

# CITY OF TORRINGTON



Land Use Office  
Martin J. Connor, AICP, City Planner  
140 Main Street • City Hall  
Torrington, CT 06790-5245  
E-mail: [Martin\\_Connor@torringtonct.org](mailto:Martin_Connor@torringtonct.org)

Phone: (860) 489-2221  
Fax: (860) 496-5928

City of Torrington website: [www.torringtonct.org](http://www.torringtonct.org)

To: Planning & Zoning Commission  
From: Martin J. Connor, AICP, City Planner  
Date: August 10, 2020  
RE: Special Exception 19-03 & Site Plan 1324, TDF Enterprises LLC, Notting Hill Gate and Wimbledon Gate North, Assessor's Map 219 Block 001 Lots 85 & 48, construct 4 buildings, 120 units total, fifty-five and over residential community

TDF Enterprises LLC, Daniel J. Ferraina, Manager, has filed Special Exception and Site Plan applications to construct 4 buildings, 120 units total, fifty-five and over residential community per Zoning Regulation Sections 6.8, Multi-family Residences and 6.12 Active Adult Housing. The property is 37.77 acres in size and is located in the R-15 Zone. The four 3-story buildings will each contain 22-one bedroom and 8-two bedroom apartments. Two of the apartment buildings, clubhouse and pool will have access from the end of Wimbledon Gate North and will be called Upper West of Litchfield County. The other two buildings, clubhouse and pool will have access from Notting Hill Gate and will be called Lower East of Litchfield County. A community garden and walking trails are other amenities planned for the residents. Private driveways, sidewalks and parking lots will serve the residents in the age restricted, Active Adult community proposed. The development will be served by public water and sewer.

**In reviewing the application, revised plans, testimony and documents submitted at public hearings held 2/19/20, 7/15/20 and 7/29, I have the following comments for your consideration:**

1. The opponents argued that the applicants do not own the subdivision. A great deal of testimony was heard and documents were submitted as to ownership. The Planning and Zoning Commission should not be the arbitrator of this ownership and or legal standing. A "Quiet Title" Court action should be taken by the Greenbriar Association if they believe that they have acquired the property as a result of actions of the previous owner. PZC Chairman Mele asked who was paying the taxes on the property and evidence was submitted that it is the applicant and not the Greenbriar Association paying the taxes. The Land Use Office uses the Tax Assessor's records routinely in determining ownership. Neither my office nor the Planning & Zoning Commission should be determining property ownership.
2. There was a lot of discussion during the public hearing process regarding Army Corps of Engineering approvals and whether or not the Commission should render a decision without Army Corps of Engineers approval. The applicant cannot move forward on the project without their approval. This is a separate agency with their own set of

- regulations that are independent of the PZC. The Commission should make their decision independent of any Army Corps of Engineer's review.
3. The property had previously received Subdivision approval from the Planning & Zoning Commission for construction of a 71 lot Subdivision and associated roadways, known as Greenbriar Estates Phase III. The approvals for the subdivision have long since expired. The Tax Assessor's Office subsequently combined the lots after expiration of the subdivision. The Land Use Office would not approve the construction of a dwelling on any of these former lots as the public improvements, (streets, utilities, etc.,) were never installed and that subdivision expired. The opposition argued a Resubdivision was required as the expired subdivision was not formally expired by the PZC even though the Subdivision Map on file in the City Clerk's Office clearly shows an expiration date for the subdivision.
  4. There was a testimony at the public hearings regarding the viability and whether or not the project could be restricted to a 55 and over community. Sections 6.8 and 6.12 of the Regulations allow for multi-family and Active Adult 55 and over housing. If the project is approved, all residents and their occupants shall comply with the requirements of the "55 and over Housing" exemption as set forth in the *Fair Housing Amendments Act* (42 U.S.C., Sec. 3601 et Seq.), the *Housing for Older Persons Act of 1955*, and in accordance with Federal Law. There shall be a governing document or restrictive covenant that shall be binding upon all occupants of all dwellings in the development parcel that requires that no children under the age of eighteen years shall be permitted to reside in any dwelling, except by hardship exception granted by the Board of Directors or other governing body of the community. Such hardship exemption shall be granted only for children of an existing occupant, provided that the visitor occupants of any age shall be permitted to visit for up to four weeks of any calendar year. The restrictive language in the governing documents and in the restrictive covenant shall be approved by City Counsel and shall not be subject to revocation.
  5. It is my opinion that the plans conform to the specific Zoning requirements for the underlying R-15 Zone, Multi-family setback requirements, Multifamily design requirements of Section 6.8.8 – 6.8.16, the Active Adult Housing Density requirements of Section 6.12.2 and that the lot exceeds the minimum gross area requirements of Section 6.12.4 for Active Adult Housing. Opponents argued that the minimum 200 ft lot width requirement for a multi-family residence in the R-15 Zone was not met. The definition of lot frontage per Section 2 of the Zoning Regulation is as follows: "**Lot Width** - the horizontal distance between side lot lines measured both at the minimum required front yard setback line and at the front lot line" It doesn't state that the lot width has to be consecutive. Past practices have allowed applicants to add frontages if they own more than one area on a lot of lot with lot frontage. The applicant, in my opinion, has more than 300 ft of lot width. The revised plans show that the parking and buildings are outside of the minimum setback areas. The proposed building heights are at 35' the same maximum building height that allowed for the surrounding single-family homes.
  6. The opponents argued a Special Exception for an Earth Excavation was required. Clearly, Section 6.4, Excavations, does not apply when it's a building project of this nature.
  7. The Commission will need to discuss the General Standards for Special Exception approval per Section 8.2.2 of the Zoning Regulations in their consideration of the application. Concerns regarding traffic generation from the project were voiced at the public hearing by the opposition. The only expert testimony heard, however, was

submitted in a Traffic Report prepared by Scott F. Hesketh, P.E., F. A. Hesketh & Associates, Inc. Mr. Hesketh's Traffic Report concludes as follows, *"Based on our analysis, it is our professional opinion that the traffic volumes associated with the proposed apartment development can readily be accommodated by the existing roadway network. The proposed site driveways are properly located with respect to adjacent intersections and with respect to available sight distances and are properly designed to accommodate the anticipated driveway volumes"* The Commission will also need to evaluate the expert testimony in the record from Soil Scientist/Wetlands Biologist George Logan and property appraiser Bruce Hunter. The opponents countered with an Appraisal submitted by the opposition by Meghan Cook of Ms. Mollica's property and Dr. Michael Klemens' Memorandum.

**Inland Wetlands:** At the May 28, 2019 special meeting of the Torrington Inland Wetlands Commission, the Commission approved the proposed site development. This constitutes a favorable report from the Torrington Inland Wetlands Commission. The opposition has appealed the Inland Wetlands Commission's approval to Superior Court.

**Engineering:** Paul Kundzins, P.E., Assistant Public Works Director / City Engineer, comments are contained in his memo to me dated 7/8/20: *"The Engineering Department has reviewed the revised plans (as noted above) as summarized in the reply to Engineering Dept comments letter from Hrica Associates LLC – dated July 06, 2020, and finds these revisions acceptable and therefore endorses this application."* The oppositions consulting Engineer, Joseph Risoli, P.E. disagrees with the Project Engineer and City Engineering Department conclusions.

**Section 22a-19 of the CT Environmental Protection Act (CEPA):**

Attorney Olson on behalf of the Greenbriar Association at the 2/19/20 public hearing entered a verified CEPA intervention pleading that the project is "reasonably likely to have an effect of unreasonably polluting, impairing, or destroying the public trust in the air, water or natural resources of the state." The CEPA intervener has the burden of proving the allegations. The Commission has to consider the evidence in the record. It is a 2 step process, (1) you consider a finding of unreasonable conduct; (2) a determination about feasible and prudent alternatives. If no finding of unreasonable pollution, impairment or destruction is made, the Commission doesn't proceed to determine feasible and prudent alternatives. The applicant's experts testified that the proposed project is not likely to have an effect of unreasonably polluting, impairing, or destroying the public trust in the air, water or natural resources of the state. The Inland Wetlands Commission and Town Staff concurs. The Commission will need to include in any motion to approve the application a finding that the application complies with applicable statutes and regulations.