

**Department of Health and Human Services
Division of Licensing and Regulatory Services
State House Station 11; Augusta, ME
Preliminary Analysis**

Date: October 22, 2009

Project: Amenity Manor Replacement Facility

Proposal by: Rousseau Management

Prepared by: Phyllis Powell, Certificate of Need Manager
Larry D. Carbonneau, Healthcare Financial Analyst
Richard F. April, Healthcare Financial Analyst

Directly Affected Party: None

Recommendation: Disapprove

	Proposed Per Applicant	Approved CON
Estimated Capital Expenditure	\$ 8,500,000	\$ 0
Maximum Contingency	\$ 425,000	\$ 0
Total Capital Expenditure with Contingency	\$ 8,925,000	\$ 0
Pro-Forma Operating Costs	\$ 5,485,901	\$ 0
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MaineCare Funding Pool Impact:	\$ 0	\$ 0
NF Allocated Costs Portion	\$ 4,455,332	\$ 0
RCF Allocated Costs Portion	\$ 0	\$ 0
Other Program Costs	\$ 606,477	\$ 0
Non-Reimbursable Costs	\$ 0	\$ 0
Total Program Costs	\$ 5,065,210	\$ 0
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Estimated Costs to NF MaineCare System	\$ 2,851,331	\$ 0
Estimated New Costs to MaineCare System	\$ 0	\$ 0
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I. Abstract

I. Abstract

A. From Applicant

“The applicant for this project is myself, Mitchell A. Rousseau (MAR). I have been in the long term care field since 1982, when I started working with my father, Richard A. Rousseau (RAR) owner of Rousseau Enterprises, Inc. At one point, Rousseau Enterprises owned and operated six long term care facilities (Amenity Manor, Dionne Commons, Skolfield House, Montello Manor, Freeport Convalescent Center and Ellsworth Convalescent Center). Over the years we sold two of the facilities (Freeport Convalescent Center and Ellsworth Convalescent Center), converted Dionne, Skolfield to Residential Care and Montello Manor from a straight NF to a multi-level facility leaving Amenity Manor as our only straight nursing facility. As time went on the goal was to transfer the ownership from Richard A. Rousseau (Rousseau Enterprises, Inc.) to Mitchell A. Rousseau (Rousseau Management, Inc.)”

“This transfer process started in March 2006, with the sale of Dionne Commons, located on Maurice Dr. Brunswick. It continued in January 2008, with the sale of Skolfield House located on Cumberland St. Brunswick and the physical location of Rousseau Enterprises, Inc. Bank St. Brunswick. What remains of Rousseau Enterprises, Inc. is Amenity Manor in Topsham and Montello Manor/Commons in Lewiston.”

“The next step in the transfer process is to replace Amenity Manor in Topsham and the NF only operations of Montello Manor/Commons in Lewiston, which are two very old, tired, inefficient facilities. We would consolidate these two facilities into one brand new, affordable, state of the art, 65 bed dually certified long term care facility on Maurice Dr. Brunswick ME. This location is ideal, as it would complement the already existing healthcare campus of Bowdoin Medical Group, Dionne Commons, Mid-Coast Senior Health, Thornton Oaks and other types of affordable elderly housing.”

“This new, cost effective facility would provide a quality environment for our residents to live in and a pleasant work place for staff. (Please note that the facility is located only 3 miles from the existing facility. We feel this will make for a simple transition of residents and staff). The design brings a homelike feeling throughout the living rooms and dining rooms and also allows the “outdoors” – “indoors” through common areas that make you feel you are outside.”

“We are still in the schematic design phase for this new facility. Our rough estimate at this time to construct this facility is \$8,500,000. We hope to not exceed this number, be as cost effective as possible while maintaining the ever important issue of being Mainecare neutral.”

I. Abstract

“Our goal is to break ground in September of 2009, and be ready for occupancy in August 2010. Enclosed for your review is a full set of drawings.”

- “Please note – documentation regarding compliance with applicable zoning requirements and DEP will be provided. DEP application submitted on 6/3/09.”

“As we moved forward together we need to consider two very important issues”:

1) “Amenity Manor and Montello Manor/Commons (owned by RAR) RAR has reached a point in his life where he is going to sell these facilities and retire. We have two options he can sell them to MAR or to an unknown third party.”

“The logical and most affordable option is to sell them to MAR. We have been managing these facilities for the past 20 years. We know our residents, families and staff. We have a goal in place to build a new facility and the transition couldn’t be any easier.”

2) “With the state of the economy now would be the time to build a new facility – prices for materials are down and labor is less expensive. What better time to save money. This project will not only be cost effective but we will be putting people to work.”

“We will all benefit from this project. We look forward to working with you as you begin the review process of our CON.”

II. Fit, Willing and Able

II. Fit, Willing and Able

A. From Applicant

1. “Mitchell Rousseau
Business address: 11 Bank St.
Brunswick ME 04011
(207) 725-4071”
“Home Address:
182 Woodside Road
Brunswick ME 04011
(207) 725-5022”
2. “Legal Entity:
Rousseau Management, Inc.
11 Bank St
Brunswick ME 04011”
3. “Principal Personnel:
Mitchell Rousseau, President Rousseau Management 27 years of service
Lesley A. Davison, Controller Rousseau Management 19 years of service
Peter A. Davison, Administrator Amenity Manor 20 years of service
Terry Gray, RN DON Amenity Manor 11 years of service”
4. “Evidence to support applicants willingness or ability to provide the proposed services at the proper standard of care: We feel that we have the willingness, history and ability to provide the proposed services at the new facility due to the experience and history of our “team”. Please see the enclosed copies of resumes and licenses for the above listed principal personnel.”

“We currently provide these services at the following locations:

Dionne Commons - Rousseau Management / MAR
24 Maurice Drive
Brunswick ME 04011”

“Skolfield House - Rousseau Management / MAR
26 Cumberland St
Brunswick ME 04011”

“Amenity Manor - Rousseau Enterprises / RAR
29 Elm St
Topsham ME 04011”

“Montello Manor/Commons - Rousseau Enterprises / RAR
540 College St
Lewiston ME 04240”

II. Fit, Willing and Able

“Montello Heights - RAR / MAR
550 College St
Lewiston ME 04240”

5. “Ownership Structure:
Our intention is to purchase the Mainecare revenue stream from Amenity Manor and Montello Manor which is currently owned and operated by Rousseau Enterprises, Inc to ensure that the project remains Mainecare neutral. The new facility, which we have not named at this time, will be set up as follows: the operating company will be a corporation and the real estate will be a LLC – both 100% owned by Mitchell A. Rousseau.”
6. “Organizational chart – see enclosed”
7. “Current licenses and certifications – see enclosed”

B. CONU Discussion

i. CON Criteria

Relevant criteria for inclusion in this section are specific to the determination that the applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards.

ii. CON Analysis

Mr. Mitchell Rousseau has been involved in the long-term care industry for twenty-six years and has operated long-term care facilities as principal owner since 2006. His company currently owns the following two facilities: Dionne Commons and Skolfield House.

Amenity Manor’s last licensing review occurred on December 5, 2008. There were several findings related to relatively minor safety concerns as well as a finding related to the condition of a sewer pipe running through a linen closet. The sewer pipe was reported to be “flaking” and causing a white powder to come into contact with the bedding and linens in the closet allowing the clean linens to become contaminated. The Amenity Manor facility was last licensed on May 1, 2009 and its license remains effective until 4/30/10.

The Amenity Manor replacement nursing facility, to be located on Maurice Drive in Brunswick, will be approximately 38,000 square feet. The new building will be located within walking distance of Dionne Commons which provides assisted living care.

II. Fit, Willing and Able

The planned facility can be characterized as a more traditional institutional nursing facility, which contrasts with the “Green House” model. The “Green House” model combines a residential building design and an innovative staffing philosophy. The new building site is 7.36 acres. A parking lot will include four handicapped parking spaces and 59 standard parking spaces. Outdoor amenities at the new location will include a walkway, dining patio, and sanctuary garden. Indoor amenities will include a physical therapy gymnasium, spa, sun room, and various family rooms.

The new single-floor layout is designed to be more modern and efficient than the existing three-floor layout at Amenity Manor in Topsham. In contrast to the Topsham facility, each room will have a power outlet that is supplied by an emergency generator. The new facility is to include a state-of-the-art air circulation system. Each residential room will have a functioning toilet, sink, and shower.

The new 65 bed dually certified long-term care facility is expected to cost \$8,500,000, which amounts to \$170,769 per bed. The 65 beds can be summarized as follows:

- 17 private skilled nursing units at 303 square feet
- 2 semi-private skilled nursing units at 430 square feet
- 4 private nursing care units at 303 square feet
- 20 semi-private nursing care units at 430 square feet

iii. Conclusion

CONU recommends that the Commissioner find that Rousseau Management is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant’s control meets industry standards.

III. Economic Feasibility

III. Economic Feasibility

A. From Applicant

1. “MAR purchased D.C. Holdings, Inc. dba Dionne Commons in March 2006 and S.H. Holdings, Inc. dba Skolfield House in January 2008. As the enclosed financial statements will show I have been able to operate these facilities on a profitable basis while maintaining a high standard level of care. Also included for your review is my personal financial statement as well as Rousseau Management, Inc. We believe that by adding this new facility to our organization we will enhance and strengthen the financial position of Rousseau Management, Inc.
 - a) Personal
 - b) Rousseau Management
 - c) D.C. Holdings, Inc. dba Dionne Commons
 - d) S.H. Holdings, Inc. dba Skolfield House”
2. “We are having ongoing meetings with two banks – T.D. Banknorth and Norway Savings. We have a long standing relationship with T.D. Banknorth so they have an understanding of the long term care industry, they are confident once we receive approval through the CON process they will provide us with financing. (Please see attached letter from TD Banknorth)”
3. “Reasonableness: Our goal is to build a state of the art, 65 bed dually certified long term care facility. The total square footage at this time is approximately 38,000 sq feet. The overall square footage at the facility is slightly larger than historical facilities due to the fact we believe the elderly deserve a facility that provides more social and homelike settings to enhance their quality of life. For example we added private baths in all resident rooms allowing for more resident privacy. We have also added “satellite” nurses stations and living rooms on each of the three wings to better serve our residents and meet state regulations.”
4. “Please see enclosed worksheet from GTA (Gawron Turgeon Architects) dated 6/2/09 with a total project budget of \$8,000,000 to \$8,500,000 – ongoing updates”
5. “This new facility, as mentioned earlier, will be a replacement facility for Amenity Manor and Montello Manor (NF Only). We will be purchasing the Mainecare Revenue Stream from Amenity Manor and Montello Manor to keep this project Mainecare neutral. Any unused Mainecare revenue stream not needed for this project could be sold to a third party at a later date. The residents and staff from Amenity Manor will be “transferred” to the new facility, which will provide us with the necessary resources.”

III. Economic Feasibility

6. "Please see enclosed Profit and Loss statement which shows that this project is financially feasible."
7. "Please see enclosed worksheet from GTA dated 6/2/09."
8. "Please see back-up worksheets from GTA detailing costs."
9. "Please see back-up worksheets from GTA detailing costs."
10. "Please see standard budget report from Hebert Construction."
11. "Please see our enclosed staffing worksheets and Schedule L from the Proforma Cost Report"
12. "All personnel currently working at Amenity Manor will be transferred to the new facility. Copy of compliance is provided through the most recent survey results at Amenity Manor."
13. "Please refer to the enclosed Proforma cost report and a copy of our project financial balance sheet."
14. "Please refer to our Profit and Loss statement which project cost of the facility for the first three operating years. The first years operating expenses are included on the Proforma Cost Report."
15. "Please see enclosed letter from Marshall & Libby accounting firm."
16. "Amenity Manor's building and Montello Manor NF operations will no longer be utilized in the Mainecare System. Therefore, they are not subject to depreciation recapture."
17. "The facilities licensed Administrator and DON will assume compliance on an ongoing basis of all Mainecare / Medicare regulations – as evident by the most recent survey. See enclosed for your review."
18. "DEP Application has been filed on 6/2/09 – awaiting meeting with Town of Brunswick planning board. The project has received preliminary approval from the Town of Brunswick on the schematic design 3/09."
19. "Not applicable to our project."
20. "Please refer to the FF&E/Major movable worksheets from GTA."
21. "Financial Statements enclosed for your review including 2008 draft copies."

III. Economic Feasibility

B. CONU Discussion

i. CON Criteria

Relevant criteria for inclusion in this section are specific to the determination that the economic feasibility of the proposed services is demonstrated in terms of the:

- Capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and
- The applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules.

ii. CON Analysis

The applicant stated that \$288,000 of capital for this project will be provided by the applicant. The applicant provided a December 31, 2007 personal financial statement that did not indicate that the applicant had significant liquidity to fund a cash outlay of this amount. Significant investment activities have occurred since this date including the acquisition of a \$1,470,000 residential care facility and an office building for \$270,000. The applicant did indicate that financing was in place for this project. The notes to the projection assumptions expect the purchase of bed rights to be \$1,140,000 which is not reimbursable. The accounting assumptions include an \$850,000 capital contribution. No mention of the resolution of this discrepancy is included in the application.

MaineCare Neutrality

The applicant will enter into a written agreement with another nursing facility provider related to the applicant to delicense beds in their facilities in order to transfer the MaineCare cash flow from those facilities to the new facility. The applicant has obtained agreements for 114 beds. The applicant expects that the resources from those 114 beds will be sufficient for MaineCare neutrality.

The applicant presented a one-year pro-forma indicating the first year results for the facility. They anticipate an occupancy rate of 97.00%. The applicant also presents an overall increase in MaineCare NF days of 1,953 days. Patient mix between funding sources remains relatively stable.

First year operating expenses are projected to be \$5,065,210. Costs to provide NF services are calculated at \$4,455,332 and the remainder of \$606,477 to provide other ancillary services.

III. Economic Feasibility

In terms of MaineCare reimbursement for nursing facilities, the applicant projects \$2,851,331 in reimbursement for Year 1. Total residency revenues are expected to be \$5,535,602 with 52% from MaineCare, 18% private sources and 30% Medicare.

The revenue projection reflects the disparity in MaineCare rates to Medicare rates. The projection assumes 97% occupancy with 18% Private Pay, 18% Medicare and 64% MaineCare. The point in time data for occupancy that is discussed in Section IV indicates that the average occupancy in its region was 90% occupancy: 20% Private Pay, 17% Medicare and 63% MaineCare. Amenity Manor point-in-time data indicated 94% occupancy, 18.5% Private Pay, 16.7% Medicare and 65% MaineCare. This data indicated that the estimates used by the applicant for revenue and patient mix are reasonable. Expected rates are \$245 Private Pay, \$400 Medicare and \$194 a day from MaineCare.

CONU evaluates use rates by payor type. The applicant used a slightly higher use rate in its replacement facility than in the facility it currently operates only 3 miles away from its current site. Presently, Amenity Manor averages 224 MaineCare days per available bed, the new facility is expected to average 226 MaineCare days per available bed.

The applicant identified two sources of revenue for offsetting this project. The applicant did not determine the value of the resources themselves and consequently are relying on CONU to make this determination. However, it is not clear from the limited discussion located on pages 7 and 8 of this report, what the specific plan is for the Montello facility. If the applicant determines that they will eliminate NF services at Montello, than the remaining \$1,911,450 in resources and the 49 (114 Beds less the 65 at the new Brunswick facility) beds would be savings that would be included in the balance of the MaineCare funding pool.

The first source is an agreement with Montello Heights Nursing Facility in Lewiston, Maine for assigning the income stream from 20 beds at that facility. These beds as of 6/30/2009 have a valuation of \$740,348. The second source is the income stream from Amenity Manor. The income stream from MaineCare as of 6/30/2009 is calculated at \$2,132,403. The sources and uses of this income stream are reflected in the Sources and Uses of MaineCare chart below:

III. Economic Feasibility

Sources and Uses of MaineCare Funding:

Source	Facility	# Beds	Value	Days	Value
	Montello	20	\$37,017*	5,122	\$740,348
	Montello	37	\$51,661*	9,478	1,911,450
	Amenity	57	\$37,411	12,775	\$2,132,403
	Total	114	\$41,967	27,375	\$4,784,201
Uses	Replace Facility	65	\$43,867	14,728	\$2,851,341
	Montello	37	\$51,661	9,478	\$1,911,450
	Total	102	\$46,694	24,206	\$4,762,791
Excess / Loss		(12)			\$21,410

*Value shifted to account for 20 bed delicensing

The above chart indicates that using cash flow from 20 of the 57 beds from Montello and all 57 beds from Amenity Manor would maintain MaineCare neutrality. The excess resources from the transaction (\$21,410) would be credited to the MaineCare Funding Pool for future use. If the applicant wished to maintain the remaining 37 beds at Montello Manor, \$190,000 of the cash flow would be maintained at Montello that paid for the fixed cost portion of the 20 relinquished beds. This would increase the daily cost of the beds at Montello to a significantly higher amount than the cost at the proposed new facility. Clearly, the applicant must address the specifics of what they plan to do with Montello.

Financial Ratio Analysis

In addition to the below analysis, pertinent financial ratios, as well as financial projections are on file with CONU. The following discussion relies on the information as presented by the applicant. It needs to be noted that the copy of the Financial Projections as a compilation are not signed and therefore can only be given the weight of an applicant's own work and not that of a certified public accountant. This lessens the creditability of the accuracy of the projections presented to CONU.

There are four areas of financial ratio analysis related to the ability of the project to be successful. These ratios are profitability, liquidity, capital structure, and activity ratios.

Profitability: These ratios show how well the nursing facility does in achieving an excess of revenues over expenses or providing a return. Generating revenue in excess of expenses is important to secure the resources necessary to update plant and equipment,

III. Economic Feasibility

implement strategic plans, or respond to emergent opportunities for investment. Losses, on the other hand, threaten liquidity, drain other investments, and may threaten the long-term viability of the organization. The profitability ratios reported here include the operating margin, which measures the profitability from operations alone, and the return on total assets.

Financial Performance Indicators

Profitability	Year 1	Year 2	Year 3
Operating Margin	3.55%	3.00%	2.79%
Return on Total Assets	2.12%	1.80%	1.69%

A review of financial indicators is important because they can present a fair and equitable representation of the financial health of an organization and assist in presenting appropriate comparisons. This provides a sound basis for determining whether the facility has the ability to commit the financial resources to develop and sustain the project. Facilities need to perform at financially sustainable levels in order to carry out their public-interest missions. The table above demonstrates the applicant expects return to decrease over the time period because of the tendency for MaineCare reimbursement to lag operational costs.

Financial Performance Indicators

Profitability	Year 1	Year 2	Year 3
Operating Surplus	\$205,717	\$175,529	\$162,262

Expected surplus is reasonable given the assumptions provided by the applicant. Assuming the projections will materialize, this level of surplus would allow the facility enough cash flow to maintain operations.

Liquidity: Current ratios and acid test ratios are indicators of the ability of a facility to meet its short-term obligations. This liquidity alleviates the need for decision making to focus on short-term goals and allows for more efficient planning and operation of a nursing facility. The current ratio assumes that inventory and accounts receivable can be liquidated sufficiently to meet short-term obligations. This ratio can provide a cursory indication of cash management performance.

III. Economic Feasibility

Financial Performance Indicators

Liquidity	Year 1	Year 2	Year 3
Current Ratio	3.01	4.99	6.74
Days in Account Receivable	0	0	0
Days Cash on Hand	26.45	49.58	70.81
Average Payment Period	8.77	9.94	10.50

The current ratio as presented above shows a strong ability to make timely payments. The applicant did not consider the timeliness of payments and therefore is overestimating cash on hand and underestimating days in account receivable as well as underestimating average payment period. These estimating issues may offset the impact of each other, the difference between cash on hand and average payment period remains adequate.

Activity and Capital Structure: Activity ratios indicate the efficiency with which an organization uses its resources, typically in an attempt to generate revenue. Activity ratios can present a complicated picture because they are influenced both by revenues and the value of assets owned by the organization.

Financial Performance Indicators

Solvency	Year 1	Year 2	Year 3
Equity Financing	11%	13%	14%
Debt Service Coverage	1.57	1.49	1.46
Cash flow to Total Debt	5.98%	5.73%	5.71%
Fixed Asset Financing	105%	107%	110%

The equity financing levels are marginal but indicative of industry standards. Debt Service coverage is also adequate. The fixed asset financing ratio is of concern because over time this ratio worsens. This is because the assets of the facility will be ageing faster than the planned repayment of the facility. The loan is repayable over 25 years while furniture and fixtures, and motor vehicles are depreciated over 5 years. Over a period of 10 years the applicant will need to begin replacing more than \$500,000 of furniture and equipment. Cash flow from operations is currently adequate to cover those expenditures.

III. Economic Feasibility

In review, the financial indicators are indicative of a facility with a basic financial approach that relies on the assumption that service utilization will remain high.

Staffing

As part of the proforma provided, the applicant disclosed direct care staffing as follows:

DIRECT CARE	# FTE's
Registered Nurses	6.29
Licensed Practical Nurses	4.29
CNA	20.71
Total	31.20

This staffing pattern is consistent with the pattern of Amenity Manor. The applicant indicated that expected direct care costs were approximately 8% greater than at the current Amenity Manor. The increase in beds is 13%. The 5% difference is related to the increased occupancy assumption and the savings from not increasing the activities budget.

Changing Laws and Regulations

CONU staff is not aware of any imminent or proposed changes in laws and regulations that would impact the project. Mr. Rousseau and the Rousseau Management Staff presently have the organizational strength to adjust to reasonable changes in laws and regulations.

Construction Costs

The Brunswick Nursing Home project, as labeled in the exhibits on file with CONU, indicates a 6/1/09 estimate for a project of \$7,813,705. At this cost the per bed cost would be \$120,211. The Durgin Pines facility in York County was constructed in 2009 at a final approved cost of \$8,837,404. This was a per bed cost of \$109,103.75.

A significant difference in the two projects is the land acquisition costs and the site work costs. The Brunswick proposal includes \$450,000 in land acquisition costs and \$1,356,561 in site work costs. The Durgin Pines facility included \$262,500 in land and \$514,800 in land improvements. Eliminating these charges from the comparison gives values of \$6,007,144 for Brunswick and \$8,060,104 for Durgin Pines. This develops a per bed average of \$92,418 for Brunswick and \$99,507 for Durgin Pines.

The applicant included a 5% contingency; however, the applicant did not request any additional contingency of up to 3% on Construction items based on Resolve LD1784.

III. Economic Feasibility

An additional consideration is that the estimate included televisions in resident's rooms. This is a non-reimbursable expense and the \$51,090 would not be subject to reimbursement from MaineCare.

If approved the project would be for \$7,762,615 with a 5% contingency of \$388,130. Total approved costs would not be able to exceed \$8,150,746. Based on total development cost per square foot this is \$215 per square foot. Based on the Calculator Method employed by Marshall and Swift Valuation Service, construction costs for a 38,620 sq. ft. nursing facility would be \$125 to \$175 per square foot. This is a range of \$4,875,000 to \$ 6,758,500 depending on finishes. The complete fifteen page costing report for the project includes a comparable \$6,362,918 of construction expenses. This is equivalent to \$164.78 per square foot. The project is in the range of costs suggested by Marshall and Swift.

Consideration of a facility more in line with the "Green House Model" may strengthen the application. The applicant could have incorporated more resources from Montello. An example would be additional bed resources at Montello could be sold to finance owner's equity contributions to this project. As presently constituted and given the amount of costs of the land acquisition and the location as well as the Office of Elder Services' comments incorporated in Section IV, the opportunity to provide more services in Brunswick or maintain services in Lewiston should be further examined by the applicant. The applicant has met the criteria for this determination.

iii. Conclusion

CONU recommends that the Commissioner determine that the applicant has met their burden to demonstrate: (1) the capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and (2) the applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules.

IV. Public Need

IV. Public Need

A. From Applicant

“Rousseau Management, Inc. engaged the services of Planning Insights, Inc. to provide us and the state with a professional market study. This study addresses all areas of concern, including the need, market area and financial feasibility. The report not only provides critical information for us but also the state so we can all move forward together. We have listed below the sections that pertain to the CON Nursing Facilities outline for your convenience.”

1. “Please refer to Planning Insights market study section: Retirement Housing Market Area – Page 14 thru 25”
2. “Please refer to Planning Insights market study section: Retirement Housing Market Area - Page 15”
3. “Please refer to Planning Insights market study section: Summary and recommendation – Pages 5 thru 13”
4. “Please refer to Planning Insights market study section: Demand potential – pages 26 thru 35”
5. “Please refer to Planning Insights market study section: Demand potential – page 31”
6. “Please refer to Planning Insights market study section: Demand potential – pages 28 thru 29”
7. “Please refer to Planning Insights market study section: Demand potential – pages 30 thru 31”
8. “Please refer to Planning Insights market study section: Retirement Housing Market Area – Page 15 thru 25”
9. “N/A”
10. “Please refer to Planning Insights market study section: Demand potential – page 30 thru 31”
11. “Please refer to Planning Insights market study section: Competitive environment – page 36 thru 50”

IV. Public Need

12. "Please refer to Planning Insights market study section: Competitive environment – pages 36 thru 50. Also please see enclosed reference letters."
13. "To enhance the quality of life for the residents living in the facility."
14. "Please refer to Planning Insights market study section: Summary and recommendations – pages 5 thru 13"
15.
 - a) "Amenity Manor 57 dually certified long term care facility"
 - b) "Amenity Manor 57 dually certified long term care facility"
 - c) "New Facility 65 dually certified long term care facility"
 - d) "The new facility will have 65 dually certified long term care beds. As addressed in previous sections, this will be a replacement facility for Amenity Manor and Montello Manor (NF only)."
 - e) "We are confident that the new state of the art facility will provide an environment that is comfortable and cost effective in addition to being an asset to the community as well as the State of Maine."
16. "N/A"

B. CONU Discussion

i. CON Criteria

Relevant criteria for inclusion in this section are specific to the determination there is a public need for the proposed services as demonstrated by certain factors, including, but not limited to:

- Whether, and the extent to which, the project will substantially address specific health problems as measured by health needs in the area to be served by the project;
- Whether the project will have a positive impact on the health status indicators of the population to be served;
- Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and
- Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project.

IV. Public Need

ii. OES Analysis

“We have reviewed the CON application from Rousseau Management, Inc. to construct a 65-bed nursing facility in Brunswick to replace the existing 57-bed Amenity Manor nursing facility in Topsham. We offer the following comments.”

Project Design:

“The applicant describes the replacement facility as “state of the art” design. While the facility’s one-level floor plan is better than the existing facility’s three-level floor plan (basement, first floor, second floor) for the residents and staff, the proposed facility is an institutional model when compared to the “Green House” model, which combines a residential building design (6-10 beds) and an innovative staffing philosophy. Given the replacement facility’s estimated total development cost (\$8,500,000 or \$130,769 per bed) and the advantages of the proposed site (7.36 acres, municipal water and sewer, and the absence of natural features, such as wetlands, that would restrict development), we recommend that the applicant and his architect consider the financial feasibility and physical practicality of the “Green House” model to replace the existing facility. The “Green House” model is described at

<http://www.ncbcapitalimpact.org/default.aspx?id=146>”

“The preliminary architectural drawings show gas-fired fireplaces in the family rooms in the resident wings. We are concerned that this feature presents a hazard to those residents who require the assistance of portable oxygen systems. We recommend that the provider and his architect respond to this concern.”

“The project equipment cost schedule lists \$51,090 for 65 wall-mounted flat screen televisions. Since MaineCare does not reimburse the cost of televisions in resident rooms, that cost should not be included in the MaineCare rate.”

Project Need:

“In 2007, the Maine Department of Human Services contracted with The Lewin Group, Inc. and the Muskie School for Public Service to develop a model to forecast the 2010 and 2015 statewide and county need for nursing beds and other community-based services. Muskie used the model to forecast the 2010 and 2015 nursing bed need based on three different possible scenarios: (1) the decline in the observed 2000 through 2006 nursing facility use rates will continue; (2) the decline in the use rates will slow to one-half of the decline observed from 2000 through 2006; and, (3) the decline in the use rates will end and remain at the observed 2006 use rates. Since Brunswick is located in Cumberland County and Topsham is located in Sagadahoc County, the combined forecast for those counties is appropriate.”

“According to the model, there were 1,560 nursing beds serving Cumberland County and 129 nursing beds serving Sagadahoc County in 2008. The replacement facility will add 8

IV. Public Need

beds and revise the total to 1,697 nursing beds serving those counties. Applying the three forecasting scenarios, the need for nursing beds ranges from 1,621 beds to 1,858 beds in 2010, and the need for nursing beds ranges from 1,485 beds to 2,007 beds in 2015. We consider the revised total number of 1,697 nursing beds serving those counties to be reasonable since it is close to the second scenario, which forecasts a need for 1,735 nursing beds in 2010 and a need for 1,726 nursing beds in 2015.”

Reallocation of MaineCare Resources:

“The replacement facility cannot achieve MaineCare neutrality as required by the CON without additional MaineCare resources. A comparison of the estimated MaineCare payments to the existing facility and the replacement facility indicates a MaineCare shortfall of approximately \$515,000. The applicant intends to delicense nursing beds at his Montello Commons nursing facility in Lewiston and apply the resulting MaineCare savings to offset the shortfall. Since the applicant has not submitted the necessary proforma cost report and supporting documentation for Montello Commons, the Department cannot determine how many nursing beds will have to be delicensed in order to cover the shortfall. However, we can use the Lewin model to estimate the impact that delicensing the Montello beds will have on the need for nursing beds in Androscoggin County.”

“According to the model, there were 545 nursing beds serving Androscoggin County in 2008. Applying the three forecasting scenarios, the need for nursing beds ranges from 570 beds to 646 beds in 2010, and the need for nursing beds ranges from 511 beds to 672 beds in 2015. Only the first scenario forecasts a need for fewer nursing beds (511 beds in 2015) for Androscoggin County than the beds that are now available. We are concerned that delicensing Montello nursing beds in order to reallocate MaineCare resources to Cumberland County will adversely affect Androscoggin County residents that need MaineCare nursing services. Our concern is supported by the applicant’s market study, which identifies a potential demand for 745 nursing beds for the Lewiston Market Area.”

“In conclusion, we do not oppose, in principle, the CON application to replace the existing Amenity Manor nursing facility. The replacement facility will be a better environment for residents and staff. However, we recommend that the applicant and his architect consider the “Green House” model as a “state of the art” replacement for the existing facility. And, we recommend that the applicant purchase “reserved” nursing beds rather than delicense Montello beds to cover the MaineCare shortfall.”

iii. CON Analysis

CONU concurs with the Office of Elder Services comments. CONU also offers the following analysis regarding the need for NF beds in the relevant service areas.

The following comments relate to charts A & B. The census data are presented as of May 15, 2009. It shows a total of 545 available beds in Androscoggin County. All the facilities

IV. Public Need

are located in the Lewiston-Auburn area and are roughly comparable as to size and facility condition. The data show that the facilities are above the 85-90% capacity threshold (as applicable). Five of the six facilities serve different levels of care with skilled services being available and utilizing 10-25% of the available nursing beds. Montello offers skilled services and reported utilization in May 2009 of 87.72% MaineCare patients. The percentage of occupied beds paid for by MaineCare range from 61% to 92% with Montello reporting 82.00%.

A. Androscoggin County Point in Time Occupancy 5/15/09 (Muskie Survey):

Occupancy Pct	MaineCare Pct	Medicare Pct	Other Pct	Total Beds	Facility
89.09%	67.35%	12.24%	20.41%	110	Clover Manor
87.72%	82.00%	10.00%	8.00%	57	Montello
98.00%	61.22%	24.49%	14.29%	50	Russell Park
88.10%	80.54%	13.51%	5.95%	210	St. Mary's
100.00%	92.31%	0.00%	7.69%	26	Odd Fellows Home of Maine
97.83%	68.89%	23.33%	7.78%	92	Marshwood Center
93.5%	75.3%	13.3%	10.7%	545	Facility Average/ Totals

Amenity Manor is currently located in Topsham and the proposed new location is in Brunswick. The two locations are three miles apart in distant; however, this involves crossing county lines as well as the Androscoggin River. Sagadahoc County, which is geographically the smallest county in Maine, has approximately 32,000 residents and has two nursing facilities: Amenity Manor and Winship Green in Bath. These two facilities are 6.5 miles apart. Freeport and Yarmouth are towns with nursing facilities located immediately south of Brunswick along Route 295 and Route 1 in Cumberland County. These facilities are also reasonable alternatives for residents of the immediate area of Amenity Manor. Expansion of the area any further would include the above Lewiston facilities.

B. Brunswick/Topsham Expanded Area Point in Time Occupancy 5/15/09 (Muskie Survey):

Occupancy Pct	MaineCare Pct	Medicare Pct	Other Pct	Total Beds	Facility
94.7%	65%	16.7%	18.5%	57	Amenity Manor – Topsham Sagadahoc
91.7%	58%	19.7%	22.7%	72	Winship Green – Bath Sagadahoc
81.0%	21%	41.2%	38.2%	42	Mid Coast Senior Health – Brunswick Cumberland
78.7%	81%	2.1%	16.7%	61	Freeport Nursing and Rehab – Freeport Cumberland
93.8%	70%	17.1%	13.2%	81	Hawthorne House – Freeport Cumberland
87.2%	74%	19.15	7.4%	78	Brentwood –Yarmouth Cumberland
100%	74%	5.1%	20.5%	39	Coastal Manor – Yarmouth Cumberland
89.6%	63.1%	17.3%	19.6%	430	Facility Average/ Totals

IV. Public Need

These two charts illustrate two important differences between the two communities. First, there is a 5% lesser occupancy rate in the Brunswick area than in Lewiston. Second, there is a 12% smaller MaineCare utilization in the greater Brunswick area than Lewiston.

In addition, the applicant has failed to explain the extent to which specific health problems are addressed. The applicant did not identify any specific health problems. The applicant infers and OES agrees with the applicant that the project may have a positive impact on health status indicators by providing more modern, cleaner environment; however, the applicant provided no details. The applicant did not address accessibility to care for patients unable to utilize the beds that were once at Montello in Androscoggin County. The applicant did not specifically provide demonstrable improvements in quality as a result of the project.

iv. Conclusion

CONU recommends that the Commissioner find that the applicant has not met their burden to show that there is a public need for the proposed project as demonstrated by certain factors, including, but not limited to: (1) Whether, and the extent to which, the project will substantially address specific health problems as measured by health needs in the area to be served by the project; (2) Whether the project will have a positive impact on the health status indicators of the population to be served; (3) Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and (4) Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project.

V. Orderly and Economic Development

V. Orderly and Economic Development

A. From Applicant

“As we all know, there are several long term care facilities here in Maine that have aged and are no longer a cost effective environment to provide services. So what choices do we have to improve on this situation? Keep pouring money into a tired old building, or start fresh and build new.”

“History has proven that to continue to pour money into an old building is not easy or cost effective. It is extremely disruptive to the residents, staff and families to try and “fix” an old building while still providing care. Not only is it disruptive, but often times you still end up with the same old building.”

“The better option is to start “fresh”. We looked long and hard for a site to build a new facility on, where we could create a community that would prove to be a cost effective option for years to come. We negotiated with the Brunswick-Topsham Land Trust and found a wonderful location in Brunswick. The property is located on Maurice Drive. Our new facility would be surrounded by numerous medical facilities, such as Bowdoin Medical Group, Mid-Coast Senior Health, Thornton Oaks and our own Dionne Commons. This “Health-Care” campus truly would be a wonderful asset in the community.”

“In conclusion, we feel that a replacement facility is the most cost-effective and least disruptive option for all of us to move forward. It would replace two very old and tired facilities with one brand new, state of the art, cost effective facility. This is a wonderful time to do this project. Our new facility would prove to be a “home” that we can all be proud of.”

V. Orderly and Economic Development

B. CONU Discussion

i. CON Criteria

Relevant criteria for inclusion in this section are specific to the determination that the proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:

- The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;
- The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and
- The likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available.

ii. CON Analysis

This project relies on the desire to make improvements to the current facility. It is clear from the information provided by the applicant that Amenity Manor is reaching the end of its functional useful life and many of its design considerations make it inefficient for improving the current facility. The applicant has failed to address the need for a larger facility, the impact on removing 20 beds from the Montello facility and the Androscoggin County area or the possibility of building a facility that improves on the status quo of the type of facility envisioned.

The applicant also failed to discuss the impact of the expenditures on the health care system. The applicant also failed to discuss any alternative design or size options that may have been explored. The applicant failed to discuss why this design was chosen versus an alternative design. In short, the applicant failed to demonstrate that the project is consistent with the orderly and economic development of health facilities and health resources for the state.

iii. Conclusion

CONU recommends that the Commissioner find that Rousseau Management has not met their burden to demonstrate that the proposed project is consistent with the orderly and economic development of health facilities and health resources for the State.

VI. State Health Plan

VI. State Health Plan

i. **Criteria**

Relevant criteria for inclusion in this section are specific to the determination that the project is consistent with the State Health Plan.

ii. **Discussion**

Note: The Maine Center for Disease Control (Maine CDC) is not required to comment on Nursing Facility applications.

PRIORITY: The applicant is redirecting resources and focus toward population-based health and prevention.

a. **Applicant's Discussion on Priority**

"Please refer to Planning Insights market study."

b. **CONU Discussion**

The applicant's market study did not address health needs of the area. This priority has not been met.

PRIORITY: The applicant has a plan to reduce non-emergent ER use.

a. **Applicant's Discussion on Priority**

"N/A"

b. **CONU Discussion**

The applicant could have analyzed current non-emergent emergency room use at the current facility and discussed how the new facility location may improve patient access to medical facilities that surround the new location.

PRIORITY: The applicant demonstrates a culture of patient safety, that it has a quality improvement plan, uses evidence-based protocols, and/or has a public and/or patient safety improvement strategy for the project under construction and for other services throughout the hospital.

VI. State Health Plan

a. Applicant's Discussion on Priority

“N/A”

b. CONU Discussion

The applicant must demonstrate their commitment to a culture of patient safety.

PRIORITY: The project leads to lower costs of care/increased efficiency through such approaches as collaboration, consolidation, and/or other means.

a. Applicant's Discussion on Priority

“We have mutual goals. We need to find Mainecare savings in our long term care programs. As addressed in earlier sections, our proposal is to replace two old, tired facilities that are extremely expensive to operate with a brand new, state of the art, cost effective facility. Where and how are those savings going to be generated:

- 1) Cost of Operations: Our heating expenses at the two old facilities are astronomical during the heating months, our monthly billing from CMP for Montello Manor alone exceeds \$25,000 per month. This is one obvious example of how expensive an old building is to operate and how cost-effective a new building will be. Other line item savings are insurances and daily routine maintenance just to name a few.
- 2) Potential Bed Reduction: Between Amenity Manor (57 dually certified beds) and Montello Manor (57 dually certified beds) - We have 114 dually certified licensed long term care beds. The replacement facility will have 65 dually certified licensed long term care beds. The numbers alone would indicate a substantial savings to our Mainecare program.”

b. CONU Discussion

The project proposes no increase in MaineCare costs; however, it does not address the increased cost per bed that the new facility will have. It is not clear that any actual savings would be achieved. The priority has not been met.

PRIORITY: The project improves access to necessary services for the population.

a. Applicant's Discussion on Priority

“This project will create a health care campus in the Brunswick Community. This campus will provide easier access to the services that the geriatric population requires. On this campus, there will be a physicians' office, Bowdoin Medical Group, a retirement community, Thornton Oaks and Mid-Coast Senior Health, a residential care facility, Dionne Commons and our new facility that will provide long term care services.”

VI. State Health Plan

“Within the new facility we will be able to offer out-patient therapy services to the people that reside on this campus as well as in the surrounding communities.”

“Also please refer to the Planning Insight market study”

b. CONU Discussion

The project does not improve access to care for the patients unable to utilize the beds that were once at Montello in Androscoggin County. The applicant presupposes the connection between adding a service and need. The applicant did not demonstrate that there is a need for the service as required by the CON Act. This priority has not been met.

PRIORITY: The applicant has regularly met Dirigo voluntary cost control targets.

a. Applicant’s Discussion on Priority

“N/A”

b. CONU Discussion

This priority does not apply.

PRIORITY: The impact of the project on regional and statewide health insurance premiums, as determined by BOI, given the benefits of the project, as determined by CONU.

a. Applicant’s Discussion on Priority

“N/A”

b. CONU Discussion

This priority does not apply.

PRIORITY: Applicants (other than those already participating in the HealthInfoNet Pilot) who have employed or have concrete plans to employ electronic health information systems to enhance care quality and patient safety.

a. Applicant’s Discussion on Priority

“For increased efficiency we are working with Hi-Tech software to implement electronic charting in the new facility. Our plan is to have computers located throughout the facility to eliminate the undesirable effects of paper documentation. We feel electronic charting

VI. State Health Plan

will improve accuracy, improve quality of care, reduce risk and improve facility communication.”

b. CONU Discussion

The applicant has a plan to implement an electronic health information system and therefore satisfies this priority.

PRIORITY: Projects done in consultation with a LEEDS certified-architect that incorporate "green" best practices in building construction, renovation and operation to minimize environmental impact both internally and externally.

a. Applicant's Discussion on Priority

“We are reviewing all our energy saving opportunities with GTA and Hebert Construction.”

b. CONU Discussion

Because the application includes no specific information regarding “green” best practices, CONU cannot determine that the applicant has met this priority.

iii. Conclusion

CONU recommends that the Commissioner find that the applicant has not met their burden to demonstrate that the proposed project is consistent with the goals of the State Health Plan.

VII. Outcomes and Community Impact

VII. Outcomes and Community Impact

A. From Applicant

“Our new facility will be located in Brunswick, Maine and have 65 licensed beds. This new facility will be a replacement facility for Amenity Manor which is located in Topsham, Maine and has 57 licensed beds. (Note: the distance between Amenity Manor and the new facility is approximately 3 miles.)”

“We hired Planning Insights, Inc. to complete a market study for our project. A copy of that study has been attached for your review.”

B. CONU Discussion

i. CON Criteria

Relevant criteria for inclusion in this section are specific to the determination that the project ensures high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers.

ii. CON Analysis

Based on the comments from the Office of Elder Services, the applicant will not negatively affect the quality of care delivered by existing service providers in the Brunswick/Topsham area; however, the same is not true for the community in Lewiston where a substantial portion of the resources for this project will derive. The applicant has not met their burden to demonstrate high-quality outcomes, either within the Lewiston community or clinically in the proposed new facility. The applicant failed to address what high-quality outcomes can be achieved by this project. The applicant failed to provide any information regarding the progress to the continuous quality improvement goals.

iii. Conclusion

CONU recommends that the Commissioner find that the applicant has not met their burden to demonstrate that this project will ensure high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers.

VIII. Service Utilization

VIII. Service Utilization

A. **From Applicant**

“Attached please find a copy of our CQI program”

B. **CONU Discussion**

i. **CON Criteria**

Relevant criterion for inclusion in this section are specific to the determination that the project does not result in inappropriate increases in service utilization, according to the principles of evidence-based medicine adopted by the Maine Quality Forum.

ii. **Maine Quality Forum Analysis**

Note: The Maine Quality Forum is not required to comment on Nursing Facility applications.

iii. **CON Analysis**

The analysis by the Office of Elder Services indicates that this proposed project would not result in an inappropriate increase in service utilization. As set forth in Section II, CONU has concluded that an 8 bed increase in the area is not an inappropriate increase.

iv. **Conclusion**

CONU recommends that the Commissioner find that the applicant has met their burden to demonstrate that the project does not result in inappropriate increases in service utilization, according to the principles of evidence-based medicine adopted by the Maine Quality Forum.

IX. Funding in MaineCare Nursing Facility Fund

IX. Funding in MaineCare Nursing Facility Fund

A. From Applicant

“As mentioned in earlier sections our plan is to combine Amenity Manor and Montello Manor (NF Only) into a new 65 bed cost effective facility. By using all of Amenity Manor’s available Mainecare revenue stream and a portion of Montello Manor’s revenue stream we are confident that this project will be Mainecare neutral and not cost the State of Maine any additional money. Further, we believe there is also a chance for Mainecare Savings with this project. We understand the importance of Mainecare neutrality and have kept that in mind as we prepared our Profit and Loss statement as well as the Proforma cost report.”

“This is a timely much needed project that will prove to be very beneficial to the areas to be served and an investment in the long term care program here in the State of Maine.”

B. CONU Discussion

i. CON Criteria

Relevant criteria for inclusion in this section are related to the needed determination that the project can be funded within the MaineCare Nursing Facility Fund.

ii. CON Analysis

This project is funded from a source separate from the MaineCare Nursing Facility Fund and therefore meets the criteria.

iii. Conclusion

CONU has determined that there are no incremental operating costs to the healthcare system there and will be no MaineCare Nursing Facility Fund dollars needed to implement this application.

X. Timely Notice

X. Timely Notice

A. From Applicant

The applicant did not comment on this section.

B. CONU Discussion

Letter of Intent filed:	January 6, 2009
Technical Assistance meeting held:	February 6, 2009
CON application filed:	June 19, 2009
CON certified as complete:	June 19, 2009
Public Information Meeting Held:	July 8, 2009
Public Hearing held:	Not Requested
Public comment period ended:	August 7, 2009

XI. Findings and Recommendations

XI. Findings and Recommendations

Based on the preceding analysis, including information contained in the record, the CONU recommends that the Commissioner make the following findings and recommendations:

- A. That the applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards.
- B. The economic feasibility of the proposed services has been demonstrated in terms of the:
1. Capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and
 2. The applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules;
- C. The applicant has not demonstrated that there is a public need for the proposed services as demonstrated by certain factors, including, but not limited to;
1. The extent to which the project will substantially address specific health problems as measured by health needs in the area to be served by the project;
 2. The project has demonstrated that it will have a positive impact on the health status indicators of the population to be served;
 3. The project will be accessible to all residents of the area proposed to be served; and
 4. The project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project;
- D. The applicant has not demonstrated that the proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:
1. The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the

XI. Findings and Recommendations

competing demands in the local service area and statewide for available resources for health care;

2. The availability of State funds to cover any increase in state costs associated with utilization of the project's services; and

3. The likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available was not demonstrated by the applicant;

In making a determination under this subsection, the commissioner shall use data available in the state health plan under Title 2, section 103, data from the Maine Health Data Organization established in chapter 1683 and other information available to the commissioner. Particular weight must be given to information that indicates that the proposed health services are innovations in high quality health care delivery, that the proposed health services are not reasonably available in the proposed area and that the facility proposing the new health services is designed to provide excellent quality health care.

E. The applicant has not demonstrated that the project is consistent with and furthers the goals of the State Health Plan;

F. The applicant has not demonstrated that the project ensures high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers;

G. The applicant has demonstrated that the project does not result in inappropriate increases in service utilization, according to the principles of evidence-based medicine adopted by the Maine Quality Forum; and

H. That the project need not be funded within the MaineCare Nursing Facility Fund.

For all the reasons contained in the preliminary analysis and in the record, CONU recommends that the Commissioner determine that this project should be **Disapproved**.