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Memorandum

To: Westtown Township Planning Commission
Will Ethridge
Robert Pingar
Kristin Camp

From: John D. Snook

Re: Toll Brothers/Crebilly Farm Second Conditional Use Submission
1/31/20 Response to PC Recommendations and Alternative Proposals

Introduction/Summary

I have reviewed the response letter from Toll Bros., dated 1/31/20, regarding the Westtown Township Planning Commission recommendations dated 12/13/19. The response letter included a revised base plan indicating a number of alternatives to the original submission from August of last year for Crebilly Farm.

The response letter has indicated a significant number of the Planning Commission recommendations that Toll is willing to comply with. The alternative plan also shows clear differences from the Plan submitted in August that come closer to the Planning Commission's recommendations. Notably, however, there are a good 20% of the Planning Commission recommendations that Toll has simply dismissed as "not required." This dismissive view reflects their apparent conclusion that only standards they deem to be purely objective count. But, from the beginning, as with the prior plan, Toll has ignored the Zoning Ordinance's requirement for Flex Development to be reviewed and refined in coordination with the Planning Commission, although this response is a belated reach in that direction (see below).

The bottom line is that this is a "Conditional Use," and while Toll has offered clear improvements, they need to go further in order to comply with the Planning Commission's recommendations.

Open Space/Scenic Resources:

Points numbered #2 and #3 in the Westtown Township Planning Commission recommendations require compliance with the Township Comprehensive Plan and the review letter received from the Chester County Planning Commission (dated 10/18/19)

in regard to protection of scenic and historic landscapes and open space as a specific land use category. The Comprehensive Plan adopted last March was not in effect at the time of the prior Toll submission but now is, and compliance with it is specifically noted in several zoning requirements applicable to this Conditional Use application. See Sections: 170-101, 170-102, 170-902.D, 170-906.B, 170-907.A(1), 170-907.A(3), 170-2009.c(3), and 170-2009.d(1)(b). These sections were all excerpted into my review letter of October 3, 2019. Notable among several is Section 170-902.D (Flex Development) which states for a Flex Development that *“The location and conformity of the area shall be such that the flexible development thereof pursuant to this article would be consistent with the Westtown Township Comprehensive Plan.”*

The Comprehensive Plan in effect at the time of this second Toll submission also specifically identifies Crebilly Farm as a scenic landscape with important interpretive value relative to the Battle of the Brandywine and specifically identifies and maps the pertinent part of Crebilly Farm as “open space” on the Future Land Use Map contained within the Comprehensive Plan.

The alternative plan submitted by Toll shows a double dashed line coursing through the property which, although not identified on their plan, appears to approximate the location of the eastern boundary of the area designated as “open space” on the Comprehensive Plan’s Future Land Use Map. It also appears to be generally consistent with the Chester County Planning Commission’s designation of the Brandywine Battlefield Swath. The alternative plan, while a clear improvement over the original submission, still has some 64 single-family lots in the area designated as “open space” in the Comprehensive Plan and within the Brandywine Battlefield Swath.

The County Planning Commission’s review letter demonstrates that with further plan adjustment and changes in the relative proportion of single-family homes to attached homes, the entire battlefield swath may be avoided.

Historic Resources:

Seven points in the Westtown Township Planning Commission recommendations deal with protection or re-use of historic resources. Point #22 requires an archeological survey which Toll continues to refuse to accomplish but does note that they will permit a third party to conduct such a survey, but only in the areas they have designated as open space and not, as of yet, in the remainder of the Brandywine Battlefield Swath. Points #23 through #27 deal with preservation of specific historic resources and means to promote such preservation through adaptive reuse opportunities, relocation of the Westtown Inn/Darlington Tavern, and establishment of façade easements. Toll indicates a willingness to preserve most of these resources and to discuss further reuse opportunities and preservation easements. The exception is the Taylor Tennant House which Toll notes will be demolished and not restored pursuant to Point #25. Point #53

requires preservation of the historic scale house and corncribs in the main barn complex. Toll is willing to permit a third party to remove and preserve the scale house at another site but intends to demolish the corn cribs.

Neither the Planning Commission recommendations nor Toll have specifically mentioned the manor house which appears destined for demolition. While it is not as old as other historic resources, it is a critical component of the recent PHMC designation (pre-dating this Toll application) of essentially the entire Crebilly Farm property as eligible for inclusion in the National Register of Historic Places in the category of "country estate." This designation and the earlier designation of National Register eligibility for the Westtown Inn/Darlington Tavern mean that any federal permitting or funding (including where delegated to PennDOT or PA DEP) need to abide by the provisions of Section 106 of the National Historic Preservation Act. This section requires that adverse effects to historic resources eligible for the National Register be avoided, mitigated, or otherwise resolved prior to approval by the agency involved. Demolition is a distinct adverse effect.

Trails:

Five points in the Westtown Township Planning Commission recommendations deal with trails or sidewalks. Point #18 requires a comprehensive trails system including a trail alongside the Connector Road and looping from either end of the Connector Road around the perimeter of the property to the west. Toll has added trails on the alternative plan including along the Connector Road and into the western part of the property and claims that they are consistent with the Comprehensive Plan. The new trails are a clear improvement but still leave missing links in the context of a trail around (or near) the perimeter. It has been understood that the "perimeter trail" does not need to mean exactly on the perimeter, especially in deference to the privacy of the two existing residential parcels that are being excluded from the development. But the southwestern loops do not connect near the perimeter, probably due to a desire to avoid permitting for a wetlands and stream crossing. The Township may consider asking Toll to offer a right-of-way for a public trail link and an escrow fund for future construction with the Township assuming the responsibility of permitting. There also is not a trail link east of the intersection with Dunvegan, along West Pleasant Grove Road, and linking back to the Connector Road. An unstated but important aspect of these "perimeter" links is also to afford a sense of separation between trails accessible to the general public and those in the interior of the tract intended more for the new residents.

Point #19 requires a trail link to Arborview and a trail link to the Spackman property in Thornbury. Toll is offering a crosswalk to Arborview but not a full link, understanding that the linking trail would be on Arborview HOA lands. Toll's response letter does not indicate any intention to link to Spackman.

Point #20 requires paving of most trails and point #21 requires sidewalks on one side of all new streets. Toll indicates a willingness to comply with these points. Point #57 requires provision for unpaved equestrian access around the perimeter of the property which Toll indicates they are willing to provide on HOA lands, which is reasonable.

Other Issues:

I defer issues regarding traffic improvements and sewer improvement to the Township's other very qualified consultants. I would note that, as a land planner, I do not find all of the traffic improvement responses to be satisfactory. Notably, I believe that a satisfactory connection between the Connector Road and Orvis Way could be accomplished without unduly affecting the Westminster Church property. With the cooperation of Toll, the Township, the Church and the Arborview HOA, Orvis Way could be curved into the West Pleasant Grove Road right-of-way and then curved onto the Connector Road (possibly with a double curve only involving Crebilly property), with the remainder of West Pleasant Grove Road to the west 'T'd into this new road configuration, and the right turn only access to US 202 left as a 'T' off of the new road configuration.

Issues Dismissed as "Not required:"

Toll dismisses some 13 points in the Westtown Township Planning Commission recommendations as "not required." This dismissive attitude is not appropriate in the context of a conditional use application which must adhere to the Township Comprehensive Plan and other zoning requirements. Most of these points deal with traffic and sewer improvements, a number of which can probably be reasonably resolved. From an environmental perspective, the refusal to conduct the archeological survey (#22), the refusal to endeavor stream restoration on site (#33), the refusal to mitigate downstream flooding (#43), the refusal to investigate (and include if determined necessary) potential improvement to the New Street bridge over Radley Run (#45), and the refusal to prepare a deer management plan (#56) are of concern.

Issues Raised in Prior Reviews and Not Yet Clearly Addressed:

My memos of October 3 and October 17 clearly stated that Section 170-906 and Section 170-1617 of the Township Code make it quite clear that the Conservation Design process and review of any Flex Development proposal is intended to be undertaken cooperatively with the Planning Commission, to ensure that community conservation objectives contribute to ultimate development design. This should have happened since the beginning of this conditional use application and only now is finally afforded, in the context of Toll's response to the Westtown Township Planning Commission recommendations and, presumably, their agreement for additional discussion at the Planning Commission.

While the Commonwealth Court in review of the prior Toll Plan discounted denial of the Plan on the basis of failure to map “scenic views,” since that term had not been defined in the Zoning Ordinance, the Court noted that the prior Plan did not identify lands “visible from public roads,” nor does the new Plan, as separately required by Section 170-905.A(1)(m) of the Zoning Ordinance. This requirement is in the context of mapping, and while Toll has offered photographs of views, they are not mapped nor can be measured in compliance with the Zoning Ordinance. Also, as noted above, the new and now applicable Westtown Township Comprehensive Plan specifically notes Crebilly Farm as a defined scenic landscape.

Section 170-905.A.(1) (j) requires the indication of “*Historic resources, including structures, sites, traces, and relationship to the bounds of any National Register historic district.*” Toll has consistently argued that the Brandywine Battlefield National Historic Landmark is not on the property and does not need to be mapped nor analysis of impact to be provided. The ordinance does not say “on the property,” it says “relationship to.” The National Landmark is part of the National Register (NR) and is, in fact, a superior designation to a regular NR Historic District or deemed eligible property as most of Crebilly Farm is. The National Landmark's formal boundary has not been altered in 50 years, despite continuing study of a much larger area by the National Park Service, which administers the National Register. But even the old formal boundary does directly adjoin Crebilly Farm. The formal Study Area used by the National Park Service includes most of Crebilly Farm.