

KAPLIN STEWART MELOFF REITER & STEIN, P.C.

By: Gregg I. Adelman, Esquire
Attorney I.D. No. 84137
Union Meeting Corporate Center
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(610) 941-2552

Attorneys for Applicant
Toll PA XVIII, L.P.

IN RE: CONDITIONAL USE APPLICATION	:	BEFORE THE BOARD OF
OF TOLL PA XVIII, L.P. PURSUANT TO	:	SUPERVISORS OF WESTTOWN
ARTICLE IX, SECTION 170-900 ET SEQ. OF	:	TOWNSHIP
THE WESTTOWN TOWNSHIP ZONING	:	
ORDINANCE FOR DEVELOPMENT OF THE	:	
CREBILLY FARM (UPI NOS. 67-4-29, 67-4-29.1,	:	
67-4-29.2, 67-4-29.3, 67-4-29.4, 67-4-30, 67-4-31,	:	
67-4-32, 67-4-33, 67-4-33.1, 67-4-134)	:	

TOLL PA XVIII, L.P.'S OBJECTIONS TO CONDITIONAL USE EXHIBITS

Toll PA XVIII, L.P. (“Toll” or “Applicant”), by and through its attorneys, Kaplin Stewart Meloff Reiter & Stein, P.C., hereby objects to the following exhibits introduced by other parties in the hearing held on the above-referenced Conditional Use Application as follows:¹

A. Board of Supervisors’ Exhibits

1. B-11 [Pocopson Township Resolution #2017-4]: hearsay, irrelevant (Section 908(6) of the Pennsylvania Municipalities Planning Code (“MPC”) (53 P.S. §10908(6))), and no right to cross-examine adverse witnesses (Section 908(5) of the MPC (53 P.S. §10908(5)))
2. B-12 [Chester County Planning Commission Letter dated December 7, 2016]: hearsay, no right to cross-examine adverse witnesses (Section 908(5) of the MPC (53 P.S. §10908(5))), and Board cannot take notice of such communication or report without an opportunity to contest author’s conclusions (Section 908(8) of the MPC (53 P.S. §10908(8)))

¹ In addition to the following objections, Toll incorporates and raises all objections made of record in the hearing.

B-32 pmm 11/27/17

3. B-15 [Westtown Township Historical Commission December 2016 Report on Historical Aspects of Crebilly Farm]: hearsay, no right to cross-examine adverse witnesses (Section 908(5) of the MPC (53 P.S. §10908(5))), and Board cannot take notice of such communication or report without an opportunity to contest author's conclusions (Section 908(8) of the MPC (53 P.S. §10908(8)))
4. B-24 [Battle of Brandywine 5 Page Presentation prepared by Sean Moir]: hearsay (author is not an expert historian); irrelevant (Section 908(6) of the MPC (53 P.S. §10908(6)))
5. B-25 [Cedarville Engineering Review Letter of February 22, 2017]: hearsay (author is not an expert civil engineer); irrelevant (Section 908(6) of the MPC (53 P.S. §10908(6))); no right to cross-examine adverse witnesses (Section 908(5) of the MPC (53 P.S. §10908(5))), and Board cannot take notice of such communication or report without an opportunity to contest author's conclusions (Section 908(8) of the MPC (53 P.S. §10908(8)))
6. B-26 [Willistown Township Resolution #11 dated February 27, 2017]: hearsay, irrelevant (Section 908(6) of the MPC (53 P.S. §10908(6))), and no right to cross-examine adverse witnesses (Section 908(5) of the MPC (53 P.S. §10908(5)))
7. B-27 [Pennsbury Township Resolution #2017-3-15-1 dated March 14, 2017]: hearsay, irrelevant (Section 908(6) of the MPC (53 P.S. §10908(6))), and no right to cross-examine adverse witnesses (Section 908(5) of the MPC (53 P.S. §10908(5)))

B. Township Planning Commission Exhibits

1. PC-6 [Goose Creek TMDL & Pollutant Reduction Plan dated June 9, 2017]: hearsay, irrelevant (Section 908(6) of the MPC (53 P.S. §10908(6))); no right to cross-examine adverse witnesses (Section 908(5) of the MPC (53 P.S. §10908(5))), and Board cannot take notice of such communication or report without an opportunity to contest author's conclusions (Section 908(8) of the MPC (53 P.S. §10908(8)))
2. PC-18 [Sean Moir animated battlefield map]: hearsay (author is not an expert historian); irrelevant (Section 908(6) of the MPC (53 P.S. §10908(6)))

C. Neighbors for Crebilly Exhibits

1. NC-2 [Excerpt from Sean Moir animated battlefield map]: hearsay (author is not an expert historian); irrelevant (Section 908(6) of the MPC (53 P.S. §10908(6)))

D. West Chester Area School District Exhibits

1. SD-1 [WCASD Board of Directors March 27, 2017 Resolution]: hearsay, irrelevant (Section 908(6) of the MPC (53 P.S. §10908(6))), and no right to cross-examine adverse witnesses (Section 908(5) of the MPC (53 P.S. §10908(5)))

Respectfully submitted,

**KAPLIN STEWART MELOFF REITER
& STEIN, P.C.**

By:



Gregg I. Adelman, Esquire

Dated: November 20, 2017

Attorneys for Applicant
Toll PA XVIII, L.P.

KAPLIN STEWART MELOFF REITER & STEIN, P.C.

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67-4-32, 67-4-33, 67-4-33.1, 67-4-134)	:	

CERTIFICATE OF SERVICE

I, Gregg I. Adelman, Esquire, do hereby certify that on November 20, 2017, a true and correct copy of the foregoing Toll PA XVIII, L.P.'s Objections to Conditional Use Exhibits was served via electronic mail upon the following:

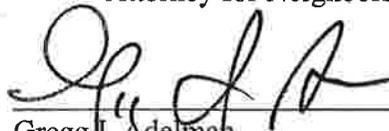
Patrick M. McKenna, Esquire
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Attorney for Neighbors for Crebilly, LLC



Gregg I. Adelman

Patrick M. McKenna

From: Gregg I. Adelman <GAdelman@KAPLAW.com>
Sent: Monday, November 20, 2017 1:51 PM
To: Patrick M. McKenna; Kathy Labrum (info@donaghuelabrum.com); 'Frone Crawford' (fcrawford@fcrawfordlaw.com); Kristin S. Camp, Esquire (KCAMP@BUCKLEYLLP.COM); mthompson@lambmcerlane.com
Subject: Westtown Township - Toll; Crebilly Farm Conditional Use Application; Objections to Conditional Use Exhibits [KS-IMAN_BB.FID763602]
Attachments: Objections to Conditional Use Exhibits.PDF

Counsel:

On behalf of Toll PA XVIII, L.P. and in advance of the November 27, 2017 continued hearing for public comment, I attach objections to certain exhibits offered for admission into the hearing record on the Crebilly Farm Conditional Use Application.

Thank you and I wish you and your families a Happy Thanksgiving holiday.

Regards,



Gregg I. Adelman, Esquire

Kaplin Stewart
Attorneys at Law

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