



**TOWNSHIP OF THORNBURY  
DELAWARE COUNTY**

**RESOLUTION No. 4 of 2024**

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

**WHEREAS**, by adoption of Resolution No. 11 of 2023, dated August 17, 2023, the Board conditionally approved the Preliminary Application (“**Resolution No. 11**”); and

**WHEREAS**, the Applicant did not appeal Resolution No. 11 and instead, submitted an application for final approval in accordance with Resolution No. 11 (the “**Final Application**”); and

**WHEREAS**, the Final Application was accompanied by a final subdivision and land development plan for the Property, said plan being entitled *FINAL REVERSE SUBDIVISION & LAND DEVELOPMENT PLAN*, prepared by Edward B. Walsh & Associates, Inc., dated January 23, 2020, last revised January 8, 2024, consisting of the following 13 sheets (the “**Final Plan**”); a copy of the Plan is attached hereto and made a part hereof as Exhibit “A”.

<u>Plan Sheet</u>	<u>Plan Sheet Title</u>	<u>Dated</u>	<u>Revised</u>
1	Final Site Plan	1-23-2020	1-8-2024
2	Final Existing Features/Conservation Plan	1-23-2020	1-8-2024
3	Final Existing Features/Conservation Plan	1-23-2020	1-8-2024
4	Final Construction Improvement Plan	1-23-2020	1-8-2024
5	Final Erosion and Sedimentation Plan	1-23-2020	1-8-2024
6	Final Post Construction Stormwater Management Plan	1-23-2020	1-8-2024
7	Final Lighting Plan	1-23-2020	1-8-2024
LP1 <sup>1</sup>	Landscape Plan	1-18-2021	1-8-2024
LP2	Details and Notes	1-18-2021	1-8-2024
9	Final Erosion and Sedimentation Control General Detail Sheet	1-23-2020	1-8-2024
10	Final Post Construction Stormwater Detail Sheet	1-23-2020	1-8-2024
11	Final Detail Sheet	1-23-2020	1-8-2024
12	Final Detail Sheet	1-23-2020	1-8-2024

**WHEREAS**, the Final Application and Final Plan have been reviewed by the Delaware County Planning Commission in its review dated February 16, 2024, the Thornbury Township Engineer in its review letter of February 12, 2024, including the Landscape Architect review as incorporated in the March 13, 2024, supplemental review letter of the Township Engineer; and the Thornbury Township Planning Commission at its public meeting on February 14, 2024.<sup>2</sup>

**NOW, THEREFORE, BE IT RESOLVED** that the Final Application and Final 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 as 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 Plan, at the direction of the Township to accommodate safe vehicle maneuvering in and out of the undersized parking spaces. All related notes shall be coordinated to state the same matching number of spaces provided.

<sup>1</sup> LP1 and LP2 were prepared by Stuart Landscape Architects and submitted as part of the Preliminary Plan and may sometimes be referred to as sheets 8a and 8b of the Final Plan.  
<sup>2</sup> The Township Planning Commission recommended conditional approval of the Final Plan in its letter to the Board dated February 14, 2024.

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 Final 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. In addition, there shall be no parking of any vehicle(s) of any kind on any unpaved surface, parking aisle, right-of-way or other area of the Property not specifically approved and designated on the Final Plan for parking. A note shall be added to the Final Plan with this prohibition.

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 Final Plan which encroaches slightly into the riparian buffer. The loading area shall be permitted to the extent not inconsistent with the terms of Resolution No. 11.

B. **Waivers Granted:** The following final 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 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. The Final Plan depicts the extension of curb across the western Property frontage, however, the curb extent and curb taper must be clarified on the Final Plan along with any necessary paving adjustments.

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 a permanent deed restriction (“Declaration of Restrictive Covenant as to Use and Development”), in form and substance in form and substance attached hereto as Exhibit “B”, the purpose of which is to prevent future encroachment into or any disturbance and/or development of the wetlands on the Property the beyond what is currently depicted on the Final Plan (“Restricted Development Area”). General Note 20 shall be clarified to state that the deed restriction will prohibit future encroachment, development and/or disturbance of the wetlands on the Property beyond what is currently depicted on the Final Plan. The Restricted Development Area shall also be clearly delineated on the Final Plan and shall otherwise be in accordance with the approved Declaration of Restrictive Covenant as to Use and Development.

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 revised Final Plan 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 shall provide and record

the Declaration Of Restrictive Covenant As To Use And Development. The Restricted Development Area shall also be clearly delineated on the Final Plan and shall otherwise be in accordance with the Declaration of Restrictive Covenant as to Use and Development.

8. Section 27-2811 – From the provision of an Historic Resource Impact Study regarding HRP number 159 - Cherry, Thomas Brinton House (Cherry Creek). However, the historic resource information block shall be included on the Final Plan.

C. **Conditions of Approval:** The Applicant shall comply, to the satisfaction of the Township, with the following conditions and shall revise the Final Plan, as applicable, prior to the release of the Final Plan for recording:

9. Section 22-602.5 & 8 – Additional right of way shall be provided to the extent necessary and added to the Final Plan, 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 service availability from the service provider shall be provided.

11. Landscape and Lighting Comments – The Applicant shall comply with the following and revise the Final Plan accordingly:

(a) A pre-clearing meeting note shall be added to the sequence of construction on the Final Plan, stating that tree protection fencing shall be installed and inspected and approved by the Township, prior to any earth disturbance.

(b) The limit of the treeline to remain and areas of tree protection fencing shall be identified on the landscape sheet(s) of the Final Plan.

(c) All above and below ground utilities shall be shown on the landscape sheet(s) of the Final Plan.

(d) The retaining wall shall be relocated to a minimum of five (5) feet from the proposed curbs.

(e) The proposed Cryptomeria to the rear of the Property appear to be located on the rim of a basin and should be relocated to the top of the berm.

(f) Several trees appear to be located in the spillway and must be relocated out of the spill way.

(g) Trees shall not be located at the end of the driveway adjacent to the building where they are in danger of snowplow damage.

(h) Cryptomeria proposed to be located in wet soil areas shall be replaced with a

more wet soil tolerant species.

(i) The proposed Elm trees proposed within the parking islands will grow to a size that may conflict with proposed light standards and shall be replaced with a more fastigiate species similar to the proposed Fastigiate Hornbeams.

(j) Section 22-906.3.B - The employee building entrance lighting shall be clarified at both doors to have legible footcandle values in compliance with Township code requirements.

12. Top and bottom of curb elevations shall be provided throughout the parking areas, to clarify whether there are any areas proposed without curb. Additional curb spot elevations are required in the parking lot to ensure proper layout, drainage and 6% or less slopes.

13. Calculations and clarification on the width of the curb cutout cross sections shall be added to the Final Plan. The designer should also demonstrate that uncollected flows across the entire eastern parking areas are safely conveyed to the basin with respect to depth and velocity.

14. Signage proposed for the Property shall comply with Township Code, which shall be demonstrated by the Applicant, prior to the installation or erection of any signs on the Property. A note shall be added to the Final Plan to reflect this condition.

15. Additional Retaining wall details and top and bottom of wall elevations shall be added to the Final Plan. Fall protection fencing is required for any walls over 30" in height and a guardrail will be required wherever paving is within 8' of the wall. The retaining wall detail fall protection shall be demonstrated as meeting Township Code requirements for fall protection, and clarified as to being a privacy fence or post & rail fence, as well as the limits of each, and to have the post, rail and slat information and footing design added to the Final Plan details. A guardrail and footing detail shall be added to the Final Plan, to include a clear delineation of the extent of such.

16. Silt sock calculations shall be submitted for Township review and approval. The Applicant shall demonstrate that silt sock will be adequate to handle the amount of stormwater draining to them during construction. A sediment trap or basin may be required as determined by the Township.

17. Final erosion and sediment control calculations shall be submitted to the Township for review and approval.

18. A Legal description of the new outbounds for the Property as consolidated shall be provided, which will require a section denoting that the property is "UNDER AND SUBJECT TO DEED RESTRICTIONS AS FOLLOWS:". The specific language of the deed restriction reference will be subject to Township Solicitor review and approval.

19. The sanitary sewer lateral forcemain shall be adequately separated from the new electric service.

20. 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 reviewed and approved by the Fire Marshal.

21. Section 19-306.6 - Riparian Buffer - Language shall be added to the Final Plan 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 depicted on the approved Final Plan.

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

23. A preliminary retaining wall design report was submitted requiring 10' separation between the wall and the stormwater seepage bed BMP#1. Notes clearly requiring such separation shall be added to the Final Plan. The Applicant shall demonstrate proper operation of the underdrain such that it will not allow the basin to empty prematurely. The retaining wall design will need to take into account the location of BMP#1 and its effect on the wall, which may even require a greater setback or different depths/elevations for each. An updated Geotechnical report shall be provided to the Township for review and approval.

24. The emergency spillway lining noted as NAG P300 shall be shown on the Final Plan as extending to the downstream toe of the basin berm slope.

25. Endwall #3 & #4 outfall from the basin shall have some form of channel protection extended all the way down to the wetlands, as the flow will likely concentrate to less than the 30' width shown in the calculations. Updated calculations shall be provided to the Township for review and approval.

26. A volume design report shall be submitted from the ADS chamber manufacturer to confirm the volume provided by the Stormtech Chambers matches the designer's input parameters in the calculations.

27. A summary of stormwater calculation input parameters shall be added denoting the pre & post Areas, CN values, breakdown of impervious vs. grass, meadow, etc., Tc's, etc.

28. The impervious area used in the calculations, which go to BMP#1 & BMP#2 appear to be lower than the area shown on the post developed impervious cover chart on sheet 1. This disparity shall be clarified and corrected as necessary within the calculations.

29. The Drainage Area Plan summary charts shall be updated, as breakdown of the area CN values and flows do not appear to match the calculations.

30. The Storm Sewer sizing in the calculations shall be accurately reflected on the Final Plan, as there appear to be some discrepancies, (eg. MH1-EW4 should be 24" diam, roof leader pipe size, material, slope and invert elevations should be added to the plan profiles, etc.).

31. Since a portion of the parking lot is bypassing the basins, pre-treatment of this stormwater for water quality shall be provided in the inlets or otherwise prior to discharge to the shortened riparian buffer. This may include the use of a Bio Skirt w Sout in related inlets, or other means as approved by the Township.

32. A completed Stormwater Operations and Maintenance Agreement in form and substance acceptable to the Township shall be submitted with the Final Plan for review and approval by the Township.

33. Final NPDES permit Documentation and forms shall be submitted for Township review and records.

34. PennDOT HOP Plans shall be submitted for Township review and records.

35. All easements of record shall be plotted on the Final Plan, 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.

36. The Applicant shall contact the Township Engineer to clarify minor drafting items to be addressed on the Final Plan.

37. Except as specifically modified by this Resolution, the terms and conditions of that certain Settlement Agreement, between the Township and the Applicant, which was entered as an Order of Court on December 17, 2019, in the Court of Common Pleas, Delaware County, Pennsylvania, under docket number: CV-2018-002632, shall apply to the Property. 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".

38. The following is a list of project approvals that are anticipated and should be provided with the revised Final Plan submission: Delaware County Planning Department review, Development and Financial Security Agreement (with required financial security), PennDOT Highway Occupancy Permit for temporary construction entrance and new permanent driveway entrance, Fire Marshall Approval, SEO approval for abandonment of old septic system, Township Sewer Engineer approval, PA DEP NPDES Permit, Planning Module Exemption & Part II Permit for grinder pump, Stormwater BMP Operations and Maintenance Agreement (with required inspection escrow), endangered species clearance, and any other applicable local, state or federal agency permits or approvals.

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

**APPROVED AND ADOPTED** this 3<sup>rd</sup> day of April, 2024.

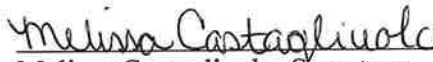
**THORNBURY TOWNSHIP  
BOARD OF SUPERVISORS**

  
James P. Kelly, Chair

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Sheri L. Perkins, Vice Chair

  
Michael J. Mattson, Supervisor

Attest:

  
Melissa Castagliuolo, Secretary

(TOWNSHIP SEAL)





Exhibit "A"

Approved Final Plan

Exhibit "B"

Declaration of Restrictive Covenant as to Use and Development