

**STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED**

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Palm Garden of Vero Beach, LLC/CON #10367

2033 Main Street, Suite 300
Sarasota, Florida 34237

Authorized Representative: Robert Greene
(941) 952-9411

2. Service District/Subdistrict

District 9/Subdistrict 9-1 (Indian River County)

B. PUBLIC HEARING

A public hearing was not held or requested regarding the proposed project.

Letters of Support

Palm Garden of Vero Beach, LLC (CON #10367): The Agency received many letters of support submitted by the applicant. The letters were composed by local health care providers, local business owners, health care professionals and community members.

C. PROJECT SUMMARY

Palm Garden of Vero Beach, LLC (CON #10367) hereafter referred to as Palm Garden or the applicant, proposes to add nine additional community nursing home beds to an existing 180-bed skilled nursing facility (SNF) in Subdistrict 9-1, Indian River County. The applicant is owned and operated by Palm Garden Healthcare Holdings, LLC.

Palm Garden entered into an agreement with Palm Healthcare Management on October 1, 2014 to provide management and consulting services. Palm Healthcare Management operates 14 SNFs and assisted living facilities (ALFs) in Florida:

- Palm Garden of Clearwater, LLC
- Palm Garden of Gainesville, LLC
- Palm Garden of Jacksonville, LLC
- Palm Garden of Largo, LLC
- Palm Garden of Ocala, LLC
- Palm Garden of Orlando, LLC
- Palm Garden of Pinellas, LLC
- Palm Garden of Port St. Lucie, LLC
- Palm Garden of Sun City Center, LLC
- Palm Garden of Tampa, LLC
- Palm Garden of Vero Beach, LLC
- Palm Garden of West Palm Beach, LLC
- Palm Garden of Winter Haven, LLC
- Grand Palms Assisted Living & Memory Care Center, LLC

The project involves 5,120 gross square feet (GSF) of new construction. The construction cost is \$972,195. Total project cost is \$1,482,807. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant proposes to conditions the project as shown below:

- Nine new private skilled nursing beds/rooms in wing addition of Palm Garden of Vero Beach.
- Chaplain/Spiritual Services-Palm Garden of Vero Beach offers spiritual care and guidance for all patients and family members every day at the facility. Currently the Chaplain is available for half days five days a week at the facility. The Chaplain currently ministers to over 20 patients a week at the facility. By September 1, 2015, Palm Garden will work with the Chaplain so that at least 50 percent of all Palm Garden patients will receive weekly spiritual visits, if the patients so desire. Palm Garden is committed to providing the spiritual and support services that all of its patients require.

- Educational Opportunities at Palm Garden for students- Palm Garden's therapy department has for several years an agreement with the University of South Florida to mentor and take on Physical Therapy students. Speech therapy students have also been accepted before in the past from Florida International University. In the past few years, the applicant has seen several Occupational Therapy Assistant students from Keiser University which were provided supervision and guidance under both the Occupational Therapist and Occupational Therapy Assistant staff members. Indian River Community College as an educational partner to foster the development of Physical Therapy Assistant students to this center as Palm Garden continues to establish relationships with colleges and universities in the community. Palm Garden is committed to continuing these educational programs.

D. REVIEW PROCEDURE

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes; and applicable rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code. These criteria form the basis for the goals of the review process. The goals represent desirable outcomes to be attained by successful applicants who demonstrate an overall compliance with the criteria. Analysis of an applicant's capability to undertake the proposed project successfully is conducted by evaluating the responses and data provided in the application, and independent information gathered by the reviewer.

Applications are analyzed to identify strengths and weaknesses in each proposal. If more than one application is submitted for the same type of project in the same district, applications are comparatively reviewed to determine which applicant(s) best meets the review criteria.

Rule 59C-1.010(3)(b), Florida Administrative Code, prohibits any amendments once an application has been deemed complete. The burden of proof to entitlement of a certificate rests with the applicant. As such, the applicant is responsible for the representations in the application. This is attested to as part of the application in the Certification of the Applicant.

As part of the fact-finding, the consultant, Dwight Aldridge analyzed the application with consultation from the financial analyst, Eric West of the Bureau of Central Services, who evaluated the financial data and Said Baniahmad of the Office of Plans and Construction, who reviewed the application for conformance with the architectural criteria.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

The following indicate the level of conformity of the proposed project with the criteria and application content requirements found in Florida Statutes, sections 408.035 and 408.037; applicable rules of the State of Florida, Chapter 59C-1 and 59C-2, Florida Administrative Code.

1. Fixed Need Pool

a. Does the project proposed respond to need as published by a fixed need pool? Or does the project proposed seek beds or services in excess of the fixed need pool? Rule 59C-1.008 (2), Florida Administrative Code.

In Volume 41, Number 65 of the Florida Administrative Register dated April 3, 2015, a fixed need pool of nine beds was published for Subdistrict 9-1 for the January 2018 Planning Horizon. Subdistrict 9-1 is comprised of Indian River County.

After publication of this fixed need pool, zero existing Subdistrict 9-1 facilities filed exemption requests or filed expedited CON reviews to increase or add community nursing home beds.

As of May 20, 2015 Subdistrict 9-1 had 545 licensed and zero approved community nursing home beds. During the 12-month period ending December 31, 2014, Subdistrict 9-1 experienced 88.89 percent utilization at six existing facilities. Below is a table illustrating nursing home patient days and occupancy within Subdistrict 9-1.

Subdistrict 9-1 Nursing Home Patient Days and Occupancy January 1, 2014-December 31, 2014

| Facility | Comm. Nursing Home Bed Inventory | Bed Days | Patient Days | Total Occupancy | Medicaid Occupancy |
|---|---|-----------------|---------------------|------------------------|---------------------------|
| Atlantic Healthcare Center | 110 | 40,015 | 34,822 | 86.73% | 60.16% |
| Consulate Health Care of Vero Beach | 159 | 58,035 | 55,084 | 94.92% | 73.25% |
| Florida Baptist Retirement Center, Inc. | 24 | 8,760 | 8,302 | 94.77% | 51.54% |
| Grace Rehabilitation Center of Vero Beach | 72 | 26,280 | 20,748 | 78.95% | 24.73% |
| Palm Garden of Vero Beach | 180 | 65,700 | 57,875 | 88.08% | 74.62% |
| Willowbrooke Court at Indian River Estates* | 0 | -- | -- | -- | -- |
| Total | 545 | 198,925 | 176,831 | 88.89% | 64.41% |

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, April 2015 Batching Cycle
 *Willowbrooke has 120 sheltered beds

The reviewer notes the current and projected population of the individual counties in Subdistrict 9-1, District 9 and the state for the planning horizon.

**Current and Projected Population Growth Rate
For Subdistrict 9-1, District 9, and Florida
January 2015 and January 2018**

| Area | January 1, 2015 Population | | | January 1, 2018 Population | | |
|-----------------|----------------------------|-----------|------------|----------------------------|-----------|------------|
| | 0-64 | 65+ | Total | 0-64 | 65+ | Total |
| Subdistrict 9-1 | 103,223 | 39,850 | 143,073 | 106,429 | 44,176 | 150,605 |
| District 9 | 1,541,499 | 454,671 | 1,996,170 | 1,589,154 | 494,716 | 2,083,870 |
| Florida | 16,044,019 | 3,635,347 | 19,679,366 | 16,510,025 | 4,013,237 | 20,523,262 |
| Area | 2015-2018 Increase | | | 2015-2018 Growth Rate | | |
| | 0-64 | 65+ | Total | 0-64 | 65+ | Total |
| Subdistrict 9-1 | 3,206 | 4,326 | 7,532 | 2.91% | 12.8% | 4.89% |
| District 9 | 47,655 | 40,045 | 87,700 | 3.09% | 8.80% | 4.39% |
| Florida | 466,006 | 377,890 | 843,896 | 2.90% | 10.39% | 4.29% |

Source: Florida Agency for Health Care Administration Population Estimates, February 2015 and Florida Nursing Home Bed Need Projections by District and Subdistrict, April 2015 Batching Cycle

The community nursing home beds per 1,000 residents for 65+ cohort in the subdistrict, district and Florida are shown below, as compiled by the reviewer.

Beds per 1,000 Residents Age 65 and Older

| Area | Community Beds | 2015 Pop. Aged 65+ | 2015 Beds per 1,000 | 2018 Pop. Aged 65+ | 2018 Beds per 1,000 |
|------------------------|----------------|--------------------|---------------------|--------------------|---------------------|
| Subdistrict 9-1 | 545 | 39,850 | 13 | 44,176 | 12 |
| District 9 | 8,590 | 454,671 | 18 | 494,716 | 17 |
| Florida | 80,049 | 3,635,347 | 22 | 4,013,237 | 20 |

Source: Florida Agency for Health Care Administration Population Estimates, February 2015 and Florida Nursing Home Bed Need Projections by District and Subdistrict, April 2015 Batching Cycle

Palm Garden of Vero Beach, LLC (CON #10367) believes that there is a shortage of community nursing home beds within Subdistrict 9-1 generally, but also within private rooms. Palm Garden states the proposed addition will help to alleviate this shortage by adding nine private rooms. The applicant contends the additional beds will increase the facility’s inventory of private beds, especially geared toward short-term rehabilitation, and enable it better to meet the needs of its residents. Upon completion of the proposed project Palm Garden indicates that it will have 35 private, 94 semi-private and 60 memory care beds (all semi-private) bringing the facility’s total licensed bed complement to 189.

Palm Garden indicates that aside from the need to accommodate patient and family preferences for a private room, the addition of private rooms will enable the applicant to provide improved clinical care and better outcomes, as well as reduce readmissions to hospitals. The applicant maintains that the proposed project will enable Palm Garden to accept more patients discharged from Indian River Medical Center, and enable

those patients who wish to transition from a private room in the hospital to a private room at a SNF. Palm Garden notes that all of Indian River Medical Center's acute beds are private and that it is located 0.6 miles from Palm Garden.

The applicant indicates the following factors support the proposed project:

- The published need for nine additional beds in Subdistrict 9-1.
- The 65+ population of Palm Garden of Vero Beach's service area is projected to increase from 52,919 to 58,378 between July 1, 2014 and January 1, 2018--a 10.3 percent rate of growth, exceeding the District 9 average.
- The 65+ population growth rate for Subdistrict 9-1 is even higher at 12.3 percent.
- The percent of the population 65+ is greater within the identified service area than either the subdistrict or the district, and this gap is forecasted to widen between the 2015 base year and 2018, the first year of operation of the additional beds. By January 1, 2018, the elderly are forecasted to comprise over 35 percent of the service area's total population.

- b. If no Agency policy exists, the applicant will be responsible for demonstrating need through a needs assessment methodology, which must include, at a minimum, consideration of the following topics, except where they are inconsistent with the applicable statutory or rule criteria:**

This applicant is responding to the Agency's published fixed need pool, so this criterion is not applicable.

2. Agency Rule Preferences

Please indicate how each applicable preference for the type of service proposed is met. Chapter 59C-1.036, Florida Administrative Code.

Chapter 59C-1.036 of the Florida Administrative Code does not contain preferences relative to community nursing home beds nor does the Agency publish specific preferences for these facilities. However, the rule does contain standards the Agency utilizes in assessing an applicant's ability to provide quality care to the residents.

- a. **Geographically Underserved Areas.** In a competitive certificate of need review within the nursing home subdistrict as defined in 59C-2.200, Florida Administrative Code, the Agency shall award a certificate of need if the applicant meets all applicable criteria for a geographically underserved area as specified in subsection 408.032(18), Florida Statutes, and if the applicant meets the applicable statutory certificate of need review criteria specified in section 408.035, Florida Statutes, including bed need according to the relevant bed need formula contained in this rule. If the applicant is awarded a certificate of need based on the provisions of this paragraph, the applicant shall agree that the nursing facility will be located in a county without a nursing facility, or in the center of an area within the subdistrict of a radius of at least 20 miles which meets the definition of a geographically underserved area. The center of the geographically underserved area shall be the proposed nursing home location in the application.

This application was not submitted to remedy a geographically underserved area as defined above.

- b. **Proposed Services.** Applicants proposing the establishment of Medicare-certified nursing facility beds to be licensed under Chapter 400, Florida Statutes, shall provide a detailed description of the services to be provided, staffing pattern, patient characteristics, expected average length of stay, ancillary services, patient assessment tools, admission policies and discharge policies.

Palm Garden of Vero Beach, LLC (CON #10367) states it will provide a wide range of clinical services to its residents due to the caliber of its licensed and registered staff, staffing ratios utilized for hands-on delivery of care and its nursing administration team.

Palm Garden states that it will provide numerous skilled clinical services in addition to specialized rehabilitative specialized therapy services, including:

- Skilled nursing
- IV therapy
- Respiratory services
- Wound care
- Medications management and stabilization
- Renal peritoneal dialysis and hemodialysis
- Pain management (acute and chronic)

- Diagnosis education
- Medical pump management for diabetes, pain control
- Colostomy care and education
- Feeding tubes of all types
- Palliative care to address end of life needs
- Physical, occupational, and speech therapies
- Enteral/parental therapy

The applicant states the staffing components and ancillary services include the following:

- Nursing supervision each shift, every day
- Transition nurses
- Transition concierge CNAs
- Quality of life CNAs
- Care navigator
- Life enrichment director
- Chef
- Nursing administration
- Director of rehab services
- Therapy team members
- Life enrichment program
- Fine dining
- Transportation
- Medical director
- Professional consultation
- Spiritual services

The applicant states admission is a coordinated process that assures the individual and his or her family that Palm Garden has the required staff and services to appropriately and effectively meet each resident's medical and nursing needs. Palm Garden maintains that upon admission, a detailed assessment will be conducted to provide a plan of care directed toward discharge.

Palm Garden asserts that the discharge planning process begins on admission. Palm Garden notes it has a Discharge Planning Pathway Home policy that assists the interdisciplinary team in providing an appropriate and safe discharge for the resident. The applicant indicates its goal is to have all residents, whether long-term or short-term, obtain and maintain their highest practicable level of function and independence. Detailed admissions and discharge information can be found on pages 46-48 of CON #10367.

Schedule 6 illustrates that FTEs for year one (ending June 30, 2018) total 14.83 and total 15.56 for year two (ending June 30, 2019). The proposed project’s year one and year two FTEs are shown in the table below.

| Palm Garden of Vero Beach, LLC (CON #10367) Projected Year One and Year Two Staffing | | |
|---|--------------------------|--------------------------|
| | Year One FTEs | Year Two FTEs |
| Administration | | |
| Payroll HR | 1.0 | 1.0 |
| Nursing Administration | | |
| In-service Director | 1.0 | 1.0 |
| Nursing | | |
| RNs (Incl. Unit Managers) | 2.78 | 2.89 |
| LPNs | 1.27 | 1.46 |
| Nurses’ Aides | 4.69 | 5.28 |
| Dietary | | |
| Server-Weekday | 0.72 | 0.72 |
| Server-Weekend | 0.80 | 0.80 |
| Activities & Recreation | | |
| Assistant | 0.01 | 0.05 |
| Social Services | | |
| Social Service Assistant | 0.92 | 1.0 |
| Housekeeping | | |
| Director | 0.02 | 0.02 |
| Staff | 0.67 | 0.25 |
| Plant Maintenance | | |
| Maintenance Assistance | 0.96 | 1.0 |
| Total | 14.83 | 15.56 |

Source: CON application #10367, Schedule 6A

c. Quality of Care. In assessing the applicant’s ability to provide quality of care pursuant to s. 408.035 (1) (c), Florida Statutes, the agency shall evaluate the following facts and circumstances:

- 1. Whether the applicant has had a Chapter 400, Florida Statutes, nursing facility license denied, revoked or suspended within the 36 months prior to the current application.**

Palm Garden of Vero Beach, LLC (CON #10367) states that it has not had a licensed denied, revoked or suspended in the past 36 months prior to the current application.

2. **Whether the applicant has had a nursing facility placed into receivership at any time during the period of ownership, management or leasing of a nursing facility in the 36 months prior to the current application?**

Palm Garden of Vero Beach, LLC (CON #10367) states it has not had a nursing home in receivership.

3. **The extent to which the conditions identified within subparagraphs 1 and 2 threatened or resulted in direct significant harm to the health, safety or welfare of the nursing facility residents.**

Palm Garden of Vero Beach, LLC (CON #10367) indicates that this provision is not applicable.

4. **The extent to which the conditions identified within subparagraph 3 were corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory to the Agency.**

Palm Garden of Vero Beach, LLC (CON #10367) indicates that this provision is not applicable.

5. **Rule 59C-1.036 (4) (f) Harmful Conditions. The Agency shall question the ability of the applicant to provide quality of care within any nursing facility when the conditions identified in the subparagraph (e) 1 and (e) 2 result in the direct, significant harm to the health, safety or welfare of a nursing facility resident, and were not corrected within the time frames allowed by the appropriate state agency in each respective state and in a manner satisfactory with the Agency.**

Palm Garden of Vero Beach, LLC (CON #10367) indicates that this provision is not applicable.

- d. **Rule 59C-1.036 (5) Utilization Reports. Within 45 days after the end of each calendar quarter, facilities with nursing facility beds licensed under Chapter 400, Florida Statutes shall report to the Agency, or its designee, the total number of patient days, which occurred in each month of the quarter, and the number of such days that were Medicaid patient days.**

Palm Garden of Vero Beach, LLC (CON #10367) states that it currently reports its utilization data to the Agency or its designee, in accordance with this provision.

3. **Statutory Review Criteria**

- a. **Is need for the project evidenced by the availability, quality of care, accessibility and extent of utilization of existing health care facilities and health services in the applicant's service area? ss. 408.035 (1)(b) and (e), Florida Statutes.**

There are 75 existing licensed community nursing homes with a total of 8,590 community nursing home beds in District 9. Subdistrict 9-1 is composed of Indian River County and has five licensed community nursing homes with a total of 545 community nursing home beds. The Subdistrict averaged 88.89 percent total occupancy for the 12-month period ending December 31, 2014.

Palm Garden of Vero Beach, LLC (CON #10367) indicates that its core service area consists of nine contiguous ZIP codes encompassing Indian River County and the far northern portion of St. Lucie County as depicted in Table 2 on page 17 of CON application #10367. The applicant notes that together this area accounted for nearly 90 percent of Palm Garden's 2014 patient admission.

The applicant states that while there are four other nursing homes that fall within Palm Garden's service area--internal facility records indicate that there are three primary competitors: Atlantic Healthcare Center, Consulate Health Care of Vero Beach and Grace Rehabilitation Center of Vero Beach.

Palm Garden notes that one of the critical needs within the service area is an increased supply of private patient rooms. The applicant maintains that the addition of private rooms in the service area will improve the availability and accessibility of private patient room accommodations desired by today's nursing home patient population. The applicant also notes that all of Indian River Medical Center's acute care beds are now private. Palm Garden asserts that the health care justification for private

rooms in hospitals applies equally to skilled nursing care. The applicant contends that the proposed addition will allow the facility to be better suited to care for patients discharged from Indian River Medical Center in preparing them to transition back to their homes and reduce hospital stays.

In regards to accessibility, the applicant states that there were 1,882 hospital discharges of Palm Garden service area residents to a SNF during the period July 1, 2013- June 30, 2014. Palm Garden indicates that over 57 percent of discharges were attributable to Indian River Medical Center, 16 percent were discharged from Sebastian River Medical Center and 10 percent were discharged from HealthSouth Treasure Coast Rehabilitation Hospital. Palm Garden notes that it is located only six-tenths of a mile from Indian River Medical Center and one-tenth of a mile away from HealthSouth Treasure Coast Rehabilitation Hospital. The applicant states that the proposed addition will enable patients and their families to remain in their home community.

The table below depicts the mix of private versus semi-private beds at each of the Subdistrict 9-1 nursing homes:

Private and Semi-Private Bed Inventories at Palm Garden and Primary Competitor Nursing Homes

| Nursing Home | Beds | | | | Percent Private |
|---|-----------|--------------|-------------|------------|-----------------|
| | Private | Semi-Private | Memory Care | Total | |
| Atlantic Healthcare Center | 2 | 108 | 0 | 110 | 1.8% |
| Consulate Health Care of Vero Beach | 3 | 126 | 30 | 159 | 1.9% |
| Grace Rehabilitation Center of Vero Beach | 3 | 69 | 0 | 72 | 4.2% |
| Palm Garden of Vero Beach | 26 | 94 | 60 | 180 | 14.4% |
| Total | 34 | 397 | 90 | 521 | 6.5% |

Source: CON application #10367, page 23

The applicant maintains that the proposed project would allow area hospitals to utilize the nine additional private beds. Below the applicant provides a chart indicating the number of hospital discharges to SNFs from July 1, 2013 through June 30, 2014:

**Discharges to SNF by Hospital
Palm Garden Service Area Residents
July 1, 2013 to June 30, 2014**

| Hospital | Discharges to SNF | Percent | Cumulative |
|---|-------------------|---------------|---------------|
| Indian River Medical Center | 1,080 | 57.4% | 57.4% |
| Sebastian River Medical Center | 309 | 16.4% | 73.8% |
| HealthSouth Treasure Coast Rehab Hospital | 179 | 9.5% | 83.3% |
| Other Hospitals | 314 | 16.7% | 100.0% |
| Total | 1,882 | 100.0% | 100.0% |

Source: CON application #10367 page 27

Palm Garden states that there are 545 licensed beds located within the service area at present and with the proposed addition of nine beds, the number of beds will be 554 in 2018. The applicant contends that the proposed addition keeps the nursing home use rate constant at 3,342 day per 1,000 population 65+. The applicant states that assuming the new beds are occupied at 92 percent during the period July 2014-June 2018 (the first year of operation of the new beds), the average daily census within the service area is estimated to be 526 after factoring out the utilization of the nine new beds. Palm Garden indicates that the overall occupancy within the service area rises to 96.5 percent with the proposed project, demonstrating that the beds will be well-utilized and will not lower the occupancy at other facilities in the area. The applicant provides a projected utilization chart for calendar year 2014-2018 below.

Projected NH Days in the Palm Garden of Vero Beach Service Area Based on Population 65+ and Approval of Nine New Beds

| Base Year Data From CY 2014 | 2014 |
|--|---------------|
| 2014 Palm Garden Core Service Area Population 65+ | 52,919 |
| 2014 Service Area HN Patient Days | 176,831 |
| Days per 1000 65+ (use rate) | 3,342 |
| January 2018 (Midpoint of First-Year) Forecast | 2018 |
| 2018 Palm Garden Core Service Area Population 65+ | 58,378 |
| Days Per 1000 Pop 65+ (use rate) | 3,342 |
| Expected 2018 Service Area NH Patient Days | 195,072 |
| 2014 Service Area NH Patient Days | 176,831 |
| Difference in Expected 2018 and 2014 Patient Days | 18,241 |
| Palm Garden Incremental Patient Days Assuming 92% | 3,022 |
| Remaining Net NH Patient Days in the Service Area for Current 2014 Licensed Beds | 15,219 |
| Net Additional Average Daily Census for Current 2014 Licensed Beds | 42 |
| Total 2018 Average Daily Census Less Utilization of 45 Additional Beds | 526 |
| 2018 Occupancy of Services Area HN Beds Less 9 Additional | 96.5% |

Source: CON application #10367, page 31

The reviewer created the table below to show the applicant estimates 2018 and 2019 resident days, admits and all by payer and occupancy rates, for the proposed project. See the tables below

Projected Utilization by Payer Type for First Two Years

| Payer | Year One: 2018 Resident Days (Admissions) | Percent of Days | Year Two: 2019 Resident Days (Admissions) | Percent of Days |
|-----------------------|--|------------------------|--|------------------------|
| Medicare | 338 | 31.3% | 362 | 32.8% |
| Managed Care | 102 | 9.0% | 104 | 9.0% |
| Medicaid Managed Care | 106 | 56.4% | 105 | 55.0% |
| Self-Pay | 5 | 3.3% | 5 | 3.2% |
| Total | 551 | 100.0% | 576 | 100.0% |

Source: CON application #10367, Schedule 7

- b. Does the applicant have a history of providing quality of care? Has the applicant demonstrated the ability to provide quality of care? Is the applicant a Gold Seal Program nursing facility that is proposing to add beds to an existing nursing home? ss. 408.035 (1) (c) and (j), Florida Statutes.**

Palm Garden of Vero Beach, LLC (CON #10367) states that the facility was licensed to operate on November 1, 2013. The applicant states the facility, being newly licensed, has a short history of providing care however, Palm Healthcare Holdings and Palm Healthcare Management have a long history of providing quality in the industry. Palm Garden indicates the program and initiatives and proposed addition at Palm Garden of Vero Beach supports the Mission, Vision, and Core Values of PHM and the entire Palm Garden organization.

Palm Garden notes it has in place a Quality Assurance and Performance Improvement (QAPI) Plan, and under the oversight of Palm Healthcare Management, had re-focused and sharpened its commitment to ensuring that it is using appropriate benchmarks, closely monitoring performance, and making appropriate adjustments quickly when warranted to assure that the quality of care provided at the facility continuously improves. Further description of the applicant's quality of care initiatives can be found on pages 54-65 of CON #10367.

Palm Garden is not a Gold Seal Program and is currently on the Nursing Home Watch List with a Watch List Timeline of February 5, 2013 to August 5, 2015¹ according to FloridaHealthFinder.gov as examined by the reviewer on August 5, 2015. The reviewer notes that Palm Garden was not the owner of the nursing home until November 1, 2013 which was after the facility had been placed on the conditional timeframe and onto the Nursing Home Watch List. The applicant's sister facilities--Palm Garden of Gainesville and Palm Garden of Winter Haven--are also on the Watch List.

¹ Palm Garden of Vero Beach's conditional timeframe lasted from February 15, 2013 to March 15, 2013 due to deficiency tag N0201 pursuant to Chapter 400.022 (1) (l), Florida Statutes, the right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available, planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the Agency and tag N0054 pursuant to 59A-4.107 (5), Florida Administrative Code, all physicians orders shall be followed as prescribed and if not followed, the reason shall be recorded on the resident's medical records during that shift.

The most recent Agency inspection indicates Palm Garden received an overall one-star rating out of a possible five stars. The Agency’s Nursing Home Guide was last updated May 2015. Palm Garden had 10 substantiated complaints during May 20, 2012 to May 20, 2015. A single complaint can encompass multiple complaint categories. The substantiated complaint categories are listed below:

| Substantiated Complaint Categories for the Past 36 Months | |
|--|-----------------------------|
| Complaint Category | Number Substantiated |
| Quality of Care/Treatment | 3 |
| Administration/Personnel | 3 |
| Physical Environment | 2 |
| Resident Assessment | 1 |
| Dietary Services | 1 |

Source: Florida Agency for Health Care Administration Complaint Records

Agency complaint records indicate that the affiliated nursing homes associated with the parent company, for the three-year period ending May 20, 2015, had 57 substantiated complaints with 13 complaint categories. The substantiated complaint categories are listed below:

| Substantiated Complaint Categories for the Past 36 Months | |
|--|-----------------------------|
| Complaint Category | Number Substantiated |
| Quality of Care/Treatment | 18 |
| Administration/Personnel | 9 |
| Resident Rights | 7 |
| Resident Assessment | 5 |
| Physical Environment | 3 |
| Resident Abuse | 4 |
| Nursing Services | 3 |
| Infection Control | 2 |
| Unqualified Personnel | 2 |
| Physician Services | 1 |
| Falsification of Records/Reports | 1 |
| Billing/Refunds | 1 |
| Admission/Transfer/Discharge Rights | 1 |

Source: Florida Agency for Health Care Administration Complaint Records

- c. What resources, including health manpower, management personnel and funds for capital and operating expenditures, are available for project accomplishment and operation? ss. 408.035 (1)(d), Florida Statutes.**

Analysis:

The purpose of our analysis for this section is to determine if the applicant has access to the funds necessary to fund this and all capital projects. Our review includes an analysis of the short and long-term position of the applicant, parent, or other related parties who will fund the project. The analysis of the short and long-term position is intended to provide some level of objective assurance on the likelihood that funding will be available. The stronger the short-term position, the more

likely cash on hand or cash flows could be used to fund the project. The stronger the long-term position, the more likely that debt financing could be achieved if necessary to fund the project. We also calculate working capital (current assets less current liabilities) a measure of excess liquidity that could be used to fund capital projects.

Historically we have compared all applicant financial ratios regardless of type to bench marks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities.

Below is an analysis of the audited financial statements for Parkwood Properties, Inc. and Subsidiaries (“Parkwood Properties”), its parent company and the entity that is funding the project, where the short-term and long-term measures fall on the scale (highlighted in gray) for the most recent year. The notes and letter accompanying Schedule 3 state that Parkwood Properties will be the sole backer for this project. The parent for Parkwood Properties went through a reorganization in 2008, which included the acquisition of several other companies. The 2013 audited financial statements do not include financial data that solely consists of Parkwood Properties. The 2014 audited financials provide data of Parkwood Properties as a part of Parkwood Properties, Inc., Palm Gardens Healthcare Holdings, LLC, and related entities. This lack of data for 2013 makes a comparison between current and previous years difficult since it is essentially two different companies.

| Parkwood Properties and Subsidiaries, Inc. | | |
|---|---------------------|----------------------|
| | Current Year | Previous Year |
| Current Assets | \$50,360,278 | \$61,909,798 |
| Total Assets | \$105,708,813 | \$103,977,249 |
| Current Liabilities | \$3,110,517 | \$17,055,519 |
| Total Liabilities | \$93,784,818 | \$127,133,526 |
| Net Assets | \$11,923,995 | (\$23,156,277) |
| Total Revenues | \$28,788,044 | \$43,051,018 |
| Excess of Revenues Over Expenses | \$12,671,011 | \$6,878,805 |
| Cash Flow from Operations | \$5,641,514 | \$6,551,022 |
| Short-Term Analysis | | |
| Current Ratio (CA/CL) | 16.2 | 3.6 |
| Cash Flow to Current Liabilities (CFO/CL) | 181.37% | 38.41% |
| Long-Term Analysis | | |
| Long-Term Debt to Net Assets (TL-CL/NA) | 760.4% | -475.4% |
| Total Margin (ER/TR) | 44.01% | 15.98% |
| Measure of Available Funding | | |
| Working Capital | \$47,249,761 | \$44,854,279 |

| Position | Strong | Good | Adequate | Moderately Weak | Weak |
|----------------------------------|---------------|-------------|-----------------|------------------------|---------------|
| Current Ratio | above 3 | 3 - 2.3 | 2.3 - 1.7 | 1.7 - 1.0 | < 1.0 |
| Cash Flow to Current Liabilities | >150% | 150%-100% | 100% - 50% | 50% - 0% | < 0% |
| Debt to Equity | 0% - 10% | 10%-35% | 35%-65% | 65%-95% | > 95% or < 0% |
| Total Margin | > 12% | 12% - 8.5% | 8.5% - 5.5% | 5.5% - 0% | < 0% |

Capital Requirements and Funding:

The applicant lists \$3,174,285 for capital projects which includes renovations, capital budget for 2015, the CON currently under review, and capital budgets for 2016 - 2017. The applicant provided a letter from UBS Financial Services, Inc. showing \$14.5 million available from a revolving credit line and \$10.5 in liquid assets. Additionally, the applicant provided letters of interest from Capital One and Regions Bank.

Although not a firm commitment to lend, these letters of interest document a history of lending to the parent organization. Based on the table above, the applicant also has sufficient working capital and operating cash flow to fund the entire capital budget.

The parent has letters of financial commitment to fund or acquire funding on four CONs in this batching cycle (10357, 10367, 10369, and 10377). The combined capital projects for these four CONs totals \$23.4 million. Although leveraged, the parent has strong operating ratios making debt repayment more likely. Funding for all CONs is likely but not guaranteed.

Conclusion:

Funding for this project and the applicant's entire capital budget should be available as needed.

- d. What is the immediate and long-term financial feasibility of the proposal? ss. 408.035 (1) (f), Florida Statutes.**

Analysis:

The immediate and long-term financial feasibility of the project is tied to expected profitability. The purpose of our analysis for this section is to evaluate the reasonableness of the applicant's profitability projections and, ultimately, whether profitability is achievable for this project. Our analysis includes an evaluation of net revenue per patient day (NRPD), cost per patient day (CPD), nurse staffing ratios, and profitability. We compared the NRPD, CPD, and profitability to actual operating results from skilled nursing facilities as reported on Medicaid cost reports (2012 and 2013 cost report years). For our comparison group, we selected skilled nursing facilities with similar Medicaid utilizations to the utilization projected by the applicant on a per patient day basis (PPD). Comparison group data was adjusted for inflation to match the second year projection (inflation factor was based on the New CMS Market Basket Price Index as published in the 1st Quarter 2015, Health Care Cost Review).

NRPD, CPD, and profitability or operating margin that fall within the group range are considered reasonable projections. Below is the result of our analysis.

| | PROJECTIONS PER APPLICANT | | COMPARATIVE GROUP VALUES PPD | | |
|-------------------|---------------------------|---------|------------------------------|--------|--------|
| | Total | PPD | Highest | Median | Lowest |
| Net Revenues | 19,731,650 | 315 | 506 | 311 | 238 |
| Total Expenses | 18,239,039 | 291 | 401 | 306 | 226 |
| Operating Income | 1,492,611 | 24 | 129 | 6 | -70 |
| Operating Margin | 7.56% | | Comparative Group Values | | |
| | Days | Percent | Highest | Median | Lowest |
| Occupancy | 62,678 | 90.86% | 99.65% | 89.30% | 55.98% |
| Medicaid/MDCD HMO | 43,735 | 69.78% | 80.05% | 67.93% | 60.04% |
| Medicare | 11,919 | 19.02% | 31.40% | 15.16% | 3.65% |

Staffing:

Section 400.23(3)(a)(1), Florida Statutes, specifies a minimum certified nursing assistant staffing of 2.5 hours of direct care per resident per day and a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident day. Based on the information provided in Schedule 6, the applicant meets this requirement.

The projections for NRPD, CPD, and operating margin all fall within their respective ranges.

Conclusion:

The project appears reasonably profitable.

- e. **Will the proposed project foster competition to promote quality and cost-effectiveness? ss. 408.035 (1)(e) and (g), Florida Statutes.**

Analysis:

The type of competition that would result in increased efficiencies, service, and quality is limited in health care. Cost-effectiveness through competition is typically achieved via a combination of competitive pricing that forces more efficient cost to remain profitable and offering higher quality and additional services to attract patients from competitors. Since Medicare and Medicaid are the primary payers in the nursing home industry, price-based competition is limited. With a large portion of the revenue stream essentially fixed on a per patient basis, the available margin to increase quality and offer additional services is limited. In addition, competitive forces truly do not begin to take shape until existing business' market share is threatened. The publication of need in this area suggests that there is an unmet and untapped

customer base for a new entrant to absorb. Since nursing home services are limited to available beds and the need formula suggest excess capacity in the market to fill those beds, the impact on market share would be limited. The combination of the existing health care system's barrier to price based competition via fixed price payers and the existence of unmet need in the district limits any significant gains in cost-effectiveness and quality that would be generated from competition.

Conclusion:

This project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

- f. Are the proposed costs and methods of construction reasonable? Do they comply with statutory and rule requirements? ss. 408.035 (1) (h), Florida Statutes; Ch. 59A-4, Florida Administrative Code.**

The applicant has submitted all information and documentation necessary to demonstrate compliance with the architectural review criteria. The cost estimate for the proposed project provided in Schedule 9, Table A and the project completion forecast provided in Schedule 10 appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have significant impact on either construction costs or the proposed completion schedule.

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The architectural review of this application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the applicant owner. Approval from the Agency for Health Care Administration's Office of Plans and Construction is required before the commencement of any construction.

- g. Does the applicant have a history of and propose the provision of health services to Medicaid patients and the medically indigent? Does the applicant propose to provide health services to Medicaid patients and the medically indigent? ss. 408.035 (1) (i), Florida Statutes.**

A three-year history of Medicaid patient days and occupancy rates for the subdistrict, district and state is provided in the table below.

**Historical Provision of Medicaid by Subdistrict, District and State
Three Years Ending December 31, 2014
Medicaid Patient Days and Occupancy Rates**

| Area | Medicaid Patient Days | | |
|-----------------|-----------------------|--------------|--------------|
| | 1/12 - 12/12 | 1/13 - 12/13 | 1/14 - 12/14 |
| Subdistrict 9-1 | 111,185 | 114,437 | 113,897 |
| District 9 | 1,624,445 | 1,604,028 | 1,633,008 |
| Florida | 15,733,318 | 15,700,197 | 15,932,613 |
| Area | Medicaid Occupancy | | |
| | 1/12 - 12/12 | 1/13 - 12/13 | 1/14 - 12/14 |
| Subdistrict 9-1 | 62.20% | 64.63% | 64.14% |
| District 9 | 60.24% | 60.19% | 60.59% |
| Florida | 61.85% | 61.66% | 62.17% |

Source: Florida Nursing Home Utilization by District and Subdistrict April 2015 Batching Cycle

Palm Garden of Vero Beach, LLC (CON #10367) states it serves all patients in need regardless of race, ethnicity, gender or ability to pay. Medicaid and Medicare are the payers for the majority of the facility's patients and the facility's reimbursement rates for services provided for Medicare recipients are determined under Medicare Prospective Payment System and will not be affected by the proposed nine bed addition.

The reviewer compiled the following Medicaid occupancy data for Palm Garden Healthcare Holdings, LLC operated Florida SNFs for January 1, 2014 to December 31, 2014. See the table below:

**Palm Garden Healthcare Holdings, LLC Operated Facilities
Florida Medicaid Occupancy
January 1, 2014 to December 31, 2014**

| Facility | Medicaid Days | Total Patient Days | Medicaid Occupancy |
|--------------------------------|----------------|--------------------|--------------------|
| Palm Garden of Clearwater | 26,692 | 41,793 | 63.87% |
| Palm Garden of Gainesville | 18,935 | 40,224 | 47.07% |
| Palm Garden of Jacksonville | 27,320 | 40,984 | 66.66% |
| Palm Garden of Largo | 26,523 | 44,692 | 58.99% |
| Palm Garden of Ocala | 42,354 | 61,504 | 68.86% |
| Palm Garden of Orlando | 26,562 | 40,774 | 65.14% |
| Palm Garden of Pinellas | 26,984 | 39,650 | 68.06% |
| Palm Garden of Port St. Lucie | 41,917 | 28,292 | 67.05% |
| Palm Garden of Sun City Center | 21,508 | 39,992 | 53.88% |
| Palm Garden of Tampa | 27,241 | 40,604 | 67.09% |
| Palm Garden of Vero Beach | 43,187 | 57,875 | 74.62% |
| Palm Garden of West Palm Beach | 44,317 | 59,823 | 74.08% |
| Palm Garden of Winter Haven | 26,519 | 40,858 | 64.91% |
| Total | 400,059 | 577,068 | 64.63% |

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, April 2015 Batching Cycle

The applicant's Schedule 7 indicates that Medicaid and self-pay represent 71.0 percent and 4.1 percent, respectively, of year one and 69.8 percent and 4.1 percent, respectively, of year two annual total patient days for the entire 189-bed facility.

F. SUMMARY

Palm Garden of Vero Beach, LLC (CON #10367) proposes to add nine additional community nursing home beds to an existing 180-bed SNF in Subdistrict 9-1, Indian River County, Florida. The applicant is owned and operated by Palm Garden Healthcare Holdings, LLC.

Palm Healthcare Management operates 14 SNFs and ALFs in Florida.

The project involves 5,120 GSF of new construction. The construction cost is \$972,195. Total project cost is \$1,482,807. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant proposes three conditions on its Schedule C.

Need:

In Volume 41, Number 65 of the Florida Administrative Register dated April 3, 2015, a fixed need pool of nine beds was published for Subdistrict 9-1 for the January 2018 Planning Horizon. Subdistrict 9-1 is comprised of Indian River County.

As of May 20, 2015 Subdistrict 9-1 had 545 licensed and zero approved community nursing home beds. During the 12-month period ending December 31, 2014 Subdistrict 9-1 experienced 88.89 percent utilization at six existing facilities.

Palm Garden believes that there is a shortage of community nursing home beds within Subdistrict 9-1 generally, but also within private rooms. Palm Garden states the proposed addition will help to alleviate this shortage by adding nine private beds.

The applicant indicates the following factors support the proposed project:

- The published need for nine additional beds in Subdistrict 9-1.
- The 65+ population of Palm Garden of Vero Beach's service area is projected to increase from 52,919 to 58,378 between July 1, 2014 and January 1, 2018--a 10.3 percent rate of growth, exceeding the District 9 average.
- The 65+ population growth rate for Subdistrict 9-1 is even higher at 12.3 percent.

- The percent of the population 65+ is greater within the identified service area than either the subdistrict or the district, and this gap is forecasted to widen between the 2015 base year and 2018, the first year of operation of the additional beds. By January 1, 2018, the elderly are forecasted to comprise over 35 percent of the service area's total population.

Quality of Care:

The applicant described its ability to provide quality care.

For the most recent rating period, the existing facility had one out of a possible five-star quality inspection rating. Palm Garden of Vero Beach is currently on the Nursing Home Watch List. The applicant had 10 substantiated complaints during May 20, 2012 to May 20, 2015.

Agency complaint records indicate that the affiliated nursing homes associated with the parent company, for the three-year period ending May 20, 2015, had 57 substantiated complaints with 13 complaint categories.

Financial Feasibility/Availability of Funds:

Funding for this project and the applicant's entire capital budget should be available as needed. Based on the information provided in Schedule 6, the applicant meets staffing requirements. The project appears reasonably profitable.

This project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

Medicaid/Charity Care:

Palm Garden does not propose to condition project approval to a percentage of Medicaid days.

The applicant's Schedule 7 indicates that Medicaid and self-pay represent 71.0 percent and 4.1 percent, respectively, of year one and 69.8 percent and 4.1 percent, respectively, of year two annual total patient days for the entire 189-bed facility.

Architectural:

The cost estimate and project completion forecast appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

G. RECOMMENDATION

Approve CON #10367 to add nine community nursing home beds to an existing 180-bed facility in Indian River County, District 9, Subdistrict 1. The total project cost is \$1,482,807. The project involves 5,120 GSF of new construction and a construction cost of \$972,195.

CONDITIONS:

- Nine new private skilled nursing beds/rooms in wing addition of Palm Garden of Vero Beach.
- Chaplain/Spiritual Services-Palm Garden of Vero Beach offers spiritual care and guidance for all patients and family members every day at the facility. Currently the Chaplain is available for half days five days a week at the facility. The Chaplain currently ministers to over 20 patients a week at the facility. By September 1, 2015, Palm Garden will work with the Chaplain so that at least 50 percent of all Palm Garden patients will receive weekly spiritual visits, if the patients so desire. Palm Garden is committed to providing the spiritual and support services that all of its patients require.
- Educational Opportunities at Palm Garden for students-Palm Garden's therapy department has for several years an agreement with the University of South Florida to mentor and take on Physical Therapy students. Speech therapy students have also been accepted before in the past from Florida International University. In the past few years, the applicant has seen several Occupational Therapy Assistant students from Keiser University which were provided supervision and guidance under both the Occupational Therapist and Occupational Therapy Assistant staff members. Indian River Community College as an educational partner to foster the development of Physical Therapy Assistant students to this center as Palm Garden continues to establish relationships with colleges and universities in the community. Palm Garden is committed to continuing these educational programs.

AUTHORIZATION FOR AGENCY ACTION

Authorized representatives of the Agency for Health Care Administration adopted the recommendation contained herein and released the State Agency Action Report.

DATE: _____

Marisol Fitch
Health Services and Facilities Consultant Supervisor
Certificate of Need