

Office of Health Care Access Certificate of Need Application

Final Decision

Applicant: Griffin Hospital

Docket Number: 02-571

Project Title: Acquire Contiguous Property known as 335 Seymour Avenue in Derby to Enlarge the Hospital Campus

Statutory Reference: Sections 19a-639 and 19a-645 of the Connecticut General Statutes

Filing Date: December 12, 2002

Hearing Date: February 11, 2003

Presiding Officer: Mary M. Heffernan, Commissioner

Decision Date: March 4, 2003

Default Date: March 12, 2003

Staff Assigned: Susan Cole and Harold M. Oberg

Project Description: Griffin Hospital (“Hospital”) proposes to acquire contiguous property known as 335 Seymour Avenue in Derby, Connecticut to enlarge the Hospital campus, at an estimated total capital expenditure of \$417,750 pursuant to Sections 19a-639 and 19a-645 of the Connecticut General Statutes (“C.G.S.”)

Nature of Proceedings: On December 12, 2002, the Office of Health Care Access (“OHCA”) received the Certificate of Need (“CON”) application of Griffin Hospital seeking authorization to acquire contiguous property known as 335 Seymour Avenue in Derby, Connecticut to enlarge the Hospital campus, at an estimated total capital expenditure of \$417,750. The Hospital is a health care facility or institution as defined in Section 19a-630, C.G.S.

A public hearing regarding the CON application was held on February 11, 2003. The Hospital was notified of the date, time, and place of the hearing, and a notice to the public was published prior to the hearing in the *Connecticut Post* of Bridgeport. Commissioner Mary M. Heffernan served as presiding officer for this case. The public hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Connecticut General Statutes) and Sections 19a-639 and 19a-645, C.G.S.

The Presiding Officer heard testimony from witnesses for the Hospital and in rendering this decision, considered the entire record of the proceeding. OHCA's authority to review and approve, modify or deny this proposal is established by Sections 19a-639 and 19a-645, C.G.S. The provisions of these sections as well as the principles and guidelines set forth in Section 19a-637, C.G.S., were fully considered by OHCA in its review.

Findings of Fact

Each finding of fact included in this Final Decision has been taken from the CON application and related CON filings, and public hearing documents and testimony. A source reference is included with each finding of fact. All CON applicants must attest to the accuracy and correctness of the information submitted to OHCA as part of the CON application process.

Clear Public Need

Proposal's Contribution to the Accessibility of Health Care Delivery in the Region Proposal's Contribution to the Quality of Health Care Delivery in the Region Proposal's Consistency with the Applicant's Long Range Plan

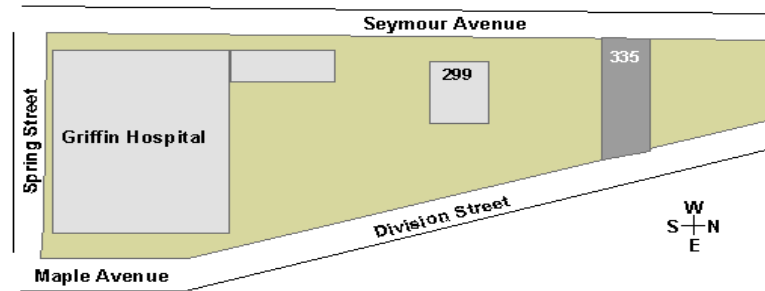
1. Griffin Hospital ("Hospital") is an acute care general hospital located at 130 Division Street in Derby, Connecticut. *(December 12, 2002 CON Application, Page 1)*
2. The Hospital has identified its primary service area as the towns of Ansonia, Beacon Falls, Derby, Oxford, Seymour and Shelton. The Hospital's secondary service area includes the towns of Bethany, Middlebury, Monroe, Naugatuck, Orange, Southbury, Stratford, Woodbridge and Woodbury. *(December 12, 2002 CON Application, Page 1)*
3. The Hospital proposes to acquire contiguous property known as 335 Seymour Avenue in Derby ("subject property") in order to enlarge the Hospital campus, at an estimated total capital expenditure of \$417,750 pursuant to Sections 19a-639 and 19a-645 of the Connecticut General Statutes ("C.G.S."). *(July 18, 2002 Letter of Intent, Page 1 and December 12, 2002 CON Application, Pages 1 and 2)*
4. Section 19a-645, C.G.S., entitled Taking of land to enlarge hospitals, states the following: *(Connecticut General Statutes, Section 19a-645)*
"A nonprofit hospital, licensed by the Department of Public Health, which provides lodging, care and treatment to members of the public, and which wishes to enlarge its public facilities

by adding contiguous land and buildings thereon, if any, the title to which it cannot otherwise acquire, may prefer a complaint for the right to take such land to the superior court for the judicial district in which such land is located, provided such hospital shall have received the approval of the Office of Health Care Access under section 19a-639 or 19a-640. Said court shall appoint a committee of three disinterested persons, who, after examining the premises and hearing the parties, shall report to the court as to the necessity and propriety of such enlargement and as to the quantity, boundaries and value of the land and buildings thereon, if any, which they deem proper to be taken for such purpose and the damages resulting from such taking. If such committee reports that such enlargement is necessary and proper and the court accepts such report, the decision of said court thereon shall have the effect of a judgment and execution may be issued thereon accordingly, in favor of the person to whom damages may be assessed, for the amount thereof; and, on payment thereof, the title to the land and buildings thereon, if any, for such purpose shall be vested in the complainant, but such land and buildings thereon, if any, shall not be taken until such damages are paid to such owner or deposited with said court, for such owner's use, within thirty days after such report is accepted. If such application is denied, the owner of the land shall recover costs of the applicant, to be taxed by said court, which may issue execution therefor. Land so taken shall be held by such hospital and used only for the public purpose stated in its complaint to the superior court. No land dedicated or otherwise reserved as open space or park land or for other recreational purposes and no land belonging to any town, city or borough shall be taken under the provisions of this section.”

5. The property known as 335 Seymour Avenue in Derby, Connecticut is located in the middle of the Hospital's campus, and except for a privately owned medical office building, is the only property within the Hospital's campus that is not owned by the Hospital. The medical office building is leased to physicians who are on the Hospital's medical staff. *(February 6, 2003 Prefiled Testimony of Patrick Charmel, President and Chief Executive Officer of Griffin Hospital, Pages 1, 2 and 3)*
6. The subject property that the Hospital wishes to acquire consists of a two-family residential building and approximately .37 acres of land. *(February 6, 2003 Prefiled Testimony of Patrick Charmel, Page 2)*
7. Section 195-19 of the Derby zoning regulations does not permit any principal hospital use or accessory hospital use such as parking outside of the "Hospital Campus" zone. The Hospital is prohibited from expanding any of its clinical, administrative, parking or other facilities without obtaining a variance or a zoning change. *(December 12, 2002 CON Application, Exhibit B and February 6, 2003 Prefile Testimony of Patrick Charmel, Page 3)*
8. The Hospital Campus zone consists of approximately 6½ acres located in the city block bounded on the east by Division Street, on the south by Spring Street and on the west by Seymour Avenue. The Hospital Campus zone includes only the properties currently owned by the Hospital, the privately owned medical office building and the subject property. *(December 12, 2002 CON Application, Exhibit B and February 6, 2003 Prefiled Testimony of Patrick Charmel, Pages 2 and 3)*
9. Within the triangular shaped city block occupied mainly by Griffin Hospital, the subject property is currently contiguous to the Hospital and is located between two

properties owned by the Hospital, with the subject property's north side bordering the Hospital's open space area and the subject property's south side bordering the Hospital's 167 space parking lot. As a result, the subject property currently separates the Hospital's open space area from its parking lot. (December 12, 2002 CON Application, Attachment C, Site Plan for Surface Parking Expansion, Page 47)

Map 1: Triangular Shaped City Block in Derby Occupied Mainly by Griffin Hospital



10. The Hospital's short-range and long-range plans for the subject property require that it be in close proximity to the Hospital proper. Other than the subject property, there are no parcels contiguous to the existing Hospital campus that fall within the Hospital campus zone, which are not currently used for the purpose of providing medical care/health care services. The Hospital testified that the only way it would be able to enlarge its administrative and clinical facilities to meet the health care needs of the community would be to expand within this city block. (December 12, 2002 CON Application, Page 10 and February 6, 2003 Prefiled Testimony of Patrick Charmel, Page 3)
11. The towns of Ansonia and Derby have both informed the Hospital that they will not permit an expansion of the existing Hospital Campus zone to include the residentially zoned properties that surround this zone. The Hospital asserted that as a result, the size of the Hospital Campus zone has been frozen and the subject property is the last available property not currently used for providing medical care/health care services existing within this zone. (December 12, 2002 CON Application, Page 10)
12. The Hospital has approached Mr. Carl Nero, one of the owners of the subject property on six different occasions, from August 2001 through May 2002, concerning the Hospital's purchase of the property. The Hospital has concluded that the owners are unwilling to sell the property at a price that is close to the fair market value of the property. (February 6, 2003 Prefiled Testimony of Paul Toburen, Griffin Hospital, Affidavit)
13. The Hospital had an appraisal of the property performed by Hometown Appraisers, a real estate appraisal firm located at 223 Meadow Street in Naugatuck, on October 15, 2002. Hometown Appraisers found the estimated fair market value of the subject property as of that date to be \$207,000. (December 12, 2002 CON Application, Exhibit A)

14. Once acquired, the two-story, residential building standing on the subject property will be razed. The foundation will be removed, the basement will be filled in, and the property will be graded and paved. The Hospital's short-range plans include using the subject property for surface parking expansion to address the current shortage of parking that is being caused by increases in both the inpatient and outpatient utilization of the Hospital's facilities. *(December 12, 2002 CON Application, Pages 4 and 10)*
15. The Hospital testified that it receives numerous complaints about the inconvenience that is caused by insufficient parking, requiring patients and visitors to park some distance from the Hospital, and that this situation has been exacerbated by Derby's recent decision to eliminate approximately 45 on-street parking spaces in the immediate Hospital vicinity. *(February 6, 2003 Prefiled Testimony of Patrick Charmel, Page 4)*
16. Griffin Hospital is the sole acute care hospital serving a six-town region with a population of over 100,000 and is centrally located in the region that it serves. The Hospital's primary service area lacks an adequate public transportation system, and the lack of public transportation requires the Hospital's patients to use personal transportation to drive to the Hospital that also causes increased vehicle traffic. *(December 12, 2002 CON Application, Page 8)*
17. Concerning the Hospital's long-range plans for the property to be acquired, consistent with the Hospital's facility master plan and to accommodate the dramatic growth in both inpatient and outpatient activity that the Hospital has experienced, the Hospital is considering constructing a new ambulatory care center building on the Hospital campus, which would use all or a portion of the subject property and which would also include associated surface parking expansion in the event that the Hospital's long-range plans are accelerated. *(December 12, 2002 CON Application, Pages 5, 10 and 11)*
18. The Hospital currently has over 7,400 inpatient admissions, 136,000 outpatient visits and 36,000 Emergency Department visits and is one of the fastest growing hospitals in the state with a 26% increase in admissions in the last three years and a 45% increase in the utilization of its outpatient services over the last four years. *(December 12, 2002 CON Application, Page 8)*
19. The Hospital testified that services such as outpatient physical therapy, cardiac rehabilitation, the Hospital's fitness center, disease specific treatment centers, and Hospital-based physician practices are likely to be relocated to accommodate several future changes at the Hospital. These changes would include the Laboratory Department's relocation and modernization, the Emergency Department's expansion to correct the current facility's undersized condition, the Radiology Department's expansion to increase capacity and to accommodate a fixed site MRI, and the expansion of the Hospital's surgical suite. *(December 12, 2002 CON Application, Page 5)*

Financial Feasibility and Cost Effectiveness of the Proposal and its Impact on the Applicant's Rates and Financial Condition

Impact of the Proposal on the Interests of Consumers of Health Care Services and the Payers for Such Services

20. The estimated total capital expenditure associated with the proposal is \$417,750, which includes \$214,850 for the acquisition of the property as well as \$202,900 for the demolition of the two-family residential building on the property and the construction of a new surface parking lot. *(December 12, 2002 CON Application, Page 2)*
21. The Hospital will fund the proposal's estimated total capital expenditure of \$417,750 with an equity contribution from the Hospital's operating funds. *(December 12, 2002 CON Application, Page 2)*
22. The Hospital's proposal will not result in any increase in the Hospital's operating costs or patient rates. *(February 6, 2003 Prefiled Testimony of Patrick Charmel, Page 6)*
23. The Hospital's proposal will have no impact on the interests of consumers of health care services and the payers for such services. *(February 6, 2003 Prefiled Testimony of Patrick Charmel, Page 6)*

**Consideration of Other Section 19a-637, C.G.S.
Principles and Guidelines**

The following findings are made pursuant to principles and guidelines set forth in Section 19a-637, C.G.S.:

24. There is no State Health Plan in existence at this time. *(December 12, 2002 CON Application, Page 11)*
25. The Hospital has undertaken activities to improve productivity and contain costs through energy conservation, reengineering, group purchasing, and the application of technology programs. *(December 12, 2002 CON Application, Page 12)*
26. The Hospital has no teaching and research responsibilities that would be affected as a result of the proposal. *(December 12, 2002 CON Application, Page 12)*
27. There are no distinguishing or unique characteristics of the Hospital's patient/physician mix related to the proposal. *(December 12, 2002 CON Application, Page 12)*
28. The Hospital has sufficient technical, financial and managerial competence and expertise to provide efficient and adequate service to the public. *(December 12, 2002 CON Application, Pages 67 through 69)*

Rationale

Griffin Hospital ("Hospital") proposes to acquire contiguous property known as 335 Seymour Avenue in Derby ("subject property") to enlarge the Hospital campus, at an

estimated total capital expenditure of \$417,750. The Hospital's Certificate of Need ("CON") application was filed with the Office of Health Care Access ("OHCA") pursuant to Sections 19a-639 and 19a-645 of the Connecticut General Statutes. The subject property consists of a two-family residential building and approximately .37 acres of land. The subject property is located in the middle of the Hospital's campus, and except for a privately owned medical office building, is the only property within the triangular-shaped city block occupied by the Hospital that the Hospital does not own. The Hospital has concluded that the owners of the subject property are unwilling to sell the property to the Hospital at a price that is close to the property's fair market value.

The only way that the Hospital would be able to enlarge its administrative and clinical facilities to meet the health care needs of the region would be to expand within the city block currently occupied by the Hospital, the medical office building and the subject property. The towns of Ansonia and Derby have informed the Hospital that they will not permit an expansion of the existing Hospital Campus zone to include the residentially zoned properties that surround this zone. As a result, the size of the Hospital Campus zone has been frozen and the subject property is the last available property not currently used for providing medical care/health care services within this zone.

Griffin Hospital is currently one of the fastest growing hospitals in the state with a 26% increase in admissions in the last three years and a 45% increase in the use of its outpatient services over the last four years. In addition, the population of the region served by the Hospital is projected to increase. Griffin Hospital's primary service area lacks an adequate public transportation system. The lack of public transportation to the Hospital requires users of the Hospital's services to use personal transportation to drive to the Hospital. As a result, increasing admissions and the use of outpatient services have resulted in additional vehicle traffic to the Hospital.

The clear public need for the CON proposal is based upon the Hospital's short-range and long-range plans for the subject property that require that the property be in close proximity to the Hospital proper. The Hospital's short-range plans include the use of the subject property for surface parking expansion to address a current shortage of parking that is the result of increases in both inpatient and outpatient utilization of the Hospital's facilities. Currently, the Hospital has an insufficient number of parking spaces for its patients, staff and visitors. The Hospital receives numerous complaints about the great inconvenience that is caused by insufficient parking, requiring patients and visitors to park at some distance from the Hospital.

With regard to the Hospital's long-range plans for the subject property, consistent with the Hospital's facility master plan and in order to accommodate the dramatic growth in inpatient and outpatient utilization that the Hospital has experienced, Griffin Hospital is considering constructing a new ambulatory care center building on the Hospital campus that would include using all or a portion of the subject property. Services such as outpatient physical therapy, cardiac rehabilitation, the Hospital's fitness center, disease specific treatment centers, and Hospital-based physician practices are proposed to be relocated to the new building to accommodate future changes. Subject to the required

CON approval from OHCA, the changes contemplated by the Hospital include the Laboratory Department's relocation and modernization, the Emergency Department's expansion, the Radiology Department's expansion and accommodation of a fixed site MRI, and the expansion of the Hospital's surgical suite. OHCA finds that the Hospital has clearly demonstrated that the CON proposal is needed for the Hospital to improve the accessibility of its patient services, as evidenced by the Hospital's current short-range plans for the subject property. Furthermore, OHCA also finds that the Hospital has clearly demonstrated that the CON proposal is needed for the Hospital to continue to provide its patient services at a high level of quality, as evidenced by the Hospital's future long-range plans for the subject property.

The CON proposal's estimated total capital expenditure of \$417,750 will be funded entirely by an equity contribution from Griffin Hospital's operating funds. The Hospital's CON proposal will not result in any increase in the Hospital's operating costs or patient rates with the implementation of its short-range plans for the subject property. Therefore, OHCA finds that the CON proposal will not only maintain the quality and improve the accessibility of the Hospital's patient services but that the CON proposal is also both financially feasible and cost effective.

Based on the foregoing Findings and Rationale, the Certificate of Need application of Griffin Hospital to acquire contiguous property known as 335 Seymour Avenue in Derby, Connecticut to enlarge the Hospital campus, at an estimated total capital expenditure of \$417,750 pursuant to Sections 19a-639 and 19a-645 of the Connecticut General Statutes, is hereby GRANTED.

Order

Griffin Hospital ("Hospital") is hereby authorized, subject to the approval of the Superior Court, to acquire contiguous property known as 335 Seymour Avenue in Derby, Connecticut to enlarge the Hospital campus, at an estimated total capital expenditure of \$417,750 pursuant to Sections 19a-639 and 19a-645 of the Connecticut General Statutes, subject to the following conditions:

1. This authorization shall expire on March 31, 2005. Should the Hospital's property acquisition project not be completed by that date, the Hospital must seek further approval from OHCA to complete the project beyond that date.
2. The total capital expenditure for the project shall not exceed \$500,000.
3. The Hospital shall submit to OHCA a copy of the Superior Court's final judgment in the matter concerning the acquisition of the property known as 335 Seymour Avenue in Derby, Connecticut.

All of the foregoing constitutes the final order of the Office of Health Care Access in this matter.

By Order of the
Office of Health Care Access

Date signed:
March 4, 2003

Signed by:
Mary M. Heffernan
Commissioner

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