

**EVALUATION DATED MAY 12, 2015 OF THE CERTIFICATE OF NEED APPLICATION  
SUBMITTED BY EMERALD COMMUNITIES PROPOSING TO CONSTRUCT A FOURTY-  
FIVE BED SKILLED NURSING FACILITY AS PART OF THE TYPE A CONTINUING  
CARE RETIREMENT COMMUNITY IN THE CITY OF GIG HARBOR, WITHIN PIERCE  
COUNTY**

**APPLICANT DESCRIPTION**

Emerald Communities is a not-for-profit corporate entity which currently operates a continuing care retirement community (CCRC) in Redmond located within King County. Emerald Communities has recently established Heron's Key a Washington not-for-profit corporation under which Emerald Communities will operate the Type A CCRC. Emerald Communities will be the sole member of Heron's Key. Emerald Communities is the parent corporation that will provide management, development, and marketing services for Heron's Key retirement community. [Source: Application pp1-2]

**PROJECT DESCRIPTION**

Emerald Communities proposes to construct a 45 bed skilled nursing facility (SNF) as part of Type A CCRC that will be located in the city of Gig Harbor within Pierce County. The 45 bed SNF will be constructed as part of phase one of the overall project. In addition to the SNF, the applicant is proposing to construct 194 private residential units (Independent Living Units, ILU) and 36 apartments for assisted Living/personal care services. In phase two, an additional 88 Independent Living Units and 32 bed memory care units will be constructed. [Source: Application, p2] For ease of reference, this document will refer to the applicant as Emerald Communities and the CCRC as "Heron's Key Type A CCRC" and the proposed SNF within the CCRC as "Heron's Key SNF."

The department uses the definition of a Type A CCRC found in RCW 70.38.025(3), 70.38.111(5), and WAC 246-310-010(16), additionally the 1987 Washington State Health Plan is used to assist in evaluations of Type A CCRCs. Although the state health plan was "sunset" in 1989, the department has concluded that it remains a reliable tool for evaluating Type A CCRC projects. The state health plan provides a further clarification of Type A CCRCs as well as providing guidance in the types of services expected to be provided and the process to be used by the applicant in establishing the nursing home portion of the CCRC.

Washington Administrative Code (WAC) 246-310-010 defines CCRC as follows:

*"Continuing care retirement community (CCRC)" means any of a variety of entities, unless excluded from the definition of health care facility under RCW 70.38.025(6), which provides shelter and services based on continuing care contracts with its residents which:*

- *Maintains for a period in excess of one year a CCRC contract with a resident which provides or arranges for at least the following specific services:*
  - *Independent living units;*
  - *Nursing home care with no limit on the number of medically needed days;*
  - *Assistance with activities of daily living;*
  - *Services equivalent in scope to either state chore services or Medicaid home health services;*
- *Continues a contract, if a resident is no longer able to pay for services;*

- *Offers services only to contractual residents with limited exception during a transition period; and*
- *Holds the Medicaid program harmless from liability for costs of care, even if the resident depletes his or her personal resources.*

Under Certificate of Need rules and regulations, only the establishment of Heron’s Key SNF requires prior review and approval. However, because admission to the nursing home and the CCRC in total is limited to contractual members, the department must consider the establishment of Heron’s Key as a whole. To that end, this evaluation will include the construction of the Heron’s Key with a focus on the Heron’s Key SNF.

The property for Heron’s Key is located at 4340 Borgen Boulevard, Gig Harbor, Washington 98322. The property is an unimproved parcel of real property approximately 17.97 acres in an area currently known as M-2 by the city of Gig Harbor. [Source: Application p8, & September 30, 2014 Supplemental Information Amendment #4]

Heron’s Key will offer residents lifetime residency and provide a continuum of housing, support through a contract known as Life Care Contracts. [Source: Application, p 2] Heron’s Key will provide four levels of care:

1. Residential health services with a focus on preventative care;
2. Assisted living services provided in the Assisted Living Center;
3. Memory care services in the Health Center and then in the Memory Care Center once constructed in a future phase; and
4. Rehabilitative care services and nursing care services in the Health Center.

They would provide the following services to the residents under the terms of the residence and care agreements in exchange for payment of a one-time, entrance fee and ongoing payments of a monthly service fee. [Source: Application, p2 & 3]

- Monthly dining allocation
- Parking for guests
- Emergency call system
- Scheduled transportation;
- Fire detection system
- All utilities except telephone
- Building and grounds maintenance
- Basic cable television service and all utilities, except telephone;
- Standard cleaning of private residential home every other week
- Use of all common and activity areas and private dining room
- Various fitness and wellness programs (nominal fees may apply).

### Public Comment

An issue was raised in the public hearing whether the Heron’s Key project does not conform to the state definition of a CCRC as found in RCW 70.38.025(3).

### Rebuttal

The applicant does not agree since the Heron’s Key Community will consist of independent living, assisted living, a skilled nursing facility, and eventually a memory care facility. The residents will

have continuing care contracts that provide shelter and services. Emerald Communities is a 501c(3) Washington non-profit corporation, and the sole member of Heron’s Key, also a Washington non-profit corporation, and sole member of Heron’s Key also a Washington non-profit, which has applied for exemption under 501c(3). When the community opens, the continuing care contracts will be in the name of Heron’s Key.

Department Evaluation

The department has reviewed the materials submitted by the applicant for this project. The materials meet the requirements for starting and operating a Type A CCRC. The services to be provided by Heron’s Key CCRC are consistent with the definition in RCW 70.38.025(3)

The materials submitted by the applicant are focused on phase one of this project and the success of the project does not rely on completion of phase two of the project. The applicant provided a detailed timeline for phase one. The timeline for phase two depends on meeting the conditions discussed below that will trigger phase II of the project.

Phase One

Emerald Communities has obtained initial pre-finance capital through a loan from Eastside Retirement Association. If this project is approved, Emerald Communities anticipates submitting design documents to the department’s Construction Review Section by February 2015. Construction of the CCRC would begin approximately April 2016; and substantial completion of construction is expected by October 2017. Phase one would be operational in November 2017. Phase one consists of 194 residential homes, 36 assisted living apartments; and the 45-bed Heron’s Key SNF. [Source: Application p2, 16, & 17]

Phase Two

Prompts for beginning phase two of the project include: full occupancy for phase one independent living units; continued or sufficient market demand for the services within the defined market; access to adequate pre-development capital for phase two development; and general economic conditions. Items that could prevent phase two of the project include lack of interest in financing the plan by potential investors or phase one constraints related to financial covenants. The actuarial study did not address any factors related to phase two of the project. [Source: Application Exhibit 15] Below is a breakdown of the number of homes, apartments, and the SNF beds by phase.

<b>Phase</b>	<b># of Independent Living Units</b>	<b># of Assisted Living Apartments</b>	<b># of Skilled Nursing Beds</b>
Phase 1	194 units	36 units <sup>1</sup>	45 beds
Phase 2	88 units	32 units	
<b>Totals</b>	<b>282 units</b>	<b>68 Units</b>	<b>45 beds</b>

[Source: Application, p2]

At completion of phase two, the Heron’s Key would have 282 ILUs, 68 assisted living apartments, and a 45-bed SNF. It is noted that if this project is approved, 32 of the phase two apartments would be in a memory care unit.

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<sup>1</sup> (includes assisted & personal care)

There are four main entities involved in the development of this project: Emerald Communities, Life Care Services (LCS) Development Company, and Zeigler Investment Banking and AV Powell.

#### Emerald Communities-Applicant

A description of Emerald Communities was provided in the applicant description section of this evaluation. For this project, Emerald Communities submitted this application and provided copies of their Agreement for Management and Operation Services and bylaws, Articles of Incorporation, and Certificate of Incorporation for Heron's Key. [Source: Application: Exhibit 2]

#### Life Care Services (LCS) Development

*"LCS Development has been designing and developing senior living communities since 1971, and they draw from this extensive background in every community they serve. As one of the LCS family of Companies, they have an in-depth understanding of the senior living experience- an unlimited access to in-house resources that other developers must outsource. Since their inception they have opened 45 greenfield continuing care retirement communities"* [these communities have included SNFs and assisted living facilities]. [Source: Application, p18] In Washington State LCS Development was involved in development of Timber Ridge at Talus and its nursing home. [Source: CN Historical Files]

#### AV Powell

AV Powell specializes in actuarial analyses for CCRCs and is the largest actuarial firm serving the senior living industry. AV Powell has completed a full actuarial analysis of the Heron's Key project. [Source: Application, Exhibit 15]

#### Ziegler Investment Banking

Ziegler Investment Banking is one of the nation's leading underwriters providing financing to not-for-profit senior living providers. Ziegler offers a variety of tailored solutions to its senior living clientele, including investment banking, financial risk management, merger and acquisition services, investment management, seed capital, FHA/HUD, capital and strategic planning as well as senior living research, education and communication. [Source: Application: p 18]

In addition to the four organizations above, Emerald Communities engaged ProMatura Group, LLC to complete a snapshot market assessment to determine the strength of the market for assisted living, memory care, and skilled nursing in the market area that will be served by Heron's Key. [Source: Application, Appendix 17, p965] Their study found that an additional 65 private pay beds would be needed in this market over the next five years.

The capital expenditure associated with the establishment of phase one of the Heron's Key project is \$142,965,650. Of that amount, the applicant identified the cost of the 45-bed Heron's Key Type A CCRC SNF as \$10,885,543. [Source: December 2, 2014 Supplemental Material p3 & 4]

#### **APPLICABILITY OF CERTIFICATE OF NEED LAW**

This project is subject to Certificate of Need review as the establishment of a skilled nursing facility that is owned/operated by a continuing care retirement community under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a), and Washington Administrative Code (WAC) 246-310-020(1) and WAC 246-310-041.

## **EVALUATION CRITERIA**

WAC 246-310-200(1)(a)-(d) identifies the four determinations the department must make for each application. WAC 246-310-200(2) provides additional direction in how the department is to make its determinations. It states:

*“Criteria contained in this section and in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240 shall be used by the department in making the required determinations.*

*(a) In the use of criteria for making the required determinations, the department shall consider:*

- (i) The consistency of the proposed project with service or facility standards contained in this chapter;*
- (ii) In the event the standards contained in this chapter do not address in sufficient detail for a required determination the services or facilities for health services proposed, the department may consider standards not in conflict with those standards in accordance with subsection (2)(b) of this section; and*
- (iii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project.”*

In the event WAC 246-310 does not contain service or facility standards in sufficient detail to make the required determinations, WAC 246-310-200(2)(b) identifies the types of standards the department may consider in making its required determinations. Specifically WAC 246-310-200(2)(b) states:

*“The department may consider any of the following in its use of criteria for making the required determinations:*

- (i) Nationally recognized standards from professional organizations;*
- (ii) Standards developed by professional organizations in Washington State;*
- (iii) Federal Medicare and Medicaid certification requirements;*
- (iv) State licensing requirements;*
- (v) Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to a proposed undertaking; and*
- (vi) The written findings and recommendations of individuals, groups, or organizations with recognized expertise related to a proposed undertaking, with whom the department consults during the review of an application.”*

To obtain CN approval, Emerald Communities must demonstrate compliance with the applicable criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); and 246-310-240 (cost containment). Additionally, WAC 246-310-380(4) contains service or facility specific criteria for CCRC projects and must be used to make the required determinations.<sup>2</sup> Additionally the former state health plan also contains standards and criteria used to review this type of project.

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<sup>2</sup> Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to this project: WAC 246-310-210(3), (4), and (5)

**APPLICATION CHRONOLOGY**

Letter of Intent Submitted	June 26, 2014
Application Submitted	July 30, 2014
Department’s Pre-Review Activities <ul style="list-style-type: none"> <li>• Department 1<sup>st</sup> Screening Letter Sent</li> <li>• Emerald Communities 1<sup>st</sup> Screening Responses Received</li> <li>• Department 2<sup>nd</sup> Screening Letter Sent</li> <li>• Emerald Communities 2<sup>st</sup> Screening Responses Received</li> </ul>	August 29, 2014 September 30, 2014  October 27, 2014 December 9, 2014
Department Begins Review of the Application	December 22, 2014
Last day to request a public hearing	January 6, 2015
Public Hearing & End of Public Comment	January 28, 2015
Last day to submit rebuttal comments	February 12, 2015
Department's Anticipated Decision Date	March 30, 2015
Department’s Actual Decision Date	May 12, 2015

In the first screening letter the department offers the applicant three options under WAC 246-310-090)(2)(c). The options are:

- Submission of written supplemental information and a written request that the information be screened and the applicant be given opportunity to submit further supplemental information if the department determines that the application is still incomplete;
- Submission of written supplemental information with a written request that review of the certificate of need application begin without the department notifying the applicant as to whether the supplemental information is adequate to complete the application; or
- Submission of a written request that the application be reviewed without supplemental information.

The applicant chose to have option 2(c)(i), have the department continue screening the submitted information.

**AFFECTED PERSONS**

Washington Administrative Code 246-310-010(2) defines “affected person” as:

“...an “interested person” who:

- (a) *Is located or resides in the applicant's health service area;*
- (b) *Testified at a public hearing or submitted written evidence; and*
- (c) *Requested in writing to be informed of the department's decision.”*

For this project, affected person status under WAC 246-310-010, Liz Tidyman and Marilyn Farrell requested affected person status as individuals but both individuals did not meet the residency requirement.

Citizens for the Preservation of Gig Harbor requested a public hearing but did not qualify as affected person as they did not testify at the public hearing and did not provide any written material.

### **TYPE OF REVIEW**

As directed under WAC 246-310-130(5)(a), the department accepted this project under the 2014 CCRC concurrent review cycle. In accordance with Certificate of Need Program policy, when applications initially submitted under a concurrent review cycle are deemed not to be competing, the department may convert the review to the regular review process. Given that Emerald Communities was the only applicant proposing to provide services under the 2014 CCRC concurrent review cycle, the application was converted to a regular review.

### **SOURCE INFORMATION REVIEWED**

- Emerald Communities Certificate of Need Application received July 30, 2014
- Heron's Key supplemental information dated September 30, 2014
- Population data obtained from the Office of Financial Management May 2012
- 1987 Washington State Health Plan
- Licensing and/or survey data provided by the Department of Social and Health Services
- Certificate of Need historical files
- Emerald Communities Website at <http://www.theemeraldcommunities.org>
- Centers for Medicare and Medicaid Services website at [http://www.medicare.gov/NursingHomeCompare/profile.aspx-Compliance History](http://www.medicare.gov/NursingHomeCompare/profile.aspx-ComplianceHistory)

**CONCLUSION**

For the reasons stated in this evaluation, the application submitted by Emerald Communities proposing to construct a new 45 bed skilled nursing facility in Gig Harbor within Pierce County as part of a Type A Continuing Care Retirement Community is consistent with applicable criteria, provided Emerald Communities agrees to the following in its entirety.

**Project Description:**

Emerald Communities is approved to construct a 45 bed skilled nursing facility (SNF) as part of a Type A CCRC that will be located in the city of Gig Harbor within Pierce County. The 45 bed SNF will be constructed as part of phase one of the overall project. In addition to the SNF, the applicant is proposing to construct 194 private residential units (Independent Living Units, ILU) and 36 apartments for assisted Living/personal care services. In phase two, an additional 88 Independent Living Units and 32 bed memory care units. [Source: Application, p2] For ease of reference, this document will refer to the applicant as Emerald Communities and the CCRC as “Heron’s Key Type A CCRC” and the proposed SNF within the CCRC as “Heron’s Key SNF.”

The 45 bed SNF will be constructed as part of phase one of the overall project. In addition to the SNF, the applicant is proposing to construct and operate 36 apartments for assisted living/personal care services within their health center.

The number of independent living units, assisted living apartments, and SNF beds is shown below:

<b>Phase</b>	<b># of Residential Homes</b>	<b># of Assisted Living Apartments</b>	<b># of Skilled Nursing Beds</b>
Phase 1	194 units	36 units <sup>3</sup>	45 beds

**Conditions:**

1. Approval of the project description as stated above. Emerald Communities further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Emerald Communities must provide the department with a signed copy of the Medical Director job description consistent with the draft job description in the application.
3. Emerald Communities must also provide the name of the Medical Director and his professional license number prior to providing services at Heron’s Key Skilled Nursing Facility.
4. Heron’s Key Skilled Nursing Facility shall not admit a non-contractual CCRC member to the nursing home on or after the last day of the 5-year nursing home transition period.
5. Emerald Communities shall not admit any resident to any other part of the Continuing Care Retirement Community that is not a contractual member beginning from the date of the Continuing Care Retirement Community’s opening.

<sup>3</sup> (includes assisted & personal care)

6. Emerald Communities and Herons Key and any successor organization agrees that it will not charge the state for any Medicaid eligible services provided to the Heron's Key contractual resident.
7. Any changes made to any policies and procedures applicable to Heron's Key must remain consistent with the provisions of RCW 70.38.025(3) and 70.38.111(5).

**Approved Cost:**

The approved capital expenditure associated with this project is \$10,885,543.

#### A. Need (WAC 246-310-210)

Based on the source information reviewed, the department concludes Emerald Communities has met the need criteria in WAC 246-310-210(1) and (2) and WAC 246-310-380(4).

(1) *The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need.*

The Department of Health's Certificate of Need Program is responsible for evaluating the need for establishment of new nursing homes in the state, which includes nursing homes associated with CCRCs and freestanding nursing homes. In the case of freestanding nursing homes, part of the evaluation includes a numeric methodology using a statewide established ratio of 40 beds per 1,000 population over 70 years of age (40/1,000). Additionally, any person may be admitted into a freestanding nursing home provided that there is a bed available and the nursing home can meet the care needs of that person. There is no membership fee or entrance fee, and the range of services is not contractually guaranteed. Care in freestanding nursing homes is usually paid by Medicaid, Medicare, the resident, or a combination of the three.

For nursing homes associated with Type A CCRCs as defined in WAC 246-310-010, the department limits to 300 the total number of nursing home beds, statewide, which may be granted to a nursing home in transition. [Source: WAC 246-310-380(4)] The nursing home transition period is a period of time, not exceeding five years, between the date a Type A CCRC is inhabited by a member, and the date it fully meets the requirements of a Type A CCRC. The purpose of a transition period is to allow the skilled nursing facility to be operated from its inception on a financially viable basis by allowing it to supplement the revenue received from admission of its CCRC members with revenue from the admission of patients that are not CCRC members. After the five year transition period only CCRC contractual residents may be admitted into the nursing home. Admission to all other areas of the CCRC is restricted to CCRC contractual members upon the CCRC's opening.

To ensure success of the Type A CCRC and demonstrate compliance with this sub-criterion, the applicant commissioned an actuarial study of the retirement community by the actuarial consulting firm of AV Powell & Associates, LLC. The level of need for nursing home beds at Heron's Key SNF was calculated as part of the actuarial study. In addition LCS Development did a marketing study incorporating an independent analysis of the retirement community market in Pierce County and surrounding counties. The LCS marketing study includes population projections provided by AV Powell. Development performed both a market and a financial feasibility analysis for the project. [Source: Application, Exhibit 15 & 17]

*“The population projections indicate that approximately 11 skilled nursing facility (SNF) beds will be needed, on average, by contractual residents at Phase One of Heron's Key (permanent and temporary utilization) five years after opening, 27 beds within ten years, and 34 beds within 15 years. The SNF at Heron's Key has a capacity of 45 beds, well above the expected utilization by contractual residents at Phase One. However, additional SNF beds will be needed by residents in Phase Two in future years. There may also be demand for SNF beds by direct entrance to assisted living-such demand is not included in the population projections. Actual bed needs will fluctuate over time and could vary significantly due to factors described below. The population projections indicate that there is sufficient capacity in the SNF for Heron's Key to meet its contractual obligation to provide necessary nursing care to its residents”*

The market study by LCS Development projects a census of 31 SNF patients from the community outside of Heron's Key at the end of year five with this census declining to 10 at the end of year 10, 2 at the end of year 20, and finally 0 the end of 15 years. [Source: Exhibit 15]

The market assessment provided in the LCS Development provides the following summary of key research findings. [Source: Application, Exhibit 17]

- *Based on a review of the demographic data, the geographic features of the area (bodies of water, mountains, etc.) and man-made features such as highways and streets, a Primary Market Area (PMA) was identified for the Borgen Boulevard CCRC site location in the northern part of Gig Harbor. The PMA for this Gig Harbor site consists of 23 zip codes that include Port Ludlow in Jefferson County, Bainbridge Island in Kitsap County, Shelton in Mason County and, Gig Harbor and Tacoma in Pierce County*
- *The target market for future Heron's Key marketing programs is households in its primary market area age 75+ and with at least \$50,000 annual income and a home valued around a median of 242,500. In the past approximately 7 months 82% of all buyers originated from the PMA.*
- *Nearly 6,800 age and income qualified households currently live in the PMA. The entire PMA is expected to add 1,450 age and income qualified households between 2014 and 2019 for an overall growth of 21.3%. The PMA is expected to grow at a rate similar to the state of Washington (23.4%) and faster than the U.S. (15.4%).*
- *Six (6) zip codes comprised of the cities of Bainbridge Island, Port Orchard, Poulsbo, Gig Harbor, and Tacoma are estimated to increase by a total of 899 target market households. These 6 zip codes have the highest projected numerical growth, adding 117 to 185 target market households over the next 5-years. Zip codes in Port Orchard, Gig Harbor, Fox Island, and Olalla are projected to have the highest percentage of growth (42.9% to 53.0%).*
- *The northwest and north sections of Tacoma and Gig Harbor have a relatively larger number of existing senior living communities. Seniors in these sections of Tacoma and Gig Harbor have a least 10 senior living communities to choose from in the immediate area. It should be noted that many of the existing senior living communities offer apartments that could either be occupied by an independent or assisted living resident.*
- *Five (5) of the likely competitors are located in Gig Harbor and 5 are located in the north and northwest sections of Tacoma. It does not appear that any new senior living development is currently planned for this area. A detailed analysis of the 13 senior living communities was completed to estimate how many of those units might be filled with independent living residents from the PMA. That analysis indicates 275 ILUs would likely be filled from the PMA.*
- *A comparison of the estimated number of target market households in the PMA with the current number of competitive independent living units determined the current and future market penetration rates to be 6.3% and 6.1% respectively, which are both considered to*

*be within the favorable range by LCS definition. What this means is that for a Heron's Key CCRC to be successful with today's market conditions, it would need to attract approximately one in sixteen of the eligible target market households.*

- *Heron's Key's market conditions in the current and future competitive environment, and strong growth in age and income-qualified households in relative close proximity to the community, indicates there is ample market for Heron's Key to be successful now and over the next 5-years. [Source: Application, Exhibit 17]*

Generally CCRCs are targeted to seniors with above average levels of income and assets. As such, the demographic analysis identified the more affluent areas for Port Ludlow in Jefferson County, Bainbridge Island in Kitsap County, Shelton in Mason County and, Gig Harbor and Tacoma in Pierce County. Demographic mapping of the age 75 and older households with \$50,000 or more of income show that many of the areas of concentrated seniors with higher incomes are along and near the inlets, narrows, and passages of this section of Puget Sound. The demographic distribution of Tacoma's more affluent senior households is favorable relative to Gig Harbor in that the best Tacoma zip codes relative to senior households are concentrated along and within a short 2 to 3 mile distance of the Tacoma Narrows Bridge. It would be assumed that these north and northwestern sections of Tacoma would be sources for some of the residents for a possible Gig Harbor CCRC development.

*"None of the competitors that exist in the market today are purpose built CCRC's. However, 3 of the existing competitors are CCRC look a-like communities. Those 3 communities have independent, assisted, and skilled care living facilities on or adjacent to their campuses. Those communities are Franke Tobey Jones in Tacoma, Harbor Place at Cottessmore in Gig Harbor, and Tacoma Lutheran Retirement Community. In addition, Merrill Gardens, a combined IL/AL community in Gig Harbor, does not have skilled nursing facilities on its campus, but its site is immediately adjacent to an HCR Manor Care skilled nursing facility. In summary, there are some senior living options currently available to seniors in the Tacoma-Gig Harbor Primary Market Area; however there is not a relatively newer, well planned and well located CCRC in existence today that is serving the needs of the primary market area. At this time, there do not appear to be any planned senior housing developments that would materially impact Heron's Key." [Source: Application, Exhibit 17]*

The LCS study indicates based on the market conditions and the current and future competitive and with the strong future growth and income-qualified households there is ample market for Heron's Key to be successful now and over the next 5 years. **This sub-criterion is met.**

- (2) All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.

For general Certificate of Need applications, the applicant must demonstrate that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups would have access to the services proposed. However, for a Type A CCRC, the target market for these projects is limited to households with an annual income of \$50,000 or above. Additionally Type A CCRCs have to agree not bill the state for services provided to their contractual residents due to the CCRC being a Type A CCRC. The Type A CCRC is financially

responsible for the services that otherwise could be reimbursed by Medicaid. With these limitations, the typical CCRC resident would not be considered a “low-income” resident. [Source: Application, Exhibit 17] As a result, this portion of this sub-criterion is not applicable to this project.

To demonstrate compliance with this sub-criterion, the applicant provided documentation that no person(s) will be denied services at Heron’s Key Type A CCRC solely for reasons of race, color, ethnic origin, religious belief, or sex, provided that the person(s) meets the criteria to qualify as a resident of the Type A CCRC. [Source: Application, Exhibit 6] Additionally, the applicant provided a copy of its Resident Agreement-Independent Living, Residence Agreement-Assisted Living, and Move-In Agreement-Skilled Nursing. These agreements are consistent with the criteria outlined in RCW 70.38.025(3), 70.38.111(5), and criteria outlined in WAC 246-310-010 for a Type A CCRC. [Source: Application: Exhibit 3 & 5]

Specific to the SNF portion of this project, Emerald Communities provided a copy of its Heron’s Key Skilled Nursing Services Hospitality Guide. The Hospitality Guide contains a statement on pages 20 that Heron’s Key is not Medicaid licensed and does not participate in the Medicaid program. This is a requirement for Type A CCRCs. [Source: Application: Exhibit 5]

The information submitted by the applicant does support approval of a 45 bed SNF for this project. The applicant has submitted documents supporting their not participating in the Medicaid program as required for being approved to have the CCRC designated SNF beds.

With agreement to the conditions identified in the conclusion section, **this sub criterion is met.**

**Financial Feasibility (WAC 246-310-220)**

Based on the source information reviewed, the department concludes that Emerald Communities has met the financial feasibility criteria in WAC 246-310-220.

*(1) The immediate and long-range capital and operating costs of the project can be met.*

The applicant reports that currently they have deposits for approximately 50% of the units proposed for phase one. Phase one includes 194 residential homes, 36 apartments, and 45 nursing home beds. [Source: Application, p2] Based on this timeline, year 2018 would be the first full year of operation as a Type A CCRC with 45 skilled nursing beds. As previously stated, the establishment of phase two of this project is based on the success of phase one. The applicant anticipates services could start on phase two by August 2020. If this project is approved and the applicant maintained its CCRC status consistent with RCW 70.38.111(5) additional nursing home beds could be added in phase two without undergoing this type of Certificate of Need review and approval process.<sup>4</sup> For this project, an evaluation of phase one is the focus of this financial review.

The applicant provided the following key assumptions used in developing the Heron’s Key financial plan.

- Contract Type: Type A, with a 75% refundable entrance fee
  
- Units (Phase 1)
  1. IL units – 194
  2. Assisted Living Units – 36
  3. Skilled Nursing Facility Beds – 45
  
- Actuarial and Demographic Assumptions
  1. Based on information on Heron’s Key contracts
  2. AV Powell’s data base of CCRCs for:
    - a. Mortality and temporary and permanent transfers to the health center
    - b. Move out and new entrant assumptions
  
- Demographic data reflect pre-sales experience of Heron’s Key
  1. Age (average age at entry) Female 77.8, Male 79.5
  2. Couples rate 60% at move-in
  3. Gender of single residents – Female 80%, Male 20%
  
- Opening date of November 2017
  
- Fill-up period of 40 months to full Independent Living occupancy
  
- Entrance Fee & monthly service fee initial pricing per summary sheet
  
- Entrance fee pricing increases
  1. 3% in September 2014 and March 2015
  2. 5% for next three years
  3. 3.5% thereafter

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<sup>4</sup> The applicant must submit an exemption request as specified in WAC 246-310-041

- Monthly service fee increases annually of 4.0% to match estimated 4.0% expense increases
- Skilled Nursing Facility private pay daily rate at opening - \$305 per day
- Assisted Living direct admission rates at opening – 177 per day; \$5323 per month
- Assisted Living entrance fee at opening - \$5,000 one time
  1. Rates based upon marketplace information and inflated to year of opening
  2. Assume 4.0% increases per year to match assumed 4.0% annual operating expense increases
- Medicare A revenue rates at opening - \$576 per day
  1. Based upon experience of Emerald Heights and representative LCS CCRCs
- Operating expense increases – 4% after full occupancy
- Employee staffing – based on experience of Emerald Heights and representative LCS CCRCs
- Other operating costs – based on experience of Emerald Heights and statistics from other representative LCS communities

To determine whether Heron’s Key SNF would meet its immediate and long range operating costs, the department evaluated the projected balance sheets for the first three years of operation as a 45-bed facility. A summary of the balance sheets review is shown in the table below. [Source: Application: Exhibit 15.1]

**Tables 1a, 1b, 1c  
Heron’s Key SNF Projected Balance Sheet  
Year 2018**

<b>Assets</b>		<b>Liabilities</b>	
Current Assets	\$194,755	Current Liabilities	\$194,755
Fixed Assets	\$7,372,728	Other Liabilities	\$7,372,728
Other Assets	\$0	<b>Total Liabilities</b>	<b>\$7,567,483</b>
		Equity	\$0
<b>Total Assets</b>	<b>\$7,567,483</b>	<b>Total Liabilities and Equity</b>	<b>\$7,567,483</b>

**Table 1b  
2019**

<b>Assets</b>		<b>Liabilities</b>	
Current Assets	\$250,128	Current Liabilities	\$250,128
Fixed Assets	\$7,250,541	Other Liabilities	\$7,250,541
Other Assets	\$0	<b>Total Liabilities</b>	<b>\$7,500,669</b>
		Equity	\$0
<b>Total Assets</b>	<b>\$7,500,669</b>	<b>Total Liabilities and Equity</b>	<b>\$7,500,669</b>

**Table 1c  
Year 2020**

<b>Assets</b>		<b>Liabilities</b>	
Current Assets	\$256,098	Current Liabilities	\$256,098
Fixed Assets	\$7,082,169	Other Liabilities	\$7,082,169
Other Assets	\$0	<b>Total Liabilities</b>	<b>\$7,338,267</b>
		Equity	\$0
<b>Total Assets</b>	<b>\$7,338,267</b>	<b>Total Liabilities and Equity</b>	<b>\$7,338,267</b>

The balance sheets do not show any equity since the Heron’s Key SNF is part of a larger Type A CCRC project. The equity for the SNF is transferred to the Type A CCRC balance sheet which shows the financial condition of the total project.

In addition to the projected balance sheets summarized above, the applicant also provided its Statement of Operations for years 2018 through 2020 as a 45-bed facility. [Source: September 30 Supplemental Material, Schedule C] A summary of the Statement of Operations is shown in the table below.

**Table 2  
Heron’s Key SNF Projected Statement of Operations Summary  
Years 2018 through 2020**

	<b>Year One 2018</b>	<b>Year Two 2019</b>	<b>Year Three 2020</b>
# of Beds	45	45	45
# of Patient Days	7,227	14,783	14,947
% Occupancy	44%	90%	91%
Patient Revenue	\$3,454,363	\$4,408,107	\$4,455,544
Other Operating Revenue	\$424,675	\$562,336	\$610,212
Other Patient Revenue	\$16,056	\$32,124	\$56,208
<b>Net Revenue</b>	<b>\$3,895,094</b>	<b>\$5,002,567</b>	<b>\$5,121,964</b>
Routine Expenses	\$2,113,801	\$3,191,917	\$3,069,856
A & O Expenses	\$1,007,892	\$1,331,855	\$1,439,846
<b>Total Expense</b>	<b>\$3,121,693</b>	<b>\$4,523,772</b>	<b>\$4,509,702</b>
<b>Net Profit or (Loss)</b>	<b>\$773,401</b>	<b>\$478,795</b>	<b>\$612,262</b>
Net Revenue per patient per day	\$263.49	\$334.69	\$342.68
Total Expenses per patient per day	\$211.17	\$302.66	\$301.72
Net Profit or (Loss) per patient per day	\$52.32	\$32.03	\$40.96

Using the financial information provided in the application, Table 2 above illustrates the projected revenue, expenses, and net income for years 2018 to 2020 for Heron’s Key SNF. [Source: September 30 Supplemental Material, Schedule C]

As shown in Table 2 at the projected volumes identified in the application, Heron’s Key SNF would be operating at a profit for the first full three years of operation. Heron’s Key initially will be able to admit non-resident patients from the community to its SNF. They are also proposing to allow direct admits to the assisted living units which will help to build census in the first five years.

However these patients admitted from the assisted living unit would be contractual residents of Heron's Key. The purpose of a transition period is to allow the skilled nursing facility to be operated from its inception on a financially viable basis by allowing it to supplement the revenue received from admission of its CCRC members with revenue from the admission of patients that are not CCRC members. After the five year transition period only CCRC contractual residents may be admitted into the nursing home. Admission to all other areas of the CCRC is restricted to CCRC contractual members upon the CCRC's opening.

As previously stated, LCS Development performed both a market analysis and a financial feasibility study for the project. A plan for finance, fill, presale, cash to debt, and reserve requirement assumptions was provided by Ziegler finance. A signed construction cost letter was provided by Weitz Company. [Source: Application: Exhibit 15 & 18 & September 30, 2014 Supplemental Material]

In a letter to the President and CEO of Emerald Communities, staff from LCS Development reported that the market penetration rate developed in the market analysis supported the financial feasibility of the project. LCS Development then applied financial models to the data to develop the financial feasibility study. The assumptions used in the operating model were reviewed and approved by the CFO of Emerald Communities. A development plan was prepared based on budget guidance provided by the various participants involved in preparing the various studies. Also during this time a survey was conducted to validate the proposed mix of living units. The mix of living units was changed to better align with market demand. The financial feasibility was updated based on the current 50% independent living units having a deposit on them and the revised marketing study. This update indicates debt service coverage in the first full year of stabilization of 1.39 and the project is fully funded.

#### Department Evaluation

LCS Development prepared a financial feasibility study for Emerald Communities. The objective of the feasibility study was to confirm the projected cash flow analysis is consistent with the estimated revenues and obligations of the project. The study also examined whether or not the proposed pricing structure would be sufficient to meet the long term obligations of the project. The study concluded that the proposed pricing structure is appropriate for generating long term assets in and revenues in excess of estimated long term liabilities and obligations of the project. The department concludes that the project will have sufficient revenues and funds to operate as a viable concern.

The market study prepared by LCS Development supports the financial feasibility of the project. Penetration rate of only 6.9 percent needed/ 'Favorable market conditions are 10% or less market penetration rate. [Source: Application Exhibit 17] No comparable CCRC facility is located in the Pierce county area and there are not any comparable facilities currently under development.

Based on the above information, the department concludes the applicant has identified a market area and has developed a pricing structure that supports the financial projections that indicate the project should generate sufficient revenues and funds to meet the long term obligations of the project. The department concludes that the long range viability of the project has demonstrated by the applicant. **This sub-criterion is met.**

- (2) The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.

The applicant has elected to not accept Medicaid reimbursement at Heron’s Key SNF during the transition period, and after the transition period. Further, under the Type A CCRC definition, admittance into the SNF for non-contractual residents is also not allowed after the transition period. The applicant will allow non-contractual patients admitted during the 5 years to stay as long as they are able to pay for the services.

The applicant provided the sources of patient revenue shown in the table below on the below. [Source: Application, p39]

**Table 3  
Heron’s Key SNF Projected Sources and Percentages of Revenue for 2019**

Source of Revenue	Percentage of Revenue
Private Pay	65.0%
Medicare	26.0%
Periodic Member Fees	9.0%
<b>Total</b>	<b>100.0%</b>

Source: Application, p39

The applicant states that 2020 is the first full year of average occupancy. This is also during the five year transition period that allows SNF admissions from the community. As shown above, private pay is the majority revenue source for Heron’s Key SNF.

The applicant provided 6 years of revenue and expense statements and in the fifth and sixth year of operation the private pay revenue begins to decline and the revenue provided by the residents begins to increase. The department concludes that there is a reasonable expectation that the fees required from the contracted members will have to increase substantially to maintain the financial feasibility. This conclusion is also evidenced by the Type A CCRC standard that obligates the Type A CCRC to care for its contracted members even if they exhaust their financial resources. The proposed fees are shown in table 4. [Source: Application, p39 & December 2, 2014 Supplemental Materials]

**Table 4  
Heron’s Key SNF  
Average Daily Rate 2017-2019**

	2017	2018	2019
Private Pay	\$305.00	\$317.20	\$329.89
Medicare	\$576.06	\$596.22	\$617.00
Life Care (contact residents)	\$77.32	\$80.03	\$82.83

Source: Application p39 & December 2, 2014 Supplemental Materials

The applicant is relying on substantially higher rates for Medicare and private pay patients than its proposing for the Life Care patients for this project to be financially feasible. The percentage of revenue generated by Private pay patients will decrease after the five year transition period, since

no new private pay patients can be admitted. The applicant has identified planned rate increases and has the ability to increase the subsidy to offset loss of other revenue. As mentioned previously, the Heron’s Key SNF is projected to have an average occupancy for the SNF beds of 37 with a variance of plus or minus 20%. The actuarial study found that Heron’s Key projections were reasonable and supported the financial projections.

As previously stated, the capital expenditure associated with the establishment of phase one of the Heron’s Key Type A CCRC project is \$142,965,650 of that amount, \$10,885,543 is attributed to the establishment of the Heron’s Key SNF. A breakdown of the \$10,885,543 associated with the establishment of the Heron’s Key SNF is shown below. [Source: September 30, 2014 Supplemental Material Application, Attachment 2]

**Table 5**  
**Heron’s Key SNF Construction Costs and Percentages**

<b>Item</b>	<b>Amount</b>	<b>% of Total</b>
Land Purchase & Site Preparation	\$1,458,661	13.40%
Construction Costs	\$5,445,001	50.02%
Equipment (Fixed & Moveable)	\$664,273	6.10%
Architect & Engineer Fees	\$313,505	2.88%
Washington State Sales Tax	\$534,811	4.91%
Interim Financing Costs	\$1,892,050	17.38%
Fees & Permits	\$132,906	1.22%
Consulting Fees	\$444,236	4.09%
<b>Total</b>	<b>\$10,885,543</b>	<b>100.0%</b>

The applicant also provided a copy of the contractor’s estimate of the construction costs. The letter identified a cost of \$11,593,352 but included some costs which are not allowable by the department. The cost of the project approvable by the department is shown in the table above. [Source: September 30, 2014 Supplemental Material Application, Attachment 2]

As shown above, the majority of the cost for this project is related to construction. Weitz Construction--a company with significant experience in healthcare projects has already been selected by the applicant for the construction. Weitz has already begun work on the project by providing pre-construction services, including the costs estimates. Further, the applicant plans to adhere to the latest building codes for construction and energy conservation. [Source: Application, p 27–30 & September 30, 2014 Supplemental Material Application, Attachment 2]

Department Evaluation

The applicant’s costs and charges are based on the applicant being able to maintain the mix of sources of revenue the applicant has provided in the application. The actuarial study provided by AV Powell indicates that population and financial data in the application supports the successful operation of the Heron’s Key project. The Heron’s Key funded status for the entire project is 101.9% which means the facility is fully funded. The applicant has built in rate increases to match the projected increase in expenses. **Based on the above information, the department concludes this sub-criterion is met.**

(3) The project can be appropriately financed.

WAC 246-310 does not contain specific source of financing criteria as identified in WAC 246-310-200(2) (a) (i). There are also no known recognized standards as identified in WAC 246-310-200(2) (a) (ii) and (b) that directs how a project of this type and size should be financed. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

CCRCs are typically financed using a combination of the following three sources: short-term construction loan, long-term debt, and equity. A brief explanation of each source is shown below. [Source: CN historical files]

Short-term debt

This type of loan is generally provided by a group of commercial banks. In the CCRC industry, there are four or five major banks that act as lead bank.

Long-term debt

The long-term debt for a CCRC can be any of the following types:

- Mortgage with the same group of banks that provided the short-term construction loan;
- A fixed-rate taxable bond issue;
- A mortgage with an insurance company; or
- Variable rate tax exempt bonds backed by a letter of credit from a bank.

Equity

This source is generally the cash used to purchase the land and to fund the preliminary development costs through presales.

To assist in evaluating its financing options for this project, the applicant enlisted the investment banking and financial advisory firm known as Ziegler and the financing structure was selected based on Emerald Communities and Ziegler's experience in financing similar types of transactions and current market conditions. [Source: Application, pp33-35, December 2, 2014 Supplemental Materials] After extensive review, the applicant intends to finance the project through two of the three sources above: long term debt (bonds) and equity. Emerald Communities also plans to finance a portion with membership fees. Below is a breakdown of the funding sources for Heron's Key Type A CCRC and Heron's Key SNF. [Source: Application, p33-35 & December 2, 2014 Supplemental Materials]

**Table 6  
Heron's Key Proposed Financing**

	<b>Heron's Key CCRC</b>	<b>Heron's Key SNF</b>
Entrance Fees	\$13,800,000	\$938,712
Temporary Fixed Rate Bonds	\$80,750,000	\$5,492,827
Permanent Loans	\$57,670,000	\$3,922,864
Additional Pre-financing Loan	\$1,808,277	\$123,004
Borrower Equity During Prefinance	\$10,000,000	\$680,226
Borrower Equity to be Reimbursed at Closing	(\$4,000,000)	(\$272,090)
<b>Totals</b>	<b>\$160,028,277</b>	<b>\$10,885,543</b>

As shown above, Ziegler anticipates \$138,420,000 or 86.5% of the total cost for Heron's Keys would be funded through issued bonds. For the Heron's Key SNF portion of the project, \$9,415,691 or 86.5% would be funded through bonds. 'The applicant has chosen unrated fixed rate bonds as the method of financing. They stated that this method is the most accessible financing for this type of project and removes interest rate risk. Though the cost of capital is higher than other scenarios, utilizing this financing method for determining the feasibility of the project is the most conservative route in terms of financing. The interest rate assumptions include 6.75% average interest rate for the debt to be repaid with entrance fees and 8.0% average interest rate for the permanent debt. Approximately 50.5% of the bond financing would be through temporary fixed rate bonds at a rate of 6.75% and 36.8% would be through long term debt issue at 8.0%. The financing of this project will be subject to additional review in the bond financing process. [Source: Application, pp33-35, December 2, 2014 Supplemental Materials]

#### Public Comment

One public comment addressed the \$10,000,000 loan from the Eastside Retirement Association and Emerald Communities to fund development costs prior to permanent financing. The concern is that the loan is not represented correctly and that \$6,000,000 is represented as part of the permanent financing.

#### Rebuttal

The applicant states that the capital cost budget summary included in the Disclosure Statement (Exhibit 6) uses the clearest, precise, and transparent wording to communicate to the public the nature of the \$10,000,000 loan-it is a loan from a related party. The applicant is proposing to repay \$4,000,000 to Eastside Retirement Association at the time of permanent financing and the additional \$6,000,000 at a later date.

#### Department Evaluation

The department has reviewed the Promissory Note between Eastside Retirement Association and Emerald Communities. The note requires the repayment of \$10,000,000 or the amount drawn on the loan commitment if less. The interest rate is 3% per annum and the loan is to be repaid by December 31, 2030 if not repaid sooner. The note states that it is subordinate to Senior Lending financing. [Source: Application, Exhibit 21]

The department concludes that the applicant can finance the overall project if the applicant achieves the fill rates projected for the project. The marketing report provided for this project indicates that marketing this type A CCRC is favorable since the applicant only needs to achieve a penetration rate of 6.3% or one in sixteen eligible target market households. The study projects a need for 37 SNF beds with a plus or minus 20% variation which supports the need for 45 SNF beds. Therefore the department would conclude that the Heron's Key SNF would generate sufficient funds to cover the long term expenses of this project.

Based on the information provided, the department concludes that the financing of the Heron's Key and specifically, Heron's Key SNF is reasonable. **This sub-criterion is met**

**C. Structure and Process (Quality) of Care (WAC 246-310-230)**

Based on the source information reviewed, department concludes that the Emerald Communities has met the structure and process (quality) of care criteria in WAC 246-310-230.

*(1) A sufficient supply of qualified staff for the project, including both health personnel and management personnel, are available or can be recruited.*

WAC 246-310 does not contain specific WAC 246-310-230(1) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that direct what specific staffing patterns or numbers of Full Time Equivalents (FTEs) should be employed for projects of this type or size. Therefore, using its experience and expertise the department reviews whether the proposed staffing would allow for the required coverage.

For this project, Emerald Communities would be the sole member and operator of Heron’s Key including the SNF. The applicant, Emerald Communities proposes to enter into a management agreement with Heron’s Key for management and operation of the Type A CCRC, including the SNF. The management agreement provided in the application is a draft and outlines the roles and responsibilities for Emerald Communities as the management entity and Heron’s Key as the owner. [Source: Application, Exhibit 1]

As the management entity, Emerald Communities anticipates that Heron’s Key SNF will require 48.25 employed FTEs. Given that the implementation of phase two relies on the success of phase one, the applicant identified the staff that would be required only for phase one. A breakdown of FTEs for Heron’s Key SNF is shown in table 7. [Source: Application, p40 &41]

**Table 7  
Heron’s Key SNF Proposed FTEs**

Registered Nurses	6.88	Dieticians	1.00
Nursing Assistants	22.26	Aides	5.60
<b>Nursing Total</b>	<b>29.14</b>	<b>Dietary Total</b>	<b>6.60</b>
MDS Coordinator	1.00	Administrator	1.00
Medical Records	1.08	Activities Director	2.00
Social Worker	1.50	Housekeeping/Maintenance	4.45
<b>All Others Total</b>	<b>3.58</b>	Clerical	1.48
		<b>Administration Total</b>	<b>8.93</b>

As a management entity, Emerald Communities states that it has extensive experience developing and managing an existing Type A CCRC in Washington. Their management staff also has other relevant experience in the field of the provision of services to seniors. Generally, recruitment of staff for a new SNF is not difficult because of the high-quality facilities, small number of nursing home beds, and the close relationships with the residents of the CCRC. Further, Emerald Communities indicates that it typically promotes employees from within and provides training to encourage employee growth within the organization. [Source: Application, p41-42]

The applicant has not identified the physician that would be the medical director but provided a draft medical director agreement. The physician will be paid \$26,000 per year and will be an

independent contractor. The amount in the contract is consistent with the dollars budgeted in the revenue and expense statement. [Source: Exhibit 1]

#### Department Evaluation

The applicant has identified the number and type of staff that will be required to operate the proposed 45 bed SNF. A Medical Director has not been identified for the Heron's Key SNF. The applicant did show in Table 7 that the Medical Director would be on contract for eight hours per week. If this project is approved, Heron's Key must provide the department with an approved copy of the Medical Director's contract the applicant must also provide the name of the Medical Director and his professional license number prior to providing services.

Based on the information provided in the application, and acceptance of the Medical Director condition, the department concludes there is a sufficient supply of staff available or staff can be recruited. **This sub-criterion is met.**

- (2) The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.

WAC 246-310 does not contain specific WAC 246-310-230(2) as identified in WAC 246-310-200(2) (a) (i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what relationships, ancillary and support services should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials contained in the application.

The application identifies that ancillary and support services would be either provided on site or contracted with a separate vendor. Given that the Type A CCRC is not scheduled to open until November 2017, ancillary and support service agreements have not yet been established. Within the application, Emerald Communities provided a listing of ancillary and support services expected to be provided by within the CCRC and those expected to be contracted through another provider. [Source: Application, p42; Exhibit 8]

If this application is approved, the applicant would have to submit the specific information identifying relationships with ancillary and support services in the community.

The applicant has submitted information that there is reasonable assurance that Emerald Communities will have appropriate ancillary and support services at Heron's Key Type A CCRC, and specifically, Heron's Key SNF. **This sub-criterion is met.**

- (3) There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2) (a) (i). There are known recognized standards as identified in WAC 246-310-200(2) (a) (ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

For this project, the applicant would request Medicare certification for Heron’s Key SNF, but not Medicaid. As stated in the project description portion of this evaluation, Emerald Communities established the Heron’s Key Corporation specifically to create, own, and operate the continuing care retirement community. Emerald Communities operates a Type A CCRC and skilled nursing facility (Corwin Care Center) located in the city of Redmond in Washington State. The chart below shows a breakdown of the total number of units/beds managed or operated by Emerald Communities [Source: June 26, 2014 Lisa Hardy Letter: Attachment]

**Emerald Heights Type A CCRC  
Redmond, Washington**

Number of Units/Beds	Type of Facility
291	Independent Living Units
61	Skilled nursing beds, including dementia
56	Assisted Living Units
43	Trailside Addition

To assist in its evaluation of this sub-criterion, the department reviewed the quality of care histories from the Washington State Department of Social and Health Services (DSHS) and the current Medicare nursing home compare website. Both DSHS and the Medicare nursing home web site indicated minor non-compliance issues typical of the type of healthcare facility being surveyed. DSHS also indicated that the SNF has not had any fines imposed in the last three years. The applicant has resolved any non-compliance issues. [Source: CMS website, DSHS Compliance Staff]

Given the compliance history of the skilled nursing facility operated by Emerald Communities, there is reasonable assurance that Heron’s Key and, specifically, Heron’s Key SNF, would be operated in conformance with applicable state and federal licensing and certification requirements. **This sub-criterion is met.**

- (4) The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have appropriate relationships to the service area's existing health care system.

WAC 246-310 does not contain specific WAC 246-310-230(4) criteria as identified in WAC 246-310-200(2) (a) (i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how to measure unwarranted fragmentation of services or what types of relationships with a services area’s existing health care system should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials in the application.

To demonstrate that this project will have an appropriate relationship with the service area’s existing healthcare system, the applicant provided the following statements.

*“As we proceed with the approvals and development, we will negotiate transfer agreements and relationships with local providers. We will also inform local providers, the Area Agency on Aging, and all local home health agencies of our project. We do not allow open soliciting on our campuses, but we do provide information to our residents of available services in our community.”*

[Source: Application, p42]

The department recognizes the differences in continuity of care between freestanding nursing homes and Type CCRCs. For freestanding nursing homes, continuity of care may involve many community healthcare providers that are not necessarily associated with the nursing home. For a Type a CCRC, continuity of care is typically provided with the Type A CCRC itself by offering independent living, assisted living, and nursing home care to its residents. ~~Since this project did not meet the need and financial feasibility criteria, the department concludes this project will not contribute to continuity of care for the residents.~~

Based on the information provided above, the department concludes that this project would promote continuity of services for the contract residents and would not result in an unwarranted fragmentation of the Type A CCRC nursing home services. The department concludes **this sub-criterion is met.**

- (5) There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.  
This sub-criterion is addressed in sub-section (3) above **and is considered met.**

#### D. Cost Containment (WAC 246-310-240)

Based on the source information reviewed, the department concludes that Emerald Communities has met the cost containment criteria in WAC 246-310-240.

(1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.

To determine if a proposed project is the best alternative, the department takes a multi-step approach. Step one determines if the application has met the other criteria of WAC 246-310-210 thru 230. If it has failed to meet one or more of these criteria then the project is determined not to be the best alternative, and would fail this sub-criterion.

If the project met the applicable criteria, the department would move to step two in the process and assess the other options the applicant or applicants considered prior to submitting the application under review. If the department determines the proposed project is better or equal to other options the applicant considered before submitting their application, the determination is either made that this criterion is met (regular or expedited reviews), or in the case of projects under concurrent review, move on to step three.

Step three of this assessment is to apply any service or facility specific criteria (tiebreaker) contained in WAC 246-310. The tiebreaker criteria are objective measures used to compare competing projects and make the determination between two or more approvable projects, which is the best alternative. If WAC 246-310 does not contain any service or facility criteria as directed by WAC 246-310-200(2) (a) (i), then the department would look to WAC 246-310-240(2) (a) (ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2) (a) (ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved.

#### Step One

For this project, Emerald Communities is proposing a 45 bed SNF as part of a Type A CCRC to be located in Gig Harbor. The Heron's Key 45 bed SNF proposed in this project is supported by the actuarial study submitted by the applicant for the project. The project meets the need, financial feasibility, and structure and process of care criteria in this evaluation, therefore this project is the best alternative. **This sub-criterion is met.**

(2) In the case of a project involving construction:

(a) The costs, scope, and methods of construction and energy conservation are reasonable;

WAC 246-310 does not contain specific WAC 246-310-240(2) (a) criteria as identified in WAC 246-310-200(2) (a) (i). There are known minimum building and energy standards that healthcare facilities must meet to be licensed or certified to provide care. If built to only the minimum standards all construction projects could be determined to be reasonable. However, the department, through its experience knows that construction projects are usually built to exceed these minimum standards. Therefore, the department considered information in the applications that addressed the reasonableness of their construction projects that exceeded the minimum standards.

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-

220(2). Within that evaluation, the department determined the sub-criterion was met; **therefore, this sub-criterion is met.**

(b) *The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.*

This sub-criterion is also evaluated within the financial feasibility criterion under WAC 246-310-220(2). Within that evaluation, the department determined **this sub-criterion is met.**

Based on the above evaluation, the department concludes that costs, scope, and methods of construction and energy conservation are reasonable, and **this sub criterion is met.**