



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

PLANNING COMMISSION
(203) 797-4525
(203) 797-4586 (FAX)

RESOLUTION OF APPROVAL WITH CONDITIONS
DATED JULY 20, 2021

**PETITION FOR GRANT OF SPECIAL EXCEPTION &
APPLICATION FOR SITE PLAN APPROVAL**

**Danbury Proton Facility
85 Wooster Heights Road
Tax Assessor Lot # G18062
Planning Code SE 781**

WHEREAS, on May 17, 2021, the City of Danbury Planning Commission received applications from Thomas Beecher, Esq., agent for the contract purchaser, Danbury Proton LLC, hereinafter referred to as the “Applicant(s)”, for approval of a Grant of Special Exception and Site Plan Application to construct a 16,035 square foot (“sq. ft.”) medical facility on property located at 85 Wooster Heights Road; and

WHEREAS, the property owner is Wooster Mountain Realty, LLC; and

WHEREAS, the subject property is 3.3 acres in size and is located on the northerly side of Wooster Heights Road at the intersection to Lee Farm Corporate Park; and

WHEREAS, the parcel is located in the IL-40 Zoning District.

WHEREAS, the project requires issuance of a Grant of Special Exception for the following uses and reasons:

- Pursuant to Section 6.A.2.b(9), medical office is a special exception use in the IL-40 Zoning District;
- In accordance with Section 3.E.2 of the Zoning Regulations, the uses result in the generation of greater than 500 vehicle trips per day. The applicant has submitted a Traffic Impact Analysis in accordance with Section 10.D.11 of the Zoning Regulations.

WHEREAS, pursuant to Section 7.B of the Zoning Regulations, the subject property is located within the Airport Approach Zone District and Airport Transition District of the Airport Protection Zone and the Applicant received a final determination from the U.S. Department of Transportation Federal Aviation Administration for the building and retaining walls; and

WHEREAS, the Planning Commission is in receipt a letter dated July 7, 2021 from Attorney Beecher acknowledging that no new trees are to be planted on the subject property and Wooster Mountain Realty, LLC has agreed to grant a tree trimming easement to the City of Danbury to trim any trees on the Danbury Proton site or the trees that line both sides of Lee Farm Drive to the extent any such trees now or in the future exceed a height of 60 feet from ground level; and

WHEREAS, the Zoning Board of Appeals granted a variance (see ZBA file # 21-15) on May 13, 2021 to allow the continuous perimeter planting strip to consist of grassed lawn only and to eliminate the requirement for trees and shrubs; to eliminate planting of trees in landscape islands and eliminate required street trees; and

WHEREAS, proposed site improvements include the construction of a 16,065 sq. ft. one-story medical building; surface parking; construction of an internal private driveway; associated grading; construction of retaining walls; installation of a storm water management system; landscaping, and installation of concrete curbing and concrete sidewalk on Wooster Heights Road; and

WHEREAS, a commensurate site plan for the project has been submitted as required in accordance with Section 10.C.1 of the Zoning Regulations; and

WHEREAS, the Applicant, in compliance with the requirements for the application submission, has submitted a Traffic Impact Analysis and supplemental documents; and

WHEREAS, the maps, plans and documents submitted by the Applicant, as noted in Exhibit A, have been received and reviewed by the Planning Commission and, in conjunction with the submitted petition for a Grant of Special Exception and Application for Site Plan Approval, are hereinafter referred to as the “Application” and shall be considered the record of said Application; and

WHEREAS, in accordance with Section 8-7d of the Connecticut General Statutes (“C.G.S.”), the Planning Commission obtained appropriate extensions and conducted a duly advertised Public Hearing that opened on June 16, 2021 and closed on July 7, 2021; and

WHEREAS, in addition to the Application, the record also includes testimony and related correspondence and staff reports on file in the Department of Planning and Zoning; and

WHEREAS, the Application has been reviewed by the City of Danbury Department of Planning and Zoning, Airport Administrator, the Building Department, the Engineering Division of the Public Works Department, the Office of the Fire Marshal, the Construction Services Division of the Public Works Department, and the City Traffic Engineer; and

WHEREAS, all materials, plans and documents submitted by the Applicant in support of the Application and reviews conducted or permits issued by the aforementioned City departments or Commissions are incorporated into the record of this Application and have been reviewed and considered by the Planning Commission and found to be credible and reliable; and

WHEREAS, the record of said Application also includes, but is not limited to, all materials submitted as Exhibits during the public hearing, as well as approved minutes of the Planning Commission meetings and related correspondence files in the Office of the Department of Planning and Zoning; and

WHEREAS, the Planning Commission acknowledges that, pursuant to Section 10.C.4 of the Zoning Regulations, “no petition for a special exception or special permit shall be granted unless such petition is in compliance with the provisions of these Regulations, including, but not limited to, all requirements for overlay zones and supplemental regulations, as applicable, and all additional requirements specific to the special exception or special permit”;

NOW THEREFORE BE IT RESOLVED, the City of Danbury Planning Commission has determined that, based on evidence in the record, and its knowledge and experience of conditions in the area, and subject to compliance with the conditions set forth below, the petition for said Grant of Special Exception is in compliance with Section 10.C.4 of the Zoning Regulations and finds that the proposed project:

- (1) will not emit noise, smoke, glare, odor, or vibration or other conditions which will create a nuisance having a detrimental effect on adjacent properties;
- (2) is designed in a manner which is compatible with the character of the neighborhood;
- (3) will not create conditions adversely affecting traffic safety or which will cause undue traffic congestion; and,
- (4) will not create conditions harmful to the natural environment or which will jeopardize public health and safety; and

BE IT FURTHER RESOLVED, that the City of Danbury Planning Commission, after review of said Application, materials, receipt of Staff comments and consideration of all information incorporated into the record, hereby **approves with conditions** said Petition for a Grant of Special Exception and Application for Site Plan Approval, SE 781 (Tax Assessor Lot # G18062); and

BE IT FURTHER RESOLVED, the conditions of said approval are as follows.

1. The project shall be developed in accordance with the maps, plans and documents, as listed in *Exhibit A*, except as may be revised pursuant to modification required herein.
2. The Applicant shall file the Grant of Special Exception on the City of Danbury Land Records within 60 days pursuant to Section 10.C.3.d of the City of Danbury Zoning Regulations. Upon recording, the Applicant shall provide a copy of the receipt to the Department of Planning and Zoning. The Department shall then provide evidence to the Zoning Enforcement Officer (“ZEO”) that the Grant of Special Exception has been duly recorded.
3. The on-site storm drainage system shall remain private and regularly maintained by the Applicant to ensure the system continues to function as intended.

4. The planting of trees on the subject property shall require site plan approval by the Department of Planning and Zoning.

The following actions shall be taken prior to any land disturbance or alteration related to site improvements shown on the approved plans and issuance of any permits.

5. The ZEO shall verify that development of the site as proposed and approved and shown on the site plans comply with City of Danbury Zoning Regulations.
6. The ZEO shall verify that the Grant of the Special Exception has been filed on the City of Danbury Land Records.
7. The Applicant shall provide evidence to the ZEO that City Council has granted an approval for the proposed sewer main extension.
8. The Applicant shall revise the Landscape Plan to accurately reflect the metes and bound of the property and shall add a note to the plan that “no trees shall be planted on site without site plan approval”. The Applicant shall obtain written evidence from the City of Danbury Department of Planning and Zoning stating that said revision has been satisfactorily completed and said evidence shall be presented to the ZEO.
9. The Applicant shall obtain written evidence from the City of Danbury Engineering Department stating that comments, as noted in correspondence dated July 7, 2021, from Kelly Green, P.E., to Sharon Calitro, have been satisfactorily addressed and said evidence shall be presented to the ZEO.
10. The ZEO shall verify that the medical space shown on the floor plans submitted with the building permit application does not exceed 3,675 sq. ft., as shown on the approved floor plans referenced below. Any size discrepancy between the approved floor plans and the floor plans submitted with the building permit shall be reviewed and approved by the Department of Planning and Zoning.

The following actions shall be taken prior to the issuance of a Certificate of Zoning Compliance by the ZEO for any structure.

11. The Applicant shall grant an avigation easement to the City of Danbury to allow tree trimming on the subject parcel and trimming of trees on Wooster Mountain Realty, LLC property, along both sides of Lee Farm Drive/driveway to the extent any such tree now or in the future exceeds a height of 60 feet from ground level, or, alternatively, any other mutually agreeable easement the parties may enter into. The plans and documents describing the metes and bounds of said parcel shall be reviewed and approved by the City of Danbury Office of Corporation Counsel as to form and content prior to acceptance by the City Council and filing by the applicant on the City of Danbury Land Records. A copy of said filed easement shall be submitted to the Department of Planning and Zoning.

12. The Applicant shall convey a parcel of land, as shown on the plans titled “Danbury Proton, 85 Wooster Heights Road, Danbury Connecticut”, Subtitled ‘Site Plan’, prepared by Benjamin V. Doto, III, P.E., LLC, dated August 1, 2020-revised through 7/7/21 and the map titled ‘Proposed Lot Line Revision Map, Parcels 1 and 2, prepared for Lee Farm, LLC, prepared by New England Land Surveying, P.C., dated February 4, 2021 to the City of Danbury for future roadway improvements along Wooster Heights Road, including the Lee Farm Drive intersection and approximately 550 feet to the west. The plans and documents describing the metes and bounds of said parcel shall be reviewed and approved by the City of Danbury Office of Corporation Counsel as to form and content prior to acceptance by the City Council and filing by the applicant on the City of Danbury Land Records. A copy of said filed deed shall be submitted to the Department of Planning and Zoning.
13. The Applicant shall grant an easement to the City of Danbury for the installation of traffic control box, as shown on the approved plans referenced in Exhibit A. The plans and documents describing the metes and bounds of said easement shall be reviewed and approved by the Office of Corporation Counsel as to form and content prior to acceptance by the City Council and filing by the applicant on the City of Danbury Land Records. A copy of said filed easement shall be submitted to the Department of Planning and Zoning.
14. All work within the City of Danbury road right-of-way, as shown on the approved plans referenced in Exhibit A, shall be coordinated and completed to the satisfaction of the Department of Public Works, including but not limited to the installation of the installation of concrete curbing, concrete sidewalk along Wooster Heights Road, and permanent pavement overlays to the centerline of Wooster Heights Road along the subject property.
15. In accordance with Section 10.D.9 of the Zoning Regulations, the design engineer shall submit a sealed written certification to the Department of Planning and Zoning and the ZEO that the proposed stormwater management system, including the grading of the site, was inspected by said design engineer at the time of installation and found to have been installed in accordance with the approved plans referenced in Exhibit A and is in good working condition. Certified record drawings of the installed drainage system shall also be submitted by the design engineer for all drainage systems.

Additional General Comments:

16. Approval of this Special Exception application does not waive any other requirements for additional approvals or permits that may be required from other City, State or Federal departments or agencies, including permits for on-site signage.
17. The approval of the Site Plan shall be void and be of no effect unless construction of the proposed buildings and/or structures is completed within five (5) years of the effective date of said approval. The Planning Commission may grant an extension of said five (5)

year period of not more than five (5) years provided it finds that owing to conditions affecting such project, the application of such five (5) year completion would result in exceptional difficulty and further provided that such extension ensures the protection of the public health, safety, convenience, and property values.

CC: Sean Hearty, Zoning Enforcement Officer (via email)
Antonio Iadarola, P.E., Public Work Director/City Engineer (via email)
Kelly Green, P.E., Engineering Department (via email)
Abdul Mohammed, Traffic Engineer (via email)
Michael Safranek, Airport Administrator (via email)
David Newland, Building Official (via email)
Robert Barone, Construction Services Division (via email)
Patrick Ridenhour, Chief of Police (via email)
Terry Timan, Fire Marshal (via email)
Thomas Beecher, Esq., Attorney for Property Owner (via email)
Ben Doto, P.E., Agent for Applicant (via email)
Michael Galante, P.E., Traffic Engineer for Applicant (via email)

DRAFT

EXHIBIT A
MAPS, PLANS, AND DOCUMENTS APPROVED BY PLANNING COMMISSION
FOR DANBURY PROTON FACILITY
85 WOOSTER HEIGHTS ROAD
PLANNING CODE # SE 781

1. Maps under the general title “Danbury Proton, 85 Wooster Heights Road, Danbury Connecticut”, prepared by Benjamin V. Doto, III, P.E., LLC:
 - A. Subtitled ‘Site Plan’, dated August 1, 2020-revised through 7/7/21;
 - B. Subtitled ‘Grading and Drainage Plan’, dated August 1, 2020-revised through 7/7/21;
 - C. Subtitled ‘Off-Site Grading & Utility Plan’, dated February 3, 2021-revised through 6/30/21;
 - D. Subtitled ‘F.A.A./Danbury Airport Grading Plan’, dated August 1, 2020-revised through 6/30/21;
 - E. Subtitled ‘Detail Sheet #1’, dated May 17, 2021-revised 6/30/21;
 - F. Subtitled ‘Detail Sheet #2’, dated May 17, 2021-revised 6/30/21;
 - G. Subtitled ‘Drainage Area Maps’, dated January 8, 2021-revised 5/17/21.
2. Plans titled “Site Improvement Plans, Prepared for Danbury Proton, 85 Wooster Heights, Danbury, CT”, Subtitled ‘Landscape Plan’ and ‘Notes & Details’, dated April 20, 2021-revised through 5/19/21.
3. Plan titled “Danbury Proton, 85 Wooster Heights Road, Danbury, CT”, prepared by Russel and Dawson, Inc.:
 - A. Subtitled ‘Building Exterior Elevations’, dated May 6, 2021;
 - B. Subtitled ‘Basement and Catwalk Floor Plan’, dated June 18, 2021 and
 - C. Subtitled ‘First Floor Plan’, dated June 18, 2021.
4. Document titled ‘Traffic Access and Impact Study, Cancer Treatment Center, 85 Wooster Heights Road, Danbury, CT’, prepared by Hardesty & Hanover, dated May 2021.