

Exhibit B-22

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Memorandum

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

From: John D. Snook

Re: Toll Brothers New Conditional Use Plan Submission for Crebilly Farm
Summary of Key Issues

Introduction

I reviewed the Toll Bros. submission package for a new Conditional Use application for development of Crebilly Farm. My memo of October 3 describes in detail a number of issues raised by this submission and includes excerpts of specific pertinent ordinance and Comprehensive Plan sections.

Based on discussion with Attorney Kristin Camp and at the October 9 Planning Commission meeting, I am including a summary here of key issues, notably those where their resolution would involve changes to submitted plans.

Note that §170-906 and §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 happen now at the request of the Planning Commission.

Note further that there are numerous provisions in the Township Code requiring consistency with the Township Comprehensive Plan which, adopted in March of this year, was not in effect at the time of the prior Plan submission, but which clearly IS IN EFFECT in regard to this new Plan submission!

Please review my October 3 memo for further detail.

Please Request that Applicant Amend the Plan Submission as Follows:

- Indicate the location of the Brandywine Battlefield National Historic Landmark (which abuts the subject property) and the Planning Area for the Landmark used

by the National Park Service in efforts coordinated with the Chester County Planning Commission (the Planning Area includes much of the subject property).

- Indicate that the Westtown Inn (also known as Darlington Inn) and most of Crebilly Farm have been determined eligible for the National Register of Historic Places by the Pennsylvania Historical and Museum Commission (PHMC). These resources are indicated on the Historic Resources Map included within the new Comprehensive Plan.
- Indicate the location of scenic views from inside the site, ridgelines, and scenic views from existing streets and trails as required by the Zoning Ordinance; these areas shall be considered “Secondary Conservation Areas” for which up to 50% disturbance is permitted.
- Indicate the mapped extent of Scenic Views and Scenic Landscapes within the subject tract consistent with the defining text in the new Comprehensive Plan adopted this past March.
- The Zoning Ordinance also clearly provides that the Planning Commission may identify additional Scenic Views not identified by the Applicant (see §170-1617.C(1)(c)). This was not accomplished in review of the prior Plan submission.

Note that while the Court in review of the prior Plan discounted denial of the Plan on the basis of failure to map Scenic Views since the term was not defined in the Zoning Ordinance, neither the prior Plan nor the new Plan identify lands visible from public roads as required by the Zoning Ordinance. The new Comprehensive Plan, adopted prior to submission of this new Plan, clearly offers pertinent definitional text and describes Crebilly Farm as exemplary for protection of scenic landscapes pertinent to the Battle of the Brandywine (see October 3 memo for specific excerpts from the new Comprehensive Plan).

- Request that the Applicant amend the Plan to reflect consistency with the new Comprehensive Plan, notably to reflect the location of Scenic Landscapes, to provide for sidewalks and trails, protect historic resources, and to remove development impacts from the area designated on the Future Land Use Map in the Comprehensive Plan as “Open Space” (except recreational uses, trails, wastewater disposal, and stormwater management). As mapped, this area is consistent with the area mapped by the Chester County Planning Commission as the “Brandywine Battlefield Swath.” Future trails are mapped on the Trails and Bikeways Map in the Comprehensive Plan. §149-916 of the Township Code (Subdivision of Land) adds that “Sidewalks, bike paths and other paths may be required to be installed at the discretion of the Board of Supervisors upon the recommendation of the Planning Commission.”

The Chester County Planning Commission, in review of the prior Plan submission, offered a diagram redesigning the Plan generally consistent with the objectives stated above. This diagram should be revisited in the context of inclusion of the "connector road" consistent with the Comprehensive Plan. The Planning Commission, in fulfilling its role, should suggest any additional revisions it believes necessary on the basis of ongoing review and discussion.

- Identify clearly pursuant to §170-2009 of the Township Code 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." This section further provides that the Board of Supervisors, at its sole discretion, may attach conditions requiring provision for additional public facility, utility or traffic safety facilities. Recommendations by the Planning Commission based on discussion with the Applicant will clearly assist the Board in such determination.
- Recent court cases have held that the obligation of the Commonwealth set forth in Article 1, § 27 of the Pennsylvania Constitution (the "Environmental Rights Amendment") extends to its municipalities. Westtown cannot realistically adhere to this obligation without adequate information provided by the Applicant or other consultants indicating how the submitted Plan furthers the constitutionally guaranteed right *"to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment."*