

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

IN RE FLETCHER ALLEN HEALTH CARE)
SOUTH BURLINGTON PROPERTY ACQUISITION) GMCB-015-14con
CERTIFICATE OF NEED)

REQUEST FOR INTERESTED PARTY STATUS

NOW COMES the City of Burlington, by and through its attorneys, and hereby requests to be granted Interested Party status under 18 V.S.A. §9440(c)(7) and Green Mountain Care Board (“the Board”) Rule 4.406 in the above-captioned Certificate of Need (“CON”) proceeding in which Fletcher Allen Health Care (FAHC) is applying to the Board for a Certificate of Need to acquire 99.35 acres of real estate in South Burlington at an estimated cost of \$52,641,971.

I. Statement of Requestor’s Interest

The Main Campus of FAHC, including its Ambulatory Care Facility, is located within the City of Burlington (the “City” or “Burlington”). The City has a population of more than 42,000.¹ As a municipality, the City has a duty to protect the health, safety and welfare of its citizens and promote the public good. The City’s interest in this application is significant based upon the potential substantial and direct effects the project may have on the City and its residents. These potential impacts include the public good, access to health services, transportation, jobs, as well as environmental and health impacts on the citizens of the City.

¹ 2010 Census. See <http://quickfacts.census.gov/qfd/states/50/5010675.html>.

II. Relevance of Certificate of Need Criteria

Pursuant to Board Rule 4.402(1), “[t]he Board shall not grant a Certificate of Need unless the proposed project is consistent with the policy and purposes set forth in Chapter 221 of Title 18, the statutory purposes set forth in 18 V.S.A. §9372, and the criteria set forth in 18 V.S.A. §9437.” The “Policy and Purpose” of Chapter 221 of Title 18 states:

It is declared to be the public policy of this state that the general welfare and protection of the lives, health, and property of the people of this state require that all new health care projects be offered or developed in a manner which avoids unnecessary duplication and contains or reduces increases in the cost of delivering services, *while at the same time maintaining and improving the quality of and access to health care services, and promoting rational allocation of health care resources in the state*; and that the need, cost, type, level, quality, and feasibility of providing any new health care project be subject to review and assessment prior to any offering or development.

18 V.S.A. §9431(a)(emphasis added). As a municipal corporation, the City is also charged with protection of the general welfare and lives, health, and property of its citizens.

Interested Party status in this process is necessary for the City to be able to adequately inquire into and address concerns about the project’s impact on the general welfare of its residents, especially their ability to access health care services.

The City is particularly concerned with the 26.2% of its population who live below the poverty level.² While access to health care for low-income Vermonters is a concern for the entire state, the percentage of City residents who live below the poverty level is more than double the State’s (11.6%).³ Clearly, the City has a substantial interest in making sure that low-income Burlingtonians, many of whom rely on public transportation, are still able to access health services without incurring further expense. In addition, as the State’s largest

² Census 2008-2012.

³ See <http://quickfacts.census.gov/qfd/states/50/5010675.html>.

municipality, the City has substantial interest in the rational allocation of health care resources for many purposes including access, transportation, jobs, and environmental and health implications.

In addition to the Policy and Purpose of Chapter 221, the project must also comply with the general goals of the Board.

It is the intent of the general assembly to create an independent board to promote the general good of the state by: (1) improving the health of the population; (2) reducing per-capita rate of growth in expenditures for health services in Vermont across all payers while ensuring that access to care and quality of care are not compromised; (3) enhancing the patient and health care professional experience of care; (4) recruiting and treating high-quality health care professionals; and (5) achieving administrative simplification in health care financing and delivery.

18 V.S.A. §9372. In addition to the access issues outlined above, the City has direct and substantial concern about the impact of moving health care services out of a denser urban area, where patients can access care by bicycle or on foot, to a more remote suburban or exurban area, which will require transportation by private vehicle. Studies have shown a link between car dependency and obesity. See footnote 5 below.

Beyond compliance with the policy and purpose provisions, statutory criteria must be met.

A certificate of need shall be granted if the applicant demonstrates and the board finds that:...

(4) the project will ...provide greater access to health care for Vermont's residents; ...

(6) the project will serve the public good;....

(7) the applicant has adequately considered the availability of affordable, accessible patient transportation services to the facility;

18 V.S.A. §9437. As discussed above, the City has a direct and substantial interest in the impact that the project will have on the provision of greater access and the availability of patient transportation services to the facility.

With respect to the public good,

[t]he Board may consider the following factors in determining whether a project will serve the public good under 18 V.S.A. §9437(6):

(a) Whether the project will help meet the needs of medically underserved groups and the goals of universal access to health services....

(f) Whether, and if so to what extent, the project will have an adverse impact on the ability of existing facilities to provide medically necessary services to all in need, regardless of ability to pay or location of residence.

Board Rule 4.402(3). Moving ambulatory care services from the urban center of Burlington, farther from the concentration of medically underserved groups and those who have the fewest resources to access healthcare affects the public good as defined by that rule. The needs of medically underserved City residents and the goals of universal access to health services are significant to the City and directly affect its interests.

III. Demonstration of Substantial and Direct Effect of the Proposed Project

The Board shall grant interested party status to persons or organizations representing interests of persons who demonstrate that they will be substantially and directly affected by the new health care project under review. A substantial and direct impact shall include, but not be limited to, a direct financial or other business interest in the proposed project. A general interest in a project as a function of being in the subject service area or otherwise being generally concerned with the health care system shall not be sufficient.

Board Rule 4.406(3). The City's interest in becoming a party to this application stems from at least five areas where the project may have a direct and substantial impact on its constituents:

1. **Delivery of health care services.** While the application affirms that "the main campus in Burlington should be the primary site for Inpatient Care," the project is based on the principle that "the campus should only host those outpatient services that have the greatest affinities with the inpatient program." Application at p. 5. The bulk of the outpatient services provided by FAHC would apparently be moved to the subject project, Application, fn 10, p.7, and services now provided at the Fanny Allen

Campus and UHC would be consolidated there. The City of Burlington has an interest in ensuring that there be a full exploration of the effect of such a move on the delivery of health care services, particularly to low-income and vulnerable populations. The concept that “[h]aving two core campuses would produce greater efficiencies and better ease of access for our patients,” Application, p. 8, seems counter-intuitive, particularly given the substantial areas of Burlington available for in-fill development and FAHC’s own substantial investment in its current Ambulatory Care Center only a decade ago.⁴ In addition, moving ambulatory care services out of the City may increase the reliance of low income or vulnerable populations on the emergency services that continue to be operated at FAHC’s main campus, contrary to larger healthcare goals.

2. **Transportation.** The City is concerned that it may be an inefficient use of municipal infrastructure and services to move intensive patient care services such as vascular surgery, obstetrics, transplant, and infectious diseases from an urban location that provides access to patients with all levels of transportation needs—easy access to the interstate for those traveling by car, walkable from many neighborhoods, bikable from others, and accessible to buses (that now come right on campus on a regular schedule) and taxis. In contrast, the proposed site would require automobile transportation, causing difficulty for many low-income and urban patients.
3. **Health.** Studies have shown that the national increase in obesity and related health concerns can be tied to our dependence on the use of automobiles.⁵ A project that proposes to move essential healthcare services out of the City to a suburban area served by automobile seems contrary to the support or encouragement of healthy lifestyle and communities.
4. **Jobs.** In addition to the effects on patients, the application contemplates moving a substantial number of healthcare jobs away from the concentration of Burlington to a suburban area, potentially making it more difficult and expensive for vulnerable

⁴ Construction has been identified as completed in 2005.

⁵ A study at the University of Illinois at Urbana-Champaign “discovered vehicle use correlated ‘in the 99-percent range’ with national annual obesity rates.” [Science Daily](http://www.sciencedaily.com/releases/2011/05/110511131138.htm), May 11, 2011, www.sciencedaily.com/releases/2011/05/110511131138.htm; An earlier study of nearly 11,000 people showed that people who have to drive from home are much more likely to be obese than those who can walk places. [Washington Post](http://www.washingtonpost.com/wp-dyn/articles/A3062-2004May30.html), May 31, 2004, www.washingtonpost.com/wp-dyn/articles/A3062-2004May30.html.

populations to hold those jobs. The City has worked with the State of Vermont – for example through the creation of a State Designated Downtown and Neighborhood Development Area, designated areas that are a short walk from the current Ambulatory Care Facility – in numerous ways to generate economic opportunity through the creation of a strong, vibrant downtown. The initial investment of over \$50 million (with, it seems likely, many tens of millions of additional investment to come in future expansions) far outside of Burlington’s – or any – Designated Downtown may be inconsistent with the City’s and State’s public investment in downtown job creation initiatives.

5. **Environmental.** The City of Burlington is concerned that this project may not further important goals of creating a more sustainable environment and reducing greenhouse emissions. The City’s Climate Action Plan – adopted by the City Council within the last year – identifies reducing Vehicle Miles Traveled (VMT) as one of the most important strategies for addressing local greenhouse gas emission. Moving a major portion of a primary healthcare institution farther away from a downtown, increasing distances of travel for residents of the largest City and reducing the use of active transportation or mass transit, may significantly increase VMTs. The State of Vermont has also put significant emphasis on how we create and maintain a sustainable region with a strong central downtown that maintains a strong commitment to public health, which includes accessibility across socioeconomic strata, a clean healthy environment for children, affordable housing, open space conservation, clean water and clear air quality, a reduction of contribution to greenhouse gas emissions, a viable local food system, and a beautiful, livable, and inviting place to live. Moving a major portion of a primary healthcare institution farther away from that strong downtown does not seem consistent with those goals.

IV. Conclusion

In summary, the City’s interest in this application is significant based upon the potential substantial and direct effects the project may have on the City and its residents. Interested Party status in this process is necessary for the City to be able to adequately inquire into and address concerns about the project’s impact on its residents including the public

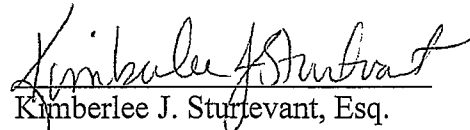
good, access to health services, transportation, jobs, as well as environmental and health impacts on the citizens of the City.

For these reasons, the City of Burlington respectfully requests that it be granted Interested Party status under 18 V.S.A. §9440(c)(7) in this proceeding.

DATED at Burlington, Vermont, this 24th day of June 2014.

CITY OF BURLINGTON

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