



**BRANDYWINE
CONSERVANCY**

*Preserving Our
Land & Water*

December 15, 2016

Memorandum

To: Westtown Township Planning Commission

Kristin Camp, Esq.

Robert Pingar

Chris Patriarca

From: John D. Snook, Senior Advisor

Re: Toll Brothers Conditional Use Plan Submission

Introduction

I have received the Toll Bros. submission package for Conditional Use application for development of Crebilly Farm under the provisions for use of the Flexible Development Procedure in the A/C Agricultural/Cluster Residential District. I received additional documentation and mapping from Toll Bros. just this past Monday. I have reviewed the submitted documents overall as well as the pertinent zoning ordinance provisions and I attended the initial presentation of the plans to the Planning Commission at Stetson Middle School on November 16. I have not reviewed in detail the several technical submissions which require further review by your consulting team. These reviews will be reported to the Planning Commission and in testimony, as appropriate, during the public hearing process. I have received the review letter prepared by the Chester County Planning Commission, dated December 7, 2016, and support the points they have raised.

Toll Bros. (Applicant) has submitted three plans: Plan A at base density, Plan A-Alternate at base density with reduction in building separation distances, and Plan B with bonus density. No specific justification for bonus density has been provided, which would be dependent, for the most part, if not entirely, on "substantial public improvements" beyond those needed to serve this development. Only Plan A constitutes a relatively complete submission as Plan A-Alternate and Plan B were only submitted as single-sheet sketch plans. While some of the submitted documents arguably apply in general to the other two plans, and especially Plan A-Alternate, they were not submitted in specific relation to those two plans.

Summary Review:

Consideration of Alternate Plans.

While the Township is under no obligation to formally consider either Plan A-Alternate or

Plan B, the Planning Commission may wish to recommend consideration of the potential merit(s) of either Plan, or aspects thereof. For example, I would suggest an early recommendation to approve the reduction in building separation distances as proposed in Plan A-Alternate, subject to additional design changes to better reflect conservation objectives. Consideration of Plan B or any plan utilizing bonus density, requires the Township to identify desired and eligible “significant public improvements” for consideration by the Applicant. What, if anything would the Planning Commission like to recommend to the Board of Supervisors (Board)? In response to such recommendation(s), the Board could raise pertinent issues early in the course of the formal hearing process and, sooner rather than later, give Applicant the guidance to amend plan(s) accordingly for formal consideration.

Plan Conformance with Submission Requirements.

The initial Conditional Use submission was incomplete. In the meantime, Applicant has recently provided a number of missing mapping requirements. Nevertheless, Applicant has not yet demonstrated compliance with the Conservation Design process which is intended to be undertaken cooperatively with the Planning Commission, to ensure that community conservation objectives contribute to ultimate development design. It is very important that this process be accomplished during ongoing discussion with the Planning Commission and result in a Plan that can be submitted to the Board reflecting mutual Township and Applicant objectives.

The Plan A submission does not include mapping of scenic views nor did the Applicant engage the Planning Commission to date in discussion of scenic views. Scenic views are a critical component of what the Ordinance defines as “secondary conservation areas.”

The Plan A submission does not include a written and graphic analysis of how the proposed development will respect and incorporate the important resources of the site and be coordinated with resources on surrounding properties. In recent additions to the original submission, Applicant claims that a new data table and additional map indicate limited disturbance to “primary” and “secondary” resource areas. Since mapping of scenic views, extensive on this site and particularly important in regard to the Brandywine Battlefield, was not included in the designation of “secondary” resource areas, this assertion is relatively meaningless and certainly does not demonstrate how the resources will be “respected and incorporated.”

Plan Conformance with Other Ordinance Provisions.

Plan A is not fully consistent with certain key recommendations of the Comprehensive Plan and supporting ordinance provisions calling for provision for a “connector” road parallel to Route 202, sewer improvements; dedication of open space and up to 27 acres of active recreational lands, publicly accessible trails, and preservation of scenic and historic resources.

Plan A shows reasonable density calculations while leaving some uncertainty as to measurement of resources that must be netted out of density calculations.

Plan A does not touch on improvements to public infrastructure which may be necessary or desirable to serve the site adequately nor address the ability of the Board, at its sole discretion, to attach conditions requiring provision for additional utility or traffic safety facilities.

The Board is required to consider design measures proposed by the applicant to mitigate any environmental, aesthetic, or other community impacts resulting from land disturbance within “secondary conservation areas.” There is no indication that the overall plan has been designed, nor the locations of house sites and other land disturbance have been selected or designed, nor that any mitigation has been proposed, in respect of secondary conservation areas, since scenic views, a key component, have been ignored.

Other Key Plan Issues

While the plans meet minimum open space requirements, the layout of the open space is far less than ideal from the perspective of protection of scenic views and historical landscapes. A particularly important objective on this tract should be the preservation of significant areas of the Brandywine Battlefield and to respect the setting of the historic Crebilly farmstead fronting on Street Road (PA 926). See additional supplementary discussion below.

An archeological survey, potentially including ground penetrating radar in selected areas, should be required.

Submitted plans all rely on primary access from Pleasant Grove Road, Street Road (PA 926), and US 202 (right turn in/out only). All plans appear to offer only emergency access to New Street. All plans include a very large area of single-family homes in the central and western areas of the tract effectively served by single access at great distance from principal access points.

An effective “connector road” concept, as spelled out in the Comp Plan has been ignored, yet is very important due to significant impediments to access to US 202. The “connector road” concept should not be viewed nor analyzed merely as it may be located on this tract, but as a future alternative connection between the Skiles/Stetson jughandle on US 202 to the north and the Bridlewood jughandle in Thornbury to the south.

Recommended Follow-Up

- Applicant should embark on working with the Planning Commission to effectively complete the Conservation Design process as intended by the Zoning Ordinance.

- The Planning Commission should consider what if any “significant” public improvements it may recommend for consideration by the Board.
- Areas planned for development, other than sewage disposal, in the western-most and southwestern portions of the tract should be relocated to provide for concentration of significant open space in the area of the Brandywine Battlefield, in scenic views and in the immediate viewshed of the historic farmstead off Street Road.
- Relocation of new homes as noted above also should relieve the large distance at which some new homes will be from primary external access to the tract.
- Unit count mix (single-family versus townhome or carriage house) should be adjusted to facilitate relocated development areas.
- The “connector” road as intended by the Comp Plan should provide a clear link from Pleasant Grove Road to Street Road in a manner that may ultimately be connected to the Skiles/Stetson jughandle and to Bridlewood Blvd.
- A “parkway” should line the “connector” road, with the Township agreeing that it meets requirements for active recreational lands.
- The trails system should be designed to include the three-mile publically-accessible perimeter trail envisioned by the Comp Plan, looping along Pleasant Grove Road, New Street, Street Road and the “parkway” noted above.

Supplementary/Detailed Discussion:

Basic Conditional Use Submission Requirements

§170-2009.B of the Township Code (Zoning) sets forth the basic submission requirements for conditional uses. As noted, neither Plan A-Alternate nor Plan B include more than a general site plan. Plan A constitutes a relatively complete submission with certain exceptions.

In accordance with the Township Code, the Township is under no obligation to formally consider either Plan A-Alternate or Plan B. However, if in the course of review, the Planning Commission wishes to recommend consideration of the potential merit of either Plan, the Board of Supervisors may wish to consider them early in the course of the formal hearing process and direct the Applicant to re-submit full plan(s) for formal consideration if the Board finds merit in doing so. I support the reduction in building separation distances as proposed in Plan A-Alternate, subject to additional design changes to better reflect the objectives of the Comprehensive (Growth Management) Plan and resource protection objectives, notably the Brandywine Battlefield.

§170-2009.B(1) states that “It shall be the burden of the applicant to demonstrate compliance with the standards for conditional use contained in this section and with any other relevant stipulations of this chapter, and to indicate means by which potential impacts from the proposed use will be mitigated. While the Plan A submission includes most of the litany of submission requirements in §170-2009.B, it is deficient in a few regards:

Other Significant Ordinance Issues

§ 170-2009.D(1)(b) of the Township Code (Zoning) sets, among standards for conditional use approval, consistency with the Comp Plan, Trails Plan and Open Space Plan (Trails and Open Space Plans adopted a addenda to the Comp Plan) which note a number of items pertinent to Crebilly Farm, including the following:

- The “connector” road parallel to Route 202 (see Comp Plan pages 19, 82);
- Sewer improvements (CP p. 74);
- Preservation of significant open space (CP p. 19);
- Dedication of recreational lands (CP pp.62, 65);
- A publicly accessible trails system, including 3-mile perimeter trail (CP p.19, TP Map);
- Preservation of scenic and historic resources (overall CP goals).

Plan A provides justification for density calculations which on their face comply with §170-2009.B(3)(d). However, it is not entirely clear that mapping of floodplains is consistent with §170-401C which calls for inclusion of “alluvial soils” where no specific floodplain designation exists. Recent changes to the Soil Survey do not appear to call out a specific list of “alluvial soils,” but do note the Hatboro Silt Loam (Ha) as subject to frequent flooding and found in floodplains. Applicant’s map does show this soil as “seasonable high water table” but does not include it in the floodplain. This issue may marginally affect density calculations and require further review by appropriate Township consultants.

§ 170-907.A(2) requires that ten percent of the net tract acreage be suitable, available and developed for active recreational purposes. This would total 27 acres, considerably larger than the “parkway” requested of the earlier Bozzuto proposal. § 170-907.A(3) also provides for requirement of public pedestrian trails.

§ 170-2009.C(7) provides that the Board, at its sole discretion, may attach conditions requiring provision for additional utility or traffic safety facilities. § 170-2009.D(1)(f), among general standards for conditional use approval, further stipulates that “the demand created by the proposed use upon public services and facilities such as water supply, sewage disposal, police and fire protection, emergency services, open space and recreation facilities, and the public school system has been considered and, where necessary, adequate arrangements for expansion or improvement are assured.” § 170-2009.D(1)(h) adds that “the burden of proof shall be upon the applicant to prove to the satisfaction of the Board of Supervisors, by credible evidence, that the use will not result in or substantially add to a significant traffic hazard or significant traffic congestion. The peak traffic generated by the development shall be accommodated in a safe and efficient manner. Such analysis shall consider any improvements to streets that the applicant is committed to complete or fund.” These provisions are applicable to all conditional uses and must be satisfactorily addressed prior to any consideration of “substantial public improvements” that may provide for the density bonuses necessary to enable Plan B.

§ 170-904.A(3) additionally sets “performance standards” for use of bonus density, as would be required for Plan B. These notably include protection of historic landscapes and scenic views, mitigation of altered views through introduction of landscaping, and an elevated focus on infiltration for stormwater management.

Conservation Design Issues

As initially submitted, Plan A did not provide a complete submission nor demonstrate compliance with the design process set forth in §170-1617, Conservation Design, as required by §170-2009.B(7) and §170-1617.A. I received new mapping generated by the Applicant this week which largely completes the mapping requirements but does not demonstrate compliance with the design process. The applicant should return to the drawing table with the Planning Commission during the course of this review, vet the design process, and potentially incorporate appropriate plan revisions.

The Plan submission, as amended through receipt of additional mapping, still does not include mapping of scenic views from inside the site, ridgelines, and scenic views from existing streets and trails. Nor has the Applicant engaged the Planning Commission to date in discussion of scenic views as required by the Conservation Design process (§170-1617.C(1)). This is a critical element of defined “secondary conservation areas.” The Ordinance limits disturbance of scenic views and other secondary conservation areas to 50%, which cannot be ascertained until all are mapped adequately.

In the spirit of Article 1, § 27 of the Pennsylvania Constitution, Township Code noted below, §170-1617.C(3)(b) requires that “the applicant shall provide a written and graphic analysis of how the proposed development will respect and incorporate the important resources of the site and be coordinated with resources, open space/trail corridors and views on surrounding properties. This may involve an overlay map that shows important natural features and proposed development.” Analysis provided to date is inadequate. The Ordinance further states that *“the Board shall consider any planning or design measures proposed by the applicant to mitigate any environmental, aesthetic, or other community impacts resulting from land disturbance within secondary conservation areas.”* There is no indication that the overall plan has been designed, nor the locations of house sites and other land disturbance have been selected or designed, nor that any mitigation has been proposed, in respect of secondary conservation areas or protection of views.

Open Space and Resource Protection

Submitted plans meet minimum open space requirements numerically. And the required sixty percent open space is a considerable amount. But you would hardly know it looking at the plans. Much of the open space is located in relatively narrow swaths along stream corridors which are required to be reserved in any extent. Larger areas of open space are principally devoted to either stormwater management or sewage disposal (if the development is not able to be served by extended public sewer service).

An important open space objective on this tract should be to preserve significant areas of the Brandywine Battlefield and to respect the setting of the historic Crebilly farmstead fronting on Street Road (PA 926). Much of this tract has been included in the study area for the Brandywine Battlefield Preservation planning efforts undertaken by the Chester County Planning Commission on behalf of the National Park Service. We know, particularly from more recently discovered British and German records, that British and Hessian troops, as well as American scouts and possibly snipers, were in action in the western and southwestern portions of the tract. One can hardly argue that protection of the still remaining landscape setting of the largest single battle in the War for Independence does not fit into the conservation mandate of the Pennsylvania Constitution. Thus, it is very important to configure the open space in this regard. Development plans should relocate areas planned for development in the western-most and southwestern portions of the tract. Doing so will remove development from the immediate viewshed of the historic farmstead as well, and also relieve the very large distance at which some new homes will be from primary external access. Open space nearer to US 202 or Pleasant Grove Road could be utilized for development, along with more efficient use of other areas already planned for development. If on-site sewage disposal fields are utilized, these could be intentionally placed in areas that would visually remain open space. An archeological survey, potentially including ground penetrating radar in selected areas, should be required. Such plan improvements may warrant consideration for bonus density, as would rehabilitation of the historic farmstead and the Darlington Tavern.

A significant portion of the some 27 acres of required recreational lands and facilities should include a literal “parkway” along the connector road, including a parallel off-road bicycle/pedestrian route, and affording an interpretive location with view toward the Brandywine Battlefield.

Pursuant to conditional use requirements to adhere to the Comprehensive (Growth Management) Plan and Open Space Plan recommendations, pedestrian trails should be included in the open spaces along Pleasant Grove Road, New Street, and Street Road to join with the “parkway” and circle the western portions of the tract entirely. There is no reason why these facilities cannot circumvent the outholdings held by Robinson family members.

Access Issues

Plan A, Plan A-Alternate and Plan B all rely on primary access from Pleasant Grove Road, Street Road (PA 926), and US 202. All plans appear to offer only emergency access to New Street. All plans include a very large area of single-family homes in the central and western areas of the tract, many served internally within the tract by a single point of principal access. Homes furthest west are located well over one-half-mile from external access to the tract. All plans show interlinked connections from Pleasant Grove Road to Street Road. But the “connector road” concept spelled out in the Comprehensive (Growth Management) Plan has been ignored. Instead, there is an indirect and circuitous through connection, which is frequently fronted with new

residential units, not desirable from a traffic planning perspective nor for the future home-buyers.

It is important to note that any direct US 202 access point will necessarily be right-turn in-and-out only and will not be signalized, meaning that northbound traffic on US 202 can only access the tract via Street Road (PA 926) or via the Stetson jughandle once connected to Pleasant Grove Road. Direct access from US 202 northbound to Pleasant Grove Road westbound is infeasible, practically speaking, and should be formally cut off upon completion of the Stetson link. Unlike Stetson and Street Road, it is extremely unlikely (and would be bad planning) that there will ever be a signalized intersection at Pleasant Grove Road. These facts necessitate that the through connector road be developed as an integral part of any plan here and include connection to the Stetson jughandle. These improvements should not be viewed as a “substantial public improvements,” except possibly to the small extent that the Stetson portion also will serve traffic not related to this development.

Access improvements at Street Road should consider coordination with Thornbury Township to possibly bend the connector road westward to link up directly across from Bridlewood Blvd. This may ultimately provide the warrants for a signalized intersection midway between US 202 and New Street and would not put traffic in and out of this development in the midst of the rush hour back-ups from the signal at US 202/Street Road. Such an improvement may warrant consideration, to a limited extent, as a substantial public improvement because it also would facilitate through traffic from the Bridlewood development (even though it is not in Westtown) and link via Bridlewood back to a more southerly jughandle on US 202..

Other Public Improvements

I defer comments on detailed improvements necessary for the sewer system, for required stormwater management, frontage road and drainage improvements, and for traffic improvements necessary at the intersections of US 202/Street Road and New Street/Street Road to your appropriate consultants, especially from the vantage point of assessing the extent to which such improvements are necessary to meet the specific needs of this development, pursuant to the zoning requirements that I have cited. These issues are even more important than they were in regard to the Bozzuto plan, due to the very large extent of residential development with larger household sizes, and due to the very extensive land disturbance associated with any plan such as has been shown to date.

Constitutional Requirement

None of the submitted Plans provide clear response to the Pennsylvania constitutionally guaranteed right “*to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment.*” Article 1, § 27 of the Constitution goes on to state “*Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.*”

Recent court cases have held that the obligation of the Commonwealth extends to its municipalities. This does not mean that development cannot occur, but infers that development permitted under applicable ordinances should be designed in clear view of conservation opportunities.