



**TOWNSHIP OF THORNBURY
DELAWARE COUNTY**

RESOLUTION No. 11 of 2023

WHEREAS, VMDT Partnership (the “**Applicant**”), is the owner of the property and existing improvements located at and commonly known as 282 and 286 Dilworthtown Road, being Tax Folio Nos. 44-00-00061-01 and 44-00-00061-02, respectively (collectively, the “**Property**”); and

WHEREAS, on or about November 14, 2019, the Applicant, Thornbury Township, Delaware County (the “**Township**”) and the Township Board of Supervisors (the “**Board**”) entered into a certain Settlement Agreement (the “**Settlement Agreement**”), which set forth the terms and conditions of the settlement of a litigated zoning appeal involving the Property; and

WHEREAS, the Settlement Agreement provided, among other things, that the future use of the property would be generally limited to passive storage of and preparation for sale of automobiles; and

WHEREAS, the Settlement Agreement also provided that development of the Property would be in compliance with the Settlement Agreement, the Township Zoning Code (Chapter 27), Township Subdivision and Land Development Code (Chapter 22), Township Stormwater Management Code (Chapter 19) and all other applicable Federal, State and local ordinances, laws, rules and regulations and only in the manner depicted on a certain plan prepared by Edward B. Walsh & Associates, Inc., identified in the Settlement Agreement as the *Dilworthtown Road Development Plan* (the “**Settlement Plan**”), except to the extent of deviations thereto allowed by the Board; and

WHEREAS, the Applicant has submitted a preliminary subdivision and land development application (the “**Application**”) to the Township, seeking to consolidate the Property into a single parcel and to develop the Property for passive storage of and preparation for sale of automobiles; and

WHEREAS, the Application was accompanied by a preliminary subdivision and land development plan for the Property, said plan being entitled *PRELIMINARY REVERSE SUBDIVISION & LAND DEVELOPMENT PLAN*, prepared by Edward B. Walsh & Associates, Inc., dated January 23, 2020, last revised June 16, 2023, consisting of the following sheets (the “**Preliminary Plan**”).

<u>Plan Sheet</u>	<u>Plan Sheet Title</u>	<u>Dated</u>	<u>Revised</u>
1	Preliminary Site Plan	1-23-2020	6-16-2023
2	Preliminary Existing Features/Conservation Plan	1-23-2020	6-16-2023
3	Preliminary Existing Features/Conservation Plan	1-23-2020	6-16-2023
4	Preliminary Construction Improvement Plan	1-23-2020	6-16-2023
5	Preliminary Erosion and Sedimentation Plan	1-23-2020	6-16-2023
6	Preliminary Post Construction Stormwater Management Plan	1-23-2020	6-16-2023
7	Preliminary Lighting Plan	1-23-2020	6-16-2023
LP1 ¹	Landscape Plan	1-18-2021	6-16-2023
LP2	Details and Notes	1-18-2021	6-16-2023
9	Preliminary Erosion and Sedimentation Control General Detail Sheet	1-23-2020	6-16-2023
10	Preliminary Post Construction Stormwater Detail Sheet	1-23-2020	6-16-2023
11	Preliminary Detail Sheet	1-23-2020	6-16-2023
12	Preliminary Detail Sheet	1-23-2020	6-16-2023

WHEREAS, the Application and Plan have been reviewed by the Delaware County Planning Department in its review dated April 21, 2016, Thornbury Township Engineer in its latest letter of July 10, 2023; the Township Sewer Engineer in its letter of May 21, 2023, the Township Fire Marshal in his review of June 14, 2023, and the Thornbury Township Planning Commission at its public meeting on July 12, 2023.²

NOW, THEREFORE, BE IT RESOLVED that the Application and Preliminary Plan, be and are hereby conditionally approved subject to the following:

A. **Permitted Deviations from Settlement Plan;** The following deviations from the Settlement Agreement are hereby approved and shall be included in detail on the final plan:

1. Section 27- 27-2103 & 27-201 - Parking Layout - The parking spaces scale at 9’x16’ as shown on the Settlement Plan. However, the width of the drive aisle has been reduced along the riparian buffer areas to 12’, which will not allow a car to back out of the parking space and may limit emergency vehicle access around the site. The parking configuration shall be revised on the final plans, at the direction of the Township to accommodate safe vehicle maneuvering in and out of the undersized parking spaces.

2. Section 27-2104 - Parking – The Settlement Plan depicted 231 parking spaces by count (230 spaces per plan note). Two Hundred fifteen (215) parking spaces are proposed on the Preliminary Plan. The difference in parking spaces is due to better compliance with riparian buffer requirements. A parking analysis chart shall be added to the final plan to illustrate the parking provided against the current zoning requirements.

3. Section 27-2105 - Loading Areas - While the Settlement Plan showed no loading areas, a new rear driveway access to rear facing overhead doors and a man door has been added to the Preliminary Plan which encroaches slightly into the riparian buffer. The loading area shall be permitted to the extent not inconsistent with the terms of this Resolution.

¹ LP1 and LP2 were prepared by Stuart Landscape Architects and submitted as part of the Preliminary Plan.

² The Township Planning Commission recommended conditional approval of the Preliminary Plan in its letter to the Board dated July 16, 2023.

B. **Waivers Granted:** The following waivers from Chapter 22, Subdivision and Land Development and Chapter 27 Zoning and Planned Residential Development, of the Township Code are hereby granted to the extent set forth and shall be noted on the final plan, to the satisfaction of the Township:

4. Section 22-602.15.A – To allow only a portion of curb to be extended along the property frontage, with a small gap at the eastern property corner as depicted on the Preliminary Plan.

5. Section 22-602.15.B – From the requirement to provide sidewalk along the Property frontage along Dilworthtown Road.

6. Section 22-502.1.C.(9).(a) – From the requirement to delineate wetlands for the entire Property and provide a flagging letter from a wetland scientist. Provided that the Applicant shall delineate the southern edge of the wetlands along the West Branch of Chester Creek with such delineation added to the final plans or in the alternative, the Applicant may provide and record a deed restriction, satisfactory in form and substance, to the Township, preventing development of the Property beyond what is currently proposed by the Preliminary Plan.

7. Section 22-502.3.B.(3) & 19-301.8 – From the requirement to identify related floodplain or alluvial soils, nor the associated floodplain conservation district. Provided that both sides of the West Branch of Chester Creek, and the creek itself, shall be shown on the final plans with related floodplain (in the absence of a FEMA studied floodplain, the applicant is required to have the floodplain elevation and extent determined by a Pennsylvania registered professional engineer in accordance with FEMA standard calculation methodologies in accordance with sections 27-1512.1 & 27-1514) or in the alternative, the Applicant may provide and record a deed restriction, satisfactory in form and substance, to the Township, preventing development of the Property beyond what is currently proposed by the Preliminary Plan.

8. Section 27-2811 – From the provision of an Historic Resource Impact Study regarding HRP number 159 - Cherry, Thomas Brinton House (Cherry Creek), to the extent such waiver is recommended by the Township Historical Commission. However, in any case, the historic resource information block shall be added to the final plans.

C. **Conditions of Approval:** The Applicant shall comply, to the satisfaction of the Township, with the following conditions and shall revise the Preliminary Plan, as applicable, prior to the submission of the final plan:

9. Section 22-602.5 & 8 – Additional right of way shall be provided to the extent necessary and added to the final plans, in the northeast corner of the Property to follow existing Dilworthtown Road which currently leaves the right of way. The applicable right of way shall be offered for dedication in perpetuity to the authority having jurisdiction, with a note evidencing same.

10. Section 22-609 - A letter of water availability from the service provider shall be provided.

11. Landscape Comments – A technical review of landscape requirements included on the final plans will be provided following submission of the final plans.

12. Section 27-2106 – Proposed lighting shall be revised so as not to affect Dilworthtown Road or adjacent properties. A shielding device shall be required and adjustments to lights will be required to satisfy this section. In addition, the Applicant shall address lighting spill into the eastern and western properties. The intensity of illumination projected onto an adjacent use shall not exceed 0.1 vertical footcandle measured at 30 inches above the ground at the Property line.

13. Section 22-906.3.B - Building entrance lighting shall be added and shall fully comply with the lighting levels in accordance with this section.

14. Additional curb spot elevations in the parking lot shall be added to the final plans demonstrating proper layout, drainage and 6% or less parking lot slopes.

15. A new fire hydrant shall be provided on the Property-side of Dilworthtown Road, to allow Dilworthtown Road to remain open during firefighting activities. The proposed location of the new hydrant shall be added to the final plans and shall be reviewed and approved by the Fire Marshal.

16. Except as otherwise approved herein, the Applicant shall be bound by and comply with the Settlement Agreement and Settlement Plan. A Legal description of the new outbounds for the reverse subdivided property shall be provided with the final plan submission, which, shall require a section at the end of the legal description denoting that the property is “UNDER AND SUBJECT TO EASEMENTS, RESTRICTIONS, AGREEMENTS AND CONDITIONS OF RECORD”.

17. The Property is located within in the 50% release rate zone - sub area 70 as denoted on the Chester Creek Release Rate Map. A more in-depth review of all stormwater calculations and compliance will be performed as part of the final plan review.

18. Section 19-306.6 - Riparian Buffer - Language shall be added to the final plans requiring a 30’ minimum riparian buffer be provided with a maximum riparian buffer of 75’ provided where and to the extent possible and that no further encroachment into the riparian buffer shall be allowed other than the limit of disturbance that is approved on the final plans.

19. Section 19-702 – PCSWM Plan operation and maintenance notes to meet Township standards shall be added to the final plans. Notes from Section 22-705 require deed restrictions and allowing Township rights should also be added as described in this section.

20. Stormwater infiltration basin BMP#1 shall be a minimum of 10’ from the retaining wall and will need to be adjusted to comply. The retaining wall design shall take into account the location of BMP#1 and its effect on the retaining wall.

21. The Storm Sewer design shall have a minimum of 1’ of freeboard from the top of grates to the headwater calculated.

22. A Stormwater Operations and Maintenance Agreement in form and substance acceptable to the Township shall be submitted with the final plan submission for review and approval by the Township.

23. All easements of record shall be plotted on the final plans, including without limitation,

that certain utility right-of-way dated December 28, 2011 and recorded in the Office of the Recorder of Deeds in and for Delaware County, Pennsylvania, in Book 5046, Page 1876. Additional final plan revisions shall be made, if any, in accordance with the existence and location of such easements.

24. The Applicant shall contact the Township Engineer to clarify minor drafting items to be addressed on the final plans.


25. To the extent not specified in the forgoing conditions, and as applicable, the Applicant shall have applied for and provide the Township with evidence thereof for any and all other required local, state and/or federal agency permits or approvals, to the extent practicable with the submission of the final plans.


26. The Applicant shall, in addition to providing paper copies, submit the Preliminary Plan and other documentation required by this Resolution in electronic format acceptable to the Township.

APPROVED AND ADOPTED this 17th day of August, 2023.

**THORNBURY TOWNSHIP
BOARD OF SUPERVISORS**


James P. Kelly, Chair


Sheri L. Perkins, Vice Chair


Michael J. Mattson, Supervisor

Attest: 
Geoffrey Carbutt, Secretary

(TOWNSHIP SEAL)

