MARYLAND
Health Care
Commission

DATE: November 17, 2022

TO: Commissioners

FROM: Wynee E. Hawk, Esq.
Chief, Certificate of Need

SUBJECT: DWI Services, Inc., d/b/a Avenues Recovery Center of Maryland
Docket No. 22-04-2455

Enclosed is the staff report and recommendation for a Certificate of Need (CON) application filed by DWI Services, Inc., d/b/a/ Avenues Recovery Center of Maryland (Avenues), to establish a new 20 bed Track One Intermediate Care Facility (ICF) for adults providing a program of withdrawal management and treatment services consistent with ASAM Level 3.7 for patients needing medically monitored intensive inpatient services. The proposed program will operate in an existing 93-bed alcoholism and drug abuse ICF located at 125 Fairground Road in Prince Frederick, Calvert County.

The establishment of this existing center as an ICF will not require construction or renovation expenditures. The total estimated cost for the proposed project is $55,000. The applicant will fund the project with cash.

Commission staff analyzed the proposed project's compliance with the applicable State Health Plan criteria and standards in COMAR 10.24.14 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. Avenues Recovery Center of Maryland shall document the provision of a minimum of 15% of patient days to indigent and gray area patients, as defined at COMAR 10.24.14.08B(9) and (11), by submitting annual reports auditing its total days and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission following each fiscal year, from the project's inception and continuing for five years thereafter;
2. Avenues Recovery Center of Maryland must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by The Joint Commission (TJC) or another accrediting body approved by the Maryland Department of Health prior to First Use approval by the Commission, and must timely receive final accreditation by TJC or another approved accrediting body [COMAR 10.24.14.05H];

3. Avenues Recovery of Maryland shall notify the Commission and the Behavioral Health Administration, in writing, within fifteen days after it receives notice that its accreditation has been revoked or suspended or should it lose its State license. If its accreditation has been revoked or suspended for reasons related to health or safety or it loses its State license, Avenues Recovery of Maryland shall cease operation until the Behavioral Health Administration notifies the Commission that the deficiencies have been corrected. [COMAR 10.24.14.05H];

IN THE MATTER OF	*	**BEFORE THE**
	*	
DWI SERVICES INC. D/B/A	*	**MARYLAND HEALTH**
AVENUES RECOVERY CENTER	*	
OF MARYLAND	*	
	*	**CARE COMMISSION**
Docket No. 22-04-2455	*	

*** ***

STAFF REPORT AND RECOMMENDATION

November 17, 2022

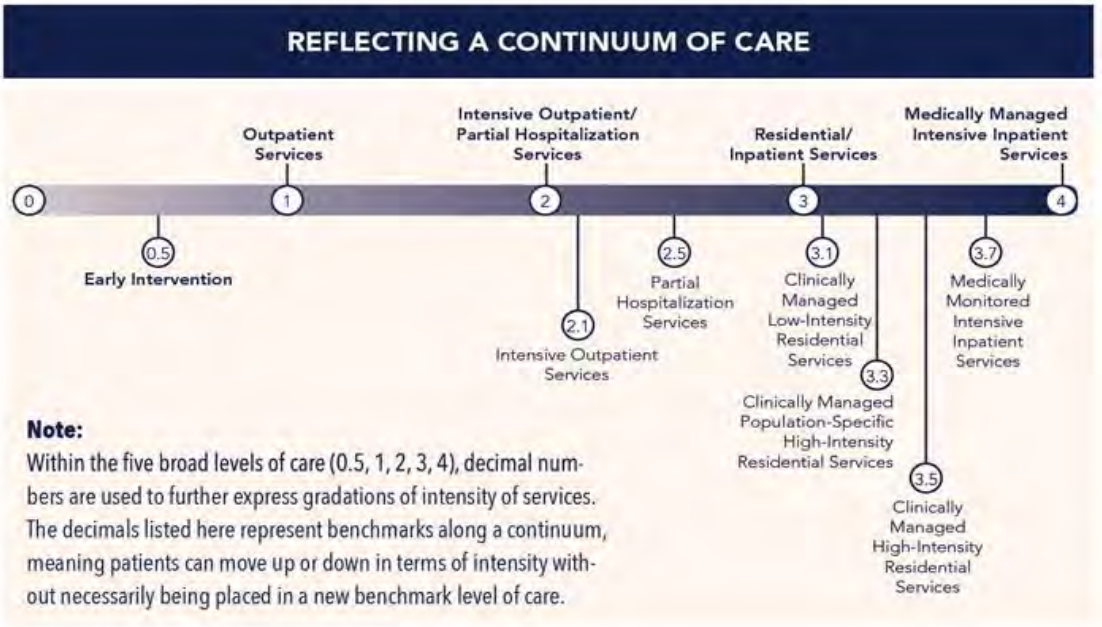
Table of Contents

I. INTRODUCTION

A. Background

An alcoholism and drug abuse intermediate care facility (ICF) is a facility that provides treatment for substance abuse disorders (SUDs). The Maryland State Health Plan (SHP) regulations define ICFs as facilities that provide "medically monitored intensive inpatient services," as defined by the American Society of Addiction Medicine (ASAM). Using the ASAM taxonomy (See Figure 1) for levels of care in programs and facilities involved in prevention and treatment of SUDs, the withdrawal management and treatment services provided by ICFs are classified as Level 3.7. The ASAM levels of care are used by the Maryland Department of Health's Behavioral Health Administration (BHA) to classify levels of SUDs treatment in Maryland that BHA oversees.

Figure 1



Source: The ASAM Criteria - American Society of Addiction Medicine
http://asamcontinuum.org/knowledgebase/what-are-the-asam-levels-of-care/

Among facilities and programs that provide services for SUDs patients, a Certificate of Need (CON) is only required for facilities providing Level 3.7 and ASAM Level 4.0 (hospital-level) medically managed intensive inpatient services. The Commission does not regulate the spectrum of lower-level withdrawal management (WM) and treatment programs (Level 3.5 and below), which include both outpatient programs and residential facilities. Please see Appendix 2 for a crosswalk and description of ASAM level services. A CON is required to establish or relocate an ICF or to establish, relocate, or add beds to a hospital-level treatment service. Once established, a licensed and operating ICF may add beds without CON review and approval. CON requirements

for the addition of ICF beds by an existing ICF were eliminated from the scope of CON regulation in 2019. Because this change eliminated the Commission's control of the inventory of ICF beds, it made the bed need projection standard in the current SHP obsolete.

The State Health Plan regulations for ICFs (COMAR 10.24.14) create a two-track definition of ICFs with distinct regulatory requirements. "Track One" ICFs admit a majority of private-pay patients and are required to provide no less than 15 percent of the facility's annual patients days to the "indigent and gray area population," subject to findings with respect to financial feasibility. A "Track Two" ICF is a facility with publicly-funded beds that reserve at least 50 percent of their proposed annual adolescent or adult bed capacity for indigent or gray area patients. Indigent patients are those who qualify for services under the Maryland Medicaid program. Gray area patients have an annual income, from any source, that is no more than 180 percent of the current Federal Poverty Index and have no insurance for alcohol and drug abuse treatment services. The SHP regulations governing review of ICFs can be accessed at: http://dsd.state.md.us/artwork/10241401.pdf

B. The Applicant

DWI Services, Inc., d/b/a Avenues Recovery Center of Maryland (Avenues) is owned by Yehuda Alter (65%) and Yosef Cohen (35%). DWI Services, Inc. was formed in July 1991 and Avenues Recovery of Maryland, LLC, acquired all of DWI Services, Inc.'s stock in 2017. DWI Services d/b/a Avenues Recovery Center of Maryland will be the holder of the license for the proposed ICF. It is based in Lakewood, New Jersey.

The applicant operates Avenues Recovery Center at Prince Frederick, a facility for treatment of SUDs, at 125 Fairground Road in Prince Frederick (Calvert County). This is the project site. Applicant operates a second Maryland facility, with the same ownership, an ICF, Avenues Recovery Center of Chesapeake Bay, Inc. in Cambridge (Dorchester County). Avenues-Chesapeake Bay obtained a CON to establish a 20-bed Track One ICF in October 2021. In May of this year, Avenues- Chesapeake Bay notified MHCC of its plan to add 84 additional ICF beds.

Avenues Recovery Center operates eight other treatment facilities for SUDs in Indiana, Louisiana, New Hampshire, and Pennsylvania. (DI # 10, p. 1 and Ex. 30). Avenues Recovery Center of Oklahoma was sold in 2020 and Valley Forge (Pennsylvania) sold in 2021 and are now operated by an unrelated provider. Avenues Recovery Center of Central Jersey was closed in 2018 and is currently vacant. (DI #10, p. 1). Further information is available at: www.avenuesrecovery.com.

Yehuda Alter and Yosef Cohen are also principles for Rehab Ventures, LLC, a management company for all Avenues health care facilities and Avenues Recovery Center, LLC, a limited liability company, that maintains a website providing information on all the treatment programs and services available at the ten Avenues programs.

C. The Project

Avenues is proposing to establish a 20-bed "Track One" ICF for adults in its existing Prince Frederick. The applicant currently operates as a 93-bed center for the treatment of SUDs, offering a continuum of care from Level 1.0 Outpatient to Level 3.5 Residential-High Intensity services. It is accredited by The Joint Commission. (DI #3, p. 19).

The establishment of this existing treatment center as an ICF will not require construction or renovation expenditures. Dual certification of beds for use at either residential or inpatient (3.7 ICF) levels of service is allowed by BHA and the Maryland Medicaid program. In this case, 20 of the existing Avenues Recovery Center's beds will be available for use as inpatient beds, providing a program of withdrawal management and treatment services consistent with ASAM Level 3.7 for patients needing medically monitored intensive inpatient services.

The total estimated cost for the proposed project is $55,000, for legal and other consulting services. The project will be funded with cash.

D. Summary of Staff Recommendation

Staff recommends approval of the Avenues project because it complies with the applicable standards in COMAR 10.24.14, the SHP Chapter addressing the review of ICF projects. The project is a cost-effective approach to expanding ICF capacity in Southern Maryland, making this level of care more available and accessible, and indicators of viability are positive. Staff recommends that, if the Commission approves a CON for this project, the following three conditions be included regarding the provision of care to the indigent and gray area population, accreditation, transfer agreements, and referral agreements with providers of outpatient alcohol and drug abuse programs:

1. Avenues Recovery Center of Maryland shall document the provision of a minimum of 15% of patient days to indigent and gray area patients, as defined at COMAR 10.24.14.08B(9) and (11), by submitting annual reports auditing its total days and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission following each fiscal year, from the project's inception and continuing for five years thereafter.
2. Avenues Recovery Center of Maryland must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by The Joint Commission (TJC) or another accrediting body approved by the Maryland Department of Health prior to First Use approval by the Commission, and must timely receive final accreditation by TJC or another approved accrediting body. [COMAR 10.24.14.05H]
3. Avenues Recovery of Maryland shall notify the Commission and the Behavioral Health Administration, in writing, within fifteen days after it receives notice that its accreditation has been revoked or suspended or should

it lose its State license. If its accreditation has been revoked or suspended for reasons related to health or safety or it loses its State license, Avenues Recovery of Maryland shall cease operation until the Behavioral Health Administration notifies the Commission that the deficiencies have been corrected. [COMAR 10.24.14.05H]

II. PROCEDURAL HISTORY

A. Record of the Review

Please see Appendix 1, Record of the Review.

B. Local Government Review and Comment

No local government agencies submitted comments on this project.

C. Other Support and Opposition to the Project

Avenues submitted letters supporting the project from public officials and other health care providers. (DI #3, Exh. 29 and #10, Exh. 33).

- Andrea McDonald-Fingland, Director, Calvert County Local Behavioral Health Authority
- Doris McDonald, Behavioral Health Director, Calvert County Health Department Behavioral Health
- Christina Trenton, Chief Operating Officer, Wells House (a provider of residential and outpatient treatment for SUDs in Hagerstown/Washington County)
- Jennifer Wheeler, Clinical & Community Outreach, New Life Addiction Counseling & Mental Health Services (a provider of outpatient treatment for SUDs based in Pasadena/Anne Arundel County)

III. REVIEW AND ANALYSIS

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 relevant SHP chapter is COMAR 10.24.14, Alcoholism and Drug Abuse Intermediate Care Facility Treatment Services (ICF Chapter). The ICF Chapter, at Regulation .05, includes the following CON Approval Rules and Review Standards for New Substance Abuse Treatment Facilities and for Expansions of Existing Facilities:

.05A. Approval Rules Related To Facility Size. Unless the applicant demonstrates why a relevant standard should not apply, the following standards apply to applicants seeking to establish or to expand either a Track One or a Track Two intermediate care facility.

(1) The Commission will approve a Certificate of Need application for an intermediate care facility having less than 15 beds only if the applicant dedicates a special population as defined in Regulation .08.

(2) The Commission will approve a Certificate of Need application for a new intermediate care facility only if the facility will have no more than 40 adolescent or 50 adult intermediate care facility beds, or a total of 90 beds, if the applicant is applying to serve both age groups.

(3) The Commission will not approve a Certificate of Need application for expansion of an existing alcohol and drug abuse intermediate care facility if its approval would result in the facility exceeding a total of 40 adolescent or 100 adult intermediate care facility beds, or a total of 140 beds, if the applicant is applying to serve both age groups.

Avenues seeks to establish a 20-bed adult Track One ICF program. This CON application is consistent with Subsection (2) of this standard. Subsections (1) and (3) is not applicable. As noted previously, Maryland law was amended, in 2019, to eliminate additions of bed capacity by existing ICFs from the scope of CON regulation. Thus, issuance of the proposed CON will not fix the bed capacity of this proposed ICF at the proposed 20 beds. Given the reported size of the existing Avenues Center, 93 beds, ICF bed capacity could be increased substantially, with no regulatory oversight by MHCC, if the project is approved and, subsequently, certified for operation as an ICF by the Maryland Department of Health.

Staff concludes that the project meets this standard.

.05B. Identification of Intermediate Care Facility Alcohol and Drug Abuse Bed Need.

(1) An applicant seeking Certificate of Need approval to establish or expand an intermediate care facility for substance abuse treatment services must apply under one of the two categories of bed need under this Chapter:

(a) For Track One, the Commission projects maximum need for alcohol and drug abuse intermediate care beds in a region using the need projection methodology in Regulation .07 of this Chapter and updates published in the *Maryland Register*.

The bed need projection methodology for Track One facilities has been made obsolete by the previously noted 2019 amendments to Maryland law. Using the methodology in order to avoid oversupplying the market with ICF beds cannot be equitably achieved through its use because MHCC no longer has regulatory oversight of the expansion of ICF bed capacity and, thus, no longer has regulatory control over the supply of ICF beds. Its authority is limited to reviewing proposals to establish or relocate ICFs. The applicant referenced this finding by MHCC staff in the Commission's review of its Cambridge center in 2021. (DI #3, p. 36).

Staff notes that Avenue's has applied for authority to establish its Prince Frederick Center as a Track One ICF. However, it has not projected operating as a Track One ICF. The applicant forecasts that, in the three years of 2022 to 2024, an average of 69.7% of it patients will be Medicaid enrollees. (DI #3, Tab #5, Table D)

Commission staff met with the applicant to clarify the basis for this seeming disparity between its desired track and its projected track. It stated that it was uncomfortable applying as a Track Two because of concerns about additional requirements and unknown future implications.

Staff Analysis and Recommendation

As noted, the bed need methodology in the existing ICF chapter applicable to Track One ICFs cannot logically or equitably be applied in this review. Therefore, this standard is not applicable in this review.

.05C. Sliding Fee Scale. An applicant must establish a sliding fee scale for gray area patients consistent with the client's ability to pay.

Avenues states that the facility "will utilize a sliding fee schedule for uninsured and unfunded persons consistent with the individual's ability to pay and based on the Federal Poverty Guidelines…." (DI #3, p. 16). The applicant indicates the following fee schedule utilizes "the discount percentages from the standard billing rate charged to insurance carriers charged for each service." (DI #3, Exh. 8, pp. 1-2).

Table III-1: Avenues Recovery Center ICF, Prince Frederick
Sliding Fee Scale

Individual's Income based on Federal Poverty Guidelines (FPG)	Discount
< =100% of FPG	75%
<=150% but >100% of FPG	50%
<=200% but >150% of FPG	25%

Source: DI #3, p. 16.

Staff concludes that the application meets this standard.

.05D. Provision of Service to Indigent and Gray Area Patients.

(1) Unless an applicant demonstrates why one or more of the following standards should not apply or should be modified, an applicant seeking to establish or to expand a Track One intermediate care facility must:

(a) Establish a sliding fee scale for gray area patients consistent with a client's ability to pay;

Avenues submitted a sliding fee scale, which was discussed in the prior standard.

(b) Commit that it will provide 30 percent or more of its proposed annual adolescent intermediate care facility bed days to indigent and gray area patients; and

This is not applicable. The facility is not proposed to serve adolescents.

(c) Commit that it will provide 15 percent of more of its proposed annual adult intermediate care facility bed days to indigent or gray area patients.

This standard requires Track One ICFs to serve a minimum percentage of indigent and gray area patients. Applicants are required to establish a sliding fee scale for gray area patients consistent with a client's ability to pay and commit to provide a specific percentage of bed days to indigent and gray area patients. The standard permits an applicant to demonstrate why one or more of the requirements should not apply. The standard also offers applicants the opportunity to propose an alternative to providing the minimum required indigent and gray area patient days so long as the availability of ICF services for indigent or gray area patients in the applicant's health planning region increases.[1] Applicants can base this alternative on consideration of specific population needs and financial feasibility.

Avenues states that it is "committed to provide at least 15 percent of its proposed annual adult intermediate care facility bed days to indigent or gray area patients." (DI #3, p.16). Avenues' Revenue and Expense Statement indicates that about 68% of the patient days that were provided at the facility in CY 2020 and CY 2021 were for Medicaid patients.[2] (DI #3, Tab 5, Table D, Revenues and Expenses, Uninflated, Entire Facility). The applicant "anticipates that 65% of the ICF beds will serve Medicaid patients" by CY 2024. (DI #3, pp. 16-17 and Tab 5, Table F, Revenues and Expenses, Uninflated, New Service).

To ensure that it meets this target, Avenues indicates it will track ICF bed utilization daily by payor mix, including a category for gray area and indigent patients, reviewing this data at least monthly. Because the applicant currently accepts Medicaid patients into its outpatient and residential programs, "it does not foresee a drop" in meeting the requirements of this standard. (DI #3, p. 17). If the number of gray area or indigent patient days falls below 15 percent, it states that "Avenues is confident that outreach efforts in addition to already executed referral agreements will enable Avenues to quickly raise its percentage to above 15 percent."

Staff Analysis and Recommendation

Staff recommends that the Commission find the application to comply with this standard and also recommends that, if the Commission approves this application, it bind the approval with the following condition:

---

[1] Parts 2 through 4 of this standard are not shown here for brevity.

[2] The Prince Frederick Center did not operate as an ICF in these years; rather, it operated as an outpatient and residential-level treatment center.

Avenues Recovery Center of Maryland shall document the provision of a minimum of 15% of patient days to indigent and gray area patients, as defined at COMAR 10.24.14.08B(9) and (11), by submitting annual reports auditing its total days and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission following each fiscal year, from the project's inception and continuing for five years thereafter.

Subsections .05D(2), (3), and (4) of this standard apply to existing Track One ICFs and are not applicable to this project.

.05E. Information Regarding Charges. An applicant must agree to post information concerning charges for services, and the range and types of services provided, in a conspicuous place, and must document that this information is available to the public upon request.

Avenues states that it "agrees to post a fee schedule describing the range and types of services, and their respective charges" in a conspicuous place and will make this information available to the public upon request. (DI #3, pp. 17-18). The applicant provided an example of the announcement it will post to the public (DI #12, Exh. 36) and an example of a table with the range and type of services provided and the charges for these services offered at Avenues. (DI #3, Exh. 10).

Staff concludes that the applicant complies with this standard.

.05F. Location. An applicant seeking to establish a new intermediate care facility must propose a location within a 30-minute one-way travel time by automobile to an acute care hospital.

Avenues states that Calvert Health Medical Center in Prince Frederick is about two miles and a six-minute one-way automobile drive from its proposed ICF site. (DI # 3 p. 18).

Staff concludes that the facility location meets this standard.

.05G. Age Groups.

(1) An applicant must identify the number of adolescent and adult beds for which it is applying, and document age-specific treatment protocols for adolescents ages 12-17 and adults ages 18 and older.

(2) If the applicant is proposing both adolescent and adult beds, it must document that it will provide a separate physical, therapeutic, and educational environment consistent with the treatment needs of each age group including, for adolescents, providing for continuation of formal education.

(3) A facility proposing to convert existing adolescent intermediate care substance abuse treatment beds to adult beds, or to convert existing adult beds to adolescent beds, must obtain a Certificate of Need.

The applicant states that the proposed 20-bed ICF will serve adults (18+ years). Avenues provides copies of its Treatment Models and Treatment Planning protocols that indicate it will be age-specific for adults ages 18 years and older. (DI #3, Exh. 11 and 12). Subparts (2) and (3) are not applicable because the applicant does not propose to serve adolescents nor is it converting existing adult or adolescent ICF beds to an older or younger age group.

Staff concludes that the applicant complies with this standard.

.05H. Quality Assurance.

(1) An applicant must seek accreditation by an appropriate entity, either the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), in accordance with CFR, Title 42, Part 440, Section 160, the CARF…The Rehabilitation Accreditation Commission, or any other accrediting body approved by the Department of Health and Mental Hygiene. The appropriate accreditation must be obtained before a Certificate of Need-approved ICF begins operation, and must be maintained as a condition of continuing authority to operate an ICF for substance abuse treatment in Maryland.

(a) An applicant seeking to expand an existing ICF must document that its accreditation continues in good standing, and an applicant seeking to establish an ICF must agree to apply for, and obtain, accreditation prior to the first use review required under COMAR 10.24.01.18; and
(b) An ICF that loses its accreditation must notify the Commission and the Office of Health Care Quality in writing within fifteen days after it receives notice that its accreditation has been revoked or suspended.
(c) An ICF that loses its accreditation may be permitted to continue operation on a provisional basis, pending remediation of any deficiency that caused its accreditation to be revoked, if the Office of Health Care Quality advises the Commission that its continued operation is in the public interest.

Avenues documented accreditation by the Joint Commission (TJC) and licensure by the Behavioral Health Administration of MDH.[3] (DI #3, p. 19 and Exh. 13, 14).

The applicant states that it understands and acknowledges that if it loses its accreditation, that Avenues:

[3] The Behavioral Health Administration accepts four accreditation organizations for ICFs. https://health.maryland.gov/bha/Documents/MDH%20Approved%20AOs%20list%20updated%209.27.17%20(1).pdf.

(a) Must notify the Commission and the Office of Health Care Quality in writing within fifteen (15) days after it receives notice that its accreditation has been revoked or suspended; and
(b) May be permitted to continue operation on a provisional basis, pending remediation of any deficiency that caused its accreditation to be revoked, if the Office of Health Care Quality advises the Commission that its continued operation is in the public interest. (DI #3, pp. 19-20).

Staff notes that the Behavioral Health Administration of MDH, rather than OHCQ, is the division currently overseeing this requirement. Based on Avenues affirmation, staff concludes that the proposed project complies with this standard. It is recommended that, if the Commission approves this application, it attaches the following condition:

Avenues Recovery Center of Maryland must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by The Joint Commission (TJC) or another accrediting body approved by the Maryland Department of Health prior to First Use approval by the Commission, and must timely receive final accreditation by TJC or another approved accrediting body. [COMAR 10.24.14.05H]

(2) A Certificate of Need-approved ICF must be certified by the Office of Health Care Quality before it begins operation, and must maintain that certification as a condition of continuing authority to operate an ICF for substance abuse treatment in Maryland.

(a) An applicant seeking to expand an existing ICF must document that its certification continues in good standing, and an applicant seeking to establish an ICF must agree to apply for certification by the time it requests that Commission staff perform the first use review required under COMAR 10.24.01.18.
(b) An ICF that loses its State certification must notify the Commission in writing within fifteen days after it receives notice that its accreditation has been revoked or suspended, and must cease operation until the Office of Health Care Quality notifies the Commission that deficiencies have been corrected.
(c) Effective on the date that the Office of Health Care Quality revokes State certification from an ICF, the regulations at COMAR 10.24.01.03C governing temporary delicensure of a health care facility apply to the affected ICF bed capacity.

The applicant states that after Commission approval of the project it will seek certification by BHA for ICF (3.7 and 3.7WM) operations. The applicant also states that it understands and acknowledges that if it loses its certification, it must notify the Commission in writing within fifteen days after it receives notice that its certification has been revoked or suspended, and must cease operation until the Office of Health Care Quality (now BHA, for ICFs) notifies the

Commission that deficiencies have been corrected. It also acknowledges that, effective on the date that the Office of Health Care Quality (now BHA, for ICFs) revokes State certification from an ICF, the regulations at COMAR 10.24.01.03C governing temporary delicensure of a health care facility apply to the affected ICF bed capacity.

Upon CON approval of the project, Avenues indicates it will obtain and maintain preliminary accreditation from TJC and then BHA licensure for Level 3.7 and 3.7WM services. (DI #3, p. 19).

Staff concludes that the applicant meets this standard, but recommends that if the project application is approved by the Commission, the holder of the CON be bound by the following condition:

> *Avenues Recovery of Maryland shall notify the Commission and the Behavioral Health Administration, in writing, within fifteen days after it receives notice that its accreditation has been revoked or suspended or should it lose its State license. If its accreditation has been revoked or suspended for reasons related to health or safety or it loses its State license, Avenues Recovery of Maryland shall cease operation until the Behavioral Health Administration notifies the Commission that the deficiencies have been corrected. [COMAR 10.24.14.05H]*

.05I. Utilization Review and Control Programs.

(1) An applicant must document the commitment to participate in utilization review and control programs, and have treatment protocols, including written policies governing admission, length of stay, discharge planning, and referral.

Avenues states that it "has utilization review and control programs in place to ensure proper and appropriate record keeping for all patients." (DI #3, p. 21). The applicant provided copies of its written policies, which include policies covering utilization review and patient clinical records (DI #3, Exh. 15), treatment planning protocols (DI #3, Exh. 11 and 12), admissions (DI #3, Exh. 16), discharge planning and length of stay (DI #3, Exh. 17), communication (referrals) (DI #3, Exh. 18), and patient assessments (DI #3, Exh. 19).

The applicant states that utilization review includes the daily treatment team, which consists of personnel from clinical, medical, and case management, which meets to review current census and patient identified needs. The Clinical Supervisor conducts weekly group supervision and monthly individual supervision that include record reviews and identifying areas for improvement. Also, the Clinical Supervisor is responsible for reviewing and signing off on assessments and progress notes on an ongoing basis. The utilization review will include chart reviews for all open and closed records. (DI #3, p. 21).

Avenues states that it has policies in place for admissions, length of stay, discharge planning, and referral that have been approved by TJC. (DI #3, p. 21). Finally, working with Rehab Ventures, the facility will use utilization review specialists to review all charts on a regular basis, to discuss identified needs with insurance companies, and to ensure that documentation is adequate and that each patient need is adequately addressed. (DI #3, p. 21).

(2) An applicant must document that each patient's treatment plan includes, or will include, at least one year of aftercare following discharge from the facility.

Avenues Discharge Planning Policy states that "All (discharge) plans include at least one (1) year of aftercare following discharge from Avenues." (DI #3, p. 22 and Exh. 17, p. 2). The applicant states that the aftercare plans are developed with the knowledge and cooperation of the patient, primary therapist, treatment team, and other parties as deemed appropriate, and that staff members will assist patients in obtaining needed services prior to discharge. DI #3, p. 22).

Staff Analysis and Recommendation

Staff concludes that the application meets the utilization review standard.

.05J. Transfer and Referral Agreements.

(1) An applicant must have written transfer and referral agreements with facilities capable of managing cases which exceed, extend, or complement its own capabilities, including facilities which provide inpatient, intensive and general outpatient programs, halfway house placement, long-term care, aftercare, and other types of appropriate follow-up treatment.

(2) The applicant must provide documentation of its transfer and referral agreements, in the form of letters of agreement or acknowledgement from the following types of facilities:

(a) Acute care hospitals;
(b) Halfway houses, therapeutic communities, long-term care facilities, and local alcohol and drug abuse intensive and other outpatient programs;
(c) Local community mental health center or center(s);
(d) The jurisdiction's mental health and alcohol and drug abuse authorities;
(e) The Alcohol and Drug Abuse Administration and the Mental Hygiene Administration;
(f) The jurisdiction's agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services; and,
(g) The Department of Juvenile Justice and local juvenile justice authorities, if applying for beds to serve adolescents.

Avenues submitted Table III-2 listing the transfer and referral agreements between Avenues Recovery Center of Maryland with the following SUD organizations and providers in Southern Maryland.

Table III-2: Avenues Recovery Center ICF, Prince Frederick
Transfer and Referral Agreements

Provider Category	Agreement or contact with:
Acute care hospitals	Medstar St. Mary's Hospital
Halfway houses, therapeutic communities, long-term care facilities, and local alcohol and drug abuse intensive and other outpatient programs	Second Chance Addiction Care Turning Corners Freedom Center Wells House New Life Addiction Counseling
Local community mental health center or center(s)	Calvert County Health Department, Behavioral Health Division
The jurisdiction's mental health and alcohol and drug abuse authorities	Calvert County Health Department, Behavioral Health Division
The Behavioral Health Administration of MDH (formerly the Mental Hygiene Administration with its division of Alcohol and Drug Abuse)	Calvert County Health, Local Behavioral Health Authority Calvert County Heath, Behavioral Health Department
The jurisdiction's agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services	Turning Corners
Other	N/A

Source: DI #10, p. 8.

Staff concludes that Avenues has executed transfer and referral agreements and recommends that the Commission find the application in compliance with this standard.

.05K. Sources of Referral.

(1) An applicant proposing to establish a new Track Two facility must document to demonstrate that 50 percent of the facility's annual patient days, consistent with Regulation .08 of this Chapter, will be generated by the indigent or gray area population, including days paid under a contract with the Alcohol and Drug Abuse Administration or a jurisdictional alcohol or drug abuse authority.

Avenues states that this standard is not applicable because it identifies its proposed ICF as a Track One facility. As previously noted, despite this self-identification, it projects operating as a Track Two ICF that will provide a majority of its services to indigent patients

(2) An applicant proposing to establish a new Track One facility must document referral agreements to demonstrate that 15 percent of the facility's annual patient days required by Regulation .08 of this Chapter will be incurred by the indigent or gray area populations, including days paid under a contract with the Alcohol or Drug Abuse Administration or a jurisdictional alcohol or drug abuse authority, or the Medical Assistance program.

Avenues states that its facility, as an existing provider of SUD services, has developed contacts and relationships with various organizations, including for profit, non-profit, and Federally Qualified Health Centers (FQHCs). (DI #3, pp. 24-25). The applicant indicates that Avenues provided approximately 68% of its residential-level patient days to Medicaid-eligible patients in CY2021 and it projects that its proposed ICF program of service will provide a similar level of service to Medicaid patients. (DI #10, pp. 8-9). Avenues is "committed to provide at least 15% of its proposed annual adult intermediate care facility beds to indigent or gray area patients." DI# 3, p. 16).

The applicant submitted copies of transfer and referral agreements with the Prince Frederick facility which will house the proposed ICF and the following organizations: (DI #3, Exh. 22, #10, Exh. 32 and 33, and DI #12, Exh. 37).

1. Medstar St. Mary's Hospital, Leonardtown/St. Mary's County;
2. Calvert County Health Department, Behavioral Health;
3. The Freedom Center (outpatient treatment) Gaithersburg/Montgomery County;
4. New Life Addiction Counseling & Mental Health Services (outpatient treatment) Pasadena/Anne Arundel County)
5. Second Chance Addiction Care, LLC (outpatient treatment) Potomac/Montgomery County;
6. Turning Corners, Inc.(outpatient treatment) Bel Air/Harford County; and
7. Wells House (residential and outpatient treatment, Hagerstown/Washington County)

Avenues submitted a list of 93 organizations that made referrals of patients resulting in admission at Avenues Recovery Center at Prince Frederick in CY 2021. (DI #10, Exh. 34).

Staff Analysis and Recommendation

Staff concludes that the applicant meets this standard.

.05L. In-Service Education. An applicant must document that it will institute or, if an existing facility, maintain a standardized in-service orientation and continuing education program for all categories of direct service personnel, whether paid or volunteer.

The applicant provided a copy of the orientation and training policy for all new employees, volunteers, trainees, and interns for Avenues Recovery Center facilities. (DI #3, Exh. 23, pp. 1-3). All new staff must complete the mandatory training prior to beginning their job duties and will

receive annual training updates. The policy states that Avenues will "provide ongoing development and educational opportunities for the enhancement of knowledge, skills, and abilities, adhering to regulatory compliance regarding training required for certain credentialed positions." The applicant states that it shall commit resources to programs which meet organizational mission, improve efficiency, and/or encourage professional development.

Staff concludes that the application meets this standard.

.05M. Sub-Acute Detoxification. An applicant must demonstrate its capacity to admit and treat alcohol or drug abusers requiring sub-acute detoxification by documenting appropriate admission standards, treatment protocols, staffing standards, and physical plant configuration.

Avenues has provided a copy of a "Detoxification" policy. (DI #3, Exh. 24, Sub-Acute Detoxification). The applicant's response provides an outline that addresses the program's admissions standards, treatment protocols, staffing standards, and physical plant configuration for the detoxification program. (DI #3, pp. 26-28).

Physical Room Configuration of the ICF

Staff raised concerns about the six-bed rooms designated for use within the existing center in delivering ICF services. Avenues operates in a multi-level building, with 48 beds on the first level and 45 beds on the second level. The applicant states that it remodeled its facilities in 2021 (DI #10, p. 3). The 20-bed ICF program was originally proposed to operate with four patient rooms on the first floor (three six-bed rooms and one semi-private room). Avenues states that the rooms are currently being used for Level 3.3 and 3.5 residential patients. (DI #12, p. 1).

The three six-bed rooms ranged in size from 367 square feet (SF) to 403 SF (63 to 67 SF per bed). The semi-private room, at 195 SF, yields 98 SF per bed. (DI #3, Exh. 5).

Each six-bed room was proposed to also share bathroom facilities with another six-bed room. For the proposed three six-bed rooms, twelve patients would share two sinks, two toilets and two shower stalls. When staff questioned the adequacy of this room configuration for the proposed ICF, the applicant responded that the room configuration met licensing and accreditation standards for drug and alcohol treatment programs operating in Maryland and that there are no regulations preventing the use of six-bed rooms for ICF services. The Avenues room dimensions comply with the BHA regulations at COMAR 10.47.01.05 on Environmental Requirements for treatment centers.[4] (DI#12, pp.3-7).

Because of ongoing concerns about the density of the proposed six-bed rooms, staff looked to the Facility Guidelines Institute (FGI) requirements for guidance. These guidelines address the

[4] The regulations are available at: http://mdrules.elaws.us/comar/10.47.01.05.

design of "long-term residential substance abuse treatment facilities," described as typically having an average length of stay of 18 to 24 months.[5] (DI #12, p. 6). Avenues noted that there is no standard or requirement in the State Health Plan that requires them to meet FGI guidelines.

After meeting with MHCC staff, Avenues reconsidered the original room layout and identified another set of rooms, on the second floor of the existing center for the proposed ICF patient census. The ICF would use two four-bed and four three-bed rooms. The four bedrooms have 321 SF (about 80 SF per patient) and the three-bed rooms have 282 SF (about 94 SF per bed). The rooms will provide more than three feet of space between each bed and each room has its own bathroom. The applicant states that these rooms "were selected because they are on the far ends of the second-floor hallway, and they allow for gender specific sides. In addition, these rooms are the furthest from the lounge and gym thus keeping these bedrooms away from areas with loud volumes." The rooms are the nearest to fire escape routes that lead directly outside of the second floor. (DI #19, p.1).

See Appendix 3 for a Floorplan Diagram. (DI # 3, Exh. 5 and DI #19, Exh. 41).

Staff Analysis and Recommendation

In the view of staff, the applicant's response improved the physical space for patients and concludes that the application meets this standard.

.05N. Voluntary Counseling, Testing, and Treatment Protocols for Human Immunodeficiency Virus (HIV). An applicant must demonstrate that it has procedures to train staff in appropriate methods of infection control and specialized counseling for HIV-positive persons and active AIDS patients.

Avenues submitted a copy of its HIV policy. (DI #3, Exh. 25). The facility will provide initial HIV/AIDS counseling, risk assessment, and referral support for testing, post-test counseling, appropriate treatment, and related needs to patients. The applicant states that it will provide staff with training on "Infection Control, Communicable Diseases, Universal Precaution, and in counseling HIV-positive persons and active AIDS patients."

Staff concludes that the application meets this standard.

.05O. Outpatient Alcohol & Drug Abuse Programs.

(1) An applicant must develop and document an outpatient program to provide, at a minimum: individual needs assessment and evaluation; individual, family, and

[5] The Facility Guidelines Institute, Guidelines for Design and Construction of Residential Health, Care and Support Facilities, 2018 edition, Section 4.3 Specific Requirements for Long-Term Residential Substance Abuse Treatment Facilities, pp. 219-234.

group counseling; aftercare; and information and referral for at least one year after each patient's discharge from the intermediate care facility.

The applicant submitted a copy of its policy on Outpatient Treatment for patients who meet the placement criteria for this service. (DI #3, pp. 28-29 and Exh. 26). The facility currently operates outpatient services (ASAM Level 1.0) and intensive outpatient programs (ASAM Level 2.1). (DI #3, Exh. 13). The Outpatient Treatment policy addresses: individual needs assessment and evaluation; individual, family, and group counseling: and aftercare. (DI #3, Exh. 26, pp. 1-2). The applicant states that the discharge plan will include at least one year of aftercare following discharge from Avenues. (DI #3, Exh. 17, p. 2).

(2) An applicant must document continuity of care and appropriate staffing at off-site outpatient programs.

The applicant states that "Avenues ensures continuity of services by providing…a capacity of 50 patients with a counselor-patient ratio of 1:35. If a patient is unable to participate in the Avenues outpatient program, the Case Management Team will facilitate alternate arrangements for patients near their residences or sober homes." (DI #10, p.9 and DI #3, Exh. 27, p. 2).

(3) Outpatient programs must identify special populations as defined in Regulation .08, in their service areas and provide outreach and outpatient services to meet their needs.

The regulation defines "special populations" as "those populations that historically have not been or are not served by the alcohol and drug abuse treatment delivery system including, women and women with dependent children, the elderly, the homeless, the poor, adolescents, persons with mixed dependencies, hearing impaired, the disabled, minorities, and others with special needs." The applicant states that Avenues "treats all patients who meet its admission criteria, including a projected 65 percent of Medicaid inpatient days, which includes special populations as defined by COMAR 10.24.14.08.24." (DI #3, p. 29).

(4) Outpatient programs must demonstrate the ability to provide services in the evening and on weekends.

The applicant states that "Avenues is committed to ensuring access to services on weekends and evenings" by coordinating appointments with the patient's case manager or counselor. (DI #3, Exh. 26, p. 1 and 3). Avenues will have designated on-call staff who will be available by phone 24 hours a day, 7 days a week.

(5) An applicant may demonstrate that outpatient programs are available to its patients, or proposed patient population, through written referral agreements that meet the requirements of (1) through (4) of this standard with existing outpatient programs.

The applicant states that Avenues has outpatient programs that are available to patients and proposed patients through written referral agreements, as documented by the referral agreements submitted in its CON application. (DI #3, Exh. 22).

Staff Analysis and Recommendation

Staff recommends that the Commission find that the application meets this standard.

.05P. Program Reporting. Applicants must agree to report, on a monthly basis, utilization data and other required information to the Alcohol and Drug Abuse Administration's Substance Abuse Management Information System (SAMIS) program, and participate in any comparable data collection program specified by the Department of Health and Mental Hygiene.

BHA has contracted with Optum, Inc., since January 1, 2020, as the Administrative Service Organization (ASO) to collect data from publicly-funded providers (Track Two) only. Staff confirmed that Optum, Inc., continues to collect data for BHA. (DI #18). As a proposed Track One facility, Avenues would not be required to report utilization data to the State. However, staff recommends that the Commission find they should report utilization data to the State, given their self-identification as a Track One ICF and a forecasted ICF payor mix consistent with operation as a Track Two facility. Avenues states, in response to this standard, that it agrees to participate and report, on a monthly basis, utilization data and other required information "in any comparable data collection program" specified by the Maryland Department of Health. (DI #3, p. 30).

Staff concludes that the applicant meets this standard.

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.

As previously noted, the SHP need projection standard applicable to Track One ICFs is not applicable.

Avenues states that the primary service area for the proposed ICF, based on the ranked jurisdictional origin of the clients served by the Prince Frederick outpatient and residential facility, includes Anne Arundel, Prince George's, Charles, Calvert, Montgomery, Saint Mary's, and Baltimore Counties and Baltimore City. These jurisdictions are reported as providing about 70% of the existing center's total patients. The secondary service area, accounting for another 20 percent of total patients, includes Howard, Frederick, Kent, Harford, Wicomico, Queen Anne's, Dorchester, and Washington Counties. (DI #10, Table 1, p. 11).

The applicant states that more than half of it patients "come from zip codes requiring a 50-minute drive time or longer, with many coming from outside of Calvert County and Southern Maryland, as well as from out-of-state." (DI #10, pp. 11-12 and Table 1).

The Commission's inventory of Track One ICF beds in the Southern Maryland region (defined in the SHP as Calvert, Charles, Prince George's, and St. Mary's Counties) shows that there is one Track One ICF in Southern Maryland, the 64-bed RCA-Capital Region (RCA) facility in Waldorf (Charles County) and two Track Two ICFs with 59 beds at Hope House in Laurel (Prince George's County) and the 27 beds at Pyramid Walden in Charlotte Hall (St. Mary's County). The applicant states that RCA does not accept and treat Medicaid enrolled patients. Avenues states that although they are applying to establish a 20-bed Track One ICF, it projects operating in a manner that will result in a majority of its patient days being generated by an indigent population. It does project serving patients with private third-party payor plan coverage or public payors and will also obtain out-of-pocket payment for services. Avenues states that project approval would establish the "only Track One facility in Southern Maryland to which Medicaid recipients would have access." (DI #3, p. 40).

The applicant states the Maryland Opioid Operational Command Center identified a need for ICF bed capacity in Calvert County.[6] Avenues believes the proposed project will provide needed ICF-level treatment and WM services for Calvert County residents. Avenues also provided patient origin information for its current center's residential-level clients, indicating that over half come from zip code areas requiring a 50-minute or longer drive to Prince Frederick. The applicant suggests that utilization of this center indicates that the proposed ICF will be a "statewide resource" for SUD services. (DI#3, p.41).

Staff Analysis and Recommendation

Staff agrees with the applicant that the bed need projection methodology for Track One facilities is not applicable because the Commission no longer regulates all changes in ICF bed capacity, as discussed previously in this report. We note that, because this applicant projects operating in a manner consistent with a Track Two ICF rather than a Track One, with Medicaid as its largest payor source, application of a bed need projection, if still meaningful, would not be consistent with the SHP's requirements for consideration of Track Two ICFs, to which no limitations of a bed need forecast are applied.

The applicant has submitted information to support a finding that the project is needed. It indicates and provides information supporting the view that the proposed ICF will serve a regional Southern Maryland population but also draw clients from other regions of the State. The State

[6] The most recent quarterly Program Inventory (Q4/2021) published by the Maryland Opioid Operational Command Center's Opioid Intervention Team identifies the Southern Maryland region's jurisdictions as having "substantially implemented" high priority programming for ASAM Level 3.7 inpatient services, including withdrawal management, excepting Calvert County. Calvert's status is identified as "not planned."

Health Plan policy with respect to the number and distribution of ICF beds serving Medicaid clients, a major client group for this proposed ICF, is that Medicaid enrollees are a medically underserved population in Maryland with respect to inpatient addictions treatment.

On this basis, staff recommends that the Commission find that the proposed project does meet a population need for improved access to services for indigent households.

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.

Avenues states it reviewed the existing ICFs operating in Southern Maryland "to assure that Avenues is capable of providing the full range of services and continuity of care needed by patients seeking alcohol and drug abuse treatment services." (DI #3, p. 42). The applicant states that the creation of a full continuum of care requires that patients receive withdrawal management upon admission and subsequent treatment following WM, at an inpatient, residential, or outpatient level of care. It argues that approval of the proposed project will allow Avenues to provide a full range of services, by adding medically monitored intensive inpatient services for adults, to the levels of care it currently provides.

The applicant notes that the cost of the proposed project, $55,000 for legal and consulting expenses, is quite modest, indicative that creating the broader continuum of care possible through the project in Calvert County "could not be more cost effective." (DI #3, p. 43).

Staff Analysis and Recommendation

Staff recommends that the Commission find the proposed project is a cost-effective alternative for providing additional ICF service capacity available to all payor types in Southern Maryland.

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 Financial Resources

The estimated cost to establish the proposed ICF is $55,000. Since, in essence, the project will be implemented by overlaying an ICF program of service onto an existing 93-bed SUDs treatment center, there are no capital costs associated with establishing this program. The

estimates of spending are for legal ($40,000) and other consulting fees ($15,000). (DI #3, Tab 5, Table B Project Budget).

Benzion Spielman of Roth & Co., Certified Public Accountants & Consultants, has served as the accounting firm for the Avenues Group, including Avenues Recovery Center of Maryland, from its inception. (DI #3, Exh. 28). After a review of the Center's current financial information, which included recently filed income tax returns and internally generated financial statements for all facilities, the consultant's letter states that "The Centers have been a successful and profitable endeavor since they have begun operations…. The Centers have consistently achieved annual cash profits, in excess of approximately $1,900,000, on average."

The letter states that "There is no reason to believe that Avenues Recovery Center of Maryland would have any financial difficulty in successfully funding the certificate of need costs for this project…" The accountant states that "Since January 1, 2022, Avenues has continued to achieve positive cash flow and has been exceeding budgeted amounts." Mr. Spielman concludes that "Avenues Group of Drug Rehab Centers" has adequate funds to cover the costs associated for both the Certificate of Need and to cover any deficits in revenues over expenses at Avenues Recovery Center of Maryland. (DI #3, Exh. 28).

Projected Financial Performance

Table III-3 below provides the current and projected utilization for Avenues 93-bed facility. With the projected start of operation for the ICF program in early 2023, the applicant projects the 20-bed program will have an average annual occupancy rate of 75.0 percent in CY 2023 and stabilize at an average annual occupancy rate of 100.0 percent by CY 2024, the second full year of operation.

Table III-3: Avenues Recovery Center of Maryland, Prince Frederick
Current and Projected Utilization
CY 2022 through CY 2024

	Current Year	Projected Years	
	CY2022	CY2023	CY2024
Discharges			
Residential	810	833	803
ICF WM	17	258	344
ICF Inpatient treatment	17	262	349
Patient Days			
Residential	24,303	25,003	24,090
ICF WM	120	1,807	2,409
ICF Inpatient treatment	245	3,668	4,891
Average Length of Stay (days)			
Residential	30	30	30
ICF WM	7	7	7
ICF Inpatient treatment	14	14	14
Licensed Beds			
Residential	73	73	73
ICF Inpatient (all)	20	20	20
Bed Occupancy			
Residential	91.2%	93.8%	90.4%
ICF Inpatient (all)	5.0%	75.0%	100.0%

Source: DI #3, Tab 5, Exhibit D, Statistical Projections – Entire Facility and DI #10, Exh. 35, Table E, Statistical Projections - New Service.

The projected ICF average length of stay (ALOS) is seven days for patients using WM services and 14 days for post-WM treatment. As previously discussed, the approval of the proposed project will allow Avenues to offer a broader range of services and a broader continuum of care for its patients. Patients being stabilized through ICF-level services may be referred to Level 3.5 or 3.3 residential services or outpatient services offered at the Prince Frederick center or, if necessary, refer the patient to another SUD provider for appropriate ongoing care.

Avenues Revenue and Expense statement indicates that the 93-bed facility is anticipated to operate profitably in CY 2023, the ICF's first full year of operation.

Table III-4: Avenues Recovery Center of Maryland, Prince Frederick
Revenues and Expenses, CY 2020 through CY 2024

	Actual		Current Year Projected	Projected	
	CY2020	CY2021	CY2022	CY2023	CY2024
Revenue					
Inpatient Services	$13,569,878	$16,773,455	$26,484,809	$34,133,701	$37,027,567
Outpatient Services	$203,995	$23,400	$109,500	$109,500	$109,500
Gross Patient Service Revenues	$13,773,873	$16,796,855	$26,594,309	$34,243,201	$37,137,067
Allowance For Bad Debt	$117,952	$117,978	$187,618	$244,820	$259,189
Contractual Allowance	$6,888,336	$10,549,747	$17,213,400	$22,002,200	$24,177,600
Charity Care	-	-	$146,000	$146,000	$146,000
Net Patient Service Revenue	$6,767,585	$6,129,130	$9,047,291	$11,850,181	$12,554,278
Other Operating Revenues					
Ancillary Revenue	$402,138	$55,372	-	-	-
Interest Income	$2,184	$768	-	-	-
Covid Relief	$197,450	$344,391	-	-	-
Net Operating Revenue	$7,369,357	$6,529,661	$9,047,291	$11,850,181	$12,554,278
Expenses					
Salaries & Wages (including benefits)	$2,175,930	$1,893,221	$3,991,956	$4,488,428	$4,488,428
Contractual Services	-	-	$200,000	$300,000	$300,000
Interest on Current Debt	$216	$3,756	-	-	-
Current Depreciation	$52,408	$68,701	$50,000	$50,000	$50,000
Other Expenses					
Client-related Expenses	$345,591	$327,062	$625,823	$771,063	$793,875
Employee-related Expenses	$53,726	$82,406	$85,000	$96,000	$96,000
Insurance	$34,084	$44,714	$50,000	$50,000	$50,000
Professional Fees	$53,163	$56,476	$24,000	$24,000	$24,000
Marketing	$173,477	$180,033	$120,000	$120,000	$120,000
Billing & UR	-	-	$469,045	$612,050	$647,973
Utilities/Facility Costs	$599,087	$587,531	$266,143	$390,857	$390,857
Repairs & Maintenance	$44,208	$73,809	$60,000	$72,000	$72,000
Property Taxes	-	-	$60,000	$60,000	$60,000
Rent	-	-	$1,032,000	$1,032,000	$1,032,000
Management Fees	$1,657,000	$1,455,000	$1,740,000	$2,640,000	$2,640,000
General & Administrative	$407,320	$319,719	$150,000	$180,000	$180,000
Charitable Contributions	-	$60,000	-	-	-
Total Operating Expenses	$5,596,210	$5,152,428	$8,923,967	$10,886,398	$10,945,133
Income					
Income from Operation	$1,773,147	$1,377,233	$123,324	$963,783	$1,609,145
Net Income (Loss)	$1,773,147	$1,377,233	$123,324	$963,783	$1,609,145

Source: DI # 3, Tab 5, Table D Revenues & Expenses, Uninflated - Entire Facility.

With the proposed ICF program starting in early 2023, including adjustments for bad debt, contractual allowance, and charity care, Avenues projects that it will generate income from

operations immediately. Avenues expects to make a net profit of over $960,000 in the first year, increasing to over $1.6 million by CY 2024.

Work Force Projections

Avenues projects the ability to implement this proposed project by adding 8.5 full time equivalent (FTE) staff to its current base of 85.0 FTE staff (salaried and contractual) at its outpatient and residential treatment center. As shown in the following table, the applicant plans to add higher salaried administrative and direct care staff, at an average salary and wage expense of $70,173 per new FTE employee. Overall, the applicant is expecting the project to result in an increase of 3.8% in the average salary and wage expense for the center, increasing that figure to $51,213. The current average salary is $49,317 per FTE staff position.

Table III-5: Avenues Recovery Center of Maryland, Prince Frederick
Current (2022) and Projected (2024) Workforce

	Current		Changes		Projected	
	FTEs	**Expense**	**FTEs**	**Expense**	**FTEs**	**Expense**
Regular Employees						
Administration	2.0	$270,000	1.0	$135,000	3.0	$405,000
Direct Care	65.0	$2,510,000	7.0	$295,000	72.0	$2,805,000
Support	17.0	$625,000	0.0	0	17.0	$625,000
Regular Employees Total	84.0	$3,405,000	8.0	$430,000	92.0	$3,835,000
Contractual Employees						
Administration	1.0	$200,000	0.5	$100,000	1.5	$300,000
Contractual Employees Total	1.0	$200,000	0.5	$100,000	1.5	$300,000
Benefits		$586,956		$66,472		$653,428
Total Staff Expenses	85.0	$4,191,956	8.5	$596,472	93.5	$4,788,428

Source: DI# 3, Tab 5, Table G, Workforce Information.

Avenues states that it has a recruiter on staff and does not expect any problems in recruiting, hiring, and/or staffing the proposed program. (DI #10, p. 23).

Community Support

As previously discussed in this staff report, the proposed project received four letters of support. (DI #3, Exh. 29 and #10, Exh. 33). See Section II.C. of this report.

Staff recommends that the Commission find the proposed project is viable on the basis of resource availability and documentation of support.

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.

DWI Services, Inc., d/b/a Avenues Recovery Center of Maryland states they have not received prior approval for a CON in Maryland and this criterion is not applicable.

As stated previously, Avenues Recovery Center of Chesapeake Bay, LLC (Avenues-Chesapeake Bay), received CON approval in 2021 to establish a 20-bed Track One ICF in Cambridge. Avenues Recovery Center of Maryland and Avenues-Chesapeake Bay share common ownership—both are owned by Yehuda Alter and Yosef Cohen. The Applicant states they are not the same entity as Avenues- Chesapeake Bay and therefore Chesapeake's compliance with their previous CON should not be considered. However, the two entities are clearly affiliated with common ownership, a common management company, common staff, and attorneys. Their facilities offer the same services, and they refer to one another as "affiliated companies" in their applications. The Commission has interpreted this criterion to include entities with such distinct affiliations. [*In the Matter of Luminis Health Doctors Community Medical Center, Inc.,* DN. 21-16-2448 (Sep. 23, 2021) Luminis Health is the parent organization of both Doctors Community Medical Center and Anne Arundel Medical Center. MHCC considered CONs issued to both Doctors and AAMC in its evaluation of the CON application of Doctors; *In the Matter of Adventist Healthcare Shady Grove Medical Center*, DN 20-15-2443 (Apr. 15, 2021) All CONs issued to Adventist HealthCare, Inc. considered in review of the CON application of Adventist HealthCare Shady Grove Medical Center]. Interpreted in any other way, this criterion would have no meaningful purpose because each new project could avoid non-compliance with a prior CON by simply establishing a new entity. The Commission would never be able to review compliance with previous Certificates of Needs if this was strictly limited to the exact same legal entity.

MHCC issued a CON to Avenues- Chesapeake Bay in October 2021 with five conditions. While reviewing this application, MHCC discovered that Avenues- Chesapeake Bay failed to file a request for First Use Approval prior to starting operations for ICF program as is required by COMAR 10.24.01.18. It appears that Avenues-Chesapeake has been treating patients since February 2022. Avenues filed one quarterly report in January 2022 which stated they had not started operating and were still in the process of hiring staff. Avenues never filed any subsequent reports as required by the CON conditions. In May 2022, Avenues- Chesapeake Bay notified the Commission that they were adding 84 ICF beds. MHCC instructed Avenues to notify MHCC when they were ready to place the additional bed capacity into operation. Avenues never communicated with MHCC again.

MHCC notified Avenues- Chesapeake Bay's attorney, who is the same attorney for the Applicant, of their noncompliance. Avenues- Chesapeake Bay responded that they were not aware they had to continually file the quarterly reports and they thought the project was in good status

with MHCC after MHCC acknowledged their letter to increase the bed capacity in June 2022. Avenues- Chesapeake Bay has promised to submit a request for First Use Approval.

As part of its review of a project prior to first use, MHCC evaluates whether the project conforms to the requirements of the CON that was approved, including any conditions. Avenues-Chesapeake Bay's CON including the following five conditions:

1. Avenues Recovery Center of Chesapeake Bay shall document the provision of a minimum of 15% of patient days to indigent and gray area patients, as defined at COMAR 10.24.14.08B(9) and (11), by submitting annual reports auditing its total days and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission following each fiscal year, from the project's inception and continuing for five years thereafter;

2. Avenues Recovery Center of Chesapeake Bay must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by the Commission on the Accreditation of Rehabilitation Facilities (CARF) prior to First Use Approval by the Commission and must timely receive final accreditation by CARF;

3. Avenues Recovery Center of Chesapeake Bay shall provide documentation of transfer and referral agreements prior to First Use approval by the Commission with: acute care hospitals; halfway houses; therapeutic communities; long-term care facilities; local alcohol and drug abuse intensive and other outpatient programs; local community mental health center(s); the Eastern Shore's mental health and alcohol and drug abuse authorities; the Behavioral Health Administration; and the Eastern Shore agencies that provide prevention, education, driving-while-intoxicated programs, family counseling, and other services. Documentation may include letters of agreement or acknowledgement from the facilities; [COMAR 10.24.14.05J(2)]

4. Avenues Recovery Center of Chesapeake Bay shall document referral agreements, prior to First Use approval by the Commission, demonstrating that at least 15 percent of its annual patient days, required by COMAR 10.24.14.08, will be incurred by the indigent or gray area populations, including days paid under a contract with the Behavioral Health Administration or a jurisdictional alcohol or drug abuse authority, or the Medical Assistance program; [COMAR 10.24.14.05K(2)] and

5. To demonstrate that outpatient programs are available to its proposed patient population, Avenues Recovery Center of Chesapeake Bay shall provide written referral agreements or arrangements with outpatient programs that meet the requirements of COMAR 10.24.14.05O(1) through (4), prior to First Use approval by the Commission.

Because Avenues-Chesapeake Bay did not submit a request for First Use Approval, MHCC did not review its compliance with these conditions. However, in its January 2022 Quarterly Progress Report, Avenues-Chesapeake Bay stated that it had satisfied all conditions that it needed to satisfy prior to First Use. Avenues-Chesapeake Bay had submitted proof that it had obtained Joint Commission Accreditation (Condition #2). When staff inquired about First Use, Avenues-Chesapeake Bay responded that it had already submitted transfer and referral agreements as was required by Conditions # 3-5 as part of its initial application. However, Avenues-Chesapeake Bay has not submitted a request for First Use, arguably non-compliant with their CON.

Even if an applicant has failed to comply with a prior CON, the Commission can still find an applicant meets this criterion if it is satisfied with the applicant's written notice and explanation as to why the conditions or commitments were not met. Staff believes that Avenues-Chesapeake Bay's failure to comply with its prior CON should be attributed to Avenues Recovery Center of Maryland due to their common ownership. However, based on the totality of the circumstances, Staff recommends that the Commission find the Applicant's failings with respect to required post-approval follow-up with MHCC on its Cambridge project should not serve as a basis for denial of its Prince Frederick application, under this criterion.

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.

Avenues states that CON approval of its plan to establish its Prince Frederick center as an ICF will not have an adverse impact on the volume of service provided by or the payor mix of existing ICFs. It states that its proposed project will have a positive impact on availability and access to ICF services. (DI #3, p. 45-46 and #10, pp. 10-17).

The applicant states that, based on patient origin for its existing Prince Frederick center, it anticipates that it will draw ICF patients from beyond southern Maryland. This suggests that its impact on existing ICFs in the region will be more diffuse and less locally concentrated. (DI #10, p. 11). It also cites population growth in the region it defines as its service area, equating this growth with growth in demand for ICF services. (DI #10, p. 13, Table 2-Population and Demographic Data, Avenues Prince Frederick Primary and Secondary Service Area, 2020 and 2025) It reiterates the 2021 assessment of the Maryland Opioid Operational Command Center that Calvert County, among southern Maryland jurisdictions, has not planned for meeting what the Command Center identifies as a priority to implement ICF-level withdrawal management and treatment services. (DI #10, pp. 15-16). It notes that one facility in the region, the RCA ICF in Waldorf (Charles County) does not serve Medicaid patients. (DI #3, p. 43 and #10, p. 21).

Additionally, Avenues states that it does not expect the establishment of its ICF will have an adverse impact on either costs or charges to the health care system. The applicant states that public payor sources, which the applicant expects to pay for most of its ICF patient days, have set reimbursement rates unaffected by changes in the supply of or demand for services. It claims that private payors have the same level of power in establishing payment levels for ICF services. (DI #3, p. 46). For out-of-network providers, although conceding rates are negotiated with payors, it states that all charges are generally set within a narrow range.

Staff recommends that the Commission find that the impact of the project is acceptable. The State Health Plan, by not including any quantitative limitations on Track Two ICF beds, guides the Commission to allow such ICFs to proliferate and this proposed ICF anticipates operating as a Track Two ICF. The project will increase access to ICF services for the indigent and near indigent population that the SHP views as a chronically underserved population for higher level WM and treatment services. By functioning as a Track Two ICF, any impact of the project on charges will be limited, because most of its patients are projected to be Medicaid enrollees. If projects such as the proposed project do oversupply the ICF market and fail to achieve the levels of demand needed to operate at high bed occupancy, it is difficult to see, for this type of facility and service, how the public interest would be harmed by such oversupply. We would expect persistent conditions signaling an oversupplied market would simply result in reductions in supply to more optimal levels.

IV. STAFF RECOMMENDATION

Based on review and analysis of the CON application, staff recommends that the Commission find that the project proposed by Avenues Recovery Center of Maryland complies with the applicable State Health Plan standards. The applicant has provided evidence to support the need for the project. Introducing ICF services at an existing SUDs treatment center is a cost-effective approach to establishing such services in Calvert County. The project is likely to be viable. It will not have an adverse impact on accessibility, cost and charges, or other providers of ICF services.

Accordingly, Staff recommends that the Commission **APPROVE** the application to establish a 20-bed Track One Intermediate Care Facility for adults in Calvert County, at an approved cost of $55,000, with the following conditions:

1. Avenues Recovery Center of Maryland shall document the provision of a minimum of 15% of patient days to indigent and gray area patients, as defined at COMAR 10.24.14.08B(9) and (11), by submitting annual reports auditing its total days and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission following each fiscal year, from the project's inception and continuing for five years thereafter;
2. Avenues Recovery Center of Maryland must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by The Joint Commission (TJC) or another

accrediting body approved by the Maryland Department of Health prior to first use approval by the Commission, and must timely receive final accreditation by TJC or another approved accrediting body; [COMAR 10.24.14.05H]

3. Avenues Recovery of Maryland shall notify the Commission and the Behavioral Health Administration, in writing, within fifteen days after it receives notice that its accreditation has been revoked or suspended or should it lose its State license. If its accreditation has been revoked or suspended for reasons related to health or safety or it loses its State license, Avenues Recovery of Maryland shall cease operation until the Behavioral Health Administration notifies the Commission that the deficiencies have been corrected. [COMAR 10.24.14.05H]

IN THE MATTER OF	*	
	*	**BEFORE THE**
DWI SERVICES INC. D/B/A AVENUES	*	
RECOVERY CENTER	*	**MARYLAND HEALTH**
OF MARYLAND	*	
	*	**CARE COMMISSION**
Docket No. 22-04-2455	*	

*** ***

FINAL ORDER

Based on Staff's analysis and recommendations, it is this 17th day of November 2022, **ORDERED** that the application of DWI Services Inc. d/b/a Avenues Recovery Center of Maryland for a Certificate of Need to establish a 20-bed Track One Intermediate Care Facility providing withdrawal management and treatment services for adults at an approved cost of $55,000, be, and hereby is, **APPROVED**, with the following conditions:

1. Avenues Recovery Center of Maryland shall document the provision of a minimum of 15% of patient days to indigent and gray area patients, as defined at COMAR 10.24.14.08B(9) and (11), by submitting annual reports auditing its total days and the provision of days to indigent and gray area patients as a percentage of total days. Such audit reports shall be submitted to the Commission following each fiscal year, from the project's inception and continuing for five years thereafter;
2. Avenues Recovery Center of Maryland must receive preliminary accreditation for the Level 3.7 services it will provide, including withdrawal management and post-withdrawal treatment programming, by The Joint Commission (TJC) or another accrediting body approved by the Maryland Department of Health prior to first use approval by the Commission, and must timely receive final accreditation by TJC or another approved accrediting body; [COMAR 10.24.14.05H]
3. Avenues Recovery of Maryland shall notify the Commission and the Behavioral Health Administration, in writing, within fifteen days after it receives notice that its accreditation has been revoked or suspended or should it lose its State license. If its accreditation has been revoked or suspended for reasons related to health or safety or it loses its State license, Avenues Recovery of Maryland shall cease operation until the Behavioral Health Administration notifies the Commission that the deficiencies have been corrected. [COMAR 10.24.14.05H]

APPENDIX 1:

RECORD OF THE REVIEW

Record of the Review

Item #	Description	Date
1	Carolyn Jacobs, Esq., submits on behalf of Avenues Recovery Center of Maryland its Letter of Intent to establish a 20-bed Track One Alcoholism and Drug Abuse Intermediate Care Facility in Prince Frederick, Calvert County.	12/7/2021
2	MHCC sends a notice soliciting additional Letters of Intent for Substance Abuse Services in Southern Maryland to the *Maryland Register* for publication.	12/7/2021
3	Applicant submits a Certificate of Need application (CON) to establish a 20 bed Track One Level 3.7 Withdrawal Management (WM) Medically Monitored Intensive Inpatient and Level 3.7 Medically Monitored Intensive Inpatient treatment program.	5/2/2022
4	MHCC acknowledges receipt of application for Avenues Recovery Center of Maryland to Yehuda Alter, Avenues Recovery Center.	5/5/2022
5	MHCC submits to *Maryland Register* a request to publish a notice of receipt of the CON application.	5/5/2022
6	MHCC submits to *Calvert Recorder* a request to publish a notice of receipt of the CON application.	5/5/2022
7	*Calvert Recorder* provided certification that the notice on receipt of application was published.	5/13/2022
8	Following completeness review, MHCC sends to applicant a request for completeness and additional information.	5/19/2022
9	Applicant requests and MHCC staff grants an extension of time to submit responses to May19th request for completeness information to June 10, 2022.	6/2/2022
10	Applicant submits applicant's responses for completeness questions.	6/9/2022
11	MHCC submits second request for completeness information and clarification to first round of completeness questions.	6/27/2022
12	Applicant submits responses to second request for completeness information and clarification to first round of completeness questions.	7/11/2022
13	MHCC submits request and Nancy Brown, Division Chief of Evaluation, Research and Data Analytics, from the Office of Innovation, Research, and Development at Maryland Department of Health, submitted information from The Hilltop Institute regarding the number of Maryland Medicaid recipients aged 18 years and older by jurisdiction for CY 2021.	7/13/2022
14	MHCC sends notice to applicant of the docketing for formal review of Avenues Recovery Center of Maryland with starting date on August 12, 2022.	7/29/2022
15	MHCC sends notice to *Calvert Recorder* for formal start of review of Avenues Recovery Center of Maryland's CON application.	7/29/2022
16	MHCC sends notice to *Maryland Register* for formal start of review of Avenues Recovery Center of Maryland's CON application.	7/29/2022
17	MHCC submits request to Calvert County Department of Health for review and comment on Avenues Recovery Center of Maryland's CON application.	7/29/2022
18	Email communications between MHCC and Behavioral Health Administration regarding the collection of data by Optum Inc, Administrative Service Organization for BHA.	10/1/2022 thru 10/11/2022
19	Applicant submitted reconfiguration of proposed Level 3.7WM/3.7 program to second floor and line diagram for Avenues-Prince Frederick.	10/14/2022

APPENDIX 2:

AMERICAN SOCIETY OF ADDICTION MEDICINE

CONTINUUM OF CARE TREATMENT PROGRAMS

Based on the American Society of Addiction Medicine's (ASAM) Level of Care service definitions and placement criteria, the following provides a description for Level 3.7 and Level 3.7WM treatment programs: [7]

Level 3.7 Medically Monitored High Intensity Residential SUD Treatment

Level 3.7 medically monitored, high intensity residential SUD treatment programs are required to provide a minimum of 36 hours of medically monitored, high intensity treatment to individuals with a SUD diagnosis who have subacute biomedical and emotional, behavioral, or cognitive problems that are so severe that they require 24-hour nursing care with physician availability. All individual, family, or group treatment services must be provided on-site and are inclusive of mental health treatment.

Medically monitored residential SUD treatment services are provided by a multidisciplinary treatment team and is applicable to Level 3.7. Medical monitoring is provided through direct patient contact, review of records, team meetings, 24-hour coverage by a physician, 24-hour nursing and a quality assurance program.

3.7 WM Medically Monitored High Intensity Withdrawal Services

Withdrawal management and opioid treatment services, such as medication-assisted treatment (MAT), may be provided if the program's license specifically authorizes the service. Individuals engaged in this level of care are experiencing severe withdrawal symptoms and require medication or have a recent history of withdrawal management at a less intensive level of care, marked by past and current inability to complete withdrawal management and enter into continuing addiction treatment. The individual needs 24-hour nursing care with physician oversight as necessary, and is unable to safely complete withdrawal management without 24-hour medical and nursing monitoring.

The following is an ASAM Criteria Crosswalk for Level 1.0 through 4.0 Services: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions[8]

---

[7] 2020 Joint Chairmen's Report – Report on Substance Use Disorder (SUD) Treatment Limitations in the Medicaid Program. Available at: https://health.maryland.gov/mmcp/Documents/JCRs/2020/SUDtreatmentlimitsJCRfinal9-20.pdf. https://www.medicaid.gov/state-resource-center/innovation-accelerator-program/iap-downloads/reducing-substance-use-disorders/asam-resource-guide.pdf. at pp. 10-11.

[8] Available at: **http://www.mtpca.org/wp-content/uploads/ASAM-Adult_Criteria_Crosswalk.pdf.**

The ASAM Criteria Crosswalk: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions

Adult Levels of Care	**DIMENSION 1:** Acute Intoxication and/or Withdrawal Potential	**DIMENSION 2:** Biomedical Conditions and Complications	**DIMENSION 3:** Emotional, Behavioral, or Cognitive Conditions and Complications	**DIMENSION 4:** Readiness to Change	**DIMENSION 5:** Relapse, Continued Use, or Continued Problem Potential	**DIMENSION 6:** Recovery/Living Environment
LEVEL 0.5	No withdrawal risk	None or very stable	None or very stable	Willing to explore how current alcohol, tobacco, other drug, or medication use, and/or high-risk behaviors may affect personal goals	Needs an understanding of, or skills to change, current alcohol, tobacco, other drug, or medication use patterns, and/or high risk behavior	Social support system or significant others increase the risk of personal conflict about alcohol, tobacco, and/or other drug use
Early Intervention **OTP – LEVEL 1**	Physiologically dependent on opioids and requires OTP to prevent withdrawal	None or manageable with outpatient medical monitoring	None or manageable in an outpatient structured environment	Ready to change the negative effects of opioid use, but is not ready for total abstinence from illicit prescription or non-prescription drug use	At high risk of relapse or continued use without OTP and structured therapy to promote treatment progress	Recovery environment is supportive and/or the patient has skills to cope
Opioid Treatment Program **LEVEL 1**	Not experiencing significant withdrawal, or at minimal risk of severe withdrawal. Manageable at Level 1-WM (See withdrawal management criteria)	None or very stable, or is receiving concurrent medical monitoring	None or very stable, or is receiving concurrent mental health monitoring	Ready for recovery but needs motivating and monitoring strategies to strengthen readiness. Or needs ongoing monitoring and disease management. Or high severity in this dimension but not in other dimensions. Needs Level 1 motivational enhancement strategies	Able to maintain abstinence or control use and/or addictive behaviors and pursue recovery or motivational goals with minimal support	Recovery environment is supportive and/or the patient has skills to cope
Outpatient Services **LEVEL 2.1**	Minimal risk of severe withdrawal, manageable at Level 2-WM (See withdrawal management criteria)	None or not a distraction from treatment. Such problems are manageable at Level 2.1	Mild severity, with potential to distract from recovery; needs monitoring	Has variable engagement in treatment, ambivalence, or a lack of awareness of the substance use or mental health problem, and requires a structured program several times a week to promote progress through the stages of change	Intensification of addiction or mental health symptoms indicate a high likelihood of relapse or continued use or continued problems without close monitoring and support several times a week	Recovery environment is not supportive, but with structure and support, the patient can cope
Intensive Outpatient Services **LEVEL 2.5**	Moderate risk of severe withdrawal manageable at Level 2-WM (See withdrawal management criteria)	None or not sufficient to distract from treatment. Such problems are manageable at Level 2.5	Mild to moderate severity, with potential to distract from recovery; needs stabilization	Has poor engagement in treatment, significant ambivalence, or a lack of awareness of substance use or mental health problem, requiring a near-daily structured program or intensive engagement services to promote progress through the stages of change	Intensification of addiction or mental health symptoms, despite active participate in a Level 1 or 2.1 program, indicates a high likelihood of relapse or continued use or continued problems without near-daily monitoring and support	Recovery environment is not supportive, but with structure and support and relief from the home environment, the patient can cope
Partial Hospitalization Services **LEVEL 3.1**	No withdrawal risk, or minimal or stable withdrawal. Concurrently receiving Level 1-WM (minimal) or Level 2-WM (moderate) services (See withdrawal management criteria)	None or stable, or receiving concurrent medical monitoring	None or minimal; not distracting to recovery. If stable, a co-occurring enhanced program is required	Open to recovery, but needs a structured environment to maintain therapeutic gains	Understands relapse but needs structure to maintain therapeutic gains	Environment is dangerous, but recovery is achievable if Level 3.1 24-hour structure is available
Clinically Managed Low-Intensity Residential Services **LEVEL 3.3**	At minimal risk of severe withdrawal. If withdrawal is present, manageable at Level 3.2-WM (See withdrawal management criteria)	None or stable, or receiving concurrent medical monitoring	Mild to moderate severity; needs structure to focus on recovery. Treatment should be designed to address significant cognitive deficits. If stable, a co-occurring capable program is appropriate. If not, a co-occurring enhanced program is required.	Has little awareness and needs interventions available only at Level 3.3 to engage and stay in treatment. If there is high severity in Dimension 4 but not in any other dimension, motivational enhancement strategies should be provided in Level 1	Has little awareness and needs interventions available only at Level 3.3 to prevent continued use, with imminent dangerous consequences, because of cognitive deficits or comparable dysfunction	Environment is dangerous and patient needs 24-hour structure to learn to cope
Clinically Managed Population –Specific High-Intensity Residential Services **LEVEL 3.5**	At minimal risk of severe withdrawal. If withdrawal is present, manageable at Level 3.2-WM (See withdrawal management criteria)	None or stable, or receiving concurrent medical monitoring	Demonstrates repeated inability to control impulses, or unstable and dangerous signs/symptoms require stabilization. Other functional deficits require stabilization and a 24-hour setting to prepare for community integration and continuing care. A co-occurring enhanced setting is required for those with severe and chronic mental illness	Has marked difficulty with, or opposition to, treatment, with dangerous consequences. If there is high severity in Dimension 4 but not in any other dimension, motivational enhancement strategies should be provided in Level 1	Has no recognition of the skills needed to prevent continued use, with imminently dangerous consequences	Environment is dangerous and the patient lacks skills to cope outside of a highly structured 24-hour setting
Clinically Managed High-Intensity Residential Services **LEVEL 3.7**	At high risk of withdrawal, but manageable at Level 3.7-WM and does not require the full resources of a licensed hospital (See withdrawal management criteria)	Requires 24-hour medical monitoring but not intensive treatment	Moderate severity; needs a 24-hour structured setting. If the patient has a co-occurring mental disorder, requires concurrent mental health services in a medically monitored setting	Low interest in treatment and impulse control is poor, despite negative consequences; needs motivating strategies only safely available in a 24-hour structured setting. If there is high severity in Dimension 4 but not in any other dimension, motivational enhancement strategies should be provided in Level 1	Unable to control use, with imminently dangerous consequences, despite active participation at less intensive levels of care	Environment is dangerous and the patient lacks skills to cope outside of a highly structured 24-hour setting
Medically Monitored Intensive Inpatient Services **LEVEL 4**	At high risk of withdrawal and requires Level 4-WM and the full resources of a licensed hospital (See withdrawal management criteria)	Requires 24-hour medical and nursing care and the full resources of a licensed hospital	Because of severe and unstable problems, requires 24-hour psychiatric care with concomitant addiction treatment (co-occurring enhanced)	Problems in this dimension do not qualify the patient for Level 4 services. If the patient's only severity is in Dimension 4, 5, and/or 6 without high severity in Dimensions 1, 2, and/or 3, then the patient does not qualify for Level 4	Problems in this dimension do not qualify the patient for Level 4 services. See further explanation in Dimension 4	Problems in this dimension do not qualify the patient for Level 4 services. See further explanation in Dimension 4
Medically Managed Intensive Inpatient Services						

ASAM LEVELS OF CARE FOR ADULT DETOXIFICATION[9]

Introduction

This review outlines the five levels of detoxification care outlined by the American Society of Addiction Medicine (ASAM). The following depicts the five levels of detoxification care that ASAM has identified.

Level I-D
AMBULATORY DETOXIFICATION WITHOUT EXTENDED ON-SITE MONITORING

1. Organized outpatient service.
2. May be delivered in an office setting, healthcare or addiction treatment facility or in a patient's home.
3. Trained clinicians provide medically supervised evaluation, detoxification and referral services in regularly scheduled sessions.
4. Services should be delivered under a defined set of policies and procedures or medical protocols.

Level II-D
AMBULATORY DETOXIFICATION WITH EXTENDED ON-SITE MONITORING

1. Organized outpatient service.
2. May be delivered in an office setting or healthcare or addiction treatment facility.
3. Trained clinicians provide medically supervised evaluation, detoxification, and referral services in regularly scheduled sessions.
4. Essential to this level of care is the availability of appropriately credentialed and licensed nurses (RN, LPN) who monitor patients over a period of several hours each day of service.

Level III-D
RESIDENTIAL/INPATIENT DETOXIFICATION

There are two different parts within this level. The first is Level III-D, or Residential/Inpatient Detoxification. Criteria are provided for two types of Level III detoxification programs:

1. The "residential" level has in the past been synonymous with rehabilitation services.
2. Detoxification services and the "inpatient" level of care have been synonymous with acute inpatient hospital care.

Level III.2-D
CLINICALLY MANAGED RESIDENTIAL DETOXIFICATION

1. Sometimes referred to as "social setting" detoxification.
2. Organized service that may be delivered by appropriately trained staff who provide 24 hour supervision, observation, and support for patients who are intoxicated or are experiencing withdrawal.

---

[9] **Source:** https://www.ci2i.research.va.gov/paws/pdfs/asam.pdf

3. Characterized by emphasis on peer and social support.

Level III.7-D
MEDICALLY MONITORED INTENSIVE INPATIENT DETOXIFICATION

The second part of this level is Level III.7-D, defined by the following characteristics:
1. Organized service delivered by medical and nursing professionals, which provides for 24-hour medically supervised evaluation and withdrawal management.
2. A permanent facility with inpatient beds and services that are delivered under a defined set of physician-approved policies and physician-monitored procedures or clinical protocols.
3. 24-hour observation, monitoring, and treatment are available.
4. Relies on established clinical protocols to identify patients who are in need of medical services beyond the capacity of the facility in order to transfer such patients to the appropriate level of care.
4. Provides care to patients whose withdrawal signs and symptoms are sufficiently severe to require 24-hour inpatient care.
5. Sometimes provided by overlapping with Level IV-D services (as a "step down" service) in a specialty unit of an acute general or psychiatric hospital.
6. Full resources of an acute general hospital or a medically managed intensive inpatient treatment program are not necessary.

Level IV-D
MEDICALLY MANAGED INTENSIVE INPATIENT DETOXIFICATION

1. Organized service delivered by medical and nursing professionals, which provides for 24-hour medically directed evaluation and withdrawal management in an acute care inpatient setting.
2. Provides care to patients whose withdrawal signs and symptoms are sufficiently severe to require primary medical and nursing care services.
3. 24-hour observation, monitoring, and treatment are available.
4. Specially designed for acute medical detoxification.

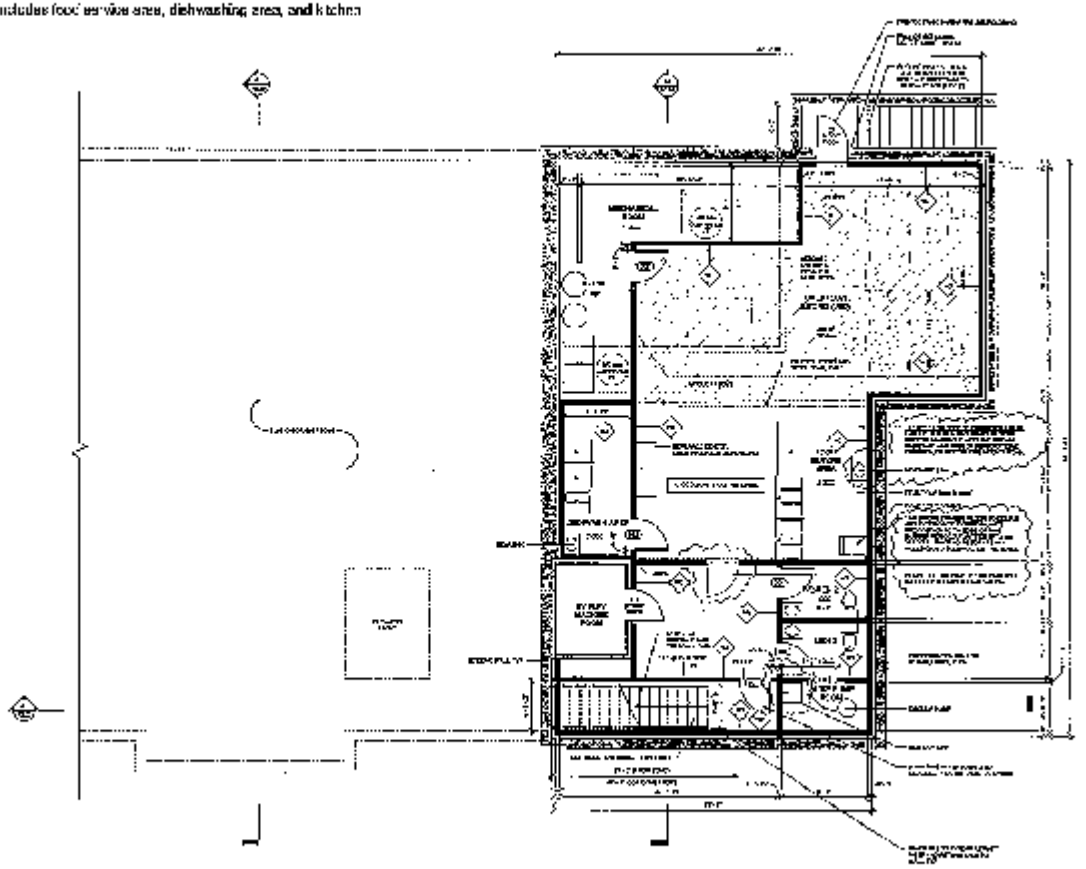
APPENDIX 3:

FLOORPLAN DIAGRAM

STAPLE EDGE

STAPLE EDGE

Basement - includes food service area, dishwashing area, and kitchen



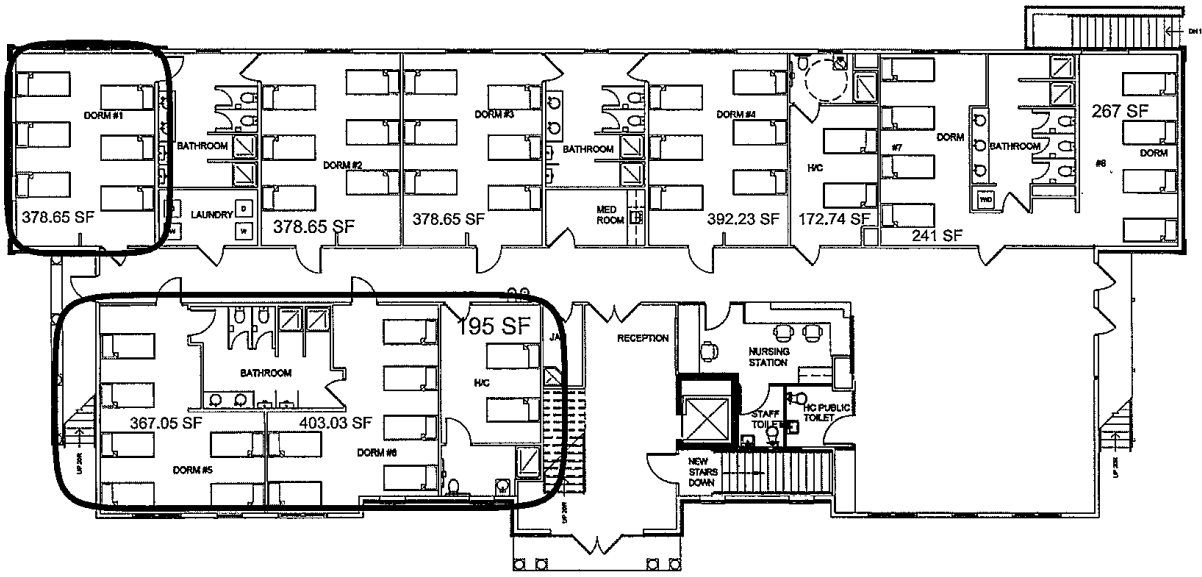
DONNY ANKRI ARCHITECTS

PORTO TREATMENT CENTER RENOVATION

125 PARKGROUND RD, PRINCE FREDERICK, MARYLAND 20678

Drawing No. A1.00

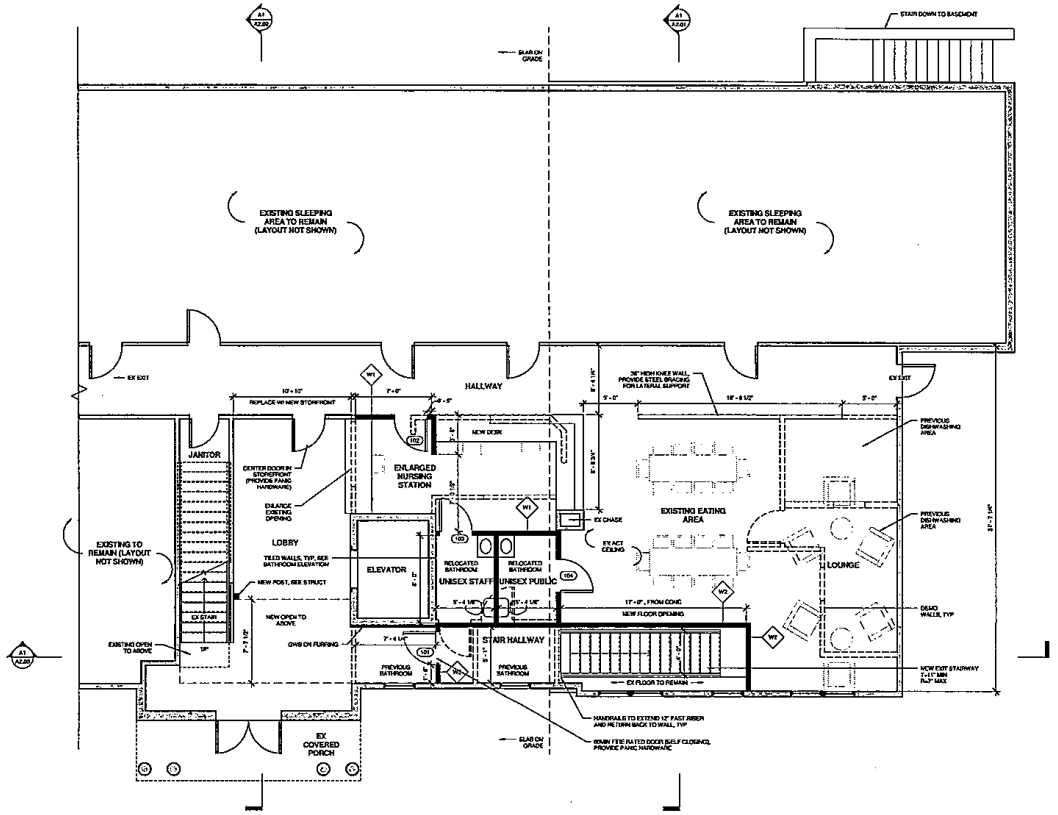
Sq footage of first floor including identified 3.7/3.7WM rooms



STAPLE EDGE

STAPLE EDGE

First level - see previous page for existing sleeping area information



DONNY ANKRI ARCHITECTS

donnyankri.com | 443.929.2377

PORTO TREATMENT CENTER: RENOVATION

125 FAIRGROUND RD,
PRINCE FREDERICK,
MARYLAND 20678

REVISIONS		
NUMBER	DESCRIPTION	DATE

FOR PERMIT

Date	12/1/2018
Scale	1/4" = 1'-0"
Job No.	XXXX
Drawn By	DA

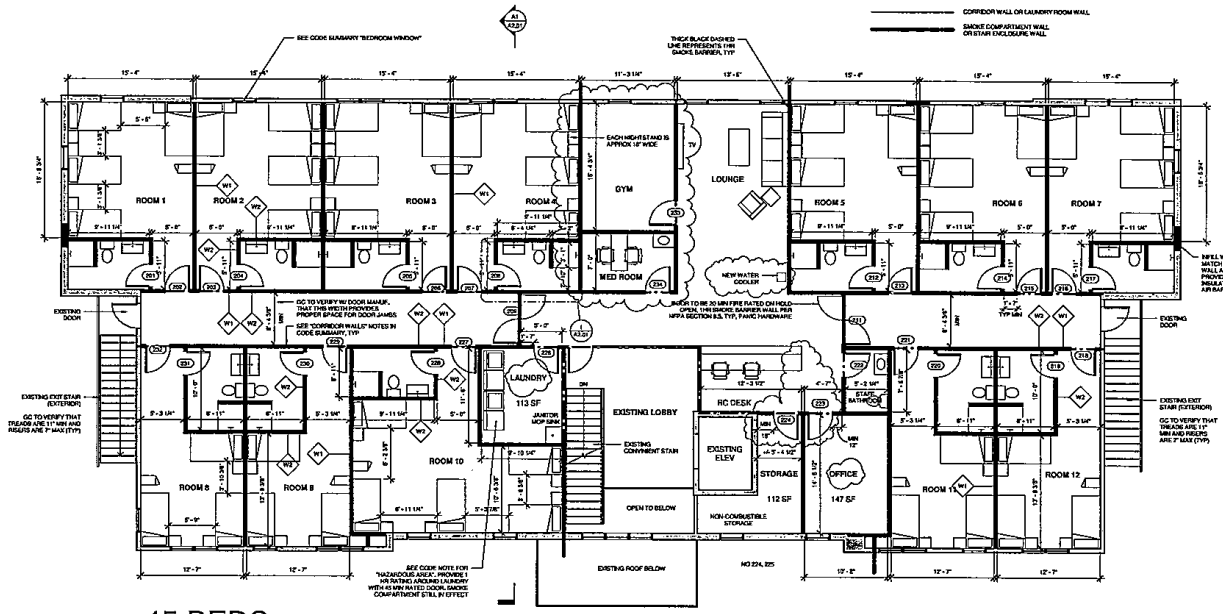
LEVEL 1

Drawing No. **A1.01**

STAPLE EDGE

STAPLE EDGE

Second level - beedrooms, gym, lounge areas



45 BEDS

1 LEVEL 2
3/16" = 1'-0"

DONNY ANKRI ARCHITECTS

donnyankri.com | 443.929.2377

PORTO TREATMENT CENTER: RENOVATION

125 FAIRGROUND RD,
PRINCE FREDERICK,
MARYLAND 20678

"PROFESSIONAL CERTIFICATION. I CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NUMBER 17636, EXPIRATION DATE 10/30/2022."

STATE OF MARYLAND
DONNY ANKRI
REG. NO. 17636
ARCHITECT

REVISIONS		
NUMBER	DESCRIPTION	DATE
1	REVISION 1	5/5/2021

ADDENDUM

Date	10/5/2020
Scale	3/16" = 1'-0"
Job No.	2000'
Drawn By	DA

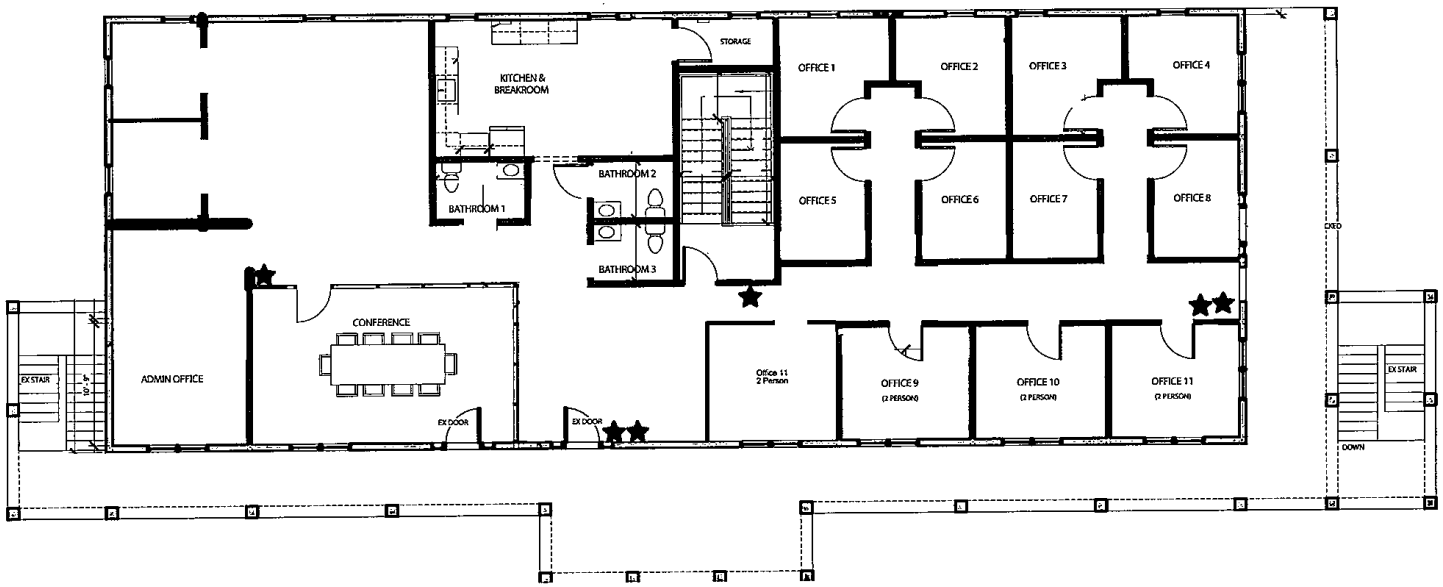
LEVEL 2 - NEW PLAN

Drawing No. **A1.02**

75 Monnett Court

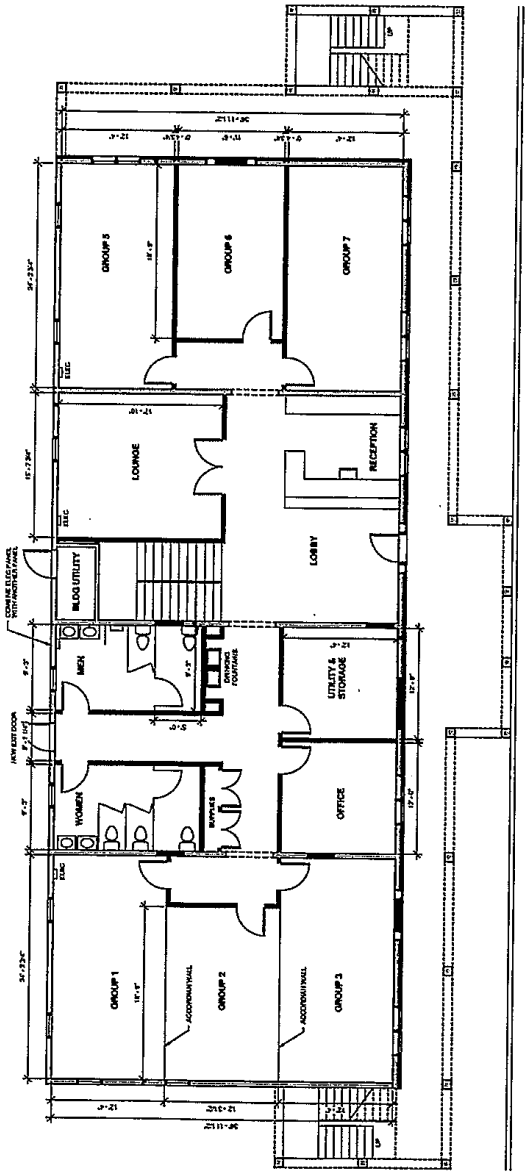
AVENUES

A RECOVERY COMMUNITY



★ Fire Extinguishers

★ Pull stations


GROUP 5
GROUP 6
GROUP 7
LOUNGE
RECEPTION
LOBBY
BLDG UTILITY
MEN
WOMEN
DRINKING FOUNTAIN
UTILITY & STORAGE
OFFICE
GROUP 1
GROUP 2
GROUP 3
ACCORDION WALL
ACCORDION WALL

New Configuration eliminating 6 beds per room submitted October 14, 2022.

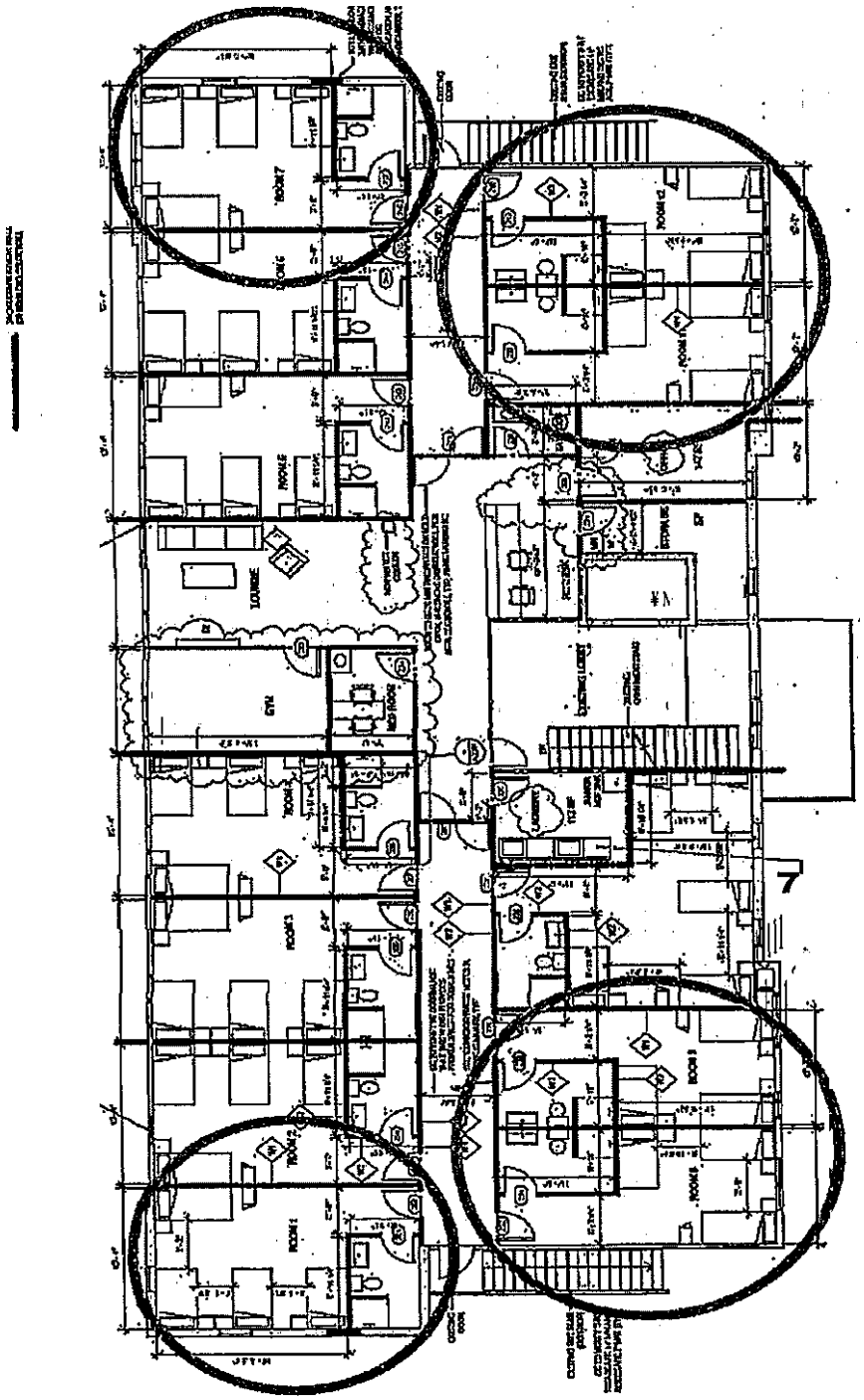


EXHIBIT 41

2ND FLOOR

45 BEDS

APPENDIX 4:

BENZION SPIELMAN, ROTH & CO.

CERTIFIED PUBLIC ACCOUNTANTS & CONSULTANTS

APRIL 12, 2022

(DI #3, Exh. 28).

Roth&Co

Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

April 12, 2022

RE: DWI Services, Inc.

To Whom It May Concern:

We have been the accountants for the Avenues Group of Drug Centers (the "Centers") from inception through present, as their independent public accounting firm, preparing their income tax returns. DWI Services, Inc. (Avenues Recovery Center of Maryland) is one of the Avenues Group of Drug Rehab Centers. We are now tasked with addressing the ability of Avenues Recovery Center of Maryland to fund the costs associated with its Certificate of Need application. The Centers have been a successful and profitable endeavor since they have begun operations. The Centers have provided us with current financial information, including recently filed income tax returns and internally generated financial statements for all facilities. The Avenues Recovery Center of Maryland facility is fully up and running and we understand the expenses relating to obtaining the certificate to be approximately $55,000. There is no reason to believe that Avenues Recovery Center of Maryland would have any financial difficulty in successfully funding the Certificate of Need costs for this project.

The Centers have traditionally maintained monthly cash balances in excess of the estimated cost of this project. The Centers have consistently achieved annual cash profits, in excess of expenses of approximately $1,900,000 on average. Since January 1, 2022, Avenues Recovery Center of Maryland has continued to achieve positive cash flow and has been exceeding budgeted amounts.

Based on the historic financial success, and continued positive operations, we believe that Avenues Group of Drug Rehab Centers appears to have the adequate funds to cover the costs associated with the Avenues Recovery Center of Maryland Certificate of Need as well as any deficits in revenues over expenses at Avenues Recovery Center of Maryland.

If you should have any questions, please feel free to contact us at any time at 718-975-5359.

Sincerely,

Benzion Spielman, CPA

1428 36th Street Suite 200
Brooklyn, NY 11218
P (718) 236-1000
F (718) 256-4890

200 Central Avenue
Farmingdale, NJ 07727
P (732) 276-1220
F (732) 771-0505

info@rothcpapa.com
www.rothcpapa.com