

**CITY OF TORRINGTON
PLANNING AND ZONING COMMISSION
SPECIAL MEETING MINUTES
JULY 29, 2020**

Present: Greg Mele, Chair
James Bobinski, Member
Donna Greco, Member
Donovan Riley, Member
Diane Carroll, Alternate
Thomas Telman, Alternate
Starley Arias, Alternate

Also Present: Martin Connor, AICP; City Planner
Jeremy Leifert, Assistant City Planner
Vic Muschell, Corporation Counsel

Not Present: Greg Perosino, Vice Chair

1. Call to Order:

Chair Greg Mele called the meeting at order at 7:06 p.m., Remote meeting via ZOOM online. (not held at City Hall building)

2. Attendance/Announcement:

Chair Greg Mele announced present and serving on the Commission this evening will be Commissioners James Bobinski, Donna Greco, Starley Arias, Donovan Riley, Diane Carroll, Tom Telman (logged in at approximately 7:40 p.m.) Also present is City Planner Martin Connor, Assistant City Planner Jeremy Leifert, and Corporation Counsel Vic Muschell.

3. Minutes for Approval:

a. 7/15/20

MOTION by Ms. Greco to approve the 7/15/20 minutes, seconded by Ms. Carroll, unanimously carried.

4. Old Business:

n/a

5. Public hearing scheduled for 7:00 p.m., Wednesday, July 29, 2020, remote meeting (not to be held at City Hall):

- a. Special Exception 19-03 and Site Plan 1324
Applicant: TDF Enterprises LLC; Daniel J. Ferraina, Manager
Location: Notting Hill Gate and Wimbledon Gate North
Assessor Map 219 Block 001 Lots 85 and 48
Proposal: Construct four (4) buildings, 120 units total, fifty-five and over residential community
Section 6.8 – Multi-family Residences
Section 6.12 – Active Adult Housing
(public hearing continued from 7-15-20)

At 7:08 p.m. Chair Greg Mele opened the public hearing, and noted a legal notice of public hearing continuation was posted on the City's website. Mr. Mele outlined the rules for the public hearing, noting the public hearing will be closed tonight, this is not a debate. Only new information is to be submitted this evening.

Mr. Mele stated serving on the Commission this evening will be Commissioners Jim Bobinski, Donna Greco, Starley Arias, Diane Carroll, Donovan Riley, Tom Telman (logged in at approx. 7:40 p.m.) and Greg Mele. Also present is City Staff, Martin Connor, City Planner; Jeremy Leifert, Assistant City Planner; Vic Muschell, Corporation Counsel.

Attorney Christopher Smith from Lawson & Pearson appeared representing TDF Enterprises, LLC, Mr. Smith stated Attorney David Glissman from MacDermid, Reynolds & Glissman PC will respond to Attorney Olson later in the evening.

Attorney Peter Olson expressed concerns that there are 75 participants, and there are complaints from people not being able to get into this on-line meeting. A memo was submitted stating parcels were illegally merged, an appraiser statement has been submitted as well.

Planning and Zoning Commission members stated their name and how they are appearing in this meeting:

- Diane Carroll – present computer video
Donna Greco – via phone
Starley Arias – present
Jim Bobinski – present, no video
Donovan Riley – present via video.
Greg Mele – present via computer phone, no video

Attorney Smith noted there are 66 participants, then one more logged on, up to 67 participants, and Mr. Mele has made an announcement in the beginning of the meeting for

the procedure to get into this meeting. Mr. Mele noted the public audience must state their name and address, and opened the hearing for public comment.

Lindsey O'Connell, 90 Chelsea Court, read a statement in opposition to the proposal (16:34 minute point in meeting) stating concerns regarding privacy and property values. The value study submitted by the applicant TDF Enterprises is unfair.

Joe Middleton, 70 Gate Post Lane, VP of the Homeowners Association in the community since 2005 spoke in opposition (18:40 min). This proposal will adversely affect the value of houses. The maps submitted are in violation of setbacks, the 50 foot front yard buffers, excavation regulations and the retaining walls in violation on three buildings. There are traffic concerns, and the roads are not suitable for this development. He noted the tree survey, and many violations that were noted on the maps. Mr. Middleton spoke of wetlands concerns. He asked that the Commission look out for the interests of the homeowners in this community.

Paul Roberts, 265 Notting Hill Gate, Lot 95 spoke (25:47). Mr. Roberts and his wife were one of the first buyers in this community. They were sold a nice dream, with daycare, a pool, tennis courts, club house and a traffic light at Hassig Road for safety. They were promised beautiful views of Litchfield Hills. He expressed concerns with traffic and speeders using the roads as a short cut. There will be a decrease of their house value, and he referenced the Highland Avenue apartment buildings where there are many police calls.

Lynn Williams, 153 Notting Hill Gate spoke in opposition (28:45). She has lived here for 19 plus years and she is strongly opposed. This is an area of single family homes of character and quality and is increasingly diverse. Multifamily houses may not be advisable during a time of pandemic. She said seniors do not always live in apartments. Ms. Williams expressed concerns about traffic, property values and drainage. She now has basement flooding and this proposal will make matters worse. She spoke of vernal pools and frogs. The open space provided seems inadequate. This is poorly designed sprawl. This application is non-compliant.

Stephanie Elliott, 417 Wimbledon Gate North spoke in opposition (34:50). She bought in this area 14 years ago, there are no sidewalks in the area. This is a cut through for traffic, and they tried unsuccessfully to get speed bumps installed. She cannot safely walk on their own street. Ms. Elliott stated this is costing much money to hire experts.

Ron Viola, 68 Wilson Road, Litchfield, spoke in opposition (39:55). His property abuts this development and he has never received any information from the City, developer or contractors. He noted environmental issues and wetlands issues, property values, trespassing, trash, lighting, etc. There will be hundreds of people in the neighborhood. Mr. Viola stated he saw plans for single family homes and he knew that might happen, but he never envisioned 120 apartments abutting his property when he purchased it in 2016. He would have never bought his property if he knew there would be a three story building

next door. He noted concerns with frogs and vernal pools, and various wildlife. He gave permission for his property to be inspected. Mr. Viola stated the 55 and older aspect will be compromised in the future. This is the wrong idea in the wrong place.

Chairman Mele noted Commission Tom Telman has logged on (approximately 40:18).

Mr. Mele stated only new information may be discussed this evening.

Catherine Mollica, 103 Notting Hill Gate spoke in opposition and noted the documentation she has submitted for the record. Attorney Mollica noted only one significant tree was found and that is unfathomable, that this is the only one with such a diameter. Ms. Mollica is a direct abutter to the proposed site. There will be significant adverse impact on the community. There will be noise, traffic, etc., and the driveway will be right on her property line. There was a pass off here with concerns raised by Commission Storti (Inland Wetlands Commissioner). Ms. Mollica said Mr. Hrica said there would be no impact to wetlands, she spoke about storm water issues, drainage concerns, etc. For over thirty years this has been an established single family community. The character of the neighborhood will be destroyed. There are so many violations of zoning regulations, and this plan got through inland wetlands with a hush and a push, and that a ten year old could have done these plans. Greenbriar has been built in violation of the Clean Waters Act (57:38). Ms. Mollica noted the many documents that were submitted by her. This is probably a settlement site of Native Americans, and there are farmlands soils.

Laurie Middleton, 70 Gate Post Lane spoke (1:00). When she bought here, she was told only single family homes would be built, and she would not have bought otherwise. This is overcrowding. Her 81 year old father won't be able to walk in this area. She expressed concerns with wetlands, and Army Corps of Engineers issues; was the Planning and Zoning Commission hoping these concerns would be overlooked. She noted all the wildlife in the area and stated this application must be denied.

Brandon Eckert, 203 Notting Hill Gate, spoke and concurred with previous comments.

Jeanne Fusco, 381 Notting Hill Gate, spoke in opposition. The first development did not uphold promises made, many people have stayed because of the community as neighbors are like family. She expressed concerns about children, and the level of traffic in the area.

Andrea (inaudible) of 58 (inaudible) spoke in opposition as a former realtor. She sold many properties and told buyers these are single family homes, with protected wetlands, and she made those representations to home buyers.

Patricia Dyer, 113 Waterbury Road, Prospect, CT spoke (1:07). As a licensed realtor, she sold property and gave clients her word the views are protected. She is worried about her

character and lawsuits. This development is intrusive and will impact residents and wildlife.

(Inaudible name), 406 Wimbledon Gate North spoke in opposition, noted costs of roads (inaudible comments) (1:08)

Carol Anderson and husband Steve, 364 Notting Hill Gate spoke in opposition to the project, and concurred with previous comments.

Denise Rice and husband Jim, 255 Notting Hill Gate spoke in opposition (1:10). They are 28 year residents, 4th generation Torringtonians. They expected more single family homes, there is too much traffic as it is, and this will be unsafe. She asked the Planning and Zoning Commission to comply with the regulations.

Elizabeth Forsberg, 376 Notting Hill Gate spoke in opposition (1:12). She has five young children, she bought here because this is a family community, and she thought the street would be safe for children and bike riding. The curve at the end of the road will be a nightmare.

Anna Cardona and husband Juan Rivera, 180 Notting Hill Gate spoke in opposition. She came here from New Haven and was told this would be a one family home area (1:14)

Kerry Kocis, 81 Notting Hill Gate spoke in opposition (1:15). The buildings would be directly in her backyard. She was told this would be a single family home community. She noted the environment, Gulf Stream and the wetlands. She loves the view in her backyard, and a building and stonewall view will now be there.

Andrea Becker Abbott, former real estate broker, spoke in opposition. She sold houses here and made representations there would be only single family homes. People will question what was represented. (1:17)

Nathaniel Palmer, 232 Notting Hill Gate was sold on the dream this would be a single family home community, and asked the Planning and Zoning Commission to consider elderly and children in the area.

George Sabolik, 377 Wimbledon Gate North spoke in opposition (1:18). He lived on Hyde Street, and bought in 2009. He noted the home owners association, and had to pay a fee. The closing of his house was held up. The developer has illegally seized land, and asked why there is an association in the first place if land is seized. This is a poor idea and conflict of interest on the part of the town.

Mel Brickman, 467 Wimbledon Gate North spoke in opposition, noted the applicant has many iterations, there are rights to keep this land that was part of the development and any further action is a taking.

Jen and John Merrian of Wimbledon Gate North stated their opposition, and are concerned with environmental impacts on wetlands and wildlife. The City should look at the roads, there are no lines on the roads, and there is truck traffic and narrow roads. Promises were given to residents and there will be negative impacts. (1:21)

Denise and Gary Merrill, 472 Wimbledon Gate North spoke in opposition. They have lived there only one year, and were told by the realtor there would be only single family homes. This is illegal and hopes it is not a done deal.

Don Rapuano, 508 Wimbledon Gate North and wife have lived here 18 years and spoke in opposition. This is appalling as they were promised this would be single family neighborhood. (1:24)

David Waters, 99 Gate Post Lane spoke in opposition. (1:25)

Jeffrey Rossi, 63 Chelsea Court, spoke in opposition.

Kelly Leifert, 403 Wimbledon Gate North spoke in opposition (1:27). She has lived here since 1996 and was promised a single family home area.

Kathy Payne, 521 Wimbledon Gate North spoke in opposition.

Melissa Roman, 460 Wimbledon Gate North (1:27) spoke in opposition.

Jane Crowley, 73 Chelsea Court (1:28) spoke at length in opposition, stating she is on vacation and had to stop vacation for this meeting. She noted concerns that this project is not in harmony with the area, and there is no guarantee it won't be turned in Section 8 housing, and stated there have been back door meetings at City Hall, and Army Corps of Engineers. She was a realtor at one time and they have a legal obligation to do no harm, and people have threatened to sue her. The Army Corps of Engineers may sue as well. Her taxes have gone up. Her mother at 59 Notting Hill Gate is in opposition as well and her mother's view will be a wall and a three story building. The property was stolen with some deal. There are unanswered questions, this is reckless and irresponsible and not everyone has access to ZOOM, and she is at a rest stop and missing her vacation. This is not what she bought in to, this is reckless by the City without public input. The 30 foot roads have allowed for drag racing from Highland Avenue, and this will be turned into Section 8 housing. There is no demand for luxury apartments with no garages, people will worry about being beaten in the parking lot by thugs who will move in there and break into their homes. She can't let her grandchildren play on the street. She is embarrassed to admit she sold people these homes, and people are preparing their houses for sale, creating a surplus of homes for sale. Sales were based on a public offering statement, and this is a violation of state and federal law.

Barbara Lyon and husband, 127 Notting Hill Gate, are opposed to the project (1:41)

Tracy Hawkins, 194 Notting Hill Gate spoke in opposition. This needs a closer review. Other areas of Torrington are much better suited for this project, this area has always been a single family development. (1:42)

No further comments from public.

Attorney Peter Olson spoke (1:43). The application does not comply with the regulations, and the applicant does not own the property.

Attorney Chris Smith, Alter and Pearson representing TDF Enterprises spoke (1:44). Other members of their team, Attorney David Glissman, Kenneth Hrica, P.E., George Logan, soil scientist; Bruce Hunter, appraiser; and H. Kartel, architect are all present via ZOOM. They understand many residents do not want to see this development occur and they have the right to express that opposition. Mr. Smith wants to state for the record they do have the right to apply for this Special Exception and review process, as this property is zoned for this use and is permitted under the zoning regulations. What may have been represented to buyers over the years has nothing to do with the zoning for this property the rights of his client to apply for this Special Exception permit. Mr. Smith referred to Attorney Olson's 7/15/20 memo "summary of reasons for denial". Regarding alleged reasons 1, 2, and 3, Attorney Glissman has provided two memos in response dated 7/8/20 and 7/27/20. It is their conclusion that their client TDF owns the property (1:49). This is for a quiet title action, and that is not the charge of the Planning and Zoning Commission to determine that, as well as the Army Corps of Engineers permit. Their position is the condo documents, easements as part of the condominium or not, those items are not properly before this Commission, but Mr. Smith does not want to leave the record void without responding to those statements. These matters are for a court in a quiet title action.

Attorney David Glissman, 86 Farmington Avenue in Hartford appeared on behalf of TDF. He reviewed his qualifications as a real estate attorney. There has been an enormous flow of paper to the Planning and Zoning Commission. Attorney Glissman gave a review of his findings (1:52). A Commission member had asked who was paying the taxes on the subject property, TDF Enterprises is the owner and has been paying taxes on this property, and the homeowners association has never paid taxes on this property. He referred to a title search, and gave an explanation of the homeowner's declaration, and the properties it covers. (2:01) Mr. Glissman referred to expired subdivision maps, and those properties were never built. Anything to do with the Army Corps of Engineers has nothing to do with this Commission, as they have their own set of regulations. The applicant TDF is already talking with the Army Corp, and knows they have to work with them.

Mr. Glissman continued, the various conservation easements do not fall into this Commission's duties. This is not the time or place to discuss those items. This property is not in the Greenbriar declaration. This is not a resubdivision, and there is no conservation easement on his client's property.

Mr. Glissman noted the opposition is clearly aware of these hearings, and have participated extensively (2:18)

Ken Hrica, P.E., stated alterations of plans were submitted, but they did not include any changes to permits in the regulated areas. Mr. Hrica discussed these changes with the City's Inland Wetlands Officer, and no additional permitting was needed.

George Logan, soil scientist, spoke and concurred with Mr. Hrica's statements.

Attorney Smith stated his client will not conduct any activities within the federal wetlands without having the appropriate permits/approval from Army Corps of Engineers. Mr. Hrica has been working with Corey Rose of the Army Corps to address any issues (2:24).

Mr. Hrica addressed concerns that the proposal does not comply with lot width regulations, setbacks, etc. No buildings or parking lots are to be located within setback areas. Mr. Hrica referred to excavation notes (2:30), and examples from the regulations were read that deal with quarry operations, which this is not. This is a bona fide application for buildings and a driveway, and that excavation regulation does not apply to their proposal.

Mr. Hrica referred to the applicant's claim regarding specimen trees. Mr. Hrica did an assessment of the site with Assistant City Planner Jeremy Leifert. They did find three specimen trees, two will remain, and one near the upper retaining wall will be removed and replaced with five red oak trees. Bicycle racks will be added to all the buildings. (2:37) Mr. Hrica provided photos of examples of retaining walls that were built at the nearby Keystone Place, the same walls will be built at this proposed development. The TDF wall will be 23 feet high, tapering to zero feet. The Keystone walls are 21 feet. Walls will have landscaping and plantings. This proposed building is one story less than Keystone. Hundreds of feet of tree buffer will remain.

Attorney Smith referred to Section 6.00 which covers Special Exceptions, and his client has applied for multifamily use in Section 6.8 of the regulations. This is a totally different section than 6.4 which covers excavations/quarries.

Mr. George Logan, soil scientist, appeared and provided corrections to information that has been given. The headwaters of the Gulf Stream are not on this location, details provided (2:42) The headwaters are 2 – 3 miles upstream.

Mr. Hrica provided further details regarding soil types, drainage, and ground water issues (2:46). Land disturbance has been minimized, 11.2 acres of land will be disturbed out of 32 acres, and 71% will remain untouched. Mr. Hrica compared this site to the nearby Keystone Senior Living facility, and provided more details on soil and storm water conditions and silt and erosion controls.

Attorney Smith noted that the City Engineer has provided a favorable report on the e/s system and ground water plans submitted by Mr. Hrica.

Attorney Smith noted the appraisal submitted by the opposition, and the response provided by appraiser Bruce Smith regarding Ms. Meghan Cook's report. Bruce Hunter provided testimony regarding the appraisal process. Property views do not negate legal use of a property. No testimony was given by an audiologist or sound expert to substantiate Ms. Cook's claim of increased noise levels. There has been no evidence presented to date to support the claim of negative property values.

Attorney Smith stated the intervener need to submit expert testimony to prove harm to their properties. The intervener has not sustained their burden of proof (3:01). Regarding numbers 18 and 19 in Attorney Olson's memo, there is no unreasonable harm. Both Ken Hrica and George Logan have stated there is no unreasonable pollution to water resources.

Attorney Smith stated the applicant does have Inland Wetlands Commission approval, and noted that Mr. Logan has stated that the previously approved 21 lot subdivision would have had much more impact on the environment. Mr. Hrica agreed with Mr. Logan, there is more disturbance with individual building lots. The application is consistent with the 2004 CT DEEP Storm Water Quality Manual and the 2002 CT Guidelines for Soil Erosion and Sedimentation Control. Both Mr. Logan and Mr. Hrica agreed the application is consistent with both those guidelines.

Attorney Olson stated parts of the memo dated 7-29-20 are not being addressed. Attorney Glissman discussed the quit claim deed and provided details of his research, and reviews he conducted (3:15).

Mr. George Logan provided comments and stated the proposal follows the 2004 CT DEEP Storm Water Quality Manual, and stated there are no vernal pool habitats on this property. There is a vernal pool at the end of the Eversource property, which is 970 feet from the first building. There is no direct discharge of storm water into the wetlands area. Salamanders were observed in the open space habitat and one other on site location, and there is no discharge into these areas.

Mr. Smith and Mr. Hrica each stated they believe the proposal is in compliance with the City of Torrington Zoning Regulations (3:28).

Attorney Smith said Attorney Glissman has covered the subdivision concerns, and that is a matter for the court system to determine. The previous approved subdivision has long ago expired.

Attorney Olson read portions of the Connecticut State Statutes which makes clear that this subdivision has not expired. Mr. Olson further explained how the easements run with the land, and referred to portions of CT Statutes regarding conservation of restrictions. He

discussed title insurance and street frontage issues, and stated that Mr. Hrica's statements about frontage area incorrect. Mr. Olson stated an excavation permit is necessary, specimen trees were discussed and neighbors who have lived there for years can see specimen trees from their properties.

Discussion ensued regarding headwaters of the gulf stream and vernal pools, amongst Attorney Olson, Attorney Smith, and Dr. Klemens (3:42)

Attorney Smith stated relative to the expiration of the subdivision Map, there is a stamp notation on the map which states the expiration date, and this map was filed on the land records. The conservation easement does not exist as the map is expired. Notice to the City is not required, as the expiration date was already listed on the map that was recorded. Greenbriar representatives have also been present and participated in these hearings. Attorney Smith provided more details regarding frontage issues. This proposal is not an excavation issue or use (3:51).

Commissioner Donna Greco stated she has no comments or questions.

Commissioner Diane Carroll has no comments.

Commissioner Tom Telman has no comments.

Commissioner Jim Bobinski has a whole list, he stated it is too late in the evening to make these comments. There are many conflicting things the applicant has said and done, but there is no time to discuss it this evening.

Commissioner Starley Arias has no comments.

Commissioner Donovan Riley has no comments at this time.

Chairman Mele stated the hearing will be closed at this time, 10:53 p.m.

MOTION by Ms. Greco to close the public hearing at 10:53 p.m., seconded by Mr. Telman, motion unanimously carried. (Unidentified female voice attempted to object, saying the Commissioner should be allowed to speak.)