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Board of Supervisors
Westtown Township
1039 Wilmington Pike
West Chester, PA 19382

July 14, 2020

Re: Conditional Use Application of Toll PA XVIII, L.P. – Crebilly Farm
Recommendation of Westtown Township Planning Commission

Dear Board Members:

On August 16, 2019, Toll PA XVIII, L.P. (“Applicant”) filed a conditional use application seeking conditional use approval pursuant to Sections 170-903.A and C of the Westtown Township Zoning Ordinance for a flexible development with single family detached dwellings and multifamily dwellings on the property commonly referred to as the Crebilly Farm (the “Property”). Throughout the Fall of 2019, the Westtown Township Planning Commission reviewed the plan attached to the conditional use application titled, “Conditional Use Subdivision Plan for the Robinson Tract Proposed Development”, prepared by ESE Consultants Inc., sheets 1 through 71, dated August 9, 2019 (hereinafter the “Second CU Plan”). At the conclusion of the Planning Commission’s review of the Second CU Plan, it voted unanimously on December 4, 2019 to recommend that the Board of Supervisors (the “Board”) deny the Second CU Plan for the reasons set forth in a letter dated December 13, 2019 (the “December 2019 Recommendation Letter”). The Planning Commission also recommended that if Applicant presented evidence or more recent traffic reports, revised grading/intersection designs, updated traffic counts, more in-depth modeling and more comprehensive safety studies to address the comments and noted deficiencies in the Township Traffic Engineer’s October 15, 2019 review letter to satisfy its burden of proof under Section 170-2009.D(1)(h) of the Zoning Ordinance, revises the Plan so that it is consistent with the Comprehensive Plan as required by Section 170-902.D of the Zoning Ordinance, and presents sufficient evidence to demonstrate that the proposed development does not unreasonably or significantly affect the protected values under the Environmental Rights Amendment, the Board should approve the application and Second CU Plan subject to 58 conditions stated in the December 2019 Recommendation Letter.

On January 31, 2020, Applicant sent correspondence to the Township wherein it responded to the Planning Commission’s December 2019 Recommendation Letter, and in addition, submitted an alternate conceptual site plan titled “Concept Plan/Robinson Overlay 25 Ft. Spacing” prepared by ESE Consultants dated January 30, 2020 (the “Alternate Plan”). Applicant indicated that the Alternate Plan was submitted to the Township in response to several of the Planning Commission’s recommendations concerning the Second CU Plan. Applicant explained that it was not formally submitting the Alternate Plan to the Board

in lieu of the Second CU Plan, but that if the Board were to prefer and ultimately approve the Alternate Plan, it was willing to develop the Property consistent with such Alternate Plan. Applicant also advised the Planning Commission that in order to develop the Property in accordance with the Alternate Plan, the Board must grant waivers from certain provisions in the Township Subdivision and Land Development Ordinance which are described in detail in a Memorandum dated January 27, 2020 prepared by ESE Consultants (the “Waiver Request Letter”).

Over the course of various public meetings commencing in February of 2020 and ending on July 8, 2020, the Planning Commission reviewed and considered the Alternate Plan and various supplemental plans that Applicant submitted which are identified on Exhibit “A” attached to this letter (collectively referred to as the “Supplemental Plans”). One of the Supplemental Plans that Applicant submitted after the Planning Commission’s May 20, 2020 meeting was a revised alternate concept plan prepared by ESE Consultants dated June 5, 2020 which removed 90-degree internal road intersections (referred to as “Revised Alternate Plan”).

The Planning Commission did not consider the waivers requested in the Waiver Request Letter and agreed that its comments and ultimate recommendation on the waivers would occur in the land development review.

At the meeting on July 8, 2020, the Planning Commission made the following recommendation to the Board.

The Planning Commission prefers the Revised Alternate Plan over the Second CU Plan; however, the Planning Commission recommends that the Board deny the Second CU Plan because Applicant has failed to adequately demonstrate that the proposed development does not unreasonably or significantly affect the values protected by Article 1, Section 27 of the Pennsylvania Constitution known as the “Environmental Rights Amendment” (the “ERA”) that is “the right to clean air, pure water and preservation of natural, scenic, historic and esthetic values of the environment.”

In addition, the Planning Commission does not believe that Applicant has demonstrated compliance with the criteria in §170-2009(D)1(h) of the Ordinance¹ and therefore, the Second CU Plan and application

¹ Section 170-2009.D(1)(h) of the Ordinance requires an applicant seeking conditional use approval to prove to the satisfaction of the Board by credible evidence that:

the proposed flexible development will not result in or substantially add to a significant traffic hazard or significant traffic congestion;

peak traffic generated by the development shall be accommodated in a safe and efficient manner; and

should be denied on that basis. Based on the Township Traffic Engineer's review of Applicant's Transportation Impact Study, as well as the Supplemental Plans and the Revised Alternate Plan, the Planning Commission believes that Applicant has failed to provide credible evidence to demonstrate that the proposed flexible development will not result in or substantially add to a significant traffic hazard or significant traffic congestion. The Planning Commission bases this conclusion on the comments made by the Traffic Engineer in his review letters dated March 13, 2020, May 13, 2020, July 2, 2020 and July 6, 2020 (collectively "Traffic Review Letters").

If, however the Board were to find that the ERA is not a basis to deny the Second CU Plan or that Applicant has presented sufficient evidence to demonstrate compliance with the criteria in Section §170-2009(D)1(h) of the Ordinance, the Planning Commission prefers that Applicant implement the Revised Alternate Plan and that the Board impose the following conditions:

- 1) The flexible development shall contain a maximum of 319 dwelling units, which shall include the two existing dwellings on the Property.
- 2) Applicant shall revise the Revised Alternate Plan to further mitigate detrimental impacts to important scenic and historic resources on the Property by shifting all development out of what has been identified as the Brandywine Battlefield Swath in a Chester County Planning Commission review letter dated October 18, 2019, Figure 3.
- 3) The area on the Property designated as the Brandywine Battlefield Swath or designated as open space shall be limited to disturbance necessary for the development and installation of facilities for sewage disposal, stormwater management, access, utilities, agricultural or equestrian use, recreational areas, historic interpretation and trails and the preservation of the existing two houses that are proposed to be preserved.
- 4) Applicant shall satisfactorily address the comments raised by the Township Traffic Engineer in his Traffic Review Letters.
- 5) Applicant shall install a full roundabout at the intersection of W. Pleasant Grove Road and the Connector Road as generally depicted on the plan Applicant submitted to the

applicant provides sufficient information detailing which improvements to streets it is committed to complete or fund in order to handle the increased traffic anticipated by the proposed flexible development.

Township on June 9, 2020 which is titled, "Robinson Property Roundabout Exhibit". The Planning Commission supports the Board modifying the standards in Section 170-1617.C(2) to allow minimal intrusion into primary conservation area and secondary conservation area in order to install the roundabout.

- 6) The Connector Road shall be offered for dedication to the Township and shall be designed to adequately accommodate heavy equipment and truck traffic. Appropriate weight limitations for the Connector Road shall be determined during land development. Applicant shall design the Collector Road using Type II Base Course as specified in Section 149-910.D(3).
- 7) Applicant shall construct a traffic signal at the intersection of the Connector Road and PA Route 926 and Bridlewood Boulevard, including fiber-optic interconnection to and coordination with the adjacent traffic signals along PA Route 926 at US Route 202 and New Street. The Planning Commission encourages Thornbury Township to cooperate in the installation and maintenance of this traffic signal which the Planning Commission believes will provide residents in the Bridlewood community improved access to Route 926.
- 8) If not constructed by PennDOT, Applicant shall obtain all permits for design and construction of the following turn lanes (and ancillary infrastructure modifications including but not limited to traffic signals, drainage and pedestrian facilities):
 - a. A southbound right turn lane, 150' in length or as otherwise required by PennDOT, on US 202 at PA 926, and
 - b. An eastbound left turn lane, 500' in length or as otherwise required by PennDOT, on PA 926 at US 202.
- 9) Applicant shall revise the Revised Alternate Plan to offer for dedication right-of-way along:
 - a. US Route 202, PA Route 926, New Street and West Pleasant Grove Road as appropriate to comply with § 170-1511, and
 - b. Along US Route 202 and PA Route 926 as appropriate to accommodate the improvements required by Condition #8 above, including if constructed by PennDOT.

- 10) Applicant shall improve the cartway of W. Pleasant Grove along the property frontage to:
 - a. Comply with § 149-903.A(2) for width;
 - b. Comply with § 149-910.D for paving;
 - c. Provide landscaping in accordance with a plan to be developed in coordination with and approved by the Township; and
 - d. Implement traffic calming measures in accordance with a plan to be developed in coordination with and approved by the Township. This may include raised intersections and/or gateway islands.

- 11) Applicant shall design, permit and construct the following road improvements (and ancillary infrastructure modifications including but not limited to traffic signals, drainage and pedestrian facilities)
 - a. A southbound right turn deceleration lane, 100' in length or as otherwise required by PennDOT, on US 202 at West Pleasant Grove Road;
 - b. Eastbound and westbound left turn lanes, on PA 926 at New Street generally in accordance with the Conceptual Design Exhibit Alternative A prepared by McMahon Associates, dated March 6, 2020, as such design plan is approved by PennDOT.

- 12) Applicant shall eliminate the access from Road N. to West Pleasant Grove Road and instead provide this access as an emergency access road. The Planning Commission recognizes that if this road is eliminated as a full access driveway, Applicant will need a waiver from Section 149-901.F of the SALDO to allow more than 25 dwelling units on a cul de sac and the Planning Commission would support such waiver being granted by the Board.

- 13) Any trees that are located within the right-of-way of W. Pleasant Grove Road and S. New Street that are determined to create an unsafe condition or pose a traffic hazard to vehicles traveling on such roads shall be removed by Applicant. The determination of which trees create an unsafe condition shall be determined by the Township

engineer and road master and shall be marked on the final subdivision and land development plans.

- 14) During land development, Applicant shall implement an access and routing plan for construction vehicles to be developed in coordination with and approved by the Township in order to avoid undue impact on the roads. This plan should include the inspection and video documentation of all roadways adjacent to the site prior to the start of construction. If, because of construction of the development proposed by the Plan, Applicant and its contractors damage the roads which are used by heavy construction vehicles, Applicant shall restore the same.
- 15) The Connector Road shall include pedestrian amenities with a paved surface that can accommodate pedestrians and bicyclists. The specifications and locations of the pedestrian amenities shall be determined by the Board at land development.
- 16) Applicant shall provide trails, sidewalks and an equestrian crossing area as depicted on the colored version of the Alternate Plan that was submitted by Andrew Semon in an email dated February 17, 2020 (“Alternate Trail Plan”). The Alternate Trail Plan shall be further revised to comply with conditions 17 and 18 below and to provide a trail along W. Pleasant Grove Road. The trail along West Pleasant Grove may follow an existing farm lane and remain unpaved if necessary, to avoid impacts to sensitive environmental features.
- 17) If not in conflict with the road improvements recommended in condition 5 above, Applicant shall provide a trail connection to the trail in the Arborview development and a crosswalk on W. Pleasant Grove Road to connect the perimeter trail to the Arborview trail provided that such work stays within the Property and the right of way of W. Pleasant Grove Road. Applicant shall provide an easement to the Township in the southwestern portion of the Property to allow a future connection to the Spackman property located in Thornbury Township.
- 18) Applicant shall include on the Plan a perpetual easement to allow the public to use the portion of the Property identified on the Alternate Trail Plan in green as the “Future Equestrian Crossing Area” for equestrian use.
- 19) All trails on the Property shall be paved with a surface designed to accommodate pedestrians and bicyclists except for those trails located within environmentally sensitive areas where a different treatment may be used upon approval by the Township. The Planning Commission supports the use of porous paving which will

allow infiltration of water. Internal trails shall be dedicated to the homeowner's association which is created for the development but trails on the perimeter of the development shall be dedicated to the Township for public use. The HOA shall maintain all trails that are built on the Property. The exact location, design and specifications for all internal trails on the Property shall be finalized during land development approval.

- 20) The Revised Alternate Plan shall be revised to provide sidewalks on one side of the streets and suitable pedestrian connections to community facilities. The exact location of the sidewalks shall be determined during land development. All sidewalks shall be maintained by the homeowner's association for the development.
- 21) Prior to issuance of grading permits, Applicant shall allow a contractor chosen by the Township to perform an archeological survey of the Property which shall include metal detection, ground penetrating radar and test pits to recover suspected artifacts. Such survey shall be performed before any portion of the Property is graded or otherwise prepared for development. Applicant shall reimburse the Township for the cost of such archeological survey. If artifacts are discovered on the Property during any construction or earth disturbance of the Property, Applicant shall notify the Township and offer such artifacts to the Township.
- 22) Applicant shall preserve the following historic structures located on the Property which are referenced in the Applicant's historic resource inventory titled "Physical Description of Historic Structures" prepared by Cultural Resource Consultants dated December 13, 2016 ("Historic Resource Inventory"):
 1. Chapel/springhouse- #24 on the Historic Resource Inventory;
 2. The old Barn- Barn #1 on the Historic Resource Inventory; and
 3. The equestrian barn- #11 on the Historic Resource Inventory.

These structures shall remain in their existing location on the Property and conveyed to the homeowner's association for adaptive reuse as community facilities unless Applicant procures another third-party entity who wishes to own and maintain these historic resources. Nothing herein shall prevent Applicant from conveying these historic resources to another party for adaptive reuse and subject to restrictions or easements to ensure their continued use and preservation.

- 23) The owners of the Property shall preserve the serpentine house on South New Street-#3 and buildings associated with this house (old stable, garage) #4, #5 on the Historic Resource Inventory.
- 24) Applicant shall relocate the Westtown Inn/Darlington Tavern #25 on the Historic Resource Inventory provided this can be accomplished without jeopardizing its structural integrity. Applicant shall retain a structural engineer who shall evaluate if it is feasible to relocate the Inn without damaging its structural integrity. The Township shall be entitled to review the Applicant's structural engineer's report. If the structural analyses confirm that the structure can be relocated without compromising its structural integrity, Applicant shall relocate it to a location approved by the Board and positioned in its current orientation with the principal façade facing South to preserve its integrity as a historic structure eligible for inclusion on the National Register of Historic Places. Upon relocation to a new site on the Property, Applicant shall apply for National Register status. Applicant shall renovate and repurpose the Inn in a manner that it can be adaptively reused by the homeowner's association or another third party and in a manner that does not destroy its unique architectural properties.
- 25) Applicant shall provide the Township's Historic Commission access to the J.Q. Taylor Tenant House (Item #29 on the Historic Resource Inventory), for purposes of documenting the exterior and interior with photographs and video. Applicant shall provide to the Township or any other third-party items worthy of preservation such as wood flooring, fireplace mantel, etc. for adaptive reuse by third parties. Prior to earth disturbance in the vicinity of this structure and provided the Township and its agents have proper liability insurance, Applicant shall allow the Township or its agents to conduct a survey of the land immediately adjacent to the east of the Taylor Tenant House where old maps indicate a blacksmith and wheelwright shop once existed.
- 26) All the historic resources that are preserved shall be adaptively reused for any purpose as permitted by the Ordinance, subject to the Board of Supervisors' approval.
- 27) After Applicant has rehabilitated the historic resources to allow adaptive reuse for their intended purpose, Applicant shall execute and record façade or conservation easements on all historic resources that are preserved for adaptive reuse. The terms of such easements shall be approved by the Board during land development.
- 28) Applicant shall ensure that the budget for the homeowner's association provides sufficient revenues to ensure adequate long-term maintenance and operational costs

associated with the preservation and continued adaptive reuse of any historic structures that are conveyed to the homeowner's association.

- 29) Prior to the issuance of any grading permit for the Property, and provided the Township and its agents have proper liability insurance, Applicant shall provide access to the Property and all historic structures located on the Property for members and/or representatives of the Township Historical Commission to document and photograph these historic structures.
- 30) The flexible development shall be serviced by public water.
- 31) Applicant shall provide public sewer to the development. The Planning Commission recognizes that the Board will have to amend the Township's Act 537 Plan to include the Property in the public sewer service area. The Planning Commission supports this Act 537 Plan Update. As part of its land development application, Applicant shall prepare a planning module that includes all wastewater facilities necessary to connect the Property to the public sewer system and any and all upgrades to the existing public sewer which are necessary to provide sufficient capacity for the proposed development. Applicant shall construct upgrades to the Township's public sewer system which are necessary to provide sufficient capacity for the proposed development. The specific upgrades that Applicant must make to provide public sewer service to the development shall be determined by the Board during land development, however, at a minimum, Applicant shall provide the following improvements:
 - a. A sewage pump station to convey flow from the proposed development to the Township's existing sewer system. The pump station shall be designed to meet the standards provided by the Westtown Township's wastewater consultant. The pump station shall be sized to handle all proposed sewage flows from the development and an additional 35 EDU's from the adjacent Arborview Pump station.
 - b. Extend proposed sewers in Road L north across West Pleasant Grove Road into Dunvegan Road past the north right-of-way line of West Pleasant Grove Road.

- c. Extend proposed sewers in Road M to West Pleasant Grove Road and then east in West Pleasant Grove Road to the Arborview Pump station.
 - d. Reconstruct the Pleasant Grove Pump Station and pay its pro rata share for the same as determined by the Board as part of land development .
 - e. If the existing sewer collection system leading to the Pleasant Grove Pump station does not have sufficient capacity to handle the flows from the proposed development, the Planning Commission prefers that the wastewater be pumped from the Property Eastwardly in Street Road to Tower Course Drive.
- 32) In order to prevent further impairment of the Radley Run, to improve surface water quality and assist the Township in meeting its Pollutant Reduction Plan for the Radley Run, Applicant shall grant easements to the Township and its designee over and across both sides of Radley Run as it traverses the Property to allow the Township to implement stream restoration of the portions of the stream that traverse the Property which exhibit bank erosion and scour. Applicant shall coordinate with the Township Engineer during the land development process to select vegetation and landscaping that will best assist the Township to reach the goals and requirements of the PaDEP MS4 program. Such provisions will address concerns regarding water quality and phosphorus reduction in the watersheds.
- 33) Applicant shall provide an easement as necessary to permit extension of sewer to the adjacent property, Chester County Tax Parcel No. 67-4-34, currently owned by Vasilius Moscharis. Any tap-in fee for same, as determined by the Township, shall be the responsibility of the owner of Parcel 67-4-34.
- 34) Applicant shall preserve existing trees along the Property boundary with Parcel 67-4-34 and shall extend as necessary, a landscaped berm along the length of the dwelling on Parcel 67-4-34 to provide additional screening for this dwelling.
- 35) The Revised Alternate Plan shall be revised to add a note which restricts the total impervious cover that can be constructed on each individual lot, including the two existing lots that shall be retained by the current legal owner. The total square footage of impervious coverage allowed on each lot shall be determined by the Township Engineer as part of land development with consideration given to the mitigation of

stormwater runoff from the individual lots. Applicant shall include in the homeowner association declaration or deeds to the individual lots a note that indicates the total amount of impervious cover in square feet that may be built on such lot.

- 36) Applicant shall minimize impervious surfaces throughout the development and if feasible implement the following storm water management BMP's: bioretention and rain garden facilities, vegetated swales, stormwater bump outs, and preservation of mature trees.
- 37) Applicant shall grant the Township easements across the open space on the Property for future basin upgrades that the Township may need to perform in order to comply with its MS4 permit requirements with the condition that if improvements are made to any basins by the Township or its agents, the Township will be required to take over maintenance obligations.
- 38) Applicant shall make every effort to balance the cut and fill within the development to avoid unnecessary import or export of soils during construction.
- 39) Applicant shall provide an emergency access road from the Property to South New Street. Such access road shall be wide enough to accommodate the largest apparatus used by the Fame Fire Company. The details for the location, width and specifications for the emergency access road shall be determined by the Board during land development.
- 40) Applicant shall include in the deeds for the lots in the development and in the homeowner's association declaration deed restrictions that prohibit any disturbance of the riparian buffers required by the Township Code. Such deed restrictions shall run with the land and be enforceable by the Township.
- 41) Applicant shall provide a plan which identifies the location of off-street parking for all contractors who will be involved in construction on the Property. The parking plan shall ensure that parking for contractors does not occur on public roads or in locations that create an adverse impact to the public health, safety and welfare. The parking plan shall be approved by the Board during land development.
- 42) Applicant shall coordinate with the West Chester Area School District to identify locations for appropriate and safe bus stops throughout the development. The bus stops shall be in locations that allow sufficient areas for vehicles to park while waiting at the bus stop for drop-off and pick-up. Applicant shall provide parallel parking at

school bus stops within the proposed right-of-way of the internal streets. The design of such parallel parking spaces shall be approved by the Board during land development.

- 43) Applicant shall provide sufficient off-street parking in areas where community facilities are located. The exact number of off-street parking spaces that are provided shall be approved by the Board during land development. If Applicant provides a parking lot as shown on the Revised Alternate Plan south of the Westminster Presbyterian Church and east of the Collector Road this parking lot shall be paved.
- 44) The driveway location for lot 42 shall be on the left side of the lot. The driveway for lot 43 shall be on the right side of the lot furthest from the intersection.
- 45) The internal streets in the development shall be restricted to parking on only one side of the street and parking shall be prohibited on the Collector Road. During land development Applicant and the Township shall determine which side of the internal streets may be used and signed to allow on street parking. All roads within the development shall be designated snow emergency routes where no parking shall be permitted during a snow emergency. During land development Applicant and the Township shall determine the appropriate location for snow emergency signs which shall be installed at Applicant's expense.
- 46) Driveway and mailbox locations, fire hydrants, public utility transformers, access panels, stormwater inlets, street trees and road signs should be designed and located in areas which allow for proper snow removal and snow disposal areas. Applicant shall install cluster mailboxes throughout the development with the final locations of the mailboxes to be determined by the Board during land development with input from the postmaster.
- 47) Applicant shall relocate the scale house and scale pad from its present location to a location near the equestrian barn identified as Historic Resource #11 off of but adjacent to a new paved surface to simulate the operation of the farm for receipt of feed materials. Applicant shall relocate the corn crib from its location near the main house to closer by the old barn identified as Historic Resource #1 where it can simulate feed storage of corn cribs for feeding of livestock in that barn
- 48) All construction activities within the right of way of Route 202 and Route 926, including lane closures, shall be restricted as determined by PennDOT as part of the

issuance of the highway occupancy permit. Notwithstanding the conditions in the PennDOT permit, Applicant shall be prohibited from closing any lanes on Route 202 and Route 926 during rush hours (6-9am and 3-6pm).

- 49) Applicant shall deed restrict all the proposed lots in the development, including the two lots to be retained by the legal owner, against further subdivision.

Very truly yours,

Kristin S. Camp

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KSC/ceo

cc: Robert Pingar, P.E., Township Manager
Will Ethridge, Director of Planning & Zoning
Planning Commission
Patrick M. McKenna, Esquire
Gregg I. Adelman, Esquire

Crebilly Tract Proposed Development= Westtown Township

Supplemental Plans and Reports provided by Toll after December 4, 2019 PC Recommendation on Second Conditional Use Plan

- 1) Alternate Plan titled "Concept Plan- 25 Ft Spacing", prepared by ESE Consultants dated January 30, 2020
- 2) Colored version of Alternate Plan with trails, sidewalks and equestrian areas depicted titled "Concept Plan- 25 Ft Spacing", prepared by ESE Consultants dated January 30, 2020
- 3) Conceptual Design Plans for intersection improvements at Wilmington Pike and Skiles Blvd. prepared by McMahon dated March 6, 2020
- 4) Conceptual Design Plans for intersection improvements at Street Road and New Street prepared by McMahon dated March 6, 2020
- 5) Conceptual Design Plans for Mini Roundabout at West Pleasant Grove Road and Connector Road prepared by McMahon dated May 13, 2020
- 6) West Pleasant Grove Road Aerial Plan with proposed speed table locations dated May 13, 2020
- 7) West Pleasant Grove Road Widening Plans prepared by ESE Consultants dated May 15, 2020
- 8) Concept Plan with internal geometry of certain streets revised prepared by ESE Consultants dated June 5, 2020
- 9) Plan showing Full Roundabout dated June 8, 2020