

# STATE AGENCY ACTION REPORT

## ON APPLICATION FOR CERTIFICATE OF NEED

### A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

**NHI SPB Operations, LLC/CON #10412**

2979 PGA Boulevard, Suite 205  
Palm Beach Gardens, Florida 33410

Authorized Representative: Paul M. Walczak  
(561) 366-6600

2. Service District/Subdistrict

District 9/Subdistrict 9-4 (Palm Beach County)

### B. PUBLIC HEARING

No public hearing was held or requested on the proposed project to construct a new 111-bed community nursing home through the voluntary delicensure of 111 beds from within Subdistrict 9-4.

### C. PROJECT SUMMARY

**NHI SPB Operations, LLC (CON application #10412)**, referenced as NHI or the applicant, a newly formed Florida private-for-profit entity, with managing member, MTW Investment Management, LLC and owned by NuVista Living (referenced as NuVista or parent), proposes to construct a new 111-bed community nursing home in District 9, Subdistrict 9-4, Palm Beach County, through the voluntary delicensure of 111 community nursing home beds from The Fountains Nursing Home, Inc., (51 beds) and Jupiter Medical Center Pavilion, Inc., (60 beds)<sup>1</sup>, both currently located in Subdistrict 9-4. The location of the new facility is on a parcel of land along Congress Avenue within ZIP Code

<sup>1</sup> CON application #10412, page 1-29, Exhibit 1-1 includes signed and notarized letters from Robert W. Hurlbut, President, The Fountains Nursing Home, Inc., and from John D. Couris, Chairman, Jupiter Medical Center Pavilion, Inc., agreeing to delicensures, in cooperation with the proposed project.

33487 in Palm Beach County<sup>2</sup>. The applicant describes the approximate location as being between Boca Raton and Delray Beach. If approved, the proposed project will add no new beds to the subdistrict.

According to the applicant, the proposed project replaces existing licensed beds and creates value both in terms of location and services. NHI maintains that the proposed project will reallocate beds already in the market to an area of the county where population growth is expected to be strongest--improving access, availability and offering a new facility to meet current and future demands. NHI expects issuance of license in June 2018 and initiation of service in July 2018.

The parent owns/operates two existing skilled nursing facilities (SNFs) in Palm Beach County, Florida:

- NuVista Living at Hillsborough Lakes
- NuVista Living at Wellington Green

The applicant states that a third community nursing home of 129 beds (The Institute for Healthy Living, Life Science and Research at Abacoa), under common NuVista affiliation, is currently under construction in Jupiter (Palm Beach County), Florida and that that 129-bed project is through CON application #10007 and CON application #10124<sup>3</sup>.

The project involves new construction of 93,463 total gross square feet (GSF). Total construction cost is \$20,000,000. Total project cost is \$33,005,600. Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant offers the following as conditions predicated upon award of the certificate of need:

1. All private rooms with handicap accessible bathrooms
2. Spa bathing facility
3. Large dining facility along with a restorative and private dining area
4. A minimum 11.4 percent of total patient days shall be provided to Medicare Managed Care

<sup>2</sup> The reviewer confirms that according to the United States Postal Service website at <https://tools.usps.com/go/ZipLookupAction!input.action>, ZIP Code 33487 is assigned to Boca Raton (Palm Beach County), Florida. This same source indicates that additionally, Highland Beach (Palm Beach County), Florida is an address recognized for addresses in ZIP Code 33487.

<sup>3</sup> CON application #10007, awarded to M.T. Health Center, LLC was issued on March 31, 2008 to construct a 99-bed community nursing home in Palm Beach County through the delicensure of 99 beds from Mission Palms Nursing & Rehabilitation Center. CON application #10124, awarded to M.T. Health Center, LLC was issued on September 21, 2011 to add 30 community nursing home beds to the 99-bed facility authorized by CON application #10007, through the delicensure of 30 community nursing home beds at Jupiter Medical Center Pavilion, Inc.

*Should the proposed project be approved, the applicant’s conditions would be reported in the annual condition compliance report, as required by Rule 59C-1.013(3), Florida Administrative Code. The Agency will not impose conditions on already mandated reporting requirements.*

<b>Total GSF and Project Costs of CON application #10412</b>					
<b>Applicant</b>	<b>CON #</b>	<b>Project</b>	<b>GSF</b>	<b>Costs \$</b>	<b>Cost Per Bed</b>
NHI SPB Operations, LLC	10412	New 111-Bed Community Nursing Home through Delicensure of 111 Beds	93,463	\$33,005,600	\$297,348

Source: CON applications 10412, Schedules 1 and 9

**D. REVIEW PROCEDURE**

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes. 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 assessing the responses 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 (subdistrict), applications are comparatively reviewed to determine which applicant best meets the review criteria.

Section 59C-1.010(3)(b), Florida Administrative Code, allows no application amendment information subsequent to the application being 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, Steve Love, analyzed the application with consultation from Financial Analyst Derron Hillman of the Bureau of Central Services, who evaluated the financial data, and Gregory Register 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 and 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.**

The proposed project is not in response to the fixed need pool and does not add community nursing beds within District 9, Subdistrict 9-4 (Palm Beach County). The project, if approved, will not change the total community nursing home bed count in the planning area.

**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:**

- **Population demographics and dynamics;**
- **Availability, utilization and quality of like services in the district, subdistrict or both;**
- **Medical treatment trends; and**
- **Market conditions.**

***Population demographics and dynamics***

NHI states that according to the most current Agency population estimates, Palm Beach County is the third largest county by population in the state and is the ninth most densely populated county with 698 persons per square mile.

The applicant indicates that using University of Florida, Bureau of Economic and Business Research data as of April 1, 2015, Boca Raton had a total population of 87,766—the second largest municipality in Palm Beach County. NHI contends that the location and draw of a nursing home would serve residents within a 10-mile radius which includes Boca Raton and Delray. The applicant notes the three municipalities to be served by the proposed project—Boca Raton,

Boynton Beach and Delray Beach—are three of the four largest cities in Palm Beach County with a total population of 223,725. See the table below.

**Population by Municipality, April 1, 2015**

<b>Municipality</b>	<b>Population</b>
West Palm Beach	106,525
Boca Raton	87,766
Boynton Beach	72,784
Delray Beach	63,175
Wellington	59,860
Jupiter	59,108
Palm Beach Gardens	50,521
Greenacres	38,943
Lake Worth	37,674
Royal Palm Beach	36,731
Riviera Beach	33,953
Palm Springs	22,282
Belle Glade	17,448
North Palm Beach	12,206
Lantana	10,705
Lake Park	8,598
Palm Beach	8,041
Pahokee	5,839
Tequesta	5,665
South Bay	5,151
Highland Beach	3,600
Lake Clarke Shores	3,375
Juno Beach	3,240
Loxahatchee Groves	3,203
Hypoluxo	2,691
Atlantis	2,001
Haverhill	1,977
Mangonia Park	1,959
Ocean Ridge	1,794
South Palm Beach	1,366
Palm Beach Shores	1,143
Gulf Stream	998
Briny Breezes	415
Manalapan	410
Jupiter Inlet Colony	396
Golf	252
Glen Ridge	215
Cloud Lake	133

Source: CON application #10412, page 1-11, Table 1-1

NHI provides a table, using The Nielsen Company population estimates within a five-mile radius and a 10-mile radius for ZIP Code 33487, by age cohort, for 2015 and 2020, in whole numbers and by percentage with the population increase in whole numbers as well as the population growth rate by 2020. The applicant includes the same corresponding population estimates for Palm Beach County in total, based on the Agency’s Florida Population Estimates and Projections by District 2010 to 2030, published February 2015. See the table below.

**Current and Five Year Projected Population  
By Elderly Age Cohort**

Area	2015 Population			2020 Population		
	Age 0-64	Age 65+	Total	Age 0-64	Age 65+	Total
5-Mile Radius	115,186	49,740	164,926	115,505	55,428	170,933
10-Mile Radius	440,485	179,141	619,626	450,795	200,986	651,781
Palm Beach County	1,064,629	305,589	1,370,218	1,108,132	347,272	1,455,359
Area	Distribution of Population 2015			Distribution of Population 2020		
	Age 0-64	Age 65+	Total	Age 0-64	Age 65+	Total
5-Mile Radius	69.8%	30.2%	100.0%	67.6%	32.4%	100.0%
10-Mile Radius	71.1%	28.9%	100.0%	69.2%	30.8%	100.0%
Palm Beach County	77.7%	22.3%	100.0%	76.1%	23.9%	100.0%
Area	Population Increase 2015-2020			Population Growth Rate 2015-2020		
	Age 0-64	Age 65+	Total	Age 0-64	Age 65+	Total
5-Mile Radius	319	5,688	6,007	0.3%	11.4%	3.6%
10-Mile Radius	10,310	21,845	32,155	2.3%	12.2%	5.2%
Palm Beach County	43,503	41,638	85,141	4.1%	13.6%	6.2%

Source: CON application #10412, page 1-12, Table 1-2

The applicant discusses the age 65+ population cohort within the five-mile and 10-mile radius, from 2015 to 2020, noting that by 2020, over half of Palm Beach County’s increase in age 65+ residents is expected to be within the 10-mile radius of ZIP Code 33487. NHI emphasizes that the proposed project will be situated in an area with a high concentration of seniors with sustained population growth over the next five years, indicating demand for nursing home beds. The applicant provides a diagram of the proposed project location, the five-mile and 10-mile radius of the site and the locations of nursing homes and hospitals in Palm Beach County (CON application #10412, page 1-14, Figure 1-6).

***Availability, Utilization, and quality of like services***

Concerning availability, there are 53 licensed community nursing homes with a total of 6,020 community nursing home beds in District 9, Subdistrict 9-4 (Palm Beach County). Subdistrict 9-4 averaged 84.75 percent occupancy for the 12-month period ending June 30, 2015.<sup>4</sup>

NHI addresses availability by examining the number of nursing home beds in proportion to the number of elderly. The applicant provides a table to compare the current number of nursing home beds per 1,000 elderly age 65+ population within a five-mile and 10-mile radius for the proposed project location in ZIP Code 33487, as well as for Palm Beach County and for Florida. NHI points out that due to a large number of sheltered beds in the county, compared to the state overall, total licensed beds are used in this comparison and that this inclusion of sheltered beds as well as community beds shows a more accurate estimate of available beds than community beds alone. See the table below.

<sup>4</sup> Source: *Florida Nursing Home Utilization by District and Subdistrict July 2014 – June 2015* published October 2, 2015

**Availability of Skilled Nursing Beds Within a Five and 10 Mile Radius of ZIP Code 33487, Subdistrict 9-4 and the State in 2015 and 2020**

Area	Current Available Beds			Projected Available Beds			Apv'd Beds Added
	Jan 2015 Pop 65+	8/21/15 Beds	Beds Per 1,000	Jan 2020 Pop 65+	Projected Beds	Beds per 1,000	
Five-Mile Radius	49,740	1,068	21	55,428	1,233	22	165
10-Mile Radius	179,141	2,947	16	200,986	3,097	15	150
Palm Beach County	305,589	6,337	21	347,227	6,544	19	207
Florida	3,635,347	83,436	23	4,277,046	87,026	20	3,590

Source: CON application #10412, page 1-15, Table 1-3

NHI explains that while the proposed project does not add beds to the subdistrict, the 60 beds that will be relocated from Jupiter, outside of the 10-mile radius, is included in the approved beds added column in the calculation above. NHI points out that within the 10-mile radius, there are currently 16 beds per 1,000 elderly and even with implementation of the proposed project, this will decrease to 15 per 1,000 (by 2020). The applicant comments that both the 10-mile radius and the Palm Beach County beds per 1,000 are lower than the statewide number of 23 beds per 1,000 currently and 20 beds per 1,000 elderly estimated for 2020.

NHI emphasizes that the proposed project will improve access in and around Boca Raton/Delray Beach by resulting in a SNF bed availability of 15 beds per 1,000 elderly without a negative impact to other facilities within the planning area. The applicant contends that with Palm Beach County having fewer beds per 1,000 elderly than the state, it is important to preserve all currently licensed beds.

Regarding utilization, the applicant uses the Agency Nursing Home Bed Need Projections by District and Subdistrict, issued October 2, 2015, to account for inventory and utilization at each SNF within the five-mile radius, between five and 10 miles and the total 10-mile radius of the proposed project location as well as Palm Beach County and the state, for the 12 months ending June 30, 2015. For brevity, the reviewer collapses the individual SNF facility licensed beds, patient days and occupancy rates. See the table below.

**Nursing Home Utilization for Facilities within a Five-Mile, 10-Mile Radius of Proposed Location, Palm Beach County and Florida  
July 1, 2014 through June 30 2015**

Area	Licensed Beds	Patient Days	Occupancy
Five-Mile Radius	1,068	325,549	83.51%
Between Five and 10 Miles	1,872	565,517	82.77%
Total 10-Mile Radius	2,940	891,066	83.04%
Palm Beach County Total	6,337	1,903,976	82.32%
Florida (Community Beds Only)	80,130	25,654,808	87.80%

Source: CON application #10412, page 1-17, Table 1-4

NHI notes that the occupancy column for the 12 months ending June 30, 2015 indicates that lower occupancy rates for each referenced area, compared to Florida overall (87.80 percent). NHI asserts two possible

reasons why occupancy rates in Palm Beach County are lower than the state overall: aging physical plants with multi-bed wards and fewer private rooms to accommodate today’s expectations and the affluent population’s ability to seek alternative care, such as private duty nurses. The applicant indicates that the proposed project’s all private resident rooms which the applicant states will replace all the accommodations at The Fountains Nursing Home, Inc. and will replace some of the accommodations at Jupiter Medical Center Pavilion, Inc. NHI states and the reviewer confirms through the Agency’s website at <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx>, the majority of resident rooms at both The Fountains Nursing Home, Inc., and at Jupiter Medical Center Pavilion, Inc., are semi-private, with eight or fewer private resident rooms at either of the two facilities.

The applicant contends a “stark” Florida average nursing home use rate (7,057 patient days per 1,000 age 65+ residents statewide) compared to lower use rates in Palm Beach County as well as within the five-mile and 10-mile radius of the proposed project. See the table below.

**Current Nursing Home Use Rates for the Proposed Project, Subdistrict and State**

Area	Jan 2015 Pop Age 65+	7/14-6/15 Pt Days	Days per 1,000
Five-Mile Radius	49,740	325,549	6,545
10-Mile Radius	179,141	891,066	4,974
Palm Beach County	305,589	1,903,976	6,231
Florida	3,635,347	25,654,808	7,057

Source: CON application #10412, page 1-18, Table 1-5

By June 30, 2019 (year one) and by June 30, 2020 (year two) of planned operations, the applicant expects 10-mile projected use rates of 86.43 percent and 88.20 percent, respectively. See the table below.

**Projected Nursing Home Utilization within a 10-Mile Radius**

Factor	7/14 – 6/15	7/18 – 6/19	7/19 – 6/20
Population 65+	179,141	196,414	200,986
Licensed Beds	2,947	3,097	3,097
Projected Patient Days (4,974)	891,066	976,982	999,725,
<b>10-Mile Projected Occupancy</b>	<b>82.84%</b>	<b>86.43%</b>	<b>88.20%</b>
Projected Patient Days (6,231)		1,223,758	1,252,246
<b>10-Mile Projected Occupancy</b>		<b>108.26%</b>	<b>110.78%</b>

Source: CON application #10412, page 1-18, Table 1-6

The applicant anticipates pent up demand for community nursing home beds in Palm Beach County and that the proposed project will have a positive effect on the health care delivery system within the county.

CON application #10412, page 1-19, Figure 1-7 includes a graph that plots nursing home patient days and the number of community beds per 1,000 population age 65+ by district, for the 12-month period ending June 30, 2015. According to NHI, the graph clearly shows a direct correlation between availability and utilization. The applicant expects



that new updated facilities with private rooms will contribute to increase demand and higher utilization. Utilizing the data within the graph, NHI states that District 9 has the third lowest bed availability in the state.

NHI contends that because the Agency methodology used to rank nursing homes on performance measures only indicates a facility's comparative performance in relation to other facilities within the planning district, there are an equal number of "poor" and "good" performers at any given time. Therefore, the applicant asserts that the quality of "like services in the subdistrict" is difficult to accurately assess. NHI assures that the proposed project will ensure quality through construction of a new physical plant built to new code, with 111 private rooms, affiliated with a skilled and quality provider.

### ***Medical Treatment Trends***

NHI states that culture change provides the impetus of the proposed project—focusing on increased home-like amenities for nursing homes. The applicant notes that culture change has many aspects and that these include both physical plant designs and service delivery changes. Person-centered directives are mentioned and the applicant comments that the plan is that residents decide, exercise choice and function as independently as possible. NHI discusses physical plant and innovative architectural designs and landscaping to produce more desired surroundings. The applicant states that the engagement of residents and the exercise of residents' rights figure prominently in culture change initiatives—with staff being trained to engage residents with respect and to foster greater independence by means of guidance rather than direction.

The applicant maintains that the proposed project embraces resident directed care, both in facility design with luxury appointments and amenities, all private rooms, large state-of-the-art therapy suite and a tropical landscape with residents treated as if they were guests at a five-star hotel.

### ***Market Trends***

NHI maintains that Florida's efforts to increase the options to institutionalization continue to be developed which will delay placement into nursing homes. The applicant also notes an improvement in the health status of the elderly population due to the decline in major causes of death, including heart disease and stroke as well as improvements in diet, increased exercise, improved medicines, cessation of smoking and more screening services are extending life expectancies. NHI indicates that better medicinal management of chronic conditions has reduced the demand for institutionalized, long-term care.

NHI indicates that as Medicaid managed care takes hold, Medicaid occupancy rates have leveled off and are declining, while Medicare and short-term rehabilitation continues to increase within the nursing home patient population. The applicant contends that Palm Beach County retirees are affluent and using United State Bureau of Census data for 2013 indicates that Palm Beach County has a higher per capita income and a higher median household income. The applicant also states that this more affluent population often has insurance and other sources of income for rehabilitation and long term care services. CON application #10412, page 1-23, Table 1-7 indicates that nursing homes within the immediate five-mile radius of the proposed site have proportionately more care reimbursed by private payers, insurance and managed care (and the reviewer notes less Medicaid) when compared to Palm Beach County as a whole.

According to NHI, the proposed project will make rehabilitation for the elderly following an acute care episode more accessible and closer to home. The applicant lists four area acute care hospitals from which the proposed project will be within a 10-mile radius. NHI indicates that using Agency hospital patient discharge data for CY 2014, the number of hospital discharges for residents within Palm Beach County to SNFs. The applicant expects that with population growth, there will be a corresponding increase in admissions to SNFs. See the table below.

**2014 Hospital Discharges to SNFs for Palm Beach County Residents By Payer**

<b>Payer</b>	<b>Discharges</b>	<b>Percent</b>
Medicare	13,197	69.2%
Medicare Managed Care	5,362	28.1%
Medicaid & Medicaid Managed Care	48	0.3%
Commercial Insurance	407	2.1%
Other Gov't Payers	45	0.2%
Self-Pay	19	0.1%
Other	4	0.0%
<b>Total</b>	<b>19,082</b>	<b>100.0</b>

Source: CON application #10412, page 1-24, Table 1-8

The applicant contends that the central issue is whether or not the Boca Raton/Delray Beach area and its surrounding area will support the proposed project. NHI expects an 88.34 percent occupancy rate (for 6,544 licensed beds in Palm Beach County) for the 12-month period ending June 30, 2019 (year one) and a 90.57 percent occupancy rate for the same number of beds within a 10-mile radius of the proposed site for the 12-month period ending June 30, 2020 (year two). See the table below.

**Projected Palm Beach County and Proposed Service Area Patient Days and Occupancy for Years One and Two (July 1, 2018 to June 30, 2020)**

<b>Baseline Statistics</b>	<b>Palm Beach</b>	<b>10-Mile Radius</b>
Total Licensed Beds	6,337	2,947
Projected Licensed Beds, 2020	6,544	3,097
Total Patient Days 7/14 - 6/15	1,903,976	891,066
Average Daily Census 7/14 - 6/15	5,216	2,441
Average Occupancy	82.32%	82.84%
January 1, 2015 Population 65+	305,589	179,141
Use Rate (Days per 1,000)	6,231	4,974
<b>Palm Beach County Projections</b>	<b>Year One: 7/18 - 6/19</b>	<b>Year Two: 7/19 - 6/20</b>
Population 65+ (January 2019 and 2020)	338,677	347,227
Projected Days (Palm Beach County Use Rate)	2,110,131	2,163,402
Average Daily Census	5,781	5,927
<b>Occupancy in 6,544 licensed beds</b>	<b>88.34%</b>	<b>90.57%</b>

Source: CON application #10412, page 1-25, Table 1-9

**Projected Palm Beach County and Proposed Service Area Patient Days and Occupancy for Years One and Two (July 1, 2018 through June 30, 2020)**

<b>Populations Within a 10-Mile Radius</b>	<b>Year One: 7/18 - 6/19</b>	<b>Year Two: 7/19 - 6/20</b>
Population 65+ (January 2019 and 2020)	194,414	200,986
Projected Days ( <b>10-Mile Radius Use Rate</b> )	976,982	999,725
Average Daily Census	2,677	2,731
<b>Occupancy in 3,097 licensed beds</b>	<b>86.43%</b>	<b>88.44%</b>
Projected Days ( <b>Palm Beach County Use Rate</b> )	1,223,758	1,252,246
Average Daily Census	<b>3,353</b>	<b>3,421</b>
<b>Occupancy in 3,097 licensed beds</b>	<b>108.26%</b>	<b>110.78%</b>

Source: CON application #10412, page 1-26, Table 1-9

NHI points out that the 108.26 percent and the 110.78 percent occupancy rates in the table above are impossible (exceeding 100 percent), indicating an area of pent up demand that can support the addition of beds that will relocate. The applicant emphasizes that the net effect of the proposed project is to maintain the status quo without adding beds to the subdistrict while enhancing access through an increase in the number of private rooms within the nursing home market.

NHI estimates a total of 580 admissions in year one (ending June 30, 2019) and 895 admissions in year two (ending June 30, 2020), with a corresponding 22,283 patient (resident) days in year one and 34,436 patient (resident) days in year two. The applicant expects an average daily census of 61 residents in year one and 94 in year two. The applicant also anticipates an occupancy rate of 55.00 percent in year one and 84.76 percent in year two. NHI breaks down these total admissions and resident days by payer for each of the first two years. See the table below.

**Projected Utilization by Payer at the 111-Bed Facility  
First Two Years of Operation**

Payer	Admissions		Percent of Admits	Resident Days		Percent of Days
	Year One 7/18 - 6/19	Year Two 7/19 - 6/20		Year One 7/18 - 6/19	Year Two 7/19 - 6/20	
Medicare	158	244	27.3%	4,261	6,584	19.1%
Medicare Managed Care	116	179	20.0%	2,536	3,919	11.4%
Medicaid Managed Care	27	42	4.7%	9,694	14,980	43.5%
Self-Pay	143	221	24.7%	2,563	3,960	11.5%
Commercial Insurance	72	111	12.4%	1,782	2,754	8.0%
Managed Care	45	69	7.7%	1,113	1,722	5.0%
Other	19	29	3.2%	334	517	1.5%
<b>Total</b>	<b>580</b>	<b>895</b>	<b>100.0%</b>	<b>22,283</b>	<b>34,436</b>	<b>100.0%</b>
<b>Percent Occupancy</b>				<b>55.00%</b>	<b>84.76%</b>	

Source: CON application #10412, page 1-27, Table 1-10

**2. Agency Rule Preferences**

**Does the project respond to preferences stated in Agency rules? 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 for Health Care Administration publish specific preferences for these facilities. However, the rule does contain standards the Agency utilizes in assessing the 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 undeserved area as specified in subsection 408.032(15), Florida Statutes (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 undeserved area. The center of the geographically undeserved area shall be the proposed nursing home location in the application.**

The application is not submitted in order to remedy a geographically underserved area.

- 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 discharged policies.**

NHI states that as a newly formed entity, the applicant does not have a licensure history. However, the applicant states plans to be dually certified for both Medicare and Medicaid. The applicant also states that both short-term subacute rehabilitative care and long-term medically complex care will be provided with an emphasis will be placed on restoring wellness through rehabilitation. The applicant provides the following list of services and special features to be provided at the proposed facility:

- 24-hour a day licensed nurse supervision
- 24-hour a day certified nurse assistance
- Personalized individual care with activities of daily living
- High staff to resident ratio
- Progressive, attractive environment
- Family support programs
- Emergency call system
- Full-time social services director
- Private and semi-private rooms<sup>5</sup>
- Specialized social activity programs
- Resident/family councils
- Psychological services
- Pharmacy consultation
- Skilled and intermediate nursing care
- Rehabilitation services
- Restorative nursing emphasis
- Progressive nursing systems
- Care management

<sup>5</sup> The reviewer notes that throughout CON application #10412, the applicant assures that all resident rooms will be private.

The applicant indicates that contracted services will include dental, vision, audiology, radiology, laboratory, pharmacy, physical, occupational and speech therapy as well as a transfer agreement that will be maintained with area hospitals. The applicant also states plans to participate in community programs beneficial to residents such as the Alzheimer's Support Group, the Diabetes Support Group and Hospice of Palm Beach County.

NHI states that each Major Diagnostic Category (MDC) was examined to identify the diagnostic related group (DRG) for Palm Beach County residents. NHI contends that this type of analysis assists in identifying the conditions and disorders that are most likely to be discharged to a SNF. In CY 2014, the applicant states that there were 9,581 persons age 65+ within 10 miles of the proposed site who were discharged to nursing homes in any one of the 10 most voluminous MDC groups. CON application #10412, page 2-12, Table 2-2 indicates that using this CY 2014 data as a baseline, NHI estimates that by 2020, the highest to lowest MDC cases within a 10-mile radius of the proposed project is estimated to be 10,749 cases (among the 10 highest volume MDC cases in 2020). The applicant discusses a more in-depth review of large MDC groupings and the particular modalities with a description of services planned for patients discharged to the proposed facility on pages 2-12 through 2-16 of the application.

Regarding admissions, NHI states that a physician makes the determination of transferring patients to a SNF. The applicant assures that the proposed facility will have a multidisciplinary team to evaluate the needs of each resident upon admission. Per NHI, decisions to transfer are based on consultation with the Care Team as well as the resident with his/her family and physician. NHI indicates that each resident receives an admission packet which details the agreement between the facility representative and the resident, his legal representative or other responsible party.

The applicant offers a list of forms used in the proposed facility as part of the admissions process (CON application #10412, page 2-3). Upon admission, NHI states that an initial evaluation will be performed by the admitting nurse, which will include but not be limited to:

- Medical diagnosis
- Description of skin condition
- Current level of activity/mobility
- Cognitive status
- Diet orders
- Weight
- ADL performance
- Physical impairments

NHI states that developing a plan of care for a resident in a long-term care facility is the single most important task undertaken for that resident and that this plan will lead to the resident's maximum potential for the highest quality of life possible. The applicant provides a list of staff responsible for development and/or implementation of the resident's care plan in the proposed facility. NHI maintains that restorative nursing services and the restorative process begin at admissions and continue for the duration of the resident's stay to foster independence and self-worth. The applicant offers an itemization of restorative program objectives (CON application #10412, page 2-5).

NHI maintains that residents will receive services based upon the MDS assessment, orders from the attending physician and any psychiatric consultation. The applicant further maintains that those with mental illness and medical needs will be screened for mental illness or mental retardation to ensure that all facility admissions are appropriate and in compliance with the Omnibus Budget Reconciliation Act (OBRA). Upon discharge, the applicant indicates that plan of care will be coordinated to assure adequate and timely follow-up with psychiatrists, psychologists, social

workers, local community mental health programs or others chosen by the resident or the resident's family. The applicant offers an itemization of program procedures and protocols for psychosocial services on page 2-6 of CON application #10412.

The applicant states that the social services director has, upon the person's admission, an expected date of discharge. The development of aftercare plans are stated to serve as goals for the plan of care. The applicant points out that a written plan for aftercare is provided to the person, his/her responsible party and to the attending physician. Discharge follow-up is also briefly addressed in the application with an itemized discussion of discharge arrangements and guidelines (CON application #10412, page 2-7 and 2-8).

The applicant estimates an average length of stay (ALOS) of 38 days for both year one and year two and an average daily census (ADC) of 61 residents in year one and 94 residents in year two (CON application #10412, page 2-9, Table 2-1).

The table below contains NHI's projected staffing during year one and year two of the proposed project. The applicant estimates a total of 79.0 FTEs in year one and a total of 115.7 FTEs in year two--an incremental increase of 36.7 FTEs from year one to year two. See the schedule below.



<b>NHI SPB Operations, LLC/CON application #10412 Staffing Patterns for Year One and Year Two of Operations</b>		
	<b>Year One Ending June 30, 2019</b>	<b>Years Two Ending June 30, 2020</b>
<b>Administration</b>		
Administrator	1.0	1.0
Director of Nursing	1.0	1.0
Admissions	1.0	1.0
Bookkeeper	1.0	1.0
Medical Records Clerk	1.0	1.5
Other: Nursing Admin	2.0	3.1
<b>TOTAL</b>	<b>7.0</b>	<b>8.6</b>
<b>Physicians</b>		
Medical Director	1.0	1.0
<b>TOTAL</b>	<b>1.0</b>	<b>1.0</b>
<b>Nursing</b>		
RN	4.3	6.7
LPN	8.2	12.6
Nurses' Aides	31.3	48.3
<b>TOTAL</b>	<b>43.8</b>	<b>67.6</b>
<b>Ancillary</b>		
Physical Therapist	3.4	5.2
Speech Therapist	0.6	0.9
Occupational Therapist	2.5	3.9
<b>TOTAL</b>	<b>6.5</b>	<b>10.0</b>
<b>Dietary</b>		
Dietary Supervisor	1.0	1.0
Cooks	2.3	3.6
Dietary Aides	2.8	4.2
<b>TOTAL</b>	<b>6.1</b>	<b>8.8</b>
<b>Social Services</b>		
Social Service Director	2.0	2.5
Activity Director	1.0	1.0
Activities Assistant	1.0	1.5
<b>TOTAL</b>	<b>4.0</b>	<b>5.0</b>
<b>Housekeeping</b>		
Housekeeping Supervision	1.0	1.0
Housekeepers	4.8	7.4
<b>TOTAL</b>	<b>5.8</b>	<b>8.4</b>
<b>Laundry</b>		
Laundry Aides	3.8	5.3
<b>TOTAL</b>	<b>3.8</b>	<b>5.3</b>
<b>Plant Maintenance</b>		
Maintenance Supervisor	1.0	1.0
<b>TOTAL</b>	<b>1.0</b>	<b>1.0</b>
<b>GRAND TOTAL</b>	<b>79.0</b>	<b>115.7</b>

Source: CON application #10412, Schedule 6

Notes to Schedule 6 indicate that staffing patterns and the number of full-time equivalents are based on the historical experience of management affiliates at comparable operations.

**c. Quality of Care. In assessing the applicant's ability to provide quality of care pursuant to s. 408.035(1), 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 application.**

The applicant is a newly formed entity and has not had a nursing home license denied, revoked, or suspended.

- 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.**

The applicant is a newly formed entity and states that this provision does not apply.

- 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.**

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.**

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 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.**

Since there have been no violations, this provision is not applicable. Refer to quality of care discussion below in item E. 3. b. of this report.

- 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.**

The applicant states it will provide the required data to the Health Council of Southeast Florida and to the Agency.

### 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.**

As stated previously, there are 53 community nursing homes in District 9, Subdistrict 9-4 with a total of 6,020 licensed community nursing home beds. Subdistrict 9-4 averaged 84.75 percent occupancy for the 12-month period ending June 30, 2015. District 9 averaged 85.62 percent occupancy during the same 12-month period.

The applicant contends that nursing home bed availability is measured by examining the number of nursing home beds per 1,000 elderly persons. NHI asserts that the proposed project will have a positive impact on and improve availability on placing SNF beds where they are needed most. Further, NHI maintains that with Palm Beach County having fewer beds per 1,000 elderly than the state, it is important to preserve all current licensed beds to maintain availability and access.

NHI points out that components of access include geographic impediments, distance, time to travel and eligibility criteria of qualifying for the service, as well as considerations such as financial costs and methods of reimbursement from third parties. NHI contends that beds are often taken out of service in older facilities to accommodate residents' preferences for private rooms. The applicant previously stated that the proposed project is designed to better accommodate patient preferences and preserve the proportionately fewer beds per 1,000 elderly residents in Palm Beach County, compared to the state overall.

NHI indicates that the proposed project is convenient to Congress Avenue “along the I-4 corridor” to maximize availability although the adjacent map shows Congress Avenue adjacent to I-95. The reviewer notes that I-4 connects the Florida cities of Tampa, Orlando and Daytona Beach and that I-4 does not traverse Palm Beach County.

The applicant states that the principals associated with this proposed project were those that developed Chatsworth at PGA National, a continuing care retirement community that added community nursing home beds. NHI asserts that this affiliation indicates being with an experienced provider with established protocols and procedures to operate quality facilities.

Using the Florida Nursing Home Utilization by District and Subdistrict publication, issued October 2, 2015, for the 12 months ending June 30, 2015, NHI offers total occupancy rates and the Medicaid occupancy rates among SNFs in within a five-mile radius, between a five-mile and a 10-mile radius, the total 10-mile radius, Palm Beach County overall and the state overall. The applicant points out that the overall state occupancy rate (87.80 percent) is greater than the occupancy rate for all the other geographical areas. Additionally, the applicant indicates that Medicaid occupancy rates are greatest for the state overall (61.88 percent), followed by Palm Beach County (56.01 percent) with the other referenced geographical areas having lower Medicaid occupancy than the state overall and Palm Beach County overall. The reviewer collapses the 10 SNFs within a five-mile radius of the proposed facility, collapses the 15 SNFs between a five-mile and 10-mile radius of the proposed project, and includes the aggregated totals and occupancy rates. See the table below.

**Nursing Home Utilization for Facilities Within a Five and 10-Mile Radius of the Proposed Location, Palm Beach County and Florida  
12 Months Ending June 30, 2015**

<b>Area</b>	<b>Licensed Beds</b>	<b>Patient Days</b>	<b>Occupancy</b>	<b>Medicaid Days</b>	<b>Medicaid Occupancy</b>
Five-Mile Radius Total	1,068	325,549	83.51%	157,852	48.49%
Between Five and 10 Miles	1,872	565,517	82.77%	307,321	54.34%
Total 10-Mile Radius	2,940	891,066	83.04%	465,173	52.20%
Palm Beach County Total	6,337	1,903,976	82.32%	1,066,365	56.01%
Florida (Community Beds Only)	80,130	25,654,808	87.80%	15,875,092	61.88%

Source: CON application #10412, page 3-6, Table 3-2

NHI includes a forecasted payer mix for year one (ending June 30, 2019) and year two (ending June 30, 2020). See the table below.

**Projected Utilization by Payer at the 111-Bed Facility  
First Two Years of Operation**

Payer	Admissions		Percent of Admits	Resident Days		Percent of Days
	Year One 7/18 - 6/19	Year Two 7/19 - 6/20		Year One 7/18 - 6/19	Year Two 7/19 - 6/20	
Medicare	158	244	27.3%	4,261	6,584	19.1%
Medicare Managed Care	116	179	20.0%	2,536	3,919	11.4%
Medicaid Managed Care	27	42	4.7%	9,694	14,980	43.5%
Self-Pay	143	221	24.7%	2,563	3,960	11.5%
Commercial Insurance	72	111	12.4%	1,782	2,754	8.0%
Managed Care	45	69	7.7%	1,113	1,722	5.0%
Other	19	29	3.2%	334	517	1.5%
<b>Total</b>	<b>580</b>	<b>895</b>	<b>100.0%</b>	<b>22,283</b>	<b>34,436</b>	<b>100.0%</b>
<b>Percent Occupancy</b>				<b>55.00%</b>	<b>84.76%</b>	

Source: CON application #10412, page 1-27, Table 1-10 and page 9-5, Table 9-2

NHI discusses the Health Care Access Criteria on pages 3-7 through 3-11 of CON application #10412.

The Agency notes that at several locations in the application, NHI states that the proposed project will maintain access to the existing patient population served (at The Fountains Nursing Home, Inc.) although the reviewer notes that the applicant does not mention the population currently served at Jupiter Medical Center. The Agency additionally notes that the NHI does not provide an explanation regarding the destination or disposition of current nursing home residents at The Fountains Nursing Home, Inc. of Jupiter Medical Center Pavilion, should the proposed project be approved.

For the 12 months ending June 30, 2015, the reviewer notes that The Fountains Nursing Home, Inc., had 13,079 total patient days (70.26 percent) and had the highest Medicaid occupancy (91.87 percent) of any SNF in Palm Beach County. Jupiter Medical Center Pavilion had 17,367 patient days (39.65 percent) and had a Medicaid occupancy of 16.77 percent (2,913 days). Based on the information provided by the applicant, it is unclear to the reviewer the extent to which the proposed service will enhance access and availability to the existing residents of these facilities, including financial access and availability.

- b. Does the applicant have a history of providing quality of care? Has the applicant demonstrated the ability to provide quality 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.**

NHI is a newly formed entity and has no licensure history. The applicant mentions SNFs in Palm Beach County no longer under operation of its founders but that the applicant’s principals developed the other two NuVista SNF facilities in Palm Beach County. In addition, two principals developed and operated SNF facilities.

The applicant maintains that the proposed project will adopt the same policies and procedures at the other NuVista facilities to assure quality of care—where the customer is the absolute focus. NHI indicates that NuVista uses a holistic approach focused on the wellness of the individual and that inpatient rehabilitation programs provide treatment to assure a lasting recovery. The applicant states that the proposed project will look and feel more like a hotel than a nursing home, providing technologically advanced post-acute and rehabilitation services. NHI indicates the planned facility will consist of 111 private rooms, well-appointed living/activity areas, upscale dining facilities and a large therapy suite. The applicant states that it will provide individualized recovery plans, specifically tailored to meet each resident's needs. The applicant states the following specialized programs:

- Short-term rehabilitation
- Post-surgical rehabilitation
- Chronic pain management
- Hand rehabilitation
- Lymphedema treatment program
- Neurological rehabilitation
- Pulmonary rehabilitation
- Balance/vestibular rehabilitation
- Women's health and rehabilitation program

NHI indicates that the proposed facility will develop, implement and maintain an on-going, facility-wide Quality Assessment and Assurance Program (QAAP) designed to monitor and evaluate the quality of resident care, pursue methods to improve care quality, resolve identified problems and maintain a QAAP Committee consisting of various key staff. The applicant offers a Quality Assurance/Quality Improvement Policy (QAIP) on page 4-15 of CON application #10412. According to the applicant, the QAIP Steering Committee is responsible for reviewing and analyzing facility data and determining the actions for facility response.

NHI provides narrative regarding resident rights and includes a resident rights policy statement, "Employees shall treat all resident with kindness, respect and dignity".

The applicant asserts that resident activities are designed to augment treatments to the residents' care plans. NHI maintains that activities accomplish the following objectives:

- To provide a planned range of meaningful, purposeful activities that reflect the residents' interests, skills and enjoyments
- To promote adaptation and restoration of functions

- To continue the fostering of individual interests and pursuits for enjoyment, for creativity, for mastery and for purpose
- To maximize the expression of individualism through groups and family involvement, spiritual development and independence

Agency records indicate that the applicant’s parent, NuVista, operates two SNFs in Florida:

- NuVista Living at Hillsborough Lakes
- NuVista Living at Wellington Green

Agency complaint records indicate that the affiliated nursing homes associated with the parent company, had 10 substantiated complaints for the three-year period ending December 18, 2015. A single complaint can encompass multiple complaint categories. The substantiated complaint categories are listed below:

<b>Nursing Homes Affiliated with NuVista Substantiated Compliant History Three Years Ending December 18, 2015</b>	
<b>Complaint Category</b>	<b>Number Substantiated</b>
Quality of Care/Treatment	4
Administration/Personnel	2
Admission/Transfer/Discharge Rights	2
Resident Assessment	1
Resident Rights	1

Source: Florida Agency for Healthcare Administration complaint records

The applicant includes documentation to verify that the parent’s two existing Florida SNFs (NuVista Living at Hillsborough Lakes and NuVista at Wellington Green) are both included in the U.S. News & World Report’s Best Nursing Homes list (last updated November 2015). The reviewer notes that while the provided documentation lists the two facilities, the application Exhibit 4-1 documentation does not affirmatively indicate the facilities as “Best Nursing Homes”.

Per the FloridaHealthFinder.gov website, the 120-bed community nursing home NuVista at Hillsborough Lakes achieved an overall nursing home inspection rating of four stars (of a possible five stars) and the 120-bed community nursing home NuVista at Wellington Green achieved an overall nursing home inspection rating of two-stars. These ratings were for the time period April 2013 through September 2015. The Agency’s Nursing Home Guide was last updated November 2015. Neither of the two referenced SNFs are Gold Seal facilities nor are either of the facilities on the Agency’s Nursing Home Watch List.

The applicant states and the reviewer confirms that as of January 8, 2016, according to the CMS Nursing Home Compare website at <https://www.medicare.gov/nursinghomecompare/search.html>, NuVista Living at Hillsborough Lakes has a CMS overall five-star nursing home

rating and NuVista Living at Wellington Green has a CMS overall three-star nursing home rating. According to the CMS website, nursing homes with five stars are considered to have “much above average” quality and those with three stars are considered to have “average” quality.

- 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 applicant is a development stage company, meaning there is no operational data to be analyzed for the purposes of this review. The applicant indicated that funding will be provided by a third party source.

**Capital Requirements and Funding:**

The applicant indicates on Schedule 2 capital projects totaling \$33,005,600 which includes this project. The applicant indicates on Schedule 3 of its application that funding for the project will be provided by cash on hand of \$299,935 and by non-related company financing. The applicant provided a development stage audit showing \$299,935 in cash, \$599,935 in member’s equity and no revenues. The applicant submitted a letter from HRE Capital expressing interest in providing financing for the cost of the project. A letter of interest is not considered a firm commitment to lend. However, the letter outlined an existing relationship with the parent entity. No audited financial statements for HRE Capital were provided, thus no conclusion can be drawn as to the ability of HRE Capital to fund the project.

Given that the funding is supported by a letter of interest and that the ability of the third-party lender to fund the project is in question, we have no basis to conclude that funding will be available for this project.

**Conclusion:**

Funding for this project is in question.

- 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 3rd 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	12,410,700	360	737	414	270
Total Expenses	11,531,000	335	718	389	299
Operating Income	879,700	26	95	16	-113
Operating Margin	7.09%		<b>Comparative Group Values</b>		
	Days	Percent	Highest	Median	Lowest
Occupancy	34,436	84.76%	96.71%	89.93%	70.42%
Medicaid/MDCD HMO	14,980	43.50%	49.81%	44.31%	30.05%
Medicare	10,503	30.50%	62.12%	33.63%	10.26%

**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’s projected staffing meets this requirement.

The projected NRPD, CPD, and profit fall within the group range and are considered reasonable. In addition, the total cost appears to include at least the minimum staffing required. Therefore, the overall profitability appears achievable.

**Conclusion:**

This project appears to be financially feasible based on the projections provided by the applicant.

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

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

**Medicaid Patient Days and Medicaid Occupancy in  
Palm Beach County, District 9 and Florida  
Five Years Ending June 30, 2015**

<b>Medicaid Patient Days</b>					
<b>Area</b>	<b>JUL 2010- JUN 2011</b>	<b>JUL 2011- JUN 2012</b>	<b>JUL 2012- JUN 2013</b>	<b>JUL 2013- JUN 2014</b>	<b>JUL 2014- JUN 2015</b>
Palm Beach County	1,085,549	1,094,239	1,074,135	1,094,497	1,090,300
District 9	1,616,634	1,631,108	1,606,305	1,625,875	1,615,799
Florida	15,612,015	15,726,251	15,676,855	15,837,261	15,875,092
<b>Medicaid Occupancy</b>					
<b>Area</b>	<b>JUL 2010- JUN 2011</b>	<b>JUL 2011- JUN 2012</b>	<b>JUL 2012- JUN 2013</b>	<b>JUL 2013- JUN 2014</b>	<b>JUL 2014- JUN 2015</b>
Palm Beach County	58.14%	59.05%	57.59%	58.92%	58.55%
District 9	59.89%	60.86%	59.77%	60.80%	60.19%
Florida	61.56%	61.96%	61.58%	62.05%	61.88%

Source: Florida Nursing Home Bed Need Projections by District and Subdistrict, October 2011-October 2015 Batching Cycles

The reviewer compiled the following Medicaid occupancy data for NuVista operated Florida facilities for July 1, 2014 to June 30, 2015. See the table below.

**NuVista Operated Facilities, Florida Medicaid Occupancy  
July 1, 2014 to June 30, 2015**

<b>Facility</b>	<b>Medicaid Days</b>	<b>Total Days</b>	<b>Medicaid Occupancy</b>
NuVista Living at Hillsborough Lakes	158	31,041	0.51%
NuVista Living at Wellington Green	0	40,101	0.00%
<b>Total</b>	<b>158</b>	<b>71,142</b>	<b>0.22%</b>

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

The reviewer notes that NuVista Living at Wellington Green has a Medicaid condition of “a minimum of 21.7 percent of the 120-bed facility’s total annual patient days shall be provided to Medicaid patients”. The facility has never met the Medicaid condition and has

reported zero percent Medicaid utilization through the local health council from 2012-2014. The applicant has not demonstrated a past provision of health care services to Medicaid patients and the medically indigent.

Agency records indicate that neither The Fountains Nursing Home, Inc., (which has agreed to delicense all of its 51 community nursing beds pursuant to this proposal) nor Jupiter Medical Center Pavilion, Inc., (which has agreed to delicense 60 of its 120 community nursing home beds pursuant to this project) have any Medicaid or indigent care conditions. The reviewer notes that The Fountains Nursing Home, Inc. had the highest Medicaid utilization in Palm Beach County—91.87 percent (12,016 Medicaid patient days)—from July 1, 2014 to June 30, 2015. Jupiter Medical Center had 2,913 Medicaid days (16.77 percent for the same time period.

The applicant provides an overview of changes to long-term care including the advent of Statewide Medicaid Managed Care (SMMC) plans. In this discussion, NHI includes information on the available plans and services in Region 9.

NHI is a newly formed entity and has no history of service. However, the applicant states having reviewed the District 9 Medicaid days and Medicaid occupancy rates as well as the Medicaid days and Medicaid occupancy rates for the SNFs within a five-mile radius of the proposed project. The applicant indicates that the SNFs within a five-mile radius of the proposed project realized an 83.51 percent total occupancy rate and a 48.49 percent Medicaid occupancy rate for the 12 months ending June 30, 2015, using the Florida Nursing Home Utilization by District and Subdistrict publication, issued October 2, 2015. The reviewer collapses the 10 SNFs stated to be within a five-mile radius of the proposed facility and includes the aggregated licensed beds, patient days, total occupancy rate, Medicaid days and the Medicaid occupancy rate. See the table below.

**Medicaid Days and Occupancy for Facilities  
Within a Five-Mile Radius of the Proposed Facility**

<b>Area</b>	<b>Licensed Beds</b>	<b>Patient Days</b>	<b>Occupancy</b>	<b>Medicaid Days</b>	<b>Medicaid Occupancy</b>
Five-Mile Radius Total	1,068	325,549	83.51%	157,852	48.49%

Source: CON application #10412, page 9-4, Table 9-1

The applicant provides a forecast by payor for the proposed project for year one (ending June 30, 2019) and year two (ending June 30, 2020).

The applicant states that its estimated Medicaid managed care occupancy rate of 43.5 percent is consistent with the Medicaid occupancy rate (48.49 percent) for the 10 SNFs within a five-mile radius of the proposed project, for the 12-month period ending June 30, 2015. See the table below.

**Projected Utilization by Payer at the 111-Bed Facility  
First Two Years of Operation**

Payer	Admissions		Percent of Admits	Resident Days		Percent of Days
	Year One 7/18 - 6/19	Year Two 7/19 - 6/20		Year One 7/18 - 6/19	Year Two 7/19 - 6/20	
Medicare	158	244	27.3%	4,261	6,584	19.1%
Medicare Managed Care	116	179	20.0%	2,536	3,919	11.4%
Medicaid Managed Care	27	42	4.7%	9,694	14,980	43.5%
Self-Pay	143	221	24.7%	2,563	3,960	11.5%
Commercial Insurance	72	111	12.4%	1,782	2,754	8.0%
Managed Care	45	69	7.7%	1,113	1,722	5.0%
Other	19	29	3.2%	334	517	1.5%
<b>Total</b>	<b>580</b>	<b>895</b>	<b>100.0%</b>	<b>22,283</b>	<b>34,436</b>	<b>100.0%</b>
<b>Percent Occupancy</b>				<b>55.00%</b>	<b>84.76%</b>	

Source: CON application #10412, page 1-27, Table 1-10 and page 9-5, Table 9-2

As shown in the table above, NHI indicates that Medicaid Managed Care and self-pay represent 43.5 percent and 11.4 percent, respectively, of year one and year two annual total patient days. The reviewer notes that the applicant’s Schedule 7 indicates that Medicaid Managed Care and self-pay represent 43.5 percent and 11.5 percent, respectively, of year one and year two annual total patient days.

**F. SUMMARY**

**NHI SPB Operations, LLC (CON application #10412)**, a newly formed Florida private-for-profit entity, with managing member, MTW Investment Management, LLC and owned by NuVista Living, proposes to construct a new 111-bed community nursing home in District 9, Subdistrict 9-4, Palm Beach County, through the voluntary delicensure of 111 community nursing home beds from the same subdistrict and from the following facilities: The Fountains Nursing Home, Inc., (51 beds) and Jupiter Medical Center Pavilion, Inc., (60 beds). The location of the new facility is on a parcel of land along Congress Avenue within ZIP Code 33487 in the Boca Raton area of Palm Beach County. The applicant describes the approximate location as being between Boca Raton and Delray Beach. If approved, the proposed project will add no new beds to the subdistrict.

NuVista, the parent, manages two SNFs in Florida.

The project involves new construction of 93,463 total (GSF). Total construction cost is \$20,000,000. Total project cost is \$33,005,600.

Project cost includes land, building, equipment, project development, financing and start-up costs.

The applicant proposes to condition the project as shown on page two of this report.

**Need/Access:**

The applicant provided the following information regarding need and health care and health care access:

- The applicant cites Boca Raton, Boynton Beach and Delray Beach (the areas most likely to be served by the proposed project) as the second, third and fourth most populated municipalities making the proposed site close to home for a large portion of Palm Beach County residents.
- By 2020, the proposed facility location is expected to experience a 65+ population increase of 5,688 residents (11.4 percent) within a five-mile radius and an age 65+ population increase of 21,845 residents, or a rise of 12.2 percent (within a 10-mile radius) of the proposed site—with over half of the county’s increase in 65+ residents to be within the 10-mile radius of ZIP Code 33487.
- Combined community and sheltered nursing home beds per 1,000 for 65+ residents within a 10-mile radius of the proposed site is expected to be 15—less than the subdistrict estimate of 19 and the state estimate of 20 by 2020.
- For the 12 months ending June 30, 2015, SNFs within a 10-mile radius of the proposed location had a total occupancy rate of 83.04 percent compared to the state average of 87.80 percent
- The proposed project will enhance access through an increase in the number of private rooms within the nursing home market without adding bed to the subdistrict
- Nursing home utilization is highly correlated to bed availability and lower bed availability in Palm Beach County overall compared to the state overall is likely due to aging physical plants of existing SNFs and the overall affluent population.
- Culture change is moving facilities to provide more private room resident accommodations.
- The proposed project will be within a 10-mile radius of four area acute care hospitals.

The Agency notes that the NHI does not provide an explanation regarding the destination or disposition of current nursing home residents at The Fountains Nursing Home, Inc. of Jupiter Medical Center Pavilion, should the proposed project be approved. The reviewer notes that The Fountains Nursing Home, Inc. (which will be delicensed to create the proposed facility) has the highest Medicaid occupancy in Palm Beach County and provides a significant amount of Medicaid patient days. It is unclear to the reviewer the extent to which the proposed service will

enhance financial access and availability to the Medicaid and indigent population of the subdistrict. The reviewer notes that The Fountains has a five-star grade on FloridaHealthFinder.gov as does Jupiter Medical Center Pavilion, Inc. NuVista Living at Wellington Green is a two-star facility in the same district and subdistrict.

**Quality of Care:**

- The applicant described its ability to provide quality care.
- The parent's two Florida SNFs have a two-star and a four-star Agency inspection rating (of a possible five stars), respectively. These ratings were for the review period April 2013 to September 2015.
- Agency data shows that the applicant's controlling interest with an aggregate total of 240 community nursing home beds (spread equally among two Florida SNFs) had a total of 10 substantiated complaints during the three-year period ending December 18, 2015.

**Financial Feasibility/Availability of Funds:**

- Funding for this project is in question.
- Based on the information provided in Schedule 6, the applicant's projected nursing staffing meets the statutory requirement.
- This project appears to be financially feasible based on the projections provided by the applicant.
- This project is not likely to have a material impact on competition to promote quality and cost-effectiveness.

**Medicaid/Indigent/Charity Care:**

- Agency records indicate that neither The Fountains Nursing Home, Inc., (which has agreed to delicense all of its 51 community nursing beds pursuant to this proposal) nor Jupiter Medical Center Pavilion, Inc., (which has agreed to delicense 60 of its 120 community nursing home beds pursuant to this project) have any Medicaid or indigent care conditions. The reviewer notes that The Fountains Nursing Home has the highest Medicaid occupancy of any facility in Subdistrict 9-4.
- The applicant has not demonstrated a past provision of health care services to Medicaid patients and the medically indigent. For the 12 months ending June 30, 2015 the two NuVista community nursing homes (120 community beds each) had a combined Medicaid occupancy rate of 0.22 percent. In addition, the reviewer notes that NuVista Living at Wellington Green has never met the 21.7 percent Medicaid condition at the 120-bed facility and has reported zero percent Medicaid utilization through the local health council from 2012-2014.

- The applicant forecasts an average Medicaid occupancy rate of 45.5 percent for year one and two (ending June 30, 2019 and June 30, 2020, respectively) of the new proposed project.
- The applicant did not propose a Medicaid condition upon approval of the project.

**Architectural:**

- 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.

**G. RECOMMENDATION**

Deny CON #10412.



**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 Administration Services Manager**  
**Certificate of Need**