

STATE AGENCY ACTION REPORT
CON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION:

1. Applicant/CON Action No.

Penney Retirement Community, Inc./CON #10446

P. O. Box 555

Penney Farms, Florida 32079

Authorized Representative: Teresa Scott, CEO
(904) 284-8578

2. Service District/Subdistrict

District 4/Subdistrict 2 (Baker, Clay and Southwest Duval Counties)

B. PUBLIC HEARING:

No public hearing was held or requested regarding the proposed project to add 20 sheltered nursing home beds to the 40-bed community nursing home replacement project (through exemption E#160009) adjacent to Penney Retirement Community, Inc.'s, existing skilled nursing facility (SNF), The Pavilion for Health Care.

Letters of Support

CON application #10446 includes seven signed letters of support. All seven letters are highly complimentary of the applicant and The Pavilion for Health Care and generally address current challenges in service delivery at the existing aged facility given the current structural and architectural situation at The Pavilion for Health Care.

The reviewer notes that three of the seven support letters express the need for a new SNF but are not specific to the proposed project as presented (to add 20 sheltered nursing home beds to the 40-bed replacement community SNF).

C. PROJECT SUMMARY

Penney Retirement Community, Inc./CON application #10446 (also referred to PRC or the applicant), a Florida non-profit, faith-based, continuing care retirement community (CCRC), proposes to add 20 sheltered nursing home beds to the 40-bed community nursing home replacement project (through E#160009) at PRC's The Pavilion for Health Care SNF, in District 4, Subdistrict 2, Clay County, Florida. According to the applicant, if the proposed project is approved, the result would be a 60-bed SNF to serve CCRC residents as well as the public with 54 private rooms and three semi-private rooms. PRC maintains that the combined 60-bed proposal will be adjacent to the existing 40-bed SNF on land already owned by the CCRC and contained within ZIP Code 32043¹.

PRC maintains that access to skilled nursing care is hindered if contractees occupy all of the beds at the 40-bed community SNF operated by the applicant. Further, PRC maintains that the proposed project improves access and availability for both members of the public and life care contractees who reside in PRC.

The applicant received its certificate of authority (COA) from the Department of Financial Services to operate a CCRC in Florida, regulated under Chapter 651, Florida Statutes, with a COA issuance date of February 22, 1996. Penney Retirement Community includes its COA in Exhibit 1-1 and its Agency E#160009 approval letter in Exhibit 1-2 of CON application #10446. The CCRC presently consists of 224 homes, 63 apartments, 75 licensed assisted living facility (ALF) beds, no sheltered beds and 40 community nursing home beds. The reviewer notes that the proposal is well within the one sheltered nursing home bed per four residential unit ratio in statute.

Penney Retirement Community expects the proposal will be licensed effective in December 2018 with the initiation of service in January 2019.

The applicant proposes no conditions on its Schedule C.

Total project cost is \$3,739,439. The project involves 15,650 gross square feet (GSF) of new construction. Total construction cost is \$2,475,000. Total project cost includes: land, building, equipment; project development, financing and start-up costs.

¹The reviewer notes that according to the United States Postal Service website: https://tools.usps.com/go/ZipLookupAction_input, the default city for ZIP Code 32043 is Green Cove Springs, Florida. The reviewer also notes that according to the Agency's FloridaHealthFinder.gov website at <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx>, PRC's The Pavilion for Health Care SNF is located at One Pavilion Place, Penney Farms, Florida 32079. Additionally, the reviewer notes that according to www.mapquest.com, the town of Penney Farms is 7.6 driving miles due west of Green Cove Springs.

The application was filed in accordance to 59C-1.004(2)(a), Florida Administrative Code, which allows applications for sheltered nursing home beds to be reviewed as expedited applications rather than competitive batch review applications.

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 (subdistrict), applications are comparatively reviewed to determine which applicant 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(s).

As part of the fact-finding, the consultant Steve Love analyzed the application with consultation from the financial analyst, Derron Hillman of the Bureau of Central Services, who reviewed the financial data and Scott Waltz 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 pages indicate the level of conformity of the proposed project with the review criteria and application content requirements found in Sections 408.035 and 408.037, Florida Statutes; and Chapters 59C-1 and 59C-2, Florida Administrative Code. Sheltered nursing homes are regulated under Chapter 651, Florida Statutes. Section

651.118 gives instruction to the Agency for review of any proposal for sheltered nursing beds.

Pursuant to s. 651.118 (2), Florida Statutes: *The Agency for Health Care Administration shall issue a certificate of need to any holder of a provisional certificate of authority pursuant to s. 651.022 to construct nursing home beds for the exclusive use of the prospective residents of the proposed continuing care facility if the holder of the provisional certificate of authority meets the Agency's applicable review criteria, utilizing the bed need provisions of subsection (4).*

Subsection (4) contains the following language: *The Agency for Health Care Administration shall approve one sheltered nursing home bed for every four proposed residential units, including those that are licensed under part I of chapter 429, in the continuing care facility unless the provider demonstrates the need for a lesser number of sheltered nursing home beds based on proposed utilization by prospective residents or demonstrates the need for additional sheltered nursing home beds based on actual utilization and demand by current residents.*

1. Fixed Need Pool

a. Does the project proposed respond to need as published by a fixed need pool? Ch. 59C-1.008(2), Florida Administrative Code.

As noted above, this project is being reviewed under Rule 59C-1.004(2)(a), Florida Administrative Code. Expedited reviews may be submitted at any time and do not respond to fixed need pool publications. The applicant proposes to add 20 sheltered nursing home beds to a 40-bed replacement project (E#160009).

Pursuant to Rule 59C-1.037(1)(b), Florida Administrative Code, based on PRC's 224 homes, 63 apartments and 75 licensed ALF beds (a total of 362 units), the CCRC qualifies for 90 sheltered nursing home beds. The applicant has zero licensed and no CON approved sheltered beds, therefore the applicant may request approval for up to 90 sheltered beds.

PRC contends that no general population estimates exist for ZIP Code 32079. The reviewer notes that per the US Department of Commerce Census Bureau, American FactFinder 2010 Demographic Profile Data estimates, run date of August 1, 2016, <http://factfinder2.census.gov>., ZIP Code 32079 has a total population of 433. According to PRC, the general population lies within ZIP Code 32043, the stated parent ZIP Code housing the post office station 32079.

CON application #10446, Figure 1-6, page 1-9 shows the estimated 2020 total population by ZIP Code for Clay County. The figure indicates that

Penney Farms exists within ZIP Code 32043 and that by 2020, this ZIP Code is estimated to have a total population of 27,919 persons. PRC provides a table to show the six ZIP Codes in Clay County, for total persons, the age 65+ population the age 65+ percent and the age 85+ population, according to Nielsen Market Research for the years 2015 and 2020. See the table below.

**Population by Age and ZIP Code, Clay County, Florida
Years 2015 and 2020**

2015 Population					
ZIP Code	Total Persons	Age 65+	Age 65+ Percent of Total	Age 85+	Age 85+ Percent of Total
32003	28,854	4,181	14.5%	413	1.4%
32043	26,441	4,445	16.8%	613	2.3%
32065	32,335	3,461	10.7%	230	0.7%
32068	53,464	6,311	11.8%	431	0.8%
32073	40,883	6,860	16.8%	805	2.0%
32656	14,093	2,793	19.8%	308	2.2%
Total	196,070	28,051	14.3%	2,800	1.4%
2020 Population					
ZIP Code	Total Persons	Age 65+	Age 65+ Percent of Total	Age 85+	Age 85+ Percent of Total
32003	30,764	5,303	17.2%	496	1.6%
32043	27,919	5,356	19.2%	668	2.4%
32065	34,461	4,507	13.1%	262	0.8%
32068	56,577	8,231	14.5%	544	1.0%
32073	41,584	7,881	19.0%	874	2.1%
32656	14,412	3,258	22.6%	344	2.4%
Total	205,717	34,536	16.8%	3,188	1.5%

Source: CON application #10446, Table 1-1, page 1-10

The reviewer confirms that the ZIP Codes provided in CON application #10446, Table 1-1 (above) have the following Clay County, Florida default city locations (see the table below).

ZIP Codes for Clay County, Florida Default City Locations

ZIP Code	Location
32003	Fleming Island/Orange Park
32043	Green Cove Springs
32065	Orange Park
32068	Middleburg
32073	Orange Park
32656	Keystone Heights

Source: <https://tools.usps.com/go/ZipLookupAction!input.action?mode=2&refresh=true>

The applicant points out that by 2020, the elderly population 65+ within ZIP Code 32043, where PRC is located, comprises 19.2 percent of the total population. Further, the applicant points out that 2.4 percent of the total population falls within the age cohort 85+.

PRC notes that ZIP Code 32043 includes over 4,400 residents 65+ in 2015, which will rise to 5,356 persons in 2020. Additionally, the applicant indicates that PRC that nursing home beds concentrate in Orange Park. The reviewer notes that according to the Agency's FloridaHealthFinder.gov website seven of the nine SNFs in Clay County have an Orange Park Address, one has a Green Cove Springs address and one has Penney Farms address.

The applicant states that two Clay County SNFs offer a total of 28 private rooms (16 at The Pavilion for Health Care and 12 at Governor's Creek Health and Rehabilitation). The applicant asserts that with no sheltered beds at PRC, access to skilled care becomes difficult if contractees occupy beds at The Pavilion for Health Care. PRC maintains that the proposed project improves access and availability for both members of the public and life care contractees who reside at PRC.

Using the Agency's Florida Nursing Home Utilization by District and Subdistrict January 2015 - December 2015 publication issued April 1, 2016, PRC provides a table to account for each of the 17 community SNFs in Nursing Home Subdistrict 4-2, illustrating each facility's total community bed count, bed days, resident days, total occupancy percent, Medicaid days and Medicaid occupancy for the 12-month period ending December 31, 2015, for each area within the subdistrict. PRC rounds the total occupancy percent and the Medicaid occupancy percent columns. The reviewer collapses the individual SNF totals into area totals and duplicates the applicant's subdistrict and district totals. See the table below.

**Utilization of Subdistrict 4-2 Nursing Homes
January 1, 2015 – December 31, 2015**

Area	Beds	Bed Days	Resident Days	Total Occupancy Percent	M'caid Days	M'caid Occupancy Percent
Baker County Total	188	68,620	58,490*	85.2%	45,174	77.2%
Clay County Total	1,033	377,045	341,309	90.5%	187,279	54.9%
Southwest Duval Co. Total	884	322,660	276,127	85.6%	177,754	64.4%
Subdistrict 4-2 Total	2,105	768,325	675,926**	88.0%	410,207	60.7%
District 4 Total	9,355	3,414,575	3,001,384	87.9%	1,821,961	60.7%

Source: CON application #10446, Table 1-2, page 1-12

Note: * The applicant overstates the reported total patient days by 152. The Baker County total patient day count is 58,338. The reviewer notes that the applicant accurately shows this patient day count in CON application #10446, Table 3-1, page 3-1.

** The applicant overstates the reported total patient days by 152. The Subdistrict 4-2 total patient day count is 675,774. The reviewer notes that the applicant accurately shows this patient day count in CON application #10446, Table 3-1, page 3-1.

The reviewer confirms that with the exception of the note above, CON application #10446, Table 1-2 is consistent with the stated source. The

applicant states that for the 12-month period ending December 31, 2015, PRC's SNF had a total occupancy rate of 86.9 percent (34 beds of its 40 bed complement).

The applicant asserts that to assure that contract holders receive nursing care when needed, some beds remain vacant to assure timely access and availability within The Pavilion for Health Care. PRC contends that few if any beds are then available to members of the general public. PRC maintains that finding a bed close to home poses problems for residents of the general public seeking admission to The Pavilion for Health Care. The applicant maintains that often a person from the area finds that admission must be sought within Orange Park or southwest Duval County.

The applicant states that from the 1st quarter of 2012 to the 1st quarter of 2016, The Pavilion for Health Care's overall occupancy rate equates to 88 percent. PRC provides The Pavilion for Health Care's occupancy rates for the 17 stated quarters in CON application #10446, Figure 1-8, page 1-13.

PRC references Calkins and Cassella research² which found a reduction in risk for infections to individuals in private rooms in comparison to those in shared rooms. The reviewer notes that the Calkins and Cassella research publication is available at <http://gerontologist.oxfordjournals.org/content/47/2/169.full.pdf+html>. The applicant maintains that the proposed project results in additional private rooms that are larger and offer more space for resident use and medical equipment.

CON application #10446, page 1-14 discusses that in the current federal fiscal year 2016, the Centers for Medicare and Medicaid Services (CMS) introduces the value-based purchasing program along with a specific measure of compliance. According to the applicant, the measure, Skilled Nursing Facility 30-Day All-Cause Readmission Measure (SNFRM), examines, on a risk-standardized basis, all causes of unplanned, hospital readmissions for Medicare fee-for-service beneficiaries from a nursing facility. PRC asserts that The Pavilion is part of St. Vincent's Health Care bundled program for knee replacement. The applicant also discusses that the SNFRM is an extension of the Hospital Readmission Reduction Program (HRRP), established under Section 3025 of the Affordable Care Act. The applicant further discusses literature indicating that readmissions occur less often within a 30-day period of discharge when high quality hospitals and nursing homes with higher nurse staffing ratios and fewer deficiencies take the responsibility for patient care.

² Calkins, M. and Cassella, C. 2007 – Exploring the cost and value of private versus shared bedrooms in nursing homes, *The Gerontologist* 47(2): 169-183.

According to the applicant, local population estimates are not reliable in predicting the demand of sales of continuing care contracts or the use of the nursing home beds within The Pavilion. In forecasting utilization, PRC offers a two-step process below.

- Step 1: Average the experience of CY 2014 and CY 2015 to produce the baseline value for continuing care contractees. Hold “Days per Resident” constant at 27 days to generate the expected “Resident Days” for contractees for subsequent calendar years. Increase the “Number of Contractees” by six persons, representing three couples buying continuing care contracts. See the table below.

Baseline	Number of Contractees	Days per Resident	Occupancy Percent	Beds
CY 2014 and CY 2015	474	27	86.3%	40

Calendar Year	Add	Number of Contractees	Resident Days	Occupancy Percent	Beds
2016	6	480	12,752	87.3%	40
2017	0	480	12,752	87.3%	40
2018	6	486	12,912	88.4%	40
2019, Year 1	0	486	12,912	59.0%	60
2020, Year 2	6	492	13,071	59.7%	60

Source: CON application #10446, page 1-16

- Step 2: The ratio of one member of the public to every 3.5 contractees assumes the demand for nursing home care arising from the southern areas of Clay County for the first year of the proposed project, CY 2019. The ratio increases to approximately two members of the public for every 3.5 contractees in the second year of the project. The ratio for the second year stabilizes the demand among the public and contractees at Penney Retirement Community. See the table below.

Calendar Year	Average Daily Census (ADC) Contractees	ADC Public	Total ADC	Occupancy Percent 60 Beds
2019, Year 1	35	10	45	77%
2020, Year 2	36	17	53	88%

Source: CON application #10446, page 1-16

PRC states an expectation that the proposed 20 sheltered beds will be fully utilized by life care residents.

2. Agency Rule Preferences

- a. **Use of Sheltered Nursing Home Beds. Under subsection 651.118(7), Florida Statutes, sheltered nursing home beds may be used for persons who are not residents of the continuing care facility, and**

who are not a party to a continuing care contract, for a period of up to five years from the date of issuance of the initial nursing home license for sheltered beds constructed in conjunction with the non-nursing home portion of the continuing care facility. Applicants applying at a later time for additional sheltered nursing home beds without increasing the number of residential units shall restrict the use of the additional sheltered beds to continuing care residents. Applicants who are adding additional residential units shall be allowed to apply for additional sheltered nursing home beds not exceeding a ratio of one nursing home bed per four residential units. Nursing home beds approved under this condition may be used for community residents for a period of up to five years from the date of issuance of the initial license of these beds.

The reviewer notes that based on its existing 362 residential units, the applicant is eligible for 90.5 sheltered nursing home beds. PRC is presently licensed for and operates 40 community nursing home beds and no sheltered beds. The applicant is seeking approval to add 20 sheltered nursing home beds to the 40-bed community nursing home replacement project which would result in a 60-bed facility.

PRC explains that the impetus for the proposed project arises from the desire to use resources to their best use and emphasizes that the proposed 20 sheltered beds are for use by continuing care residents. The reviewer notes that this is consistent with Rule 59C-1.037(1)(b), Florida Administrative Code.

PRC reiterates the expectation for the first two years of planned implementation by reproducing its table for page 1-16 of CON application #10446. The table is reproduced below, for convenience.

**Caseload Mix at The Pavilion, Penney Retirement Community
After Project Implementation**

Calendar Year	Average Daily Census (ADC) Contractees	ADC Public	Total ADC	Occupancy Percent 60 Beds
2019, Year 1	35	10	45	77%
2020, Year 2	36	17	53	88%

Source: CON application #10446, Table 2-1, page 2-2

- b. Criteria and Standards. In addition to meeting the applicable review criteria in Section 408.035, Florida Statutes, and the provisions in this rule, applicants for certificates of need for sheltered nursing home beds shall comply with the criteria and standards outlined under Section 651.118, Florida Statutes.**

The applicant holds a COA #97-59-0624420 dated February 22, 1996. A copy was provided in CON application #10446, Exhibit 1-1.

- c. Data Collection and Reporting Procedures. Continuing care providers shall submit to the Agency, or its designated Agency, semi-annual bed utilization reports for the purpose of determining community and sheltered nursing home bed utilization based on historical use by residents and non-residents of the continuing care facility. Bed utilization data shall be reported on July 30 for the period of January 1 through June 30, and on January 30 for the period of July 1 through December 31 of each calendar year. Bed utilization data shall include:**
- (a) Total number of resident admissions during the six-month reporting period.**
 - (b) Total number of non-resident admissions during the six-month reporting period.**
 - (c) Total admissions for the six-month reporting period.**
 - (d) Total resident patient days for the six-month reporting period.**
 - (e) Total non-resident patient days for the six-month reporting period.**
 - (f) Total patient days for the six-month reporting period.**

PRC indicates that as an operating, licensed nursing home, it consistently files the items above with the Health Council of Northeast Florida for each of the six month reporting periods. PRC also indicates that the obligation for filing the required reports remain with the applicant, regarding the proposed project.

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? Section 408.035(1) (a) and (b), Florida Statutes.**

As previously discussed, Penney Retirement Community, Inc., holds a COA from the Department of Financial Services to operate a CCRC in Florida, regulated under Chapter 651, Florida Statutes. Also as stated previously, based on its existing 362 residential units the applicant is eligible for 90.5 sheltered nursing home beds.

PRC is presently licensed for and operates a 40 community nursing home with no sheltered beds. The applicant is seeking approval to add 20 sheltered nursing home beds to the 40-bed community nursing home replacement project at PRC's The Pavilion for Health Care SNF resulting in a 60-bed facility. Ratios established in statute authorize sheltered

nursing home beds for a CCRC in order to assure access to and availability of care for continuing care contract holders. The project is consistent with the statutory ratio.

PRC indicates that the proposed project provides several benefits, both for contractees as well as the public and that such benefits include the following factors:

- Replaces an outdated physical plant
- Adds a kitchen and larger dining facilities for the SNF
- Creates an environment of care that promotes resident-centered services, giving residents more space for their use and visitation
- Adds capacity
- Expands outreach to members of the public, particularly those in southern Clay County where only two nursing homes exist
- Promotes access and availability to both short and long-term care

Using population estimates from Nielsen Market Research for the 2015 and 2020 data set and beds and resident days from the Agency’s Florida Nursing Home Utilization by District and Subdistrict January 2015 - December 2015 publication issued April 1, 2016, PRC provides a table to show a comparison of numbers of beds, resident days and the elderly population for each county in Nursing Home Subdistrict 4-2 and for the subdistrict overall. See the table below.

**Comparison of Numbers of Beds, Resident Days and Elderly Population
Nursing Home Subdistrict 4-2**

County/Area	Beds	ADC	Resident Days	2015 Pop. 65+	Beds/ 1,000 65+	Days/ 1,000 65+	Percent of 65+
Baker	188	160	58,338	3,467	54	16,827	6.2
Clay	1,033	935	341,309	28,051	37	12,167	50.1
Southwest Duval	884	737	276,127	24,495	36	11,273	43.7
Subdistrict 4-2	2,105	1,851	675,774	56,013	38	12,065	100.0%

Source: CON application #10446, Table 3-1, page 3-1

In the above table, PRC points out that Clay County has the highest ADC in nursing home beds and the highest percent of age 65+ residents in the subdistrict but a beds-per-1,000 age 65+ residents of 37, compared to the subdistrict’s overall beds-per-1,000 age 65+ resident of 38. PRC emphasizes that unavailability of beds delays placement, creating backlogs in transfers from hospitals and other nursing homes and that the proposed project ensures availability to continuing care residents on campus.

The applicant further discusses need in the context of availability, quality of care, accessibility and extent of utilization of existing health care facilities on pages 3-1 to 3-4 of CON application #10446. Additionally, the applicant discusses conformity with the health care access criteria on page 3-4 to 3-8 of the application.

- 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? Section 408.035(1)(c) and (j), Florida Statutes.**

The applicant states having been founded in 1926, on Christian values, volunteerism, and care for others. PRC also states that this provides a focus on quality throughout its operations as a CCRC. In CON application #10446, Exhibit 4-2, the applicant provides numerous quality assurance and performance improvement (QAPI) policies. Some of these QAPI policies include:

- QAPI Committee
- QAPI Plan
- QAPI Program
- QAPI Role of Medication Management
- QAPI Role of Environmental Services
- QAPI Role of Medical Records
- QAPI Role of Pharmaceutical Services
- QAPI Role of Restorative Services

Exhibit 4-2 also includes roles and responsibilities of each of the QAPI committee members. The committee meets at least once each month and is composed of the following:

- Administrator
- Medical director
- Director of nursing
- Dietary
- Pharmacy
- Social Services
- Activities
- Environmental services
- Infection control
- Rehabilitative/restorative services
- Staff development
- Safety
- Medical record

PRC stresses that integral to the QAPI process are the use of Performance Improvement Projects (PIPs) and Root Cause Analysis (RCA). According to PRC, a PIP may be identified based on risk of harm and frequency of occurrence within the facility. PRC also utilizes RCA to identify the underlying factors that contribute to a particular problem. Per PRC, The Pavilion uses an electronic health record (EHR) from Matrix for care documentation.

PRC states that each person at The Pavilion receives a *Resident Handbook* upon admission. The reviewer notes that a copy of the *Resident Handbook* is not included for Agency review. Further, PRC states that each employee receives their own copy of the *Resident Bill of Rights* and receives education upon hire and on an annual review. PRC asserts that The Pavilion prominently displays this bill of rights. The 21 itemized rights are listed on page 4-3 to 4-4 of the application. PRC indicates that residents' rights encompass physical, sexual, emotional, verbal, neglect, financial and misappropriation of property.

PRC discusses activities on page 4-4 to 4-5 and provides a sample March 2016 Pavilion for Health Care activities calendar in CON application #10446. CON application #10446, Tab 10, *Additional Information*, PRC provides The Pavilion's policies pertaining to admission, care planning and discharges.

Penney Retirement Community, Inc.'s The Pavilion for Health Care received Agency-issued nursing home inspection component ratings of five of five stars each on nutrition and hydration, restraints and abuse, pressure ulcers, decline and dignity, resulting in an overall five of five star inspection rating for the rating time period October 2013 to March 2016. The inspection record was last updated in May 2016 and is available at this website: <http://www.floridahealthfinder.gov/CompareCare/CompareFacilities.aspx?NHIR=28626>. The applicant also provides this quality assessment tool in CON application #10446, Exhibit 4-1. The Agency issues quality ratings of one to five stars, with five being the highest.

The reviewer confirms that the applicant is a Gold Seal Award recipient (January 1, 2015 to December 31, 2016). PRC indicates having had this award for 12 years.

Agency licensure records indicate that Penney Retirement Community, Inc.'s The Pavilion for Health Care had no substantiated complaints for the three-year period ending August 1, 2016.

- c. What resources, including health manpower, management personnel, and funds for capital and operating expenditures are available for project accomplishment and operation? Section 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 \$14,791,513 which includes this project of \$3,739,439 and other capitalization. The applicant indicates on Schedule 3 of its application that funding for the project will be provided by non-related company financing. The applicant submitted a letter from B. C. Ziegler and Company, an investment bank, expressing they will assist in structuring and placing/underwriting bonds issued by Clay County Development Authority. A letter of assistance is not considered a firm commitment to lend.

Given that the funding is supported by a letter of assistance, we have no basis to conclude that funding will be available for this project.

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 6A, the applicant's projected certified and licensed nursing staffing exceed the minimum levels required for year one and year two.

Schedule 6A shows that the FTEs for year one (ending December 31, 2019) are 11.20 and year two (ending December 31, 2020) are 9.58, for incremental staff pursuant to the proposed 20-bed sheltered bed addition. The proposed project's FTEs are shown in the table below.

Penney Retirement Community, Inc. (CON application #10446) 20 Sheltered Bed Addition Incremental Staffing Pattern		
	Year One Ending 12/31/2019 FTEs	Year Two Ending 12/31/2020 FTEs
Administration		
Bookkeeper	--	0.07
Secretary	1.30	0.24
Other: Nursing Admin	0.49	0.48
Nursing		
RNs	0.82	0.80
LPNs	1.47	1.43
Nurses' Aides	4.58	4.47
Dietary		
Cooks	0.24	0.24
Dietary Aides (incl Servers)	0.24	0.24
Social Services		
Social Service Director and Assistant	--	0.12
Activities Assistant	0.64	0.12
Housekeeping		
Housekeepers	0.98	0.95
Laundry		
Laundry Aides	0.32	0.31
Plant Maintenance		
Maintenance Assistance	0.12	0.12
Total	11.20	9.58*

Source: CON application #10446, Schedule 6A

NOTE: * The reviewer notes that based on the FTEs presented for year two, the total FTE count is arithmetically 9.59.

Notes to Schedule 6A indicate that staffing patterns and the number of FTEs are based on the historical experience of Penney Farms Community, Inc.

The reviewer notes that the combined 60-bed SNF proposal has a total FTE count in year one of 63.06 and a total FTE count in year two of 72.64.

Conclusion:

Funding for this project is in question.

- d. **What is the immediate and long-term financial feasibility of the proposal? Section 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 SNFs as reported on Medicaid cost reports (2014 and 2015 cost

report years). For our comparison group, we selected SNFs 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 2016, 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	6,744,200	356	2,003	566	348
Total Expenses	5,909,700	312	1,907	544	352
Operating Income	834,500	44	218	12	-196
Operating Margin	12.37%		Comparative Group Values		
	Days	Percent	Highest	Median	Lowest
Occupancy	18,929	86.20%	96.94%	87.05%	34.05%
Medicaid	2,171	11.47%	29.49%	18.31%	0.00%
Medicare	5,921	31.28%	99.41%	31.61%	9.69%

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? Section 408.035(1)(g), Florida Statutes.

Strictly from a financial perspective, 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? Section 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 a 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 involving a hospital, nursing home, or intermediate care facility for the developmentally disabled (ICF/DD).

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

The applicant states that it participates in both the Medicare and Medicaid Programs. PRC states that based on a Medicare Cost Report for July 1, 2014 to June 30, 2015, PRC reports days and discharges from The Pavilion as shown below (average length of stay is ALOS):

**Days and Discharges from The Pavilion
July 1, 2104 to June 30, 2015**

Total Days	12,470
Other Days	10,807
Medicare Days	1,663
Total Discharges	136
Other Discharges	77
Medicare Discharges	59
Total ALOS	91.69
Other ALOS	140.35
Medicare ALOS	28.19
Occupancy Total	85.4%
Other Occupancy	86.7%
Medicare Occupancy	13.3%

Source: CON application #10446, Table 1-9, page 9-1

In the above table, PRC points out that “Other Occupancy” of 86.7 percent represents residents holding continuing care contracts.

In the next two tables, the applicant offers estimated pay mix patient days in year one (ending December 31, 2019) and in year two (ending December 31, 2020) for the proposed project (the addition of 20 sheltered beds) and the total 60-bed SNF.

**Utilization for Penney Retirement Community
20 Sheltered Beds
First and Second Years of Operation by Payer**

Payer	Year 1 Resident Days 2019	Year 2 Resident Days 2020	Percent of Days	ADC Year 1	ADC Year 2
Self Pay	5,314	5,327	72.8%	15	15
Medicaid	78	79	1.1%	0	0
Medicare	1,686	1,691	23.1%	5	5
Medicare HMO	186	187	2.5%	0	0
Other	36	36	0.5%	0	0
Total	7,300	7,320	100.0%	20	20
Occupancy Rate	100.0%	100.0%			

Source: CON application #10446, Table 9-2, page 9-2

**Utilization for Penney Retirement Community
60 Bed Facility
First and Second Years of Operation by Payer**

Payer	Year 1 Resident Days 2019	Year 2 Resident Days 2020	Year 1 Percent of Days	Year 2 Percent of Days	ADC Year 1	ADC Year 2
Self Pay	9,331	10,713	58.5%	56.6%	26	29
Medicaid	1,640	2,171	10.3%	11.5%	4	6
Medicare	4,419	5,354	27.7%	28.3%	12	15
Medicare HMO	470	567	2.9%	3.0%	1	2
Other	102	124	0.6%	0.7%	0	0
Total	15,962	18,929	100.0%	100.0%	44	52
Occupancy Rate	100.0%	100.0%				

Note: Column Totals may not add due to rounding
Source: CON application #10446, Table 9-3, page 9-3

The reviewer confirms that for the two tables above, the year one and year two resident days and percent of days, by payer mix, is consistent with Schedule 7 of CON application #10446.

The applicant proposes no conditions on Schedule C.

F. SUMMARY

Penney Retirement Community, Inc./CON application #10446, a Florida non-profit, faith-based, CCRC, proposes to add 20 sheltered nursing home beds to the 40-bed community nursing home replacement project (through E#160009) at PRC’s The Pavilion for Health Care SNF and adjacent to One Pavilion Place, Penney Farms, Florida 32079 in District 4, Subdistrict 2, Clay County, Florida. According to the applicant, if approved, this application and E#160009, combined, would result in a 60-bed SNF to serve CCRC residents as well as the public.

The applicant proposes no conditions on its Schedule C.

Total project cost is \$3,739,439. The project involves 15,650 GSF of new construction. Total construction cost is \$2,475,000.

Need:

The proposed project is not submitted in response to the fixed need pool. By adding 20 sheltered nursing home beds to the CCRC’s existing 40-bed community nursing home the applicant expects to increase access and availability in private room accommodations on its own campus for life care contractees while expanding access and availability to the public at the existing 40-bed community nursing home.

PRC indicates that the proposed project provides several benefits, both for contractees as well as the public, and that such benefits include the following factors:

- Replaces an outdated physical plant
- Adds a kitchen and larger dining facilities for the SNF
- Creates an environment of care that promotes resident-centered services, giving residents more space for their use and visitation
- Adds capacity
- Expands outreach to members of the public, particularly those in southern Clay County where only two nursing homes exist
- Promotes access and availability to both short and long term care

Quality of Care:

- PRC received an overall five-of-five nursing home quality inspection rating for the most recent inspection rating time period – October 2013 to March 2016, last updated May 2016
- PRC is a Gold Seal Award recipient (January 1, 2015 to December 31, 2016)
- Agency licensure records indicate that the applicant had no substantiated complaints for the three-year period ending August 1, 2016
- The applicant demonstrates the ability to provide quality care

Cost/Financial Analysis:

- Funding for this project is in question
- 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 Care:

- The applicant provides no Medicaid/Medicaid managed care or charity care conditions pursuant to the proposed project
- Schedule 7 of the application indicates that for Year 1 (ending December 31, 2019) and for Year 2 (ending December 31, 2020), self-pay represents 72.8 percent and Medicaid represents 1.1 percent of annual total patient days for each year

Architectural Analysis:

- The cost estimate and the 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 #10446 to add 20 sheltered nursing home beds to the 40-bed community nursing home replacement project (through E#160009) at Penney Retirement Community, Inc.'s The Pavilion for Health Care SNF, in District 4, Subdistrict 2, Clay County, Florida. Total project cost is \$3,739,439. The project involves 15,650 GSF of new construction, with a total construction cost of \$2,475,000.

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