Records

The applicant proposes to relocate 100 nursing home beds to a new facility from other PD 20 nursing homes that share a common ownership with Saber Healthcare Group, LLC and Saber Healthcare Holdings, LLC, as does the operator of the proposed project (**Table 2**).

Table 2. Saber-Affiliated Facilities from which Beds are Proposed to Transfer

Nursing Home Facilities	Number of Beds	Proposed to be Transferred	Patient Days 2023	Occupancy	Occupancy after Bed Transfer
Autumn Care in Norfolk	120	2	39,663	90.6%	92.1%
Autumn Care in Portsmouth	105	14	34,703	90.5%	104.5%
Portside H&R in Portsmouth	132	8	40,462	84.0%	89.4%
Rosemont H&R in Virginia Beach	116	6	39,179	92.5%	97.6%
Waterside H&R in Norfolk	197	70	41,037	57.1%	88.5%
		100			

Source: 2023 VHI and COPN Request No. VA-8812

DCOPN notes that Autumn Care in Portsmouth will eliminate its least desirable three-bed rooms by contributing one bed from each of the 14 rooms that currently hold up to three residents, to the proposed new facility. At 2023 patient days, elimination of these beds would outstrip bed capacity at Autumn Care in Portsmouth (104.5% occupancy, **Table 2**); however, the applicant asserts there is sufficient patient turnover that no patients will need to be discharged/displaced in order to transfer the beds, and there is adequate capacity elsewhere in Portsmouth into which to shift the patient days from Autumn Care in Portsmouth.

Proposed Project

The applicant proposes to build a 100-bed nursing home on adjoining parcels at 1931 and 1975 Bridge Road, Suffolk, Virginia. The proposed facility is Bennett's Creek Health and Rehab Center (BCHRC), to offer 60 private rooms and 20 semi-private rooms, by relocating beds by forbearance agreements from five other Saber-affiliated nursing facilities across PD 20 (**Table 2**). The proposal will increase the number of single-occupant rooms by 146 private rooms across the PD as the applicant builds private rooms and the five facilities that contribute beds free up space to spread beds into more private rooms. In addition, fourteen three-bed rooms will be eliminated.

The proposed facility will be 54,530 gross square feet with projected capital costs of \$18,936,700, including conventional mortgage loan financing (**Table 3**). There is additionally up to \$14,400,000 in financing costs, expected to be converted to a long term HUD mortgage at some point during the ten year term, for a total of \$33,336,700 in capital and financing costs. The applicant states that approximately 112 full-time equivalent (FTE) employees will be needed to staff the facility. The applicant anticipates opening Bennett's Creek Health & Rehab Center 36 months after issuance of a COPN.

Table 3. Capital Costs Bennett's Creek Health & Rehab Center

Direct Construction Cost	\$ 14,947,200
Equipment not included in construction contract	\$ 1,300,000
Site Acquisition Costs	\$ 1,684,500
Architectural and Engineering	\$ 298,000
Taxes & Government Fees During Construction	\$ 32,000
Conventional Mortgage Loan Financing	\$ 675,000
Total Capital Costs	\$ 18,936,700

Source: COPN Request No. VA-8812

Project Definition

Section 32.1-102.1:3 of the Code of Virginia defines a project, in part, as the “[e]stablishment of a medical care facility described in subsection A.” A medical care facility includes “[a]ny facility licensed as a nursing home...”

Required Considerations -- § 32.1-102.3, of the Code of Virginia

In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable.

- 1. The extent to which the proposed service or facility will provide or increase access to needed services for residents of the area to be served, and the effects that the proposed service or facility will have on access to needed services in areas having distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care.**

PD 20 had a population of about 1.2 million in 2020 and is projected to grow by just over 40,000 people, 3.3%, between 2020 and 2030. This is less than the population growth rate projected for Virginia during this decade, 5.8%. Suffolk City, where the proposed project is located, however, is projected to grow by 8.7%, adding 8,247 people, between 2020 and 2030 (**Table 4**), the second highest rate of all localities in PD 20 and higher than that of Virginia. The growth rates projected for 2020-2030 in the 65 and older age group are 32.4% in Suffolk City and 33.8% in PD 20 overall, compared to 26.3% in Virginia (**Table 4**).

Table 4. PD 20 Population Data

Locality	2020 Census	2030 Projected	Projected Population Change 2020-2030	Projected % Change 2020-2030	2020 65+ Census	2030 65+ Projected	Projected Population Change 65+ 2020-2030	Projected % Change 65+ 2020-2030
Isle of Wight Co.	38,606	41,341	2,735	7.1%	7,751	10,388	2,637	34.0%
Southampton Co.	17,996	17,172	-824	-4.6%	3,719	4,756	1,037	27.9%
Chesapeake City	249,422	272,670	23,248	9.3%	36,045	50,838	14,793	41.0%
Franklin City	8,180	7,667	-513	-6.3%	1,787	1,982	195	10.9%
Norfolk City	238,005	229,864	-8,141	-3.4%	29,215	36,636	7,421	25.4%
Portsmouth City	97,915	98,857	942	1.0%	15,496	19,321	3,825	24.7%
Suffolk City	94,324	102,571	8,247	8.7%	14,708	19,474	4,766	32.4%
Virginia Beach City	459,470	474,052	14,582	3.2%	69,375	94,903	25,528	36.8%
PD 20 Totals	1,203,918	1,244,194	40,276	3.3%	178,096	238,297	60,201	33.8%
Virginia	8,631,393	9,129,002	497,609	5.8%	1,395,291	1,762,641	367,350	26.3%

Source: Weldon-Cooper Data, updated August 2023

With respect to socioeconomic barriers, the poverty rate of PD 20 is higher than that of Virginia (Table 5). Suffolk City, the location of the proposed project has a poverty rate of 11.6%, lower than that of PD 20 but higher than that of Virginia.

Table 5. 2022 Poverty Rates, PD 20

Locality	Percent in Poverty
Isle of Wight County	8.5%
Southampton County	15.0%
Chesapeake City	8.7%
Franklin City	19.0%
Norfolk City	18.8%
Portsmouth City	19.8%
Suffolk City	11.6%
Virginia Beach City	9.9%
PD 20	12.3%
Virginia	10.6%

Source: <https://www.census.gov/data-tools/demo/saife/#>

The site's location on US Route 17 offers connectivity to the northern parts of Suffolk, Isle of Wight and Portsmouth. There are no regularly scheduled public transportation services available to the site, but residents will have access to on-call pickup and transport service as well as contracted relationships.

2. The extent to which the project will meet the needs of the residents of the area to be served, as demonstrated by each of the following:

(i) The level of community support for the project demonstrated by citizens, businesses, and governmental leaders representing the area to be served.

DCOPN received a letter of commitment from Universal Health Corporation (UHealth), and six letters of support for the proposed project from the administrators of six Saber facilities located in PD 20. These letters, in aggregate, expressed the following:

- The proposed facility will be an invaluable addition to Virginia's southeastern region, offering essential services and care to a growing population in need.
- Suffolk, Virginia faces an increasing demand for skilled nursing care due to aging population and the complex medical needs of seniors.
- The addition of a facility this size will directly address these needs by providing state-of-the-art care to individuals requiring short-term rehabilitation, long-term care and specialized medical support.
- The proposed project will allow for increased space available for enhanced services needed by our ever-changing population.
- Adding a building in Suffolk could potentially stimulate more growth.
- The proposal will serve the community by adding beds to our ever-growing city.
- Suffolk is an under-served and growing area, the fastest growing population locality in PD 20.
- Approval of the requested COPN will enable well over 100 additional private patient rooms in PD 20 and will not increase the current number of licensed nursing home beds in PD 20.
- Approval of the Bennett's Creek facility will improve accessibility to nursing home beds in PD 20.
- UHealth looks forward to providing high quality care to the residents of this new community.
- Approval of the project will enable my facility to add much needed reduction of 3-bed rooms to semiprivate rooms and increase space available for enhanced services.
- Approval of the requested project will allow me to increase the number of private rooms at Portside.
- Every week we are referred patients for rehabilitation that will only agree to come to our center if they are guaranteed a private room. With only nine private rooms, we often see these referred patients go home prematurely without the needed inpatient rehabilitation, putting them at risk of re-hospitalization.
- It makes sense to transfer unused and unneeded beds to an area where they are needed.
- Approval of COPN Request no. VA-8812 will enable Autumn Care of Norfolk to add much needed private rooms and increase space available.
- Approval of the proposal will enable my facility to add much needed private rooms, finish renovations and increase space available for our ever changing population.
- This project will allow me the opportunity to better serve the patients in the area by increasing the number of private beds we have at the center and allow the freedom for residents to create a homelike environment in their room.
- Saber has a focus on delivering exceptional care and service to their residents and the communities they serve.

Public Hearing

§32.1-102.6B of the Code of Virginia directs DCOPN to hold one public hearing on each application in the case of competing applications; or in response to a written request by an elected local government representative, a member of the General Assembly, the Commissioner, the applicant, or a member of the public. COPN Request No. VA-8812 is not competing with another project and DCOPN did not receive a request to conduct a public hearing for the proposed project. Thus, no public hearing was held.

DCOPN provided notice to the public regarding this project inviting public comment on May 15, 2025. The public comment period closed on June 29, 2025. Other than the letters of support referenced above, no members of the public commented. There is no known opposition to the project.

(ii) The availability of reasonable alternatives to the proposed service or facility that would meet the needs of the population in a less costly, more efficient, or more effective manner.

The status quo is an alternative that avoids the costs incurred for the proposed project in a PD with excess bed capacity. Maintaining the status quo, however, is not preferable to the proposed project. Nursing home trends show that private beds are preferred by residents and do not require grouping for infection, gender or behavioral issues. The proposed project increases the number of private rooms in PD 20 by 146, adding 60 single-occupancy rooms at the proposed new facility and another 86 at the facilities contributing beds, without increasing the nursing home bed capacity.

(iii) Any recommendation or report of the regional health planning agency regarding an application for a certificate that is required to be submitted to the Commissioner pursuant to subsection B of § 32.1-102.6.

Currently there is no organization in HPR V designated by the Virginia Department of Health to serve as the Health Planning Agency for PD 20. Therefore, this consideration is not applicable to the review of the proposed project.

(iv) Any costs and benefits of the project.

Total projected capital cost for the proposed project is \$18,936,700, 78.9% of which is direct cost, with another \$14,400,000 in conventional mortgage loan financing for a total in capital and financing costs of \$33,336,700. Though financing costs are substantial, direct cost per square foot is \$274, consistent with other recently approved projects to establish a nursing home. For example, COPN No. VA-04907 authorized The Virginia Home at \$518 of direct cost per square foot and COPN No. VA-04818 authorized OHI Asset (VA) Moneta, LLC to construct Smith Mountain Lake Health & Rehab Center at \$224 of direct cost per square foot.

The applicant has described several benefits to the proposed project, stating that the site was selected due to "...population growth of Suffolk and the comparative lack of existing nursing home bed capacity in the area." The proposed project is inventory-neutral and, with all beds Medicaid/Medicare certified, fully accessible to low income persons. The proposal will add 146

private rooms in PD 20, including at facilities contributing beds to the proposed project, 60 in Suffolk, 72 in Norfolk, and in Portsmouth it will add 8 private rooms and eliminate 14 three-bed rooms. It is a well-documented industry trend to offer more private rooms as these are more desirable to residents and reduce infection control risks of cohabitating residents.

(v) The financial accessibility of the project to the residents of the area to be served, including indigent residents.

The applicant states that all 100 licensed nursing home beds will be dually certified by Medicare and Medicaid.

(vi) At the discretion of the Commissioner, any other factors as may be relevant to the determination of public need for a project.

CMS Star ratings for the facilities proposed to contribute beds are shown in Table 6. All of these facilities are operated by Saber Healthcare Group, LLC affiliates, as will the proposed facility. According to its website, the CMS Star ratings are based on a nursing home's performance on three sources: health inspections, staffing and quality measures. Health inspections from all of the proposed contributing nursing homes were below average; Staffing ranged from much below average to average; and Overall Quality ranged from below average to above average (see footnotes). Autumn Care Portsmouth had the highest component ratings, with average staffing and above average quality scores. Should the proposed project be approved, the operator intends to forbear 14 beds at that site and, applying the most recently published patient days, occupancy would be over 100% (Table 2). Though the applicant asserts that turnover would mean that no residents would be displaced due to the reduction of beds at Autumn Care Portsmouth, DCOPN notes that future patients would need be admitted to other, potentially lower-rated facilities.

Table 6. CMS Star Ratings, Saber-Affiliated Facilities Proposed to Transfer Beds

Nursing Home Facilities	Number of Beds	Proposed to be Transferred	CMS Star Rating
Autumn Care in Norfolk	120	2	1 ¹
Autumn Care in Portsmouth	105	14	2 ²
Portside H&R in Portsmouth	132	8	2 ³
Rosemont H&R in Virginia Beach	116	6	2 ⁴
Waterside H&R in Norfolk	197	70	2 ⁵
		100	

Source: <https://www.medicare.gov/care-compare/?redirect=true&providerType=NursingHome>; Date last updated May, 28, 2025

¹ Health Inspections – 2 Stars; Staffing – 1 Star; Overall Quality – 3 Stars

² Health Inspections – 2 Stars; Staffing – 3 Stars; Overall Quality – 4 Stars

³ Health Inspections – 2 Stars; Staffing – 2 Stars; Overall Quality – 3 Stars

⁴ Health Inspections – 2 Stars; Staffing – 2 Stars; Overall Quality – 2 Stars

⁵ Health Inspections – 2 Stars; Staffing – 3 Stars; Overall Quality – 3 Stars

3. The extent to which the application is consistent with the State Medical Facilities Plan.

Section 32.1-102.2:1 of the Code of Virginia calls for the State Health Services Plan Task Force to develop recommendations for a comprehensive State Health Services Plan (SHSP). In the interim, DCOPN will consider the consistency of the proposed project with the predecessor of the SHSP, the State Medical Facilities Plan (SMFP).

The State Medical Facilities Plan (SMFP) contains the criteria and standards for the addition of nursing beds. They are as follows:

Part VII. Nursing Facilities

12VAC5-230-600. Travel Time.

- A. Nursing facility beds should be accessible within 30 minutes driving time one way under normal conditions of 95% of the population in a health planning district using mapping software as determined by the commissioner**

The heavy black line in **Figure 1** identifies the boundary of PD 20. The dark blue squares indicate the location of the nursing home facilities in the planning district, and the white one is the proposed project, labeled “Bennett’s Creek Health & Rehab.” The shaded green area is within the 30-minute drive time of existing nursing facilities in PD 20. The grey shaded area is within 30 minutes of a nursing facility outside of PD 20. Nursing facilities are already accessible to over 95% of the population. The proposed project will not impact geographic accessibility. The blue-green border is the border 30 minutes around the proposed facility. DCOPN notes that, though nursing facilities are more sparse in the area surrounding the proposed site, there are over a dozen providers within thirty minutes of the proposed facility.

Figure 1. Authorized Nursing Facilities, PD 20



Source: DCOPN Mapping Software and Records

B. Nursing facilities should be accessible by public transportation when such systems exist in an area.

Public transportation is not available to the proposed site, but point-to-point transport services are available in Suffolk.

C. Preference may be given to proposals that improve geographic access and reduce travel time to nursing facilities within a health planning district.

The proposed project is not competing with another project. Accordingly, this standard is not applicable.

12VAC5-230-610. Need for New Service.

A. A health planning district should be considered to have a need for additional nursing facility beds when:

1. The bed need forecast exceeds the current inventory of beds for the health planning district; and
2. The average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 93%, excluding the bed inventory and utilization of the Virginia Veterans Care Centers.

EXCEPTION: When there are facilities that have been in operation less than three years in the health planning district, their occupancy can be excluded from the calculation of average occupancy if the facilities had an annual occupancy of at least 93% in one of its first three years of operation.

B. No health planning district should be considered in need of additional beds if there are unconstructed beds designated as Medicaid certified. This presumption of 'no need' for additional beds extends for three years from the issuance date of the certificate.

C. The bed need forecast will be computed as follows:

$$\text{PDBN} = (\text{UR64} \times \text{PP64}) + (\text{UR69} \times \text{PP69}) + (\text{UR74} + \text{PP74}) + \text{UR79} + \text{PP79}) + \text{UR84} + \text{PP84}) + \text{UR85} + \text{PP85})$$

Where:

- **PDBN = Planning district bed need.**
- **UR64 = The nursing home bed use rate of the population aged 0 to 64 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- **PP64 = The population aged 0 to 64 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- **UR69 = The nursing home bed use rate of the population aged 65 to 69 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- **PP69 = The population aged 65 to 69 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- **UR74 = The nursing home bed use rate of the population aged 70 to 74 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- **PP74 = The population aged 70 to 74 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- **UR79 = The nursing home bed use rate of the population aged 75 to 79 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- **PP79 = The population aged 75 to 79 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- **UR84 = The nursing home bed use rate of the population aged 80 to 84 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- **PP84 = The population aged 80 to 84 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**
- **UR85+ = The nursing home bed use rate of the population aged 85 and older in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.**
- **PP85+ = The population aged 85 and older projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.**

Health planning district bed need forecasts will be rounded as follows:

<u>Health Planning District Bed Need</u>	<u>Rounded Bed Need</u>
1-29	0
30-44	30
45-84	60
85-104	90
105-134	120
135-164	150
165-194	180
195-224	210
225+	240

EXCEPTION: When a health planning district has:

1. Two or more nursing facilities;
 2. Had an average annual occupancy rate in excess of 93% for the most recent two years for which bed utilization has been reported to VHI; and
 3. Has a forecasted bed need of 15 to 29 beds, then the bed need for this health planning district will be rounded to 30.
- D. No new freestanding nursing facilities of less than 90 beds should be authorized. However, consideration may be given to a new freestanding facility with fewer than 90 nursing facility beds when the applicant can demonstrate that such a facility is justified based on a locality's preference for such smaller facility and there is a documented poor distribution of nursing facility beds within the health planning district.
- E. When evaluating the capital cost of a project, consideration may be given to projects that use the current methodology as determined by the Department of Medical Assistance Services.
- F. Preference may be given to projects that replace outdated and functionally obsolete facilities with modern facilities that result in the more cost-efficient resident services in a more aesthetically pleasing and comfortable environment.

Not applicable. The proposed project will not add nursing facility beds in PD 20 and the proposed project meets the 90-bed threshold.

12VAC5-230-620. Expansion of Services.

Proposals to increase an existing nursing facility's bed capacity should not be approved unless the facility has operated for at least two years and the average annual occupancy of the facility's existing beds was at least 90% in the relevant reporting period as reported to VHI.

Note: Exceptions will be considered for facilities that operated at less than 90% average annual occupancy in the most recent year for which bed utilization has been reported when the facility offers short stay services causing an average annual occupancy lower than 90% for the facility.

Not applicable, the applicant is not proposing to expand an existing service.

12VAC5-230-630. Continuing Care Retirement Communities.

Proposals for the development of new nursing facilities or the expansion of existing facilities by continuing care retirement communities (CCRC) will be considered when:

1. The facility is registered with the State Corporation Commission as a continuing care provider pursuant to Chapter 49 (§38.2-4900 et seq.) of Title 38.2 of the Code of Virginia;
2. The number of nursing facility beds requested in the initial application does not exceed the lesser of 20% of the continuing care retirement community's total number of beds that are not nursing home beds or 60 beds;
3. The number of new nursing facility beds requested in any subsequent application does not cause the continuing care retirement community's total number of nursing home beds to exceed 20% of its total number of beds that are not nursing facility beds; and
4. The continuing care retirement community has established a qualified resident assistance policy.

This provision is not applicable to the proposed project, as the applicant is not a continuing care retirement community.

12VAC5-230-640. Staffing.

Nursing facilities shall be under the direction or supervision of a licensed nursing home administrator and staffed by licensed and certified nursing personnel qualified as required by law.

The applicant asserts that the facility is and will be staffed appropriately to comply with all regulatory requirements.

Required Considerations Continued

4. The extent to which the proposed service or facility fosters institutional competition that benefits the area to be served while improving access to essential health care services for all persons in the area to be served.

As demonstrated by Table 1, there are 37 COPN authorized nursing facilities in PD 20 with 4,306 nursing home beds, operated by different owners and operators. DCOPN contends that the proposed project is not likely to foster additional institutional competition benefiting PD 20, as sufficient competition already exists among existing providers.

5. The relationship of the project to the existing health care system of the area to be served, including the utilization and efficiency of existing services or facilities.

Based on 2023 VHI data, there were 603 vacant nursing home beds in PD 20 on any given day. The proposed project is inventory neutral, so it does not add to excess capacity of beds. The proposal redistributes beds within PD 20 to an area where nursing facilities are relatively more sparse; however, there are still more than a dozen nursing facilities within a 30-minute drive of the proposed site (Figure 1). Forbearance of beds to be used by the proposed new facility will increase the percentage of occupied beds in all facilities contributing beds, and (assuming latest published patient days) two of these facilities would have occupancy above the 93% occupancy cited in the SMFP at

completion of the proposed project (Table 2). By reducing its overall bed count through forbearance of beds, Waterside H&R in Norfolk would increase its occupancy from 57.1% to 88.5% (Table 2). Conversion of remaining beds to more desirable private rooms may also improve utilization and efficiency of bed resources.

6. The feasibility of the project, including the financial benefits of the project to the applicant, the cost of construction, the availability of financial and human resources, and the cost of capital.

Capital cost of the proposed project is reasonable and comparable to that of recently approved similar projects. The proforma provided by the applicant (Table 7) projects a net loss the first year and an excess of revenue over expenses of \$1.5 million the second year of operation. The proposed project is financially feasible.

The applicant projects the need for 112.2 full time equivalents to operate the proposed facility. In a time of healthcare worker shortages across the Commonwealth and considering the affiliated facilities contributing beds having below average staffing (CMS Star Ratings at Table 6), the applicant may find recruitment challenging and need to shift employees from existing providers. The applicant cites a rapidly growing population in Suffolk as a base for recruiting, and Saber Healthcare's innovative "Shift Seekers" and training programs through which Saber facilities share staff to ensure sufficient staffing to meet residents' needs.

Table 7. Proforma, Bennett's Creek Health and Rehab Center

	Year 1	Year 2
Revenue	\$ 10,594,765	\$ 16,348,743
Deductions	\$ 1,310,447	\$ 2,006,798
Net Patient Revenue	\$ 9,284,318	\$ 14,341,945
Other Revenue	\$ 3,351	\$ 5,170
Total Net Revenue	\$ 9,287,669	\$ 14,347,115
Total Expenses	\$ 10,263,640	\$ 12,794,754
Net Income Before Taxes	\$ (975,971)	\$ 1,552,361

Source: COPN Request No. VA-8812

7. The extent to which the project provides improvements or innovations in the financing and delivery of health services, as demonstrated by: (i) The introduction of new technology that promotes quality, cost effectiveness, or both in the delivery of health care services. (ii) The potential for provision of services on an outpatient basis. (iii) Any cooperative efforts to meet regional health care needs. (iv) At the discretion of the Commissioner, any other factors as may be appropriate.

The proposal does not provide innovations in the financing and delivery of health services, enhance outpatient services or cooperative efforts to meet regional healthcare needs.

8. In the case of a project proposed by or affecting a teaching hospital associated with a public institution of higher education or a medical school in the area to be served.

(i) The unique research, training, and clinical mission of the teaching hospital or medical school. (ii) Any contribution the teaching hospital or medical school may provide in the delivery, innovation, and improvement of health care for citizens of the Commonwealth, including indigent or underserved populations.

Not applicable. The applicant is not a teaching hospital associated with a public institution of higher education or a medical school in the area to be served.

DCOPN Staff Findings and Conclusions

The proposed inventory-neutral project establishes a 100-bed nursing facility at Bennett's Creek Health and Rehab in Suffolk, Virginia by relocation of beds through forbearance agreements from five existing, affiliated providers within PD 20. Nursing home beds in Norfolk, Portsmouth and Virginia Beach will relocate underutilized beds to the new facility. The proposal is in a PD projected to have higher growth rate in the relevant 65 and older population than that of the state. The status quo is an alternative that avoids the costs incurred for the proposed project in a PD with excess bed capacity (86% occupancy). Maintaining the status quo, however, is not preferable to the proposed project. The proposal redistributes underutilized beds and increases the number of private rooms in the PD by 146 beds. The established industry trend is a shift toward private rooms, preferred by residents and not requiring grouping for infection, gender or behavioral issues.

The proposed project is generally consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia. It is financially accessible to the indigent population and will be dually certified by Medicare and Medicaid. It is financially feasible, though staffing a new facility may present a challenge.

DCOPN Staff Recommendations

The Division of Certificate of Public Need recommends **conditional approval** of Bennett's Creek RE Group, LLC's COPN Request number VA-8812 to establish a 100-bed nursing home in Suffolk, Virginia by relocating beds from five affiliated nursing homes within PD 20 for the following reasons:

1. The proposal to establish Bennett's Creek Health and Rehab Center is generally consistent with the applicable criteria and standards of the SMFP and the Eight Required Considerations of the Code of Virginia.
2. The project does not add nursing home beds to the inventory of PD 20 but relocates 100 underutilized beds to an area of the PD that has relatively fewer nursing home beds.
3. Consistent with industry trends, the proposed project would enable the addition of 146 private nursing home rooms.
4. No reasonable alternatives have been identified that are preferable to the proposed project.

5. The capital cost of the proposed project is reasonable and comparable to similar projects.
6. The proposed project is feasible.
7. There is no documented opposition to the proposed project.