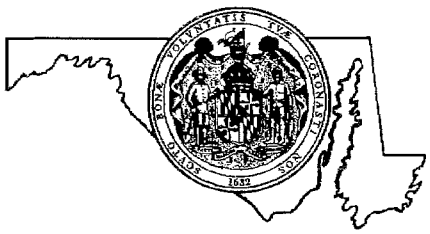
Craig P. Tanio, M.D.
CHAIR

STATE OF MARYLAND



Ben Steffen
EXECUTIVE DIRECTOR

MARYLAND HEALTH CARE COMMISSION

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MEMORANDUM

TO: Commissioners

FROM: Kevin R. McDonald
Chief, Certificate of Need

DATE: June 18, 2015

SUBJECT: Lorien Harford III, LLC
Docket No. 15-12-2359

Enclosed is the staff report and recommendation for a Certificate of Need ("CON") application filed by Lorien Harford, III, LLC, doing business as Lorien Harford Nursing & Rehabilitation Center ("Lorien"), to construct a new three-story, 70-bed comprehensive care facility ("CCF") on a 5.4 acre site at 2000 Rock Spring Road in Forest Hill, Harford County, north of Bel Air.

The total estimated cost of constructing this facility is $12,215,376. Lorien expects to fund this project with $3,195,376 in cash, a $7.5 million mortgage loan, $750,000 from a working capital (operational) loan, and a $770,000 loan for fixtures, furnishings, and equipment.

Commission staff analyzed the proposed project's compliance with the applicable State Health Plan criteria and standards and the other applicable CON review criteria at COMAR 10.24.01.08 and recommends that the project be APPROVED with the following conditions:

1. *At the time of first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with a completed Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2).*

2. *Prior to first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with information demonstrating that LHNRC has established collaborative relationships with other types of long term care providers in Harford County to assure that each resident has access to the entire long term care continuum, including, as appropriate, formal transfer and referral agreements.*

	*	
IN THE MATTER OF	*	BEFORE THE
	*	
LORIEN HARFORD III, LLC	*	MARYLAND HEALTH
	*	
DOCKET NO. 15-12-2359	*	CARE COMMISSION
	*	

* *

Staff Report and Recommendation

June 18, 2015

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I. INTRODUCTION

The Applicant and the Project

Lorien Harford III, LLC, d/b/a Lorien Harford Nursing & Rehabilitation Center ("LHNRC/the Applicant") seeks to construct a new three-story, 70-bed comprehensive care facility ("CCF") on a 5.4 acre site at 2000 Rock Spring Road in Forest Hill, Harford County, north of Bel Air. The total estimated cost of constructing this facility is $12,215,376.

This proposal is one of two submitted by Lorien Health Systems ("LHS") in response to the projected 2016 bed need in Harford County of 97 beds. The two proposed projects would add a total of 97 CCF beds.

The owner and operator of the facility is Lorien Harford III, LLC, which in turn is owned by 10 members of the Mangione family[1]. At present, a letter of intent exists between the land owner and Commercial Contractors, Inc., ("CCI") a construction company owned by the Mangione family. The letter of intent allows for the sale of the property to CCI or a related entity, such as LHNRC. The letter of intent is non-binding, but demonstrates that both parties intend to negotiate in good faith.

According to the LHS website, it operates 10 communities in Baltimore, Carroll, Harford and Howard Counties, comprised of a total of nine skilled nursing facilities and five assisted living facilities. The chart below lists each facility by type, location, licensed CCF beds, and assisted living facility ("ALF") beds.

Facility Name	Location	County	CCF Beds	ALF Beds
Lorien Bulle Rock	Havre deGrace	Harford	78	0
Lorien Columbia	Columbia	Howard	209	0
Lorien Elkridge	Elkridge	Howard	64	0
Lorien Mays Chapel	Timonium	Baltimore	85	0
Lorien Riverside	Belcamp	Harford	129	0
Lorien Bel Air	Bel Air	Harford	69	64
Lorien Encore at Turf Valley	Ellicott City	Howard	63	110
Lorien Mt. Airy	Mt. Airy	Carroll	62	100
Lorien Taneytown	Taneytown	Carroll	63	52
Lorien Harmony Hall	Columbia	Howard	0	265
		Total	**822**	**591**

Source: Consumer Guide to Long Term Care, Maryland Health Care Commission website, April 26, 2015.

The Applicant, a limited liability corporation, is an independent entity with no parent company or subsidiaries. As explained in the application, members of the Mangione family hold controlling interest in multiple companies. These include, but are not limited to, Maryland Health

[1] The Members (Owners) of the LLC are: Louis Mangione, John Mangione, Rosemary (Mangione) Juras, Linda (Mangione) Licata, Nicholas Mangione, Jr., Joanne (Mangione) Hock, Peter Mangione, Frances (Mangione) O'Keefe, Samuel Mangione, Esq., and Michele Mangione Collison. Louis Mangione and John Mangione are the two owners directly responsible for the proposed project and its implementation. (Sources: Letter of Intent, CON application)

Enterprises, Inc., d/b/a Lorien Health Systems (LHS); CCI; and 14 comprehensive care or assisted living facilities, in ten locations across three Maryland counties. LHNRC represents a potential 11th LHS location. LHS explains in the application that there is no organizational chart formally linking the Applicant to any other Lorien/Mangione family-controlled company. While each company is legally distinct, business inter-relationships between the companies are important to the overall LHS business model. These relationships are relevant to the review of this project because the applicant has experience in developing and operating CCFs and ALFs.

The proposed 70-bed CCF is designed to contain 42,324 gross square feet ("SF"). The ground level of 10,000 SF will house multiple ancillary and support functions, including food service, housekeeping, maintenance, laundry, and the loading area. Eighty percent of this level is described as being above grade. (DI #4)

The 16,162 gross SF first floor (the second level) will house a 30-bed nursing unit with a single nurses' station and 15 double occupancy patient rooms ranging in size from 317 to 337 gross SF. An identically-sized second floor (the third and top level) will house a 40-bed unit consisting of a nurses' station, five double occupancy patient rooms ranging in size from 311 to 345 gross SF, and 30 single bed patient rooms ranging in size from 191 to 276 gross SF. Office and ancillary space will occupy the remainder of the two upper levels. The first and second floors will also house ancillary and support spaces, including physician and staff offices, conference rooms, therapy/treatment areas, waiting rooms, lounge areas, and utility space.

The Applicant expects to care for both long and short-stay residents with a range of clinical conditions and acuity levels.

The estimated cost of the CCF is $12,215,376, consisting of $1,260,000 for land acquisition, $7,785,000 for construction, $1,512,813 for other capital costs, an inflation allowance of $797,563, $110,000 for financial and other cash requirements, and $750,000 in working capital. The Applicant expects to fund this project with $3,195,376 in cash, a $7.5 million mortgage loan, $750,000 from a working capital (operational) loan, and a $770,000 loan for fixtures, furnishings, and equipment.

Staff Recommendation

Staff concludes that the proposed project complies with the applicable criteria and standards in COMAR 10.24. 08, State Health Plan for Facilities and Services: Nursing Home and Home Health Agency Services, as well as the review criteria at COMAR 10.24.01.08G(3) and recommends **APPROVAL** of the Applicant's request for a CON with the following conditions:

1. *At the time of first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with an executed Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2).*

2. *Prior to first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with information demonstrating that it has established*

collaborative relationships with other types of long term care providers in Harford County to assure that each resident has access to the entire long term care continuum, including, as appropriate, formal transfer and referral agreements.

This recommendation is based on the Applicant's proposal and staff analysis concluding that:

- Harford County shows a net projected need for 97 more CCF beds by 2016. The proposed facility will fill the need for 70 of those beds while broadening geographic access within the county.
- Harford County has a licensed nursing home bed occupancy rate above the 90% threshold for CON approval.
- The Applicant has reasonably demonstrated that the proposed project is viable . The applicant is an experienced nursing home operator with a successful track record in nursing home operation.

II. PROCEDURAL HISTORY

Review of the Record

Please see Appendix 1, Record of the Review.

Local Government Review and Comment

No comments on this project have been received from the Harford County Department of Health or any other local government agencies. A letter of support for the project was received from Delegate Peter A. Hammen, of the 46th Legislative District, Baltimore City.

Interested Parties

There are no interested parties in this review.

III. PROJECT CONSISTENCY WITH REVIEW CRITERIA AND STANDARDS

A. STATE HEALTH PLAN

COMAR 10.24.01.08G(3)(a)State Health Plan. An application for a Certificate of Need shall be evaluated according to all relevant State Health Plan standards, policies, and criteria.

The applicable section of the State Health Plan for this review is COMAR 10.24.08, the State Health Plan for Facilities and Services: Nursing Home and Home Health Agency Services. The specific standards to be addressed include COMAR 10.24.08.05A (the general standards for review of all nursing home projects) and .05B (the nursing home standards for new construction or expansion of beds or services.)

COMAR 10.24.08.05 Nursing Home Standards

A. General Standards. The Commission will use the following standards for review of all nursing home projects.

(1) Bed Need. The bed need in effect when the Commission receives a letter of intent for the application will be the need projection applicable to the review.

A letter of intent for this project was received by MHCC on December 4, 2014 and modified on February 6, 2015. The bed need in effect is the jurisdictional gross and net bed need projection for nursing home beds in Maryland published in the *Maryland Register* on October 3, 2014 (Appendix 2). A need for 97 additional CCF beds in Harford County was projected to exist by 2016.

Harford County CCF Bed Need				
Total Bed Inventory	Gross Bed Need Projection	Unadjusted Net Bed Need	Community-based Services Adjustment	2016 Net Bed Need
806	951	145	48	97

Source: Gross and Net 2016 Bed Need Projection for Comprehensive Care Facility Beds (Corrected and Updated Bed Inventory) (2014)

The proposed establishment of a 70-bed CCF is consistent with the bed need forecast currently in effect for Harford County.

(2) Medical Assistance Participation.

(a) Except for short-stay hospital-based skilled nursing facilities required to meet .06B of this Chapter, the Commission may approve a Certificate of Need for a nursing home only for an applicant that participates, or proposes to participate, in the Medical Assistance Program, and only if the applicant documents a written Memorandum of Understanding with Medicaid to maintain the proportion of Medicaid patient days required by .05A 2(b) of this Chapter.

(b) Each applicant shall agree to serve a proportion of Medicaid patient days that is at least equal to the proportion of Medicaid patient days in all other nursing homes in the jurisdiction or region, whichever is lower, calculated as the weighted mean minus 15.5%, based on the most recent Maryland Long Term Care survey data and Medicaid Cost Reports available to the Commission, as shown in the *Supplement to COMAR 10.24.08: Statistical Data Tables*, or in subsequent updates published in the *Maryland Register*.

(c) An applicant shall agree to continue to admit Medicaid residents to maintain its required level of participation when attained, and have a written policy to this effect.

(d) Prior to licensure, an applicant shall execute a written Memorandum of Understanding with the Medicaid Assistance Program of the Department of Health and Mental Hygiene to:

(i) Achieve or maintain the level of participation required by .05A2(b) of this Chapter; and
(ii) Admit residents whose primary source of payment on admission is Medicaid.
(iii) An applicant may show evidence why this rule should not apply.

The Applicant states that it intends "to participate in the Medical Assistance Program and is committed to meeting all the requirements of this standard." The Applicant projects that Medicaid patients will account for 50% of its patients "...based upon the judgment of the management services team, and the payer mix estimates are similar to the payer mix experienced by the Lorien Bulle Rock facility in Havre de Grace, and Lorien Bel Air." (DI #14, p. 16) These latter two facilities are also located in Harford County.

For FY 2013, MHCC calculated the Medical Assistance Participation Rate as 48.57% for Harford County and 47.01% for the Central Maryland region, which also includes Anne Arundel, Baltimore, and Howard Counties and the City of Baltimore. Thus the Applicant's stated intention complies with this standard.

Staff recommends that approval of this application be conditioned on documentation that the Applicant meet the following condition when the project is complete and first use approval is requested:

At the time of first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with an executed Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2).

(3) Community-Based Services. An applicant shall demonstrate commitment to providing community-based services and to minimizing the length of stay as appropriate for each resident by:

(a) Providing information to every prospective resident about the existence of alternative community-based services, including, but not limited to, Medicaid home and community-based waiver programs and other initiatives to promote care in the most appropriate settings.

The Applicant states that it will comply with this standard, and is committed to meeting the requirements of the community-based services standard. Further, the Applicant states that it "will provide information to all prospective residents, including those under 65, and their families about the full range of alternative community-based services including all waiver programs and initiatives intended to promote care in the most appropriate settings." (DI #4, p.35). Examples of materials that the Applicant will offer were included with its Completeness Responses (DI #14, pp. 8-9). These are generic documents produced by the Maryland Department of Health and Mental Hygiene, and are the same as those used by other Lorien facilities, including Lorien Bel Air.

(b) Initiating discharge planning on admission; and

The Applicant states that it will initiate discharge planning to residents upon admission as required.

(c) Permitting access to the facility for all *"Olmstead"* efforts approved by the Department of Health and Mental Hygiene and the Department of Disabilities to provide education and outreach for residents and their families regarding home and community-based alternatives.

The Applicant states that it will permit access to the facility, and "encourage all *Olmstead* and any other efforts by DHMH to provide education and outreach to all residents and their families concerning home-based and other community-based alternatives." (DI #4, p. 35)

The Applicant complies with this standard.

(4) Nonelderly Residents. An applicant shall address the needs of its nonelderly (<65 year old) residents by:

(a) Training in the psychosocial problems facing nonelderly disabled residents; and

The Applicant states its intent to operate in compliance with this standard, including making "every effort" to place non-elderly residents near each other, as well as meet their special needs. The facility will provide information about the existence of alternative community services (see response to section 3, above). In addition, the Applicant will provide in-service education for staff on psychosocial problems and is committed to follow Lorien corporate policies and procedures related to in-service training, and its program for younger residents.

(b) Initiating discharge planning immediately following admission with the goal of limiting each nonelderly resident's stay to 90 days or less, whenever feasible, and voluntary transfer to a more appropriate setting.

The Applicant "will initiate discharge planning immediately following admission with the goal of limiting each non-elderly residents' stay to 90 days or less, whenever feasible, and

voluntary transfer to a more appropriate setting." The Applicant states that this will be addressed during development of the resident's individualized treatment plan. (DI #4, p. 36)

Based on the Applicant's stated intent, the Applicant complies with this standard.

(5) Appropriate Living Environment. An applicant shall provide to each resident an appropriate living environment, including, but not limited to:

(a) In a new construction project:

(i) Develop rooms with no more than two beds for each patient room;
(ii) Provide individual temperature controls for each patient room; and
(iii) Assure that no more than two residents share a toilet.

As illustrated in the LHNRC Bed Configuration table below, 30 beds will be in private rooms and the remaining 40 beds will be in semi-private rooms.

Table 1: LHNRC Bed Configuration

Nursing Unit	Semi Private Rooms	Private Rooms	Total # Beds
1st Floor	15	0	30
2nd Floor	5	30	40
Total	20	30	70

Source: Application at p. 13, Table A. Bed Capacity by Floor and Nursing Unit

Each patient room will have a through-the-wall heating, ventilation, and air conditioning unit with individual temperature controls. No more than two residents will share a toilet, as there will be a bathroom with a toilet and shower in each patient room.

(b) In a renovation project:

(i) Reduce the number of patient rooms with more than two residents per room;
(ii) Provide individual temperature controls in renovated rooms; and
(iii) Reduce the number of patient rooms where more than two residents share a toilet.

(c) An applicant may show evidence as to why this standard should not be applied to the applicant.

The project does not include renovation, thus Subsections (b) and (c) of this standard do not apply to this review.

As designed, the Applicant will comply with this standard for appropriate living environment.

(6) Public Water. Unless otherwise approved by the Commission and the Office of Health Care Quality in accordance with COMAR 10.07.02.26, an applicant for a nursing home shall demonstrate that its facility is, or will be, served by a public water system.

The Applicant states that the proposed project is located in a suburban area which has already seen commercial development, that all necessary public utilities, including public water, sewer, electricity and telephone utilities, are available to the site. Accordingly, the Applicant has met this standard.

(7) Facility and Unit Design. An applicant must identify the special care needs of the resident population it serves or intends to serve and demonstrate that its proposed facility and unit design features will best meet the needs of that population. This includes, but is not limited to:

(a) Identification of the types of residents it proposes to serve and their diagnostic groups;

(b) Citation from the long term care literature, if available, on what types of design features have been shown to best serve those types of residents;

(c) An applicant may show evidence as to how its proposed model, which is not otherwise documented in the literature, will best serve the needs of the proposed resident population.

The Applicant describes a design of the proposed comprehensive care facility that would be consistent with this standard. The design includes 30 single-occupancy rooms and 20 double-occupancy rooms that would accommodate changing patient mix over time. The Applicant states that such a mix would allow it to appropriately care for residents with various short and long-term needs. The Applicant describes the design as being centered on the varying needs of each person, rather than on medical conditions. General features include non-institutional interior design features, a full bath for each bedroom, personalization of resident room entryways, cable TV, internet access, common activity areas to allow interaction, an outdoor courtyard, and flexibility to serve a wide array of residents with varying medical needs and conditions.

The first floor will include 15 semi-private rooms (30 beds) intended for long-term care residents with the following profile: residents with lower acuity; chronic conditions; dementia or Alzheimer's; and/or requiring physical and/or occupational therapy. Specific design features beneficial to this population include:

- Rooms located proximate to nurses' station and common areas

- Soothing interior design utilizing colors, patterns, textures, lighting, artwork and displays to engage residents with Alzheimer's disease and related disorders
- Support for residents with chronic respiratory illness, Alzheimer's and related conditions

The second floor contains 40 beds, with 30 beds in private rooms and 10 beds in five semi-private rooms. This floor is intended primarily for short-term residents, including acute rehabilitation patients, Alzheimer's disease and related disorders patients with co-existing conditions, and those with multiple medical conditions. The design allows grouping of residents with similar acuity levels and care needs. An 8-bed "cluster" that encircles the nurses' station is designed to accommodate higher acuity, non-ambulatory residents.

Specific design features of the second floor include:

- Clustering of higher acuity residents
- Centralized activities areas
- Soothing interior design utilizing colors, patterns, textures, lighting, artwork and displays to engage residents
- Design and equipment to support residents with the following conditions/treatment requirements:
  - Residents with chronic respiratory illness
  - Alzheimer's residents with acute co-existing conditions
  - Aggressive infection control and management, including nosocomial, antibiotic-resistant infections
  - Residents requiring multiple types of medical equipment
  - Bedside physical/occupational therapy

The Applicant states that it has leveraged Lorien Health System's experience in providing resident care at its existing facilities in order to design the proposed facility to be flexible in order to accommodate changing resident needs. One stated objective is to create a less institutional setting, and the application cites two nursing home design articles available on the internet to support its proposed design features.

The Applicant has met this standard.

(8) Disclosure. An applicant shall disclose whether any of its principals have ever pled guilty to, or been convicted of, a criminal offense in any way connected with the ownership, development, or management of a health care facility.

The Applicant states that none of Lorien Harford's principals have ever pled guilty to or been convicted of a criminal offense in any way connected with the ownership, development, or management of a health care facility (DI #4, p. 42). The Applicant has complied with this standard.

(9) Collaborative Relationships. An applicant shall demonstrate that it has established collaborative relationships with other types of long term care

providers to assure that each resident has access to the entire long term care continuum.

The Applicant is a new corporation proposing a new facility. Therefore, it technically has no existing relationships with other types of long term care providers. However, as detailed earlier in this report, the Applicant is affiliated with the existing Lorien facilities and Lorien Health Systems. The Applicant uses the existing Lorien facilities' collaborative agreements as evidence of its intent to comply with the standard. Included is a reference to Lorien Bel Air's transfer and referral agreements with other providers, including behavioral health, hospice care, home health, hospitals, and other nursing and rehabilitation providers. The Applicant has also included letters of support from various providers, including the President/CEO of University of Maryland Upper Chesapeake Health.

The Applicant states that it will comply with this standard, including submitting evidence of these agreements during the first use review, as well as accepting this as a condition of approval. MHCC staff recommends the following condition:

Prior to first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with information demonstrating that it has established collaborative relationships with other types of long term care providers in Harford County to assure that each resident has access to the entire long term care continuum, including, as appropriate, formal transfer and referral agreements.

B. New Construction or Expansion of Beds or Services. The Commission will review proposals involving new construction or expansion of comprehensive care facility beds, including replacement of an existing facility or existing beds, if new outside walls are proposed, using the following standards in addition to .05A(1)-(9):

(1) Bed Need.

(a) An applicant for a facility involving new construction or expansion of beds or services, using beds currently in the Commission's inventory, must address in detail the need for the beds to be developed in the proposed project by submitting data including, but not limited to: demographic changes in the target population; utilization trends for the past five years; and demonstrated unmet needs of the target population.

The Applicant's proposed project involves construction of a new facility, but does not utilize beds currently in the Commission's inventory. Accordingly, this standard does not apply to this review.

Nonetheless, MHCC projects a need for 97 additional CCF beds in Harford County by 2016. If this CON application is approved, there will remain a need for 27 beds in this jurisdiction.

Harford County CCF Bed Need				
Total Bed Inventory	Gross Bed Need Projection	Unadjusted Net Bed Need	Community-based Services Adjustment	2016 Net Bed Need
806	951	145	48	97

Source: Gross and Net 2016 Bed Need Projection for Comprehensive Care Facility Beds (Corrected and Updated Bed Inventory) (2014)

Thus, the proposed establishment of a 70-bed CCF is consistent with the bed need that is in effect for Harford County.

(b) For a relocation of existing comprehensive care facility beds, an applicant must demonstrate need for the beds at the new site, including, but not limited to: demonstrated unmet needs; utilization trends for the past five years; and how access to, and/or quality of, needed services will be improved.

The project does not include a change in location; the standard is not applicable.

(2) Facility Occupancy.

(a) The Commission may approve a nursing home for expansion only if all of its beds are licensed and available for use, and it has been operating at 90 percent or higher, average occupancy for the most recent consecutive 24 months.

(b) An applicant may show evidence why this rule should not apply.

Because the Applicant seeks to establish a new facility, and not an expansion, this standard is not applicable.

(3) Jurisdictional Occupancy.

(a) The Commission may approve a CON application for a new nursing home only if the average jurisdictional occupancy for all nursing homes in that jurisdiction equals or exceeds a 90 percent occupancy level for at least the most recent 12 month period, as shown in the Medicaid Cost Reports for the latest fiscal year, or the latest Maryland Long Term Care Survey, if no Medicaid Cost Report is filed. Each December, the Commission will issue a report on nursing home occupancy.

(b) An applicant may show evidence why this rule should not apply.

The average jurisdictional occupancy for all nursing homes in Harford County for 2013 was 90.34%, according to the Nursing Home Licensed Beds Occupancy by Region and Jurisdiction published in the Maryland Register on March 20, 2015.

The Applicant-supplied table below shows historic occupancy rates for nursing homes in Harford County for the period 2008 through 2013 (unverified). The Applicant points out that Lorien Bulle Rock in Havre de Grace opened in early 2013. Its reported occupancy for 2014 was 83% and according to the applicant is expected to surpass 90% soon.

Occupancy Rates
Nursing Homes in Harford County
2008-2013

	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013
Bel Air Hlth & Rehab Ctr.	95.34%	94.08%	93.67%	93.62%	94.30%	94.3%
Citizens Care Center	92.33%	93.31%	93.73%	91.78%	93.35%	93.3%
Forest Hill Hlth & Rehab Ctr.	90.84%	93.71%	93.19%	94.43%	93.25%	92.4%
Lorien Riverside Nursing Ctr.	94.10%	92.66%	90.88%	93.53%	93.85%	91.3%
Lorien Bel Air	93.38%	94.87%	93.19%	93.24%	93.91%	93.8%

(Source: MHCC's Public Use Databases and 2012 Medicaid Cost Reports, DI # 4, p. 53)

The jurisdictional occupancy exceeded 90% for the last 12 month period, as required by the standard. Therefore, the Applicant is found to be consistent with this standard.

(4) Medical Assistance Program Participation.

(a) An applicant for a new nursing home must agree in writing to serve a proportion of Medicaid residents consistent with .05A 2(b) of this Chapter.

(b) An applicant for new comprehensive care facility beds has three years during which to achieve the applicable proportions of Medicaid participation from the time the facility is licensed, and must show a good faith effort and reasonable progress toward achieving this goal in years one and two of its operation.

The Applicant states that it will participate in the Medical Assistance Program, and "projects a Medicaid Occupancy percentage which exceeds the minimum required level." The Applicant agrees to execute a MOU as required, prior to pre-licensing certification and is willing to accept a condition to that effect.

For FY 2013, MHCC calculated the Medicaid participation rate was 48.57% for the jurisdiction of Harford County, and 47.01% for the Central Maryland region, which also includes Anne Arundel, Baltimore, and Howard Counties and the City of Baltimore.

(c) An application for nursing home expansion must demonstrate either that it has a current Memorandum of Understanding (MOU) with the

Medical Assistance Program or that it will sign an MOU as a condition of its Certificate of Need.

(d) An applicant for nursing home expansion or replacement of an existing facility must modify its MOU upon expansion or replacement of its facility to encompass all of the nursing home beds in the expanded facility, and to include a Medicaid percentage that reflects the most recent Medicaid participation rate.

(e) An applicant may show evidence as to why this standard should not be applied to the applicant.

Paragraphs (4) (c) and (d) do not apply to this review because the proposed project does not expand or replace an existing nursing home.

While the Applicant states it will comply with this standard, staff recommends that approval of this application be conditioned on documentation that the Applicant meets the following condition when the project is complete and first use approval is requested:

At the time of first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with an executed Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2).

(5) Quality. An applicant for expansion of an existing facility must demonstrate that it has no outstanding Level G or higher deficiencies, and that it maintains a demonstrated program of quality assurance.

The Applicant proposes to establish a new 70-bed CCF facility in Harford County. This is not an expansion of an existing facility; therefore, this standard does not apply.

(6) Location. An applicant for the relocation of a facility shall quantitatively demonstrate how the new site will allow the applicant to better serve residents than its present location.

Because the Applicant does not seek to relocate an existing facility to a new location, this standard does not apply to this review.

OTHER CERTIFICATE OF NEED REVIEW CRITERIA

The project's compliance with the five remaining general review criteria in the regulations governing Certificate of Need is outlined below:

B. NEED

COMAR 10.24.01.08G(3)(b) Need. The Commission shall consider the applicable need analysis in the State Health Plan. If no State Health Plan need analysis is applicable, the Commission shall consider whether the applicant has demonstrated unmet needs of the population to be served, and established that the proposed project meets those needs.

Applicable Bed Need Analysis

The applicable bed need analysis is the jurisdictional gross and net bed need projections for nursing home beds in Maryland, published on October 3, 2014 in the *Maryland Register* (Appendix 2) which shows a projected need for 97 additional CCF beds in Harford County by 2016. If this CON application is approved, a need for 27 additional beds will remain. Therefore, the application complies with the bed need projections in the State Health Plan.

Occupancy Rates of Existing Providers

The average jurisdictional occupancy for all nursing homes in Harford County for 2013 was 90.34%, according to the Nursing Home Licensed Beds Occupancy by Region and Jurisdiction published in the *Maryland Register* on March 20, 2015.

The Applicant provided occupancy data (DI #4, p. 53) showing that each of the five existing facilities in the county have exceeded 90% occupancy each year since 2008. Data for Lorien Bulle Rock, which opened during spring 2013, are not included in the chart. Lorien Bulle Rock is a 78-bed facility and is completing its fill up and stabilization phases. The Applicant reports that as of December 31, 2014, Lorien Bulle Rock was at an 83% occupancy level, and is expected to exceed 90% occupancy for 2014.

Occupancy Rates
Nursing Homes in Harford County
2008-2013

	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013
Bel Air Hlth & Rehab Ctr.	95.34%	94.08%	93.67%	93.62%	94.30%	94.3%
Citizens Care Center	92.33%	93.31%	93.73%	91.78%	93.35%	93.3%
Forest Hill Hlth & Rehab Ctr.	90.84%	93.71%	93.19%	94.43%	93.25%	92.4%
Lorien Riverside Nursing Ctr.	94.10%	92.66%	90.88%	93.53%	93.85%	91.3%
Lorien Bel Air	93.38%	94.87%	93.19%	93.24%	93.91%	93.8%

(Source: MHCC's Public Use Databases and 2012 Medicaid Cost Reports, DI # 4, p. 53)

Population Projections

Population projections from the Maryland Department of Planning, July 2014, are included in the table below. These figures indicate modest overall population growth in Harford County through 2030, with rates slightly lower than the state overall.

Population in the county will increase from 244,826 in 2010 to 273,147 in 2030, an increase of 28,321, or 11.57%. In the 65+ age cohort, the increase will be 30,045, or 98.3%, from 30,564 in 2010 to 60,609 in 2030. This rate will outpace the statewide 83.71%.increase for the 65+ cohort.

	Harford Co.								
	Population by Age Cohort					Projected Increase (Decrease)			
	2010	*2015*	*2020*	*2025*	*2030*	*2010-2015*	*2015-2020*	*2020-2025*	*2025-2030*
0-64	214,262	214,494	214,207	212,447	212,538	0.11%	-0.13%	-0.82%	0.04%
65-74	17,396	22,207	25,971	29,758	32,987	27.66%	16.95%	14.58%	10.85%
75-84	9,596	10,217	12,279	15,697	18,523	6.47%	20.18%	27.84%	18.00%
85+	3,572	5,082	6,191	7,195	9,099	42.27%	21.82%	16.22%	26.46%
Total	*244,826*	*252,000*	*258,648*	*265,097*	*273,147*	*2.93%*	*2.64%*	*2.49%*	*3.04%*

State of Maryland	*2010*	*2015*	*2020*	*2025*	*2030*	*2010-2015*	*2015-2020*	*2020-2025*	*2025-2030*
	Population by Age Cohort					Projected Increase (Decrease)			
0-64	5,065,910	5,171,167	5,240,174	5,279,775	5,312,179	2.08%	1.33%	0.76%	0.61%
65-74	386,357	493,826	584,116	658,770	715,532	27.82%	18.28%	12.78%	8.62%
75-84	223,159	232,374	279,015	358,048	425,467	4.13%	20.07%	28.33%	18.83%
85+	98,126	112,774	121,206	133,156	159,013	14.93%	7.48%	9.86%	19.42%
Total	*5,773,552*	*6,010,141*	*6,224,511*	*6,429,749*	*6,612,191*	*4.10%*	*3.57%*	*3.30%*	*2.84%*

Source: Maryland Department of Planning
2014 Total Population Projections by Age, Sex and Race (7/8/14)

In summary, the Applicant has demonstrated that there is need for the proposed project in Harford County. The proposal is in harmony with the MHCC bed need analysis; the jurisdictional occupancy rate exceeds 90%; and while Harford County is expected to experience slight overall population growth through 2030, the 65+ age cohort will experience much higher growth rates. The addition of 70 beds at the proposed project's location will increase geographic coverage within Harford County.

C. AVAILABILITY OF MORE COST-EFFECTIVE ALTERNATIVES

COMAR 10.24.01.08G(3)(c) Availability of More Cost-Effective Alternatives. The Commission shall compare the cost effectiveness of the proposed project with the cost effectiveness of providing the service through alternative existing facilities, or through an alternative facility that has submitted a competitive application as part of a comparative review.

The application under review is one of two proposals to add capacity toward meeting the 2016 Projected Need for Nursing Home Beds in Harford County. This proposal seeks to add 70 beds, while the second proposal seeks to add 27 beds to the existing facility at Lorien Bel Air. Both proposals are from Lorien affiliates; when taken in combination, they meet the need for 97 beds. The projects are not considered competing applications, and no other proposals have been submitted.

Attempting to meet the identified need through use of existing nursing home capacity is not reasonable due to current high occupancy rates. Lorien considered locating additional beds at its other facilities in Harford County. The applicant states that "Lorien Bulle Rock is ineligible for expansion since it is a recently opened facility which is just ending its fill-up phase and is in the stabilization phase. In this regard, it has not experienced two years of occupancy at 90% as required by the applicable facility occupancy standard at COMAR 10.24.08.05.B(2)." (DI #14, p. 12). Lorien Riverside's site was deemed by the Applicant to be unsuitable for expansion. Adding 97 beds at Bel Air – a facility with a pending CON application to add 27 beds -- was deemed inappropriate due to the resultant size of the CCF (187 beds), which would also require an expansion of the assisted living facility discussed below. The resulting structure would cause density issues for the site and limit potential ancillary development in the future. (DI #14, p. 12)

The Applicant states that it also considered a 97-bed facility in Harford. However, its analysis of demand at Lorien Bel Air indicates a need for an expansion of the facility's assisted living facility and CCF. The assisted living facility expansion can support a 27-bed CCF addition as a third story atop the two-story assisted living facility addition. When taken together, the proposed 27-bed addition at Lorien Bel Air and 70-bed LHNRC proposal will meet the net need in Harford County. The Applicant also cites the fact that Lorien favors smaller facilities that can be developed in concert with other, complementary services such as the planned Harford assisted living facility. (DI #14, p. 13)

The Applicant presented no other alternatives to meet the identified need.

A review of the cost analysis performed by the Applicant using the Marshall Valuation Service ("MVS") finds the projected cost to be 14.03% below the comparable MVS benchmark. The estimated costs were $162.70/sq. ft. compared to the MVS projection of $189.24. See Appendix 2 for a more detailed explanation of MVS analysis and staff's MVS review of the Applicant's analysis.

Thus, given the projected need for 97 additional nursing home beds in Harford County, the lack of competitive applications, and the reasonable cost of constructing the proposed facility, staff concludes that a more cost effective alternative is not available and the proposed

construction of a 70 CCF bed nursing home is a cost-effective alternative for meeting a substantial portion of the needs of the nursing home population in Harford County.

D. VIABILITY OF THE PROPOSAL

COMAR 10.24.01.08G(3)(d) Viability of the Proposal. The Commission shall consider the availability of financial and nonfinancial resources, including community support, necessary to implement the project within the time frames set forth in the Commission's performance requirements, as well as the availability of resources necessary to sustain the project.

Availability of Resources Necessary to Implement the Project

The total cost of constructing the proposed three-story nursing home for 70 CCF beds is $12,215,376, which includes $1,260,000 for site acquisition, $7,785,000 for the construction of the nursing home, $1,512,813 in other capital costs, $797,563 in inflation, $110,000 for financial and other cash requirements, and $750,000 in working capital start-up costs.

The Applicant expects to finance this project with $3,195,376 in cash, a $7.50 million mortgage loan, $750,000 working capital (operational) loan, and a $770,000 fixture, furnishings, and equipment ("FFE") loan. The application includes a letter of interest from Wells Fargo bank indicating an existing relationship with Lorien and interest in financing the Applicant's project. (DI #4, 5, p. 98). The table below outlines the costs and sources of funds for the proposed project.

Project Budget Estimate – Uses and Sources of Funds

A. Uses of Funds	Nursing Facility
New Construction	
Land Purchase	1,260,000
Building	5,940,000
Site Preparation	1,295,000
Architect/Engineering Fees	400,000
Permits	150,000
Subtotal – New Construction	***9,045,000***
Other Capital Costs	
Movable Equipment	1,080,000
Contingencies	250,000
Interest	182,813
Subtotal - Other Capital Costs	***1,512,813***
Other Financial and Capital Costs	
Inflation	797,563
Financing	110,000
Working Capital Startup Costs	750,000
Subtotal – Non Current Capital Costs	***1,657,563***
Total Uses of Funds	***12,215,376***

Source: (DI #4, p.17)

B. Sources of Funds	Nursing Facility
Cash	3,195,376
Mortgage	7,500,000
Working Capital Loan	750,000
FFE (Fixture, Furn., Equip.) Loan	770,000
Total Sources of Funds	***$12,215,376***

Source: (DI #4, p.17)

The Applicant is a new entity and does not yet have financial records to assess. The Applicant states that no existing Lorien facility or other Lorien entity has audited financial statements. In the absence of such statements, the Applicant has provided a letter from Mr. Michael J. Snarski, a certified public accountant, who has who has provided accounting services on previous Lorien projects, stating that the Mangione family members have the financial resources to fund the project. (DI #4, 5, p. 96). The Applicant also indicated that Mr. Snarski has adequate knowledge of the owners' assets and liabilities beyond their healthcare operations to conclude that the owners can fulfill the equity contribution and equipment loan requirements. (DI #4, p. 69)

A letter from Elizabeth M. Phelan, Senior Vice President of Wells Fargo bank, indicated an interest in working with the Applicant on the mortgage and FF&E loans. The letter also states that Wells Fargo's past financings with the Mangione family have been handled as agreed and that they looked forward to their future business. (DI #4, 5, p. 98)

Availability of Resources Necessary to Sustain the Project

a) Finances

The projected performance for the Applicant is provided in the tables below.

Key Utilization and Operating Statistics

Lorien Harford Nursing & Rehabilitation Center (Source: DI #4, pp. 25-27)

	Year 1	Year 2	Year 3
Licensed Beds	70	70	70
Admissions	360	560	560
Patient Days	14,235	23,725	23,725
Occupancy Percentage	55.70%	92.90%	92.90%
Medicare as Percent of Total Revenue	47.27	47.38	47.38
Medicaid as Percent of Total Revenue	34.48	34.32	34.32
Medicare as Percent of PD	34.6	34.6	34.6
Medicaid as Percent of PD	50.0	50.0	50.0
Commercial Insurance as Percent of	3.32	3.33	3.33
Self-Pay as Percent of PD	11.61	11.64	11.64
Other - Medicare Part B	3.32	3.33	3.33
Gross Revenue/Pt. Day	$371.05	$370.11	$370.11
Net Revenue/Pt. Day	$367.33	$364.55	$364.55
Expense/Pt. Day	$416.72	$347.57	$347.14
Operating Margin/Pt. Day	($45.67)	$22.55	$22.97

Revenue and Expense Statement
Lorien Harford Nursing & Rehabilitation Center

	Projected Years		
	Year 1	**Year 2**	**Year 3**
Revenue			
Gross Patient Revenue	5,282,000	8,781,000	8,781,000
Bad Debt /Contractual Allowance	53,000	132,000	132,000
Net Patient Services Revenue	5,229,000	8,649,000	8,649,000
Other Operating Revenue	29,000	47,000	47,000
Net Operating Revenue	**$5,258,000**	**$8,696,000**	**$8,696,000**
Expenses			
Salaries & Wages (including benefits)	3,014,000	3,945,000	3,945,000
Contractual Services	950,000	1,556,000	1,556,000
Interest on Project Debt	314,000	311,000	301,000
Project Depreciation	322,000	322,000	322,000
Amortization	22,000	22,000	22,000
Supplies	493,000	821,000	821,000
Other Expenses			
Management Fee	198,000	360,000	360,000
Utilities	96,000	120,000	120,000
Medicaid QA/Provider Taxes	220,000	366,000	366,000
Real Estate Taxes	66,000	66,000	66,000
Insurance	59,000	59,000	59,000
Data Processing	29,000	48,000	48,000
Sewer & Water	16,000	24,000	24,000
Accounting	18,000	18,000	18,000
Licenses & Permits	17,000	28,000	28,000
Equipment Rental	13,000	22,000	22,000
All Other Expenses	85,000	158,000	158,000
Total Other Expenses	***$817,000***	***$1,269,000***	***$1,269,000***
Total Operating Expenses	**$5,932,000**	**$8,246,000**	**$8,236,000**
Income			
Income from Operation	-674,000	450,000	460,000
Net Income	**($674,000)**	**$450,000**	**$460,000**

Source: DI #4, pp. 24-27

The Applicant's financial projections indicate that it will become profitable by the second year of operation. The Applicant's projected Medicaid utilization rate is 50.0%, "based upon the judgment of the management services team, and the payer mix estimates are similar to the payer mix experienced by the Lorien Bulle Rock facility in Havre de Grace, and Lorien Bel Air." (DI #14, p. 16) This exceeds the 2013 required participation rate for Harford County of 48.57%.

b) Staffing

The following table provides the total number of salaried and contractual employees that will staff the 70 CCF bed facility at LHNRC during the first full year of operation. The table also provides the cost of benefits for the salaried employees, which calculates as 27.0% of the total cost of the salaried employees.

Total Manpower
Lorien Harford Nursing & Rehabilitation Center

Position	# FTEs	Projected Salary
Administration		
Subtotal Employee	7.3	375,960
Subtotal Contractual		
Direct Care		
Subtotal Employee	50.53	2,104,139
Subtotal Contractual		
Support		
Subtotal Employee	22.84	626,161
Subtotal Contractual	17.25	1,556,144
Total FTEs	**97.92**	**$4,662,404**
Employee Benefits*		**$838,690**
Total Salaries & Benefits		**$5,501,094**

*27.0% of Total Salaries

Source: DI #4, pp. 28-29

The Applicant expects to hire a total of 80.67 full time employees ("FTEs") to staff the nursing home. The total cost is $3,106,260 in salaries and $838,690 in benefits, for a total projected cost of $3,944,950. Including contractual services, the cost of staffing the 70 bed CCF will total approximately $5,501,094 for the first full year of operation. The Applicant does not anticipate having any difficulty in recruiting staff for the proposed facility. The Applicant has included several letters of support from other area healthcare providers, including the University of Maryland Upper Chesapeake Health; Right at Home In Home Care & Assistance, and two physicians. These providers compete in the same marketplace for staff, and are supportive of the project.

The Nurse Staffing by Shift table below indicates that the Applicant will have a direct care staffing schedule that will deliver an overall average ratio of 3.87 nursing hours per bed per day of care across the facility during the weekdays and 3.87 nursing hours per day of care during the weekends or holidays. These staffing ratios are approximately 93.5% above the minimum of two hours per bed per day required by COMAR 10.07.02.12.

Nurse Staffing by Shift
Lorien Harford Nursing & Rehabilitation Center – 70 CCF Beds

Staff Category	Weekday			Weekend/Holiday		
	D	E	N	D	E	N
RN	2	2	2	2	2	2
LPN	1	1	1	1	1	1
Superv-RN	1	1	1	1	1	1
Med Aides	2	2		2	2	
CNAs	7.5	5.625	3.75	7.5	5.625	3.75
Ward Clerk	1			1		
Total FTEs	14.5	11.625	7.75	14.5	11.625	7.75
Total Hours by Shift*	116	93	62	116	93	62
Total Hours			271			271
Total Number of Beds			70			70
Hours Per Bed Per Day			**3.87**			**3.87**

* Assuming 8 hours per shift
Source: DI #4, p. 30

Summary

The Applicant has reasonably demonstrated it can obtain the financial resources necessary for project development. The projection of positive operating margins beginning with the second year of operation are based on assumptions with respect to utilization, revenues, expenses, staffing, and payer mix that are within acceptable ranges. Thus, staff concludes that the Applicant will have sufficient resources to sustain the operation of the new facility. Staff recommends a finding that the project is financially viable.

E. COMPLIANCE WITH CONDITIONS OF PREVIOUS CERTIFICATES OF NEED

COMAR 10.24.01.08G(3)(e)Compliance with Conditions of Previous Certificates of Need. An applicant shall demonstrate compliance with all terms and conditions of each previous Certificate of Need granted to the applicant, and with all commitments made that earned preferences in obtaining each previous Certificate of Need, or provide the Commission with a written notice and explanation as to why the conditions or commitments were not met.

The application stated: *"The Applicant, Lorien Harford III, LLC is a brand new entity and has never been awarded a CON. Accordingly, this Criterion is not applicable to this*

review." However, the Applicant is affiliated, through common ownership, with a number of nursing homes operated by Lorien Health Systems. Accordingly, while it is true that the Applicant is proposing a brand new facility with no CON history, Lorien Health Systems' CON history is relevant to this review. Accepting the Applicant's position on this criteria, while it might be viewed as technically correct, would clearly be inconsistent with the intent of this criterion. Any failure on the part of Lorien Health System to comply with the terms and conditions of a previous CON issued by MHCC to an entity owned by the Mangione family is appropriate for consideration by MHCC in the review of a new CON application being proposed by the Mangione family through a separately incorporated legal entity.

First, it should be noted that, over the years, it has been a common practice for authorized Lorien projects to take the maximum amount of time allowed by the regulations to be implemented, through use of every available extension for every performance requirement step (i.e. executing a binding construction contract, initiating construction, and finishing the project.) While complying with the performance requirements, most Lorien projects take the maximum amount of development time allowable under the performance requirements. Also, in the case of Lorien Encore at Turf Valley, the development process consumed approximately ten years and three separate CON reviews because of changes in the site for the project.

In addition, another affiliate, Lorien Harford, Inc. (the Lorien Bel Air facility) failed to comply with the required minimum level of Medicaid participation, that went into effect in 2002. At that time, the minimum required proportion of Medicaid patients for a CCF was equal to the proportion of Medicaid patients in all other nursing home beds in the jurisdiction or the region (Harford County or Central Maryland in the case of Lorien Bel Air). Lorien Harford signed a Memorandum of Understanding with the Maryland Medical Assistance program on August 8, 2002, committing to provide a minimum of 66.5% of its patient-days to Medicaid patients.

The facility opened in October, 2002 with 62 CCF beds. The standard gave applicants for new CCF beds three years to achieve the requirement, but required a good faith effort towards achieving the goal in the first two years of operation.

The Commission adopted a new State Health Plan chapter for long term care facilities and services effective March 12, 2007. This new chapter included a revised minimum Medicaid service requirement. The new calculation method set the minimum requirement at the weighted mean for the jurisdiction and region minus 15.5%. Lorien Harford sought to establish a new MOU, which was approved retroactive to December 14, 2007, at a minimum participation rate of 46.82%. The table below displays a comparison of Lorien Bel Air's service to Medicaid patients compared to the minimum requirements From FY 2003 through FY 2012.

Comparison of the Medicaid Participation Rates realized by Lorien Harford, Inc., with the requirement under its Memorandum of Understanding

Year	Percent of Patient-Days filled by , Medicaid patients (Source: MHCC LTC Survey)	Minimum Medicaid Participation Rate Required by the MOU
FY 2003	17.00%	66.54%
FY 2004	34.01%	66.54%
FY 2005	36.97%	66.54%
FY 2006	39.08%	66.54%
FY 2007	47.86%	66.54%
FY 2008	49.77%	46.82%
FY 2009	53.20%	46.82%
FY 2010	55.21%	46.82%
FY 2011	49.01%	46.82%
FY 2012	49.97%	46.82%

As can be seen, Lorien Harford, Inc. failed to comply with its MOU commitment in FY 2005 through FY 2007. It has complied with the new lower requirement since that time.

While Lorien Health Systems' performance on previous CONs has often involved delays and multiple requests for the extension of performance requirements, staff has concluded that Lorien has ultimately complied with such performance requirements. Furthermore, viewed within the context that there is bed need in the jurisdiction, healthy occupancy rates, and no other potential applicant expressing interest in filling the projected need, staff recommends that performance on this criterion be viewed as acceptable.

F. IMPACT ON EXISTING PROVIDERS AND THE HEALTH CARE DELIVERY SYSTEM

COMAR 10.24.01.08G(3)(f) Impact on Existing Providers and the Health Care Delivery System. An applicant shall provide information and analysis with respect to the impact of the proposed project on existing health care providers in the health planning region, including the impact on geographic and demographic access to services, on occupancy, on costs and charges of other providers, and on costs to the health care delivery system.

The MHCC's 2016 Projected Bed Ned for Nursing Home Beds indicates that the total number of beds[2] currently in inventory and operating in Harford County as of October 3, 2014 is 769 CCF beds, located in six facilities. These facilities operated at a combined 90.34% occupancy during 2013. While the MHCC has projected a need for 97 additional CCF beds in this jurisdiction by the year 2016, the Applicant's proposal seeks only 70 CCF beds, leaving a balance of 27 beds.

[2] These include licensed, waiver, and temporarily delicensed CCF beds.

Staff believes the establishment of a 70-bed CCF by the Applicant will have a positive impact on residents seeking nursing home care in Harford County. The segment of the population aged 65 and over will increase from 30,564 in 2010 to 60,609 people by 2030, an increase of 98.3%. This rate of increase is expected to outpace the overall population growth in the county, resulting in a slight aging of the population in the county. The increasing number of elderly residents in Harford County will support the need for increasing the number of CCF beds in the jurisdiction. The proposed location will distribute the additional supply of beds to a new area of the county, providing a marginal increase in access to that part of the county.

The addition of 70 CCF beds will increase the total number of licensed and operational beds in this jurisdiction by 9.1% (70 beds/769 beds). The utilization of the existing nursing homes has exceeded 90% occupancy for at least the past six years. With this high utilization, staff does not expect this project to have a negative impact on the utilization, or the costs and charges at these existing nursing homes. The addition of these 70 CCF beds will attract residents from this jurisdiction who may otherwise have difficulty gaining access to comprehensive care services because existing nursing homes are at high utilization levels.

Therefore, staff believes that the addition of these 70 nursing home beds will have a positive impact on the population in Harford County, and finds that the Applicant complies with this standard.

IV. SUMMARY AND STAFF RECOMMENDATION

Staff has analyzed the proposed project's compliance with the applicable State Health Plan and standards in COMAR 10.24.01.08.05A and B, and with the other Certificate of Need review criteria found in COMAR 10.24.01.08G(3)(b)-(f).

Based on these findings, Staff recommends that the project be **APPROVED,** with the following two conditions:

1. *At the time of first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with an executed Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2).*

2. *Prior to first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with information demonstrating that it has established collaborative relationships with other types of long term care providers in Harford County to assure that each resident has access to the entire long term care continuum, including, as appropriate, formal transfer and referral agreements.*

IN THE MATTER OF	*	**BEFORE THE**
	*	
LORIEN HARFORD III, LLC	*	**MARYLAND HEALTH**
	*	
DOCKET NO. 15-12-2359	*	**CARE COMMISSION**
	*	

* *

FINAL ORDER

Based on Commission Staff's analysis and findings, it is this 18th day of June, 2015, **ORDERED** that:

The application for Certificate of Need submitted by Lorien Harford III, LLC, d/b/a Lorien Harford Nursing & Rehabilitation Center, to construct a new three-story, 70-bed comprehensive care facility ("CCF") on a 5.4 acre site at 2000 Rock Spring Road in Forest Hill, Harford County, Docket No. 15-12-2359, at an estimated cost of $12,215,376, be **APPROVED,** subject to the following conditions:

1. *At the time of first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with an executed Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the minimum proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05A(2).*

2. *Prior to first use review, Lorien Harford Nursing & Rehabilitation Center shall provide the Commission with information demonstrating that it has established collaborative relationships with other types of long term care providers in Harford County to assure that each resident has access to the entire long term care continuum, including, as appropriate, formal transfer and referral agreements.*

APPENDIX 1

REVIEW OF THE RECORD

Docket Item #	Description	Date
1	Letter of Intent received from Lorien Harford III, LLC., d/b/a Lorien Harford Nursing & Rehabilitation Center ("LHNRC") to construct a 70-bed comprehensive care facility ("CCF") in Forest Hill, Harford County. Staff acknowledges receipt on 12/8/14.	12/8/14
2	Letter from Ben Steffen to James Forsyth, Esquire denying a request to extend the filing date for an application.	1/16/15
3	LHNRC files an amended letter of intent.	2/6/15
4	LHNRC files CON application.	2/6/15
5	MHCC – acknowledges receipt of application.	2/18/15
6	MHCC sends request to Homestead Publishing to publish notice of receipt of application.	2/18/15
7	MHCC sends request to Baltimore Sun to publish notice of receipt of application.	2/18/15
8	MHCC sends request to Maryland Register to publish notice of receipt of application.	2/18/15
9	Following completeness review, Commission staff requests additional information before a formal review of the CON application can begin.	2/24/15
9A	James Forsyth, Esquire, on behalf of LHNRC, sends letter objecting to one of the questions posed in the completeness review letter.	3/3/15
10	Notice of receipt of application as published in "The Record."	3/4/15
11	Notice of receipt of application published in "The Aegis."	3/4/15
12	Notice of receipt of applications published in "The Baltimore Sun."	3/4/15
13	Letter of Support for Project received from Delegate Peter A. Hammen.	3/9/15
14	Response received to completeness letter.	3/10/15
15	Request to publish notice of formal start of review sent to Baltimore Sun.	3/20/15
16	Request to publish notice of formal start of review sent to Homestead Publishing.	3/20/15
17	Request to publish notice of formal start of review sent to Maryland Register.	3/20/15
18	Commission acknowledges completeness and sets docketing date of 4/3/15; also includes request for additional information.	3/23/15
19	Staff sends a copy of the CON application to the Harford County Health Department for review and comment.	3/24/15

20	Notice of Formal Start of Review published in the "Baltimore Sun."	3/28/15
21	MHCC receives additional information as requested.	4/1/15
22	Notice of formal start of review published in "The Aegis."	4/3/15
23	Notice of formal start of review published in "The Record."	4/3/15
24	Copy of contract for sale of land for project site received by MHCC.	4/10/15

APPENDIX 2

BED NEED PROJECTIONS

MARYLAND HEALTH CARE COMMISSION

GROSS AND NET 2016 BED NEED PROJECTION FOR COMPREHENSIVE CARE FACILITY BEDS (CORRECTED AND UPDATED BED INVENTORY)

In accordance with COMAR 10.24.08.07, the Maryland Health Care Commission (MHCC) publishes the following notice of jurisdictional gross and net bed need for comprehensive care facility (CCF or nursing home) beds. These projections correct and update the projections published in the *Maryland Register* on April 19, 2013 and July 25, 2014. These jurisdictional gross and net bed need projections will apply in the review of Certificate of Need applications acted on by MHCC after the date of their publication. Updated projections published in the *Maryland Register* supersede any published in either the *Maryland Register* or any plan approved by MHCC. Published projections of bed need remain in effect until MHCC publishes updated CCF bed need projections. Projections of net bed need can change during the interim between bed need projection updates as a result of changes in the number of nursing home beds counted in the inventory, in accordance with the rules at COMAR 10.24.08.07F, or changes to correct errors in the data or computation.

	Bed Inventory as of September 1, 2014					2016 Projected Bed Need			
Jurisdiction	Licensed Beds	Temporarily Delicensed Beds	CON Approved Beds	Waiver Beds	Total Bed Inventory	Gross Bed Need Projection	Unadjusted Net Bed Need	Community-Based Services Adjustment	2016 Net Bed Need
WESTERN MARYLAND									
Allegany	869	40	0	22	931	784	-147	40	0
Carroll	934	0	0	10	944	750	-194	45	0
Frederick	1,062	11	0	7	1,080	1,235	155	89	66
Garrett	306	10	0	0	316	262	-54	12	0
Washington	1,113	25	0	6	1,144	1,003	-141	54	0
MONTGOMERY COUNTY									
Montgomery	4,500	72	0	35	4,607	3,651	-956	235	0
SOUTHERN MARYLAND									
Calvert	302	0	0	0	302	325	23	28	0
Charles	418	4	67	0	489	421	-68	31	0
Prince George's	2,775	35	150	43	3,003	2,817	-186	169	0
St. Mary's	277	8	0	0	285	317	32	18	14
CENTRAL MARYLAND									
Anne Arundel	1,726	37	0	53	1,816	1,761	-55	97	0
Baltimore City	3,828	297	0	43	4,168	4,048	-120	380	0
Baltimore County	5,408	16	0	116	5,540	4,585	-955	228	0
Harford	769	2	21	14	806	951	145	48	97
Howard	562	0	0	16	578	734	156	27	129
EASTERN SHORE									
Caroline	187	0	0	0	187	151	-36	5	0
Cecil	406	48	0	2	456	423	-33	24	0
Dorchester	237	21	23	0	281	226	-55	11	0
Kent	228	0	0	0	228	188	-40	19	0
Queen Anne's	120	0	0	0	120	190	70	11	59
Somerset	211	0	0	3	214	172	-42	7	0
Talbot	260	0	0	0	260	272	12	16	0
Wicomico	607	36	0	0	643	543	-100	38	0
Worcester	287	41	0	0	328	359	31	39	0

NOTE: "Net Bed Need" stated as "0" when "Unadjusted Net Bed Need" minus "Community-Based Services Adjustment" is less than zero.

[14-20-49]

APPENDIX 3

MARSHALL VALUATION SERVICE REVIEW –

The Marshall Valuation System – what it is, how it works

In order to compare the cost of a proposed construction project to that of similar projects as part of a cost-effectiveness analysis, a benchmark cost is typically developed using the Marshall Valuation Service ("MVS"). MVS cost data includes the base cost per square foot for new construction by type and quality of construction for a wide variety of building uses including nursing homes.

The base cost reported in the MVS guide are based on the actual final costs to the owner and include all material and labor costs, contractor overhead and profit, average architect and engineering fees, nominal building permit costs, and processing fees or service charges and normal interest on building funds during construction. It also includes: normal site preparation costs including grading and excavation for foundations and backfill for the structure; and utilities from the plot line to the structure figured for typical setbacks.

The MVS costs do not include costs of buying or assembling land, piling or hillside foundations (these can be priced separately), furnishings and fixtures not found in a general contract, general contingency set aside for some unknown future event such as anticipated labor and material cost increases. Also not included in the base MVS costs are site improvements such as signs, landscaping, paving, walls, and site lighting. Offsite costs such as roads, utilities, and jurisdictional hook-up fees are also excluded from the base costs.[3]

MVS allows staff to develop a benchmark cost using the relevant construction characteristics of the proposed project and the calculator section of the MVS guide.

In developing the MVS benchmark costs for a particular nursing home project the base costs are adjusted for a variety of factors using MVS adjustments such as including an add-on for sprinkler systems, the presence or absence of elevators, number of building stories, the height per story, and the shape of the building (the relationship of floor area to perimeter). The base cost is also adjusted to the latest month and the locality of the construction project.

[3] Marshall Valuation Service Guidelines, Section 1, p. 3 (January 2014).

Applying MVS to this project

In its application for the proposed project, the Applicant classified the construction as Class C, Good quality. The following table presents staff's calculation of a benchmark cost per square foot for a comparable building in terms of class, quality, size, perimeter, and wall height using the MVS guidelines.

MVS Construction Cost Analysis
Proposed Cost for Lorien Harford Nursing & Rehabilitation Center

	Lorien Harford Nursing & Rehab
Class	**Class C**
Type	Good
Square Footage	42,324.0
Perimeter (ft)	1,942
Wall Height (ft) (Avg)	11.33
Stories	3.0
Average Area Per Floor	14,108
Average Perimeter	647
Net Base Cost	$ 178.67
Elevator Add-on	$ 4.04
Adjusted Base Cost	$ 182.71
Perimeter Multiplier	0.96416
Height Multiplier	0.98467
Multi-story Multiplier	1
Combined Multiplier	.94938
Refined Base Square Foot Cost	$ 173.46
Sprinkler Add-on	$ 3.30
Final Base Cost Per Square Foot	$ 176.76
Current Cost Modifier	1.06
Local Multiplier	1.01
CC & Local Multipliers	1.07
MVS Building Cost Per Square Foot	**$ 189.24**

Source: DI #4, 3, p.p.88-89 and MHCC Staff Analysis.

The comparison of the MVS benchmark cost per square foot to the estimated costs of the proposed project are detailed in the following table.

MVS Construction Cost Analysis
Proposed Cost for Lorien Harford Nursing & Rehabilitation Center

Lorien Harford Nursing & Rehabilitation	
Project Budget Item	**Class C**
Building	5,940,000
Normal Site Prep.	1,295,000
Arch./Eng. Fees	400,000
Permits	150,000
Subtotal	7,785,000
Construction Int & Fin Fees	230,085
Total Project Costs	$ 8,015,085
Total Adjustments	
Site Demolition	10,000
Storm Drains	200,000
Rough Grading	200,000
Hillside Foundation	180,000
Landscaping	20,000
Roads	80,000
Jurisdictional Hook-up Fees	210,000
Signs	30,000
Utilities	140,000
Assoc. Arch./Eng. Fees	59,157
Total Adjustments	$ 1,129,157
Project Costs for MVS Comparison	$6,885,928
Square Footage	42,324
Cost Per Square Ft.	**$ 162.70**
Adjusted MVS Cost/Square Foot	**$ 189.24**
Over(Under)	**$ (26.54)**

Source: DI #4, 3 and MHCC Staff Analysis

Staff calculates the Applicants's estimated construction cost to be $26.54 per square foot, or about 14.0%, below the Marshall Valuation Service benchmark for the proposed project.