



# The City of Morgantown

389 Spruce Street  
Morgantown, West Virginia 26505  
(304) 284-7439 Fax: (304) 284-7525  
[www.morgantownwv.gov](http://www.morgantownwv.gov)

Office of the City Clerk

**AGENDA**  
**MORGANTOWN CITY COUNCIL**  
**COMMITTEE OF THE WHOLE**  
**Tuesday, May 26, 2020**  
**7:00 p.m.**

To protect public health during the COVID-19 pandemic, personal attendance at the meeting will not be permitted. When it is time, the public may participate in the public portion by videoconference at the following link: <https://cityofmorgantown.my.webex.com/meet/cityofmorgantown> with meeting number (access code) 793 734 477, or by calling in at the following number 408-418-9388 and using the access code 793 734 477. All members of the public may view the meeting on Channel 15 and by streaming hosted on the City's website at [www.morgantownwv.gov](http://www.morgantownwv.gov). If you do not wish to speak at the meeting, please view it by these methods to conserve capacity on the videoconference. Any person who wishes to speak at the meeting may complete the form at <http://morgantownwv.gov/FormCenter/Public-Comment-Sign-Up-Sheet-14/Public-Comment-Morgantown-City-Council-M-66> or provide their name, phone number they will use to participate, and the topic on which they would like to speak by texting 304-288-0847 or texting 304-288-7072. You may sign up to speak at any time until the meeting begins. Additionally, the public may submit written comments for the public portion of the meeting by sending written comments via email to the City Clerk at [cwade@morgantownwv.gov](mailto:cwade@morgantownwv.gov). In the email, please use the subject line "Public Comment 05/26/2020" and indicate in the body of the email if you would like your comment read aloud during the public portion of the meeting.

**NOTE:** Committee of the Whole Meetings of the Morgantown City Council are intended to provide an opportunity for the Council to receive information, ask questions, and identify policy options in an informal setting. No official action is taken at these meetings. At this Committee of the Whole Meeting the following matters are scheduled:

**PRESENTATIONS:**

1. Morgantown Parking Authority's Upcoming Projects – Dana McKenzie

**PUBLIC PORTION:**

**ITEMS FOR DISCUSSION:**

1. Ordinance Authorizing a Planning & Zoning Code Text Amendment for Sections 1329.02 and 1331.05 as they relate to Public and Private EV Charging Stations
2. Ordinance Authorizing a Zoning Map Amendment for West Virginia University Hospitals (445 Van Voorhis Road)
3. Ordinances Authorizing Easements to Segra & CityNet at the Morgantown Municipal Airport
4. Ordinance accepting easement at Riverview Drive
5. City Council Elections and Terms of Office

\*For accommodations, please contact us at 304-288-7072.



Development Services  
389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

## MEMORANDUM

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Date: 18 MAY 2020  
To: Emily Muzzarelli, Interim City Manager ..... *via email*  
Christine Wade, City Clerk ..... *via email*  
RE: City Council Committee of the Whole Agenda – 26 MAY 2020  
TX20-02 / Administrative / EV Charging Stations

During its 14 MAY 2020 hearing, the Planning Commission voted unanimously to forward a recommendation to City Council to approve the administrative zoning text amendment request pertaining to “Electronic Vehicle (EV) Charging Station” uses.

Attached herewith is the Staff Report presented to the Planning Commission and the draft ordinance.

The following dates will keep to standard Planning and Zoning Code Text Amendment protocol:

**City Council Meetings**

Committee of the Whole ..... TUE, 26 MAY 2020  
First Reading: ..... TUE, 02 JUN 2020  
Public Hearing and Second Reading: ..... TUE, 07 JUL 2020

Please include this item on the City Council meeting agendas noted above and include this communication and documents attached herewith in the 26 MAY Committee of the Whole meeting packet (in color). Only the ordinance and its exhibit should be included in the 02 JUN and 02 JUN meeting packets.

Thank you.

# **STAFF REPORT**

**TX20-02**

**Administrative**

**EV Charging Station Uses**



# MORGANTOWN PLANNING COMMISSION

May 14, 2020  
6:30 p.m.  
By Electronic Means

**President:**

Peter DeMasters, 6<sup>th</sup> Ward

**Vice-President:**

Carol Pyles, 7<sup>th</sup> Ward

**Planning Commissioners:**

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Bill Petros, 4<sup>th</sup> Ward

Michael Shuman, 5<sup>th</sup> Ward

Ronald Dulaney, City Council

AJ Hammond, City Admin.

## **STAFF REPORT**

**CASE NO:** TX20-02 / Administrative / Electric Vehicle Charging Stations

**REQUEST:**

Administratively requested zoning text amendments to add public and private electric vehicle charging station uses and standards to the Morgantown Planning and Zoning Code. Planning and Zoning Code Sections included are 1329.02 and Table 1331.05.01.

**BACKGROUND AND ANALYSIS:**

In the late 2000s, electric vehicles (EV) grew from a niche product to a mainstream form of automotive transportation. The popularity of the *Tesla* brand and other limited manufactures of electric vehicles has only increased. Under the previous White House Administration's goal of one million electronic vehicles on the road by 2015, most manufactures provide some form of electric vehicle option, with many traditional internal combustion engine vehicle manufacturers offering more diverse electric passenger models

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In the March 2020 edition of the American Planning Association's *Planning Magazine*, Elaine S. Povich noted in her article titled "Charging Stations Still Too Few and Far Between" that purchases of electric vehicles grew 81% from 2017 to 2018 and that trend is not expected to slow. However, she notes what could stunt growth is the lack of power



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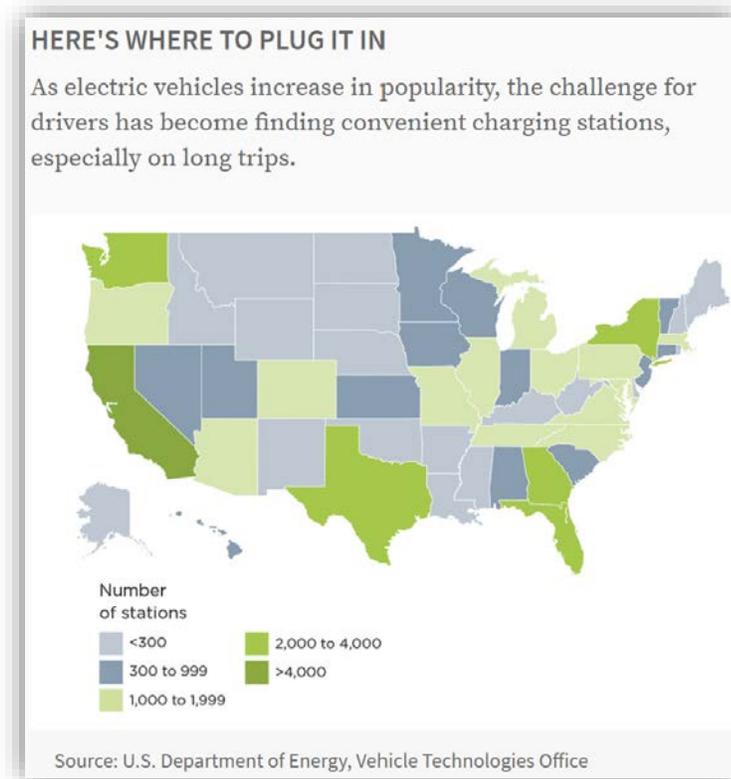
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charging stations across the country. The following image was included in her article illustrating the number of electric charging stations across the country by state.



It appears prudent for Morgantown, like many other communities across the country, to make way for EV supporting infrastructure to develop. Accordingly, steps should be taken to ensure residents and businesses know what is allowed under our Planning and Zoning Code.

In the May/June 2012 edition of the American Planning Association's *Planning Magazine*, sustainability specialist Kim Lundgren advocated in her article titled "Plug-in Stations Come to Town" that cities should include charging infrastructure requirements in their zoning and land-use regulations. Specifically, Lundgren suggested allowing level 1 and level 2 charging stations as an incidental or accessory use and allowing DC fast-charging stations in commercial or industrial zoning districts and as a conditional use in residential zoning districts. This would also require adopting EV-related definitions in the zoning regulations.

Existing technology allows for three (3) levels of electric vehicle charging. Level 1 utilizes a standard 120-volt electric outlet and Level 2 uses a 240-volt outlet. Levels 1 and 2 use alternating current, with conversion occurring to direct current into the vehicle's systems. Levels 1 and 2 generally take hours to have moderate amounts of charge for a routine commuting distance, with Level 1 charging taking in excess of 16-hours for most low-range electric vehicles to have a full recharge.

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The highest level of charging is DC charging, a method for rapid recharging that uses a system to directly input current into the electric vehicle’s battery system. DC charging allows for an approximate 30-minute charge time from low battery energy levels to approximately eighty percent (80%) electric vehicle battery capacity. Multiple firms have entered the private marketplace to provide DC charging and Level 2 charging, including *Charge Point*, *Electrify America*, and *EVgo*.

Through a partnership between *Tesla* and *Sheetz*, the City of Morgantown has the area’s first *Tesla Supercharger* location at the 21 Asturias Lane Sheetz site (Sheetz No. 604), which includes eight (8) *Tesla* brand specific charging stations available 24/7 (see image below). Additional charging stations are located throughout the community at certain automotive dealerships, hotels, and the *Black Bear Village* development in Granville.



Given the present brand specific nature of some electric vehicle charging stations, such as *Tesla’s Superchargers*, *Ford’s FordPass Charging Network*, and *GM and Porsche’s* affiliation with *Charge Point*, it is anticipated that the City will begin to experience demand for new infrastructure to support personal and commercial EV charging opportunities. Some commercial EV charging providers may also begin to work with local multi-family housing providers to accommodate tenant lower level charging needs.

To prepare for the anticipated need for electric vehicle charging station infrastructure, while providing opportunity for best practices, Staff proposes two (2) classes of electric vehicle charging stations. Appendix A of this report provides staff recommended Planning and Zoning Code text amendments detailing these charging station types and providing their specific application in relevant zoning districts.

**STAFF RECOMMENDATION:**

Staff advises the Planning Commission to forward a favorable recommendation to City Council to amend the Planning and Zoning Code as presented in Addendum A of this report [new matter underlined] based on the information and findings presented herein.

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# **DRAFT ORDINANCE**

**TX20-02**

**Administrative**

**EV Charging Station Uses**

**AN ORDINANCE AMENDING SECTION 1329.02 AND TABLE 1331.05.01 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO ELECTRIC VEHICLE CHARGING STATIONS.**

The City of Morgantown hereby ordains Sections 1329.02 and Table 1331.05.01 of the Planning and Zoning Code are amended as follows (new matter underlined):

ARTICLE 1329  
Definitions

1329.02 DEFINITION OF TERMS

EV CHARGING STATION, PRIVATE – A parking space that is served by electric vehicle charging station equipment that has the primary purpose of transferring electric energy (by conductive or inductive means) to a battery or other energy source in an electric vehicle. These accessory uses may be provided to a specific dwelling unit, townhouse dwelling structure, multi-family dwelling structure, nonresidential structure, or business tenant and shall be considered a parking space for the purpose of determining or meeting minimum parking requirements.

EV CHARGING STATION, PUBLIC – A parking space that is served by electric vehicle charging station equipment that has the primary purpose of transferring electric energy (by conductive or inductive means) to a battery or other energy source in an electric vehicle. These accessory uses are provided to the general public and shall not be included in determining or meeting minimum parking requirements.

Table 1331.05.01 Permitted Land Uses

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
<u>EV Charging Station, Private</u>	A	A	A	A	A	A	A	A	A	A	A	
<u>EV Charging Station, Public</u>			A	A	A	A	A	A	A	A	A	

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_

Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_

City Clerk



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## MEMORANDUM

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Date: 18 MAY 2020  
To: Emily Muzzarelli, Interim City Manager ..... *via email*  
Christine Wade, City Clerk ..... *via email*  
RE: City Council Committee of the Whole Agenda – 26 MAY 2020  
RZ20-03 | WVU Hospitals, Inc. | Seventh Ward Tax District, TM 6, P 76.1

During its 14 MAY 2020 hearing, the Planning Commission voted unanimously to forward a recommendation to City Council to approve WVU Hospitals, Inc. zoning map amendment request to reclassify the former Fieldcrest Hall site at 445 Van Voorhis from OI to B-2. The recommendation includes reclassifying the adjoining portion of Parcel 258, Tax Map 11, Seventh Ward Tax District, which serves as a segment of Elmer Prince Drive.

Attached herewith is the Staff Report presented to the Planning Commission and the draft ordinance.

The following dates will keep to standard Planning and Zoning Code Map Amendment protocol:

**City Council Meetings**

Committee of the Whole ..... TUE, 26 MAY 2020  
First Reading: ..... TUE, 02 JUN 2020  
Public Hearing and Second Reading: ..... TUE, 07 JUL 2020

Please include this item on the City Council meeting agendas noted above and include this communication and documents attached herewith in the 26 MAY Committee of the Whole meeting packet (in color). Only the ordinance and its exhibit should be included in the 02 JUN and 02 JUN meeting packets.

Thank you.

# **STAFF REPORT**

**RZ20-03**

**WVU Hospitals, Inc.  
445 Van Voorhis Road**



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Michael Shuman, 5<sup>th</sup> Ward

Ronald Dulaney, City Council

AJ Hammond, City Admin.

## **STAFF REPORT**

**CASE NO:** RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

**REQUEST and LOCATION:**

Request by Seth Wilson of Bowles Rice, LLP, on behalf of West Virginia University Hospitals, Inc. for a Zoning Map Amendment to reclassify Seventh Ward Tax District, Tax Map 6, Parcel 76.1 and Seventh Ward Tax District, Tax Map 11, Parcel 258, from OI, Office and Institutional District to B-2, Service Business District.

**TAX MAP NUMBER(s) and ZONING DESCRIPTION:**

Seventh Ward Tax District, Tax Map 6, Parcel 76.1 and Seventh Ward Tax District, Tax Map 11, Parcel 258, OI, Office and Institutional District.

**SURROUNDING ZONING:**

North and East: B-2, OI, Office and Institutional District

South: B-2, Service Business District

West: PRO, Professional, Residential, and Office District

**BACKGROUND:**

The petitioner seeks to amend the zoning map by changing the zoning classification for the subject premises from OI to B-2. This zoning map amendment would permit West Virginia University Hospitals, Inc. to pursue redevelopment of the former Fieldcrest Hall site, recently acquired from West Virginia University, while meeting the needs of the larger medical center campus. Addendum A of this report identifies and illustrates the location of the subject site.

The premises included in the proposed zoning reclassification is the physical land site of the former Fieldcrest Hall and the adjoining portion of Elmer Prince Drive, as further described below.

- The former Fieldcrest Hall parcel is identified as Seventh Ward Tax District, Tax Map 6, Parcel 76.1.
- The Elmer Prince Drive parcel was formally annulled by the City of Morgantown on 16 SEP 2002 and deeded to the West Virginia University Board of Governors by Quit Claim deed on 31 DEC 2002 and recorded in Monongalia County Clerk's Records Office in Deed Book 1247, Page 214. This parcel is identified as Seventh Ward Tax District, Tax Map 11, Parcel 258. Only the adjoining portion of this parcel is included in this zoning map amendment request.

Staff believes the proposed zoning map amendment would be considered a permitted map amendment and not "spot zoning" because the subject area adjoins the B-2 zoning district to the south and southwest. Accordingly, the proposed zoning map amendment would be a boundary adjustment of the B-2 zoning district.

**Development Services  
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### ANALYSIS:

The subject premises are situated at the intersection of Van Voorhis Road and Elmer Prince Drive, which is the western main entrance to the West Virginia University Health Sciences Campus and Ruby Memorial Hospital. This site was most recently the location for Fieldcrest Hall, a former nursing home and later a WVU-affiliated dormitory, which has been recently razed and removed.

A review of all publicly available WVU Facilities Master Plans (2017 Facilities Master Planning Process Document, 2013 West Virginia University Robert C. Byrd Health Science Center Infrastructure Upgrade Master Plan, and 2012 West Virginia University Ten-Year Campus Master Plan) do not provide any information related to programmed use of this location. A health sciences center master plan may exist as evidenced from the West Virginia University Planning, Design, Construction and Scheduling website, but is not publicly available.

Staff understands the petitioner, in purchasing the former Fieldcrest Hall site, intends, in the long-term, to pursue mixed- or multi-use redevelopment of the site following related planning and funding. Long-term redevelopment of the site is understood to serve advancing continued growth of West Virginia University Hospitals, Inc.

The applicant seeks in the near term to develop a temporary surface parking lot, which is permitted in the B-2 District but prohibited in the OI District. The use of satellite employee parking and shuttle locations around greater Morgantown and the recent construction of surface lots and multi-deck parking garage facilities in proximity to the medical center demonstrates upward parking demand.

Addendum B of this report provides Sections 1343 "OI, Office and Institutional District," 1347 "B-2, Service Business District," and Table 1331.05.01 "Permitted Land Uses" of the Planning and Zoning Code. It is included as a resource to understand the density, intensity, and land uses permitted in both the OI and B-2 zoning districts.

Although the land development densities and intensities permitted in both zoning districts are comparable, the B-2 zoning classification provides a broader and more diverse set of permitted land uses intended along a major thoroughfare like Van Voorhis Road and Pattison Drive.

### *Comprehensive Plan Concurrence*

As recommended in Chapter 9 "Implementation" of the 2013 Comprehensive Plan Update, Addendum C of this report identifies how the proposed zoning map amendment relates to the Comp Plan's land management intent, location, and pattern and character principles.

It should be noted that "shall" statements within the Comp Plan must be understood as desired objectives and strategies that do not have the force or effect of law unless incorporated into the City's Planning and Zoning Code.

Although extraneous to the land use and land development considerations by the Planning Commission for this zoning map amendment, the petitioner's desire to redevelop this site

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demonstrates an opportunity to increase utilization of the subject premises to support continued growth of the medical center.

It appears the requested zoning classification change for the 445 Van Voorhis Road premises from OI to B-2 is in concurrence with the Comp Plan’s principals for Encouraged Growth land management objectives and furthers the following plan implementation strategies:

- Land Management 2.1 ..... Identify and prioritize sites for infill and redevelopment.
- Land Management 4.3 ..... Revise zoning regulations to permit mixed-use development at appropriate scales in various zoning districts.
- Land Management 5.2 ..... Permit higher density development in areas that are well-supported by existing or planned transportation infrastructure or transit services.
- Economic Development 5.7 ..... Pursue zoning map amendments where appropriate to address potential zoning conflicts and promote non-residential infill and redevelopment in appropriate areas.

Staff encourages the Planning Commission to review the Comp Plan for guidance as Addendum C is not intended to represent a complete comparative assessment.

**STAFF RECOMMENDATION:**

Zoning map amendment requests should be evaluated on their land-use merits alone. The petitioners’ development intentions are extraneous, and the Commission should consider the request on its merits as a land use decision.

In conducting such an analysis, the Commission should determine if the B-2, Service Business District is the appropriate zoning classification for the petitioner’s development premises, weighing all possible future development and land use scenarios as permitted by the Planning and Zoning Code; particularly, Article 1347 “B-2, Service Business District” and Table 1331.05.01 “Permitted Land Uses.”

It is the opinion of the Planning Division that the petitioner’s request to reclassify the 445 Van Voorhis premises, which includes realty owned by West Virginia University Hospitals, Inc., to B-2, Service Business District is supported by the intent, location, pattern and character goals and land management objectives set forth in the 2013 Comprehensive Plan Update.

As such, Staff respectfully advises the Planning Commission to forward a recommendation to City Council to approve the zoning map amendment as requested so that all of Seventh Ward Tax District, Tax Map 6, Parcel 76.1 and the adjoining portion of Seventh Ward Tax District, Tax Map 11, Parcel 258 is zoned B-2, Service Business District.

**Development Services Department**

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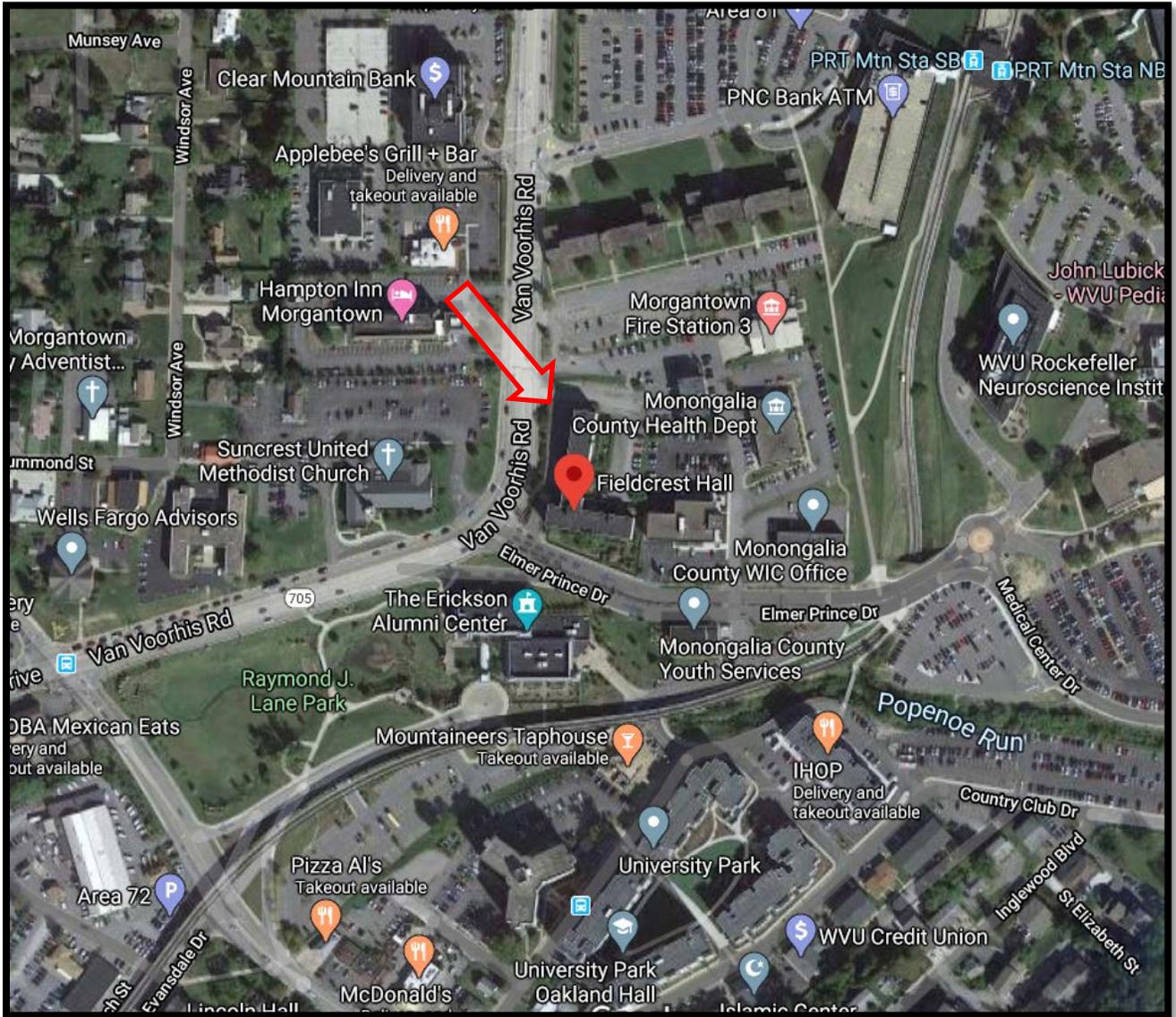
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# STAFF REPORT ADDENDUM A

RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road



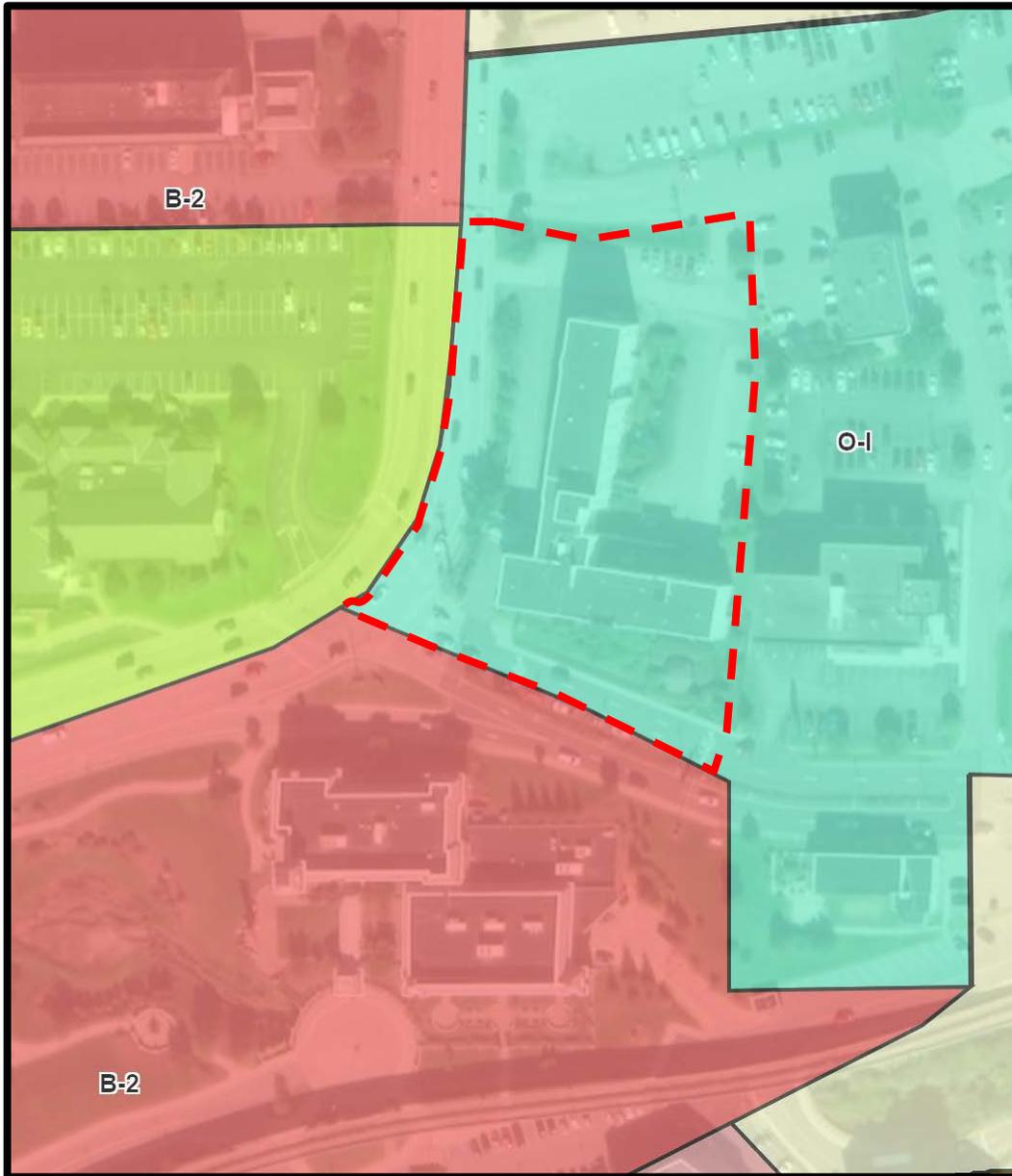
# STAFF REPORT ADDENDUM A

RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road



# STAFF REPORT ADDENDUM A

RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road



# STAFF REPORT ADDENDUM B

RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

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## ARTICLE 1343 OI, Office and Institutional District

1343.01	Purpose.	1343.06	Parking and loading standards.
1343.02	Permitted and conditional uses.	1343.07	Performance standards.
1343.03	Lot provisions.	1343.08	Landscaping.
1343.04	Setbacks and encroachments.		
1343.05	Building height and use.		

### CROSS REFERENCES

Composting operation - see P. & Z. 1331.06(3)  
Day care facilities - see P. & Z. 1331.06(19)  
Mixed use dwelling units - see P. & Z. 1331.06(26)

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#### 1343.01 PURPOSE.

The purpose of the Office and Institutional (OI) District is to:

- (A) Provide for office and institutional uses and customary accessory uses on appropriately-sized lots, and
- (B) Provide for a suitable environment for office and institutional uses that can be located adjacent to residential uses without undue harmful effects to such residential uses.

#### 1343.02 PERMITTED AND CONDITIONAL USES.

See the Permitted Land Use Table 1331.05.01.

#### 1343.03 LOT PROVISIONS.

- (A) The minimum lot size shall be 6,000 square feet.
- (B) The minimum lot frontage shall be 60 feet.
- (C) The minimum lot depth shall be 100 feet.
- (D) Maximum lot coverage shall be 60 percent.

2019 Replacement

# STAFF REPORT ADDENDUM B

## RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

1343.04

PLANNING AND ZONING CODE

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### 1343.04 SETBACKS AND ENCROACHMENTS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space

Exceptions:

- (1) Minimum Front setback:.....15 feet
- (2) Maximum Front setback:.....25 feet
- (3) Minimum Side setback:.....30 feet
- (4) Minimum Rear setback: .....40 feet.

(B) The minimum setback for accessory structures on a lot shall be ten (10) feet from the rear property line and ten (10) feet from each side property line. No accessory structures are permitted within the front setback.

### 1343.05 BUILDING HEIGHT AND USE.

(A) The maximum height of a principal structure shall not exceed seventy-two (72) feet, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed twenty-five (25) feet. (Ord. 06-40. Passed 11-21-06.)

### 1343.06 PARKING AND LOADING STANDARDS.

(A) All uses within this district shall conform to the off-street parking and loading requirements in Article 1365, Parking, Loading and Internal Roadways.

(B) No parking spaces shall be permitted between the front façade of a building and any street right-of-way.

### 1343.07 PERFORMANCE STANDARDS.

(A) Important structures should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community. All principal structures within a development should maintain a consistent architectural style.

(B) Metal paneling may be used for wall surfaces, however the area of metal paneling shall not exceed twenty (20) percent of any one wall face.

(C) Materials:

- (1) Walls shall be clad in any combination of stone, brick, marble, approved metal paneling, and/or cast concrete.
- (2) Roofs shall be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles, when visible. Flat roofs shall be exempt from this requirement.
- (3) The orders, if provided, should be made of wood or cast concrete.

(D) Configuration: Flat roof lines are allowed.

2019 Replacement

## STAFF REPORT ADDENDUM B

RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

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OI, Office and Institutional District

1343.08

(E) Techniques:

- (1) Windows should be set to the inside of the building face wall.
- (2) Rooftop equipment which is enclosed should be enclosed in building material that matches the structure or is visually compatible with the structure.

(F) Residential construction within this district shall follow the height and performance standards listed in Sections 1339.06 and 1339.07.

(G) Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.

1343.08 LANDSCAPING.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.

2019 Replacement

# STAFF REPORT ADDENDUM B

RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

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## ARTICLE 1347 B-2, Service Business District

1347.01	Purpose.	1347.05	Building height, use and size.
1347.02	Permitted and conditional uses.	1347.06	Parking and loading standards.
1347.03	Lot provisions.	1347.07	Performance standards.
1347.04	Setbacks and encroachments.	1347.08	Landscaping.

### CROSS REFERENCES

Group residential facility - see W. Va. Code 8A-11-2  
Outdoor kennels - see P. & Z. 1331.06(7), (24)  
Daycare facility - see P. & Z. 1331.06(19)

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#### 1347.01 PURPOSE.

The purpose of the Service Business (B-2) District is to provide areas that are appropriate for most kinds of businesses and services, particularly large space users such as department stores. Typically B-2 districts are located along major thoroughfares.

#### 1347.02 PERMITTED AND CONDITIONAL USES.

See the Permitted Land Use Table 1331.05.01.

#### 1347.03 LOT PROVISIONS.

- (A) The minimum lot size shall be 6,000 feet.
- (B) The minimum lot frontage shall be 60 feet.
- (C) The minimum lot depth shall be 100 feet.
- (D) Maximum lot coverage shall be 60 percent.

#### 1347.04 SETBACKS AND ENCROACHMENTS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space

Exceptions:

- (1) Minimum Front setback:..... 15 feet
- (2) Maximum Front setback:..... 30 feet
- (3) Minimum Side setback:..... 5 feet on one side and 20 feet on the side where any access drives are located.
- (4) Minimum Rear setback: ..... 40 feet.

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(B) The minimum setback for accessory structures on a lot shall be ten (10) feet from the rear property line and ten (10) feet from each side property line. No accessory structures are permitted within the front setback.

(C) On a corner lot, the front lot line is the one having the shortest dimension along the street right-of-way line. The required side yard setback on the side facing a street shall be one and one-half (1.5) times the normal side yard setback requirements.

#### 1347.05 BUILDING HEIGHT, USE AND SIZE.

(A) The maximum height of a principal structure shall not exceed seventy-two (72) feet, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed twenty (20) feet. (Ord. 06-40. Passed 11-21-06.)

#### 1347.06 PARKING AND LOADING STANDARDS.

(A) All uses within this district shall conform to the off-street parking and loading requirements in Article 1365, Parking, Loading and Internal Roadways.

(B) No parking spaces shall be permitted between the front façade of a building and any street right-of-way.

#### 1347.07 PERFORMANCE STANDARDS.

(A) Important structures should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community. All principal structures within a development should maintain a consistent architectural style.

(B) Metal paneling may be used for wall surfaces but the area of the metal paneling should not exceed twenty (20) percent of any one wall face.

#### (C) Materials:

- (1) Walls should be clad in stone, brick, marble, stucco, approved metal paneling, and/or cast concrete.
- (2) Roofs should be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles.
- (3) The orders, if provided, should be made of wood or cast concrete.

#### (D) Techniques:

- (1) Windows should be set to the inside of the building face wall.
- (2) All primary entrance exterior doors should have rectangular recessed panels or glass.
- (3) All rooftop equipment that is enclosed should be enclosed in building material that matches the structure or is visually compatible with the structure.

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B-2. Service Business District

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(E) Playground equipment, if provided, shall be located entirely behind the principal structure and shall meet required setbacks.

(F) Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.

### 1347.08 LANDSCAPING.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.

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## RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

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Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Administrative Office				C	P	C	P	P	P	P	P	29
Agricultural Activity	P										P	
Airport											C	
Amphitheater							P	P				
Animal Grooming Service		C	C	C	C	P	P	P		P		28, 29
Animal Shelter							C			C	P	
Apparel Shop						P	P	P		P	P	28
Appliance Repair Establishment		C	C	C		P	P	P		P	P	4, 28, 29
Appliance Sales Establishment							P	P		P		
Art Gallery		C	C	C		P	P	P	P	P		28, 29
Artist Studio		C	C	C	P	P	C	P	P	C		28, 29
Assembly Hall						P	P	P		P		28
Assisted Living Facility				C		C	C					
Athletic Field	C	C	C	C		C	P	P		P		
Automotive Paint Shop							P				P	4, 9, 10
Automotive Rentals							C			C		
Automotive Sales							C			C		
Automotive Supply							C			P	P	
Automotive Tire Repair/Sales							P			P	P	4, 9, 10
Automotive/Boat Repair Shop							P				P	4, 9, 10
Automobile Repair Shop, Incidental							C	C		C	P	4, 9, 10
Bakery, Retail		C	C	C		P	P	P		P		28, 29
Bakery, Wholesale							P			P	P	
Barber Shop / Beauty Salon		C	C	C	P	P	P	P		P		28, 29
Bed and Breakfast Inn			C	C		P	P	P				5, 28
Brew Pub						C	P	P		P		18
Building Materials Supplier							P			P	P	9, 10
Car Wash/Detailing							P			P	P	
Caretaker's Residence	C	C	C	C			C		C	C	P	
Cemetery	P	P	P	P			P	P				
Charitable, Fraternal or Social Organization						P	P	P	P	P		28

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Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Churches, Places of Worship	C	C	C	C	C	C	P	P	C	P	C	12
Clinic, Medical				C		P	P	P	P	P	P	28, 29
Club or Lodge						P	P	P				28, 29
Coin-operated Cleaning/Laundry Service			A	C		P	P	P		P		28, 29
Communications Equipment Building	C	C	C	C		P	P	C	P	P	P	28
Community Center	C	C	P	P	P	P	P	P	C			28
Community Gardens	P	P	P	P		P						28
Composting Operation										P	P	3
Conference Center							P	P		P		
Consumer Fireworks Retail Sales							C			P	P	33
Consumer Fireworks Retail Sales Establishment							C			P	P	33
Consumer Fireworks Wholesale Establishment											P	34
Convenience Store, Neighborhood		C	C	C		P	P	P				28, 29
Dance or Social Club, Youth						C	P			P		
Day Care Facility, Class 1	P	P	P	P	P	P	P	P	P	P		
Day Care Facility, Class 2	C	C	C	P	P	P	P	P	P	P		19
Day Care Facility, Class 3				C	P	P	P	P	P	P		19
Department Store							P	P		P		
Distribution Center											P	
Dog Run							C			C	C	24
Dormitory				P			P	P				
Drive-in Theatre/Outdoor							P				P	
Drive-through Facility						A	A	A	A	A		25
Driving Range, Golf							C				C	
Drug Store		C	C	C		P	P	P		P		28
Dry Cleaning and Laundry Pick-up				P		P	P	P		P		28, 29
Dry Cleaning and Laundry Service						C	P	P		P		
Dwelling, Mixed Use			C	P		P	P	P	P	P		20, 26, 28
Dwelling, Multi-family			C	P			P	C	C			35
Dwelling, Single family	P	P	P	P	P							16

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### RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

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Establishment of Zoning Districts and Zoning Map

1331.05

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Dwelling, Townhouse			P	P	P		P	P				
Dwelling, Two-family			P	P	P			C				
Electrical Repair Shop						P	P	P		P		4, 28
Emergency Shelter				C		C	C	P				
Equipment or Furniture Rental Establishment							P	P		P	P	9, 10
Essential Services and Equipment	P	P	P	P	P	P	P	P	P	P	P	28
Extractive Industry											P	31
Fairgrounds											P	
Farmer's Market						C	C	P				
Financial Services Establishment					P	P	P	P	P	P		28
Florist Shop		C	C	C		P	P	P		P		28, 29
Fraternity or Sorority House			C	P			P	C				
Funeral Home				P		P	P	P				28
Furniture Sales Establishment (Antique, New or Used)							P	P		P		4
Garden Center							P			P		
Gas Station Mini-Mart							P	P		P	P	8
Gasoline Service Station							P	P		P	P	8
Golf Course	C	C	C	P		P	P	P		P	P	28
Government Facility	P	P	P	P		P	P	P	P	P	P	28
Greenhouse, Non-Commercial	A	A	A	A							P	
Greenhouse, Commercial							P				P	
Grocery Store							P	P		P	P	
Group Residential Facility	P	P	P	P		P	P	P				28
Group Residential Home	P	P	P	P		P	P	P				28
Guest House			C	C								
Half-way House			C	C		C	C					
Hardware Store						C	P	P		P	P	
Health/Sports Club			C	C		P	P	P	P	P	P	28, 29
Heavy Machinery Sales										P	P	4, 9, 10
Helipad or Helipad								C		C	C	
Home Improvement Center							P	C		P		
Home Occupation, Class 1	A	A	A	A	A	A	A	A	A	A	A	2
Home Occupation, Class 2	C	C	C	C	C	C	C	C	C	C	C	2

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Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Hospital	C	C	C	C		C	P	C		P	C	
Hotel							P	P	P	P		
Hotel, Full-service							P	P	P	P		1
Hypermarket							P			P		
Industrial Equipment Repair Establishment											P	
Industrial Park											P	
Industrial Supplies Establishment											P	
Industry, Heavy											C	32
Industry, Light							C			C	P	9, 10
Instructional Studio		C	C	C		P	P	P		P		28, 29
Junkyard											C	17
Kennel, Commercial						C	P					7
Laboratories									P	P	P	9, 10
Laundromat			C	C		P	P	P		P		28, 29
Liquor Store							P	P		P		
Lodging or Rooming House			C	P			P					
Manufactured Homes	P	P	P	P	P							16
Manufactured Housing Sales											P	
Manufacturing, Heavy											P	32
Marina, Commercial							C	C		C	C	14
Marina, Private							C	C		C	C	14
Medical Cannabis Dispensary							P			P		
Medical Cannabis Growing Facility											P	
Medical Cannabis Processing Facility										P	P	
Marine Supplies Establishment							P			P	P	9, 10
Mixed Use Building			C	P		P	P	P	P	P		20, 26, 28
Motel							P	P		P		
Motorcycle Sales Establishment							P			P		
Movie Theater, Large							P	C		P		
Movie Theater, Small						P	P	P		P		28
Multi-Use Nonresidential Building					C	C		C	P		P	29

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Establishment of Zoning Districts and Zoning Map

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Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Newsstand		C	C	C		P	P	P	P	P		29
Nursery, Plant							P	C		C		
Nursing Home				P			P		P			
Office Building					P	C	P	P	P	P	P	
Office Equipment Repair Establishment							P	P		P	P	4, 9, 10
Office, Medical					P		P	P	P	P		
Office Park									C	P	P	
Office Supplies Establishment						P	P	P	P	P		28
Oil Change Facility							P	P		P	P	
Outdoor Flea Market						C	C	C		C		
Outdoor Storage							C			C	P	
Outdoor Storage, Seasonal							P			P	P	
Park and Recreational Services	C	C	C	P		P	P	P	P			11, 28
Parking Lot, Principal Use				C		P	P	C		P	P	
Parking Structure, Principal Use				C		P	P	C		P	P	28
Passenger Station, Motor Bus, Railroad						C	P	P		P	P	
Pawnshop						P	P	P		P		28
Penal/Correctional Institution											C	
Personal Services Establishment				C	P	P	P	P	C	P		28, 29
Personal Storage Facility							C			C	C	15
Private Club							C			P	P	18
Professional Services Establishment			C	C	P	P	P	P		P		28, 29
Recreation Facility, Commercial, Outdoor						C	P			P		11
Recreational Facility, Commercial, Indoor						C	P			P		11
Recyclable Collection Center/ Solid Waste Transfer Station											P	6
Recycling Center										P	P	
Repair, Small Engine and Motor Shop							P	P		P	P	4, 9, 10

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Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Research and Development Center									C	P	P	
Restaurant				P		P	P	P	P	P		27, 28, 29
Restaurant with Drive-in							P	P	P	P		
Restaurant, Family			C	P		C	P	P	P	P		28, 29
Restaurant, Fast Food						C	P	P	P	P		22, 25, 27
Restaurant, Private Club						C	P	C		P	P	18, 27
Restaurant, Private Wine						P	P	P		P	P	
Retail Sales Establishment						P	P	P		P		28
Re-use of Closed/Vacant School or Church	C	C	C	C		C	C	C				
Salvage Yard											C	
School (K-12), Private	C	C	C	C		C	P	P		P		
Sexually Oriented Business											C	
Shooting Range, Indoor							C			C	P	
Shopping Center, Large Scale							P			P		
Shopping Center, Medium Scale							P			P		
Shopping Center, Small Scale							P			P		
Snack Bar/Snack Shop				C		P	P	P	A	P		28, 29
Sporting Goods Establishment						C	P	P		P		
Tavern						P	P	P		P	P	21, 28
Taxicab Service							P			P	P	23
Telecommunications Class I	P	P	P	P	P	P	P	P	P	P	P	30

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Establishment of Zoning Districts and Zoning Map

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Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Telecommunications Class II			P	P		P	P	P	P	P	P	30
Telecommunications Class III						C	C	C		C	C	30
Transient Amusement Enterprise							P			P	P	
Terminal, Truck or Motor Freight											P	
University or College, Private							C	P		P		
Upholstery / Interior Decorating Service							P	P		P		4
Video Gaming / Lottery Establishment											P	13
Veterinary Clinic					C	P	P	P		P		7, 28
Warehousing / Distribution									P		P	21
Wellness Center			C	C	P	C	P	P	P	P		29
Wholesale Establishment									P	P	P	
Wrecker Service							C				P	

(Ord. 06-37. Passed 11-8-06; Ord. 06-48. Passed 12-5-06; Ord. 07-17. Passed 6-5-07; Ord. 07-19. Passed 6-5-07; Ord. 07-20. Passed 6-5-07; Ord. 07-53. Passed 11-6-07; Ord. 09-08. Passed 3-3-09; Ord. 09-16. Passed 5-5-09; Ord. 09-29. Passed 7-7-09; Ord. 11-44. Passed 11-1-11; Ord. 12-27. Passed 7-3-12; Ord. 13-32. Passed 7-2-13; Ord. 16-38. Passed 8-2-16; Ord. 16-43. Passed 9-6-16; Ord. 16-48. Passed 10-4-16; Ord. 17-27. Passed 7-5-17; Ord. 18-14. Passed 4-3-18; Ord. 18-23. Passed 7-10-18; Ord. 18-24. Passed 6-5-18; Ord. 18-29. Passed 10-16-18.)

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# STAFF REPORT ADDENDUM C

## RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

### Concurrence with the 2013 Comprehensive Plan Update

The following narrative identifies where, in the opinion of the Planning Division, the subject zoning map amendment petitions are in concurrence and/or are inconsistent with the 2013 Comprehensive Plan Update.

<b>INTENT</b>	Development proposals will reflect the spirit and values expressed in the Plan's principals.
---------------	--

### Principles for Land Management

Principal 1	Infill development and redevelopment of underutilized and/or deteriorating sites takes priority over development in green field locations at the city's edge.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> Other
	<i>The subject premises is in close proximity to the multi-service regional medical center. The overall development pattern permitted with the O-1 and B-2 zoning districts are relatively comparable. However, a B-2 zoning classification includes a broader and more diverse set of permitted land uses intended along a major thoroughfare like Van Voorhis Road and Pattison Drive. Increased development demand is anticipated from the known growth occurring at Ruby Memorial Hospital and West Virginia University and as shown in the Conceptual Growth Framework map of the Comprehensive Plan.</i>	
Principal 2	Expansion of the urban area will occur in a contiguous pattern that favors areas already served by existing infrastructure.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> N/A or Inconclusive
	<i>The subject premises are within the urban area, within a highly traveled corridor, in close proximity to the multi-service regional medical center and appears to be well-served by existing utility and roadway infrastructure.</i>	
Principal 3	Downtown, adjacent neighborhoods and the riverfront will be the primary focus for revitalizations efforts.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> N/A or Inconclusive
	<i>Although the subject premises is not located within or adjacent to the central business district, it is situated adjacent to and harmonious with the highly traveled commercial corridor and the multi-service regional medical facilities it will support.</i>	
Principal 4	Existing neighborhoods throughout the city will be maintained and/or enhanced.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> N/A or Inconclusive
	<i>The zoning reclassification of the subject premises to B-2 will not adversely impact or present incompatible uses or development densities and intensities to residential neighborhoods.</i>	

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### RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

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Principal 5	Quality design is emphasized for all uses to create an attractive, distinctive public and private realm and promote positive perceptions of the region.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> N/A or Inconclusive
<i>Site and building design are extraneous to the petitioner's zoning map amendment request.</i>		
Principal 6	Development that integrates mixed-uses (residential, commercial, institutional, civic, etc.) and connects with the existing urban fabric is encouraged.	<input checked="" type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input type="checkbox"/> N/A or Inconclusive
<i>Mixed-use development patterns are permitted in the B-2 District. The opportunity for residential, nonresidential, mixed-use and multi-use development of the subject premises appears to be consistent with the surrounding commercial and institutional development patterns.</i>		
Principal 7	Places will be better connected to improve the function of the street network and create more opportunities to walk, bike and access public transportation throughout the region.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> N/A or Inconclusive
<i>The map amendment would not result in any immediate street or pedestrian network improvements.</i>		
Principal 8	A broad range of housing types, price levels and occupancy types will provide desirable living options for a diverse population.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> N/A or Inconclusive
<i>The zoning reclassification would enable residential construction to be incorporated into this area; however, it is uncertain whether residential uses would be included in any future development plans for the purposes of the map amendment.</i>		
Principal 9	Residential development will support the formation of complete neighborhoods with diverse housing, pedestrian-scaled complete streets, integrated public spaces, connection to adjacent neighborhoods, and access to transportation alternative and basic retail needs.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> N/A or Inconclusive
<i>Site design is extraneous to the petitioner's zoning map amendment request.</i>		
Principal 10	Parks, open space, and recreational areas are incorporated as part of future development.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> N/A or Inconclusive
<i>Site design is extraneous to the petitioner's zoning map amendment request.</i>		

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# STAFF REPORT ADDENDUM C

## RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

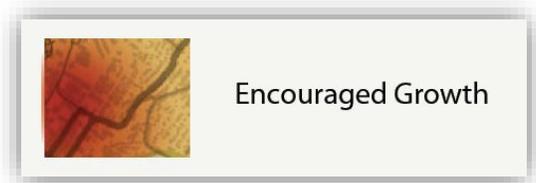
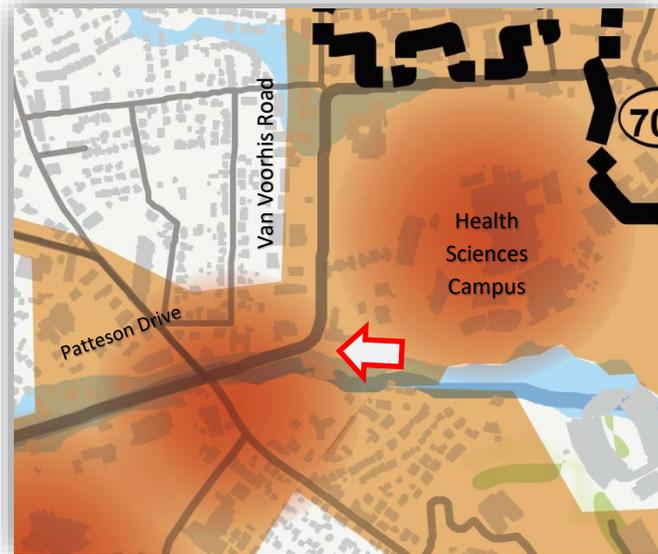
Principal 11	Environmentally sensitive and sustainable practices will be encouraged in future developments.	<input type="checkbox"/> Concurrence <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/> N/A or Inconclusive
--------------	--	--

*Site design is extraneous to the petitioner's zoning map amendment request.*

### LOCATION

Development proposals will be consistent with the Land Management Map. If the proposal applies to an area intended for growth, infill, revitalization, or redevelopment, then it should be compatible with that intent and with any specific expectations within Areas of Opportunity. If the proposal applies to an area of conservation or preservation, it should be compatible with and work to enhance the existing character of the immediate surroundings.

The following graphic is clipped from the **Conceptual Growth Framework Map** included on Page 19 of the 2013 Comprehensive Plan Update. The 445 Van Voorhis Road premises is located within an **"Encouraged Growth"** concept area.



# STAFF REPORT ADDENDUM C

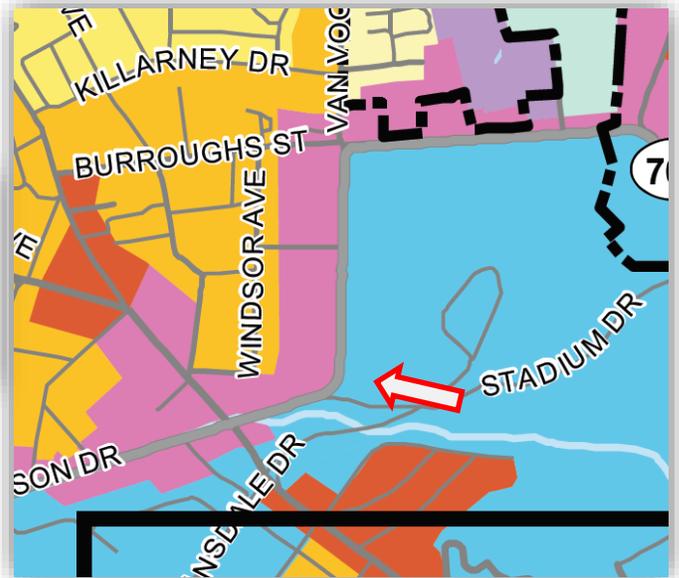
## RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

### PATTERN AND CHARACTER

Development proposals in growth areas will be consistent with preferred development types. Development in areas where growth is not intended should be compatible with the relevant Character Areas description and expectations for how those areas should evolve in the future.

The graphic to the right is clipped from **Map 3 – Pattern and Character** included on Page 27 of the 2013 Comprehensive Plan Update. The 445 Van Voorhis Road premises is located within the “**University**” pattern and character areas.

**University.** This district contains the campuses of West Virginia University, including Downtown, Evansdale, Law School, Health Sciences Campus, and Athletic Department Campuses. Building size and their relationships to each other and to streets vary but the districts are generally walkable. This district does not include the University's agricultural campuses (which are considered rural in character).



The graphic to the right is clipped from **Map 4 – Land Management** included on Page 39 of the 2013 Comprehensive Plan Update. The 445 Van Voorhis Road premises is located within the “**Corridor Enhancement**” and “**WVU Campus Development**” concept areas.

**Corridor Enhancement\*\*:** Improving development along corridors with a mix of uses, increased intensity at major nodes or intersections and roadway improvements to improve traffic flow, pedestrian and biking experience.

\*\*Hatched areas indicate opportunities for corridor enhancement within another concept area.

**WVU Campus Development:** Growth within WVU's campus areas that supports the University's functions. Development may include a mix of institutional, residential, civic and commercial uses.



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The following graphics are clipped from Pages 41 through 43 of the 2013 Comprehensive Plan Update and identify the development types desired within the “Corridor Enhancement” and “WVU Campus Development” concept areas. Not all development types are permitted in both concept areas.

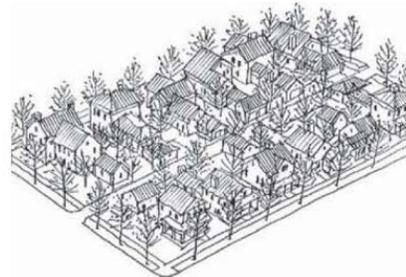
CONCEPT AREA	Appropriate Development Types										
	SF	TF	MF	C	NX	UC	CC	O	I	CD	OS
Core Enhancement			•	•	•	•					•
Corridor Enhancement*			•	•	•		•	•			•
WVU Campus Development		•	•	•	•	•		•	•		•
Neighborhood Revitalization	•	•	•	•	•						•
Infill and Redevelopment*			•	•	•	•		•			•
Encouraged Growth			•	•	•	•		•	•		•
Controlled Growth	•	•	•	•	•			•	•	•	•
Neighborhood Conservation*	•	○	○	•							•
Limited Growth	•			•						•	•
Preserve											•
Reserve											•

### DEVELOPMENT TYPE DESCRIPTIONS

### PATTERN AND CHARACTER EXAMPLES

#### TF Two Family Residential

Detached structures that each contain two separate residential dwellings and townhouse dwelling types. May be built in a similar pattern as single-family structures and integrated in neighborhoods with other single-family structures and/or at the edge of single-family neighborhoods. Densities range from six to twenty units per acre.



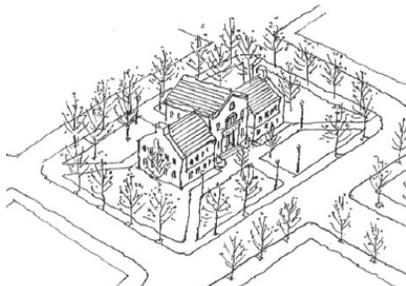
#### MF Multi-family Residential

Includes various forms such as apartment buildings where three or more separate residential dwelling units are contained with a structure and townhouse dwelling types. They vary considerably in form and density depending on the context – from four-story or larger buildings set close to the street in and at the edge of the downtown core and along major corridors, to smaller two- to four-story buildings with greater street setbacks in areas between the downtown core and single-family neighborhoods.



#### C Civic and Institutional

These sites include both public uses (government buildings, libraries, community recreation centers, police and fire stations, and schools) and semi-public or private uses (universities, churches, hospital campuses). Public uses should be strategically located and integrated with surrounding development. Civic and Institutional sites may be distinctive from surrounding buildings in their architecture or relationship to the street.



# STAFF REPORT ADDENDUM C

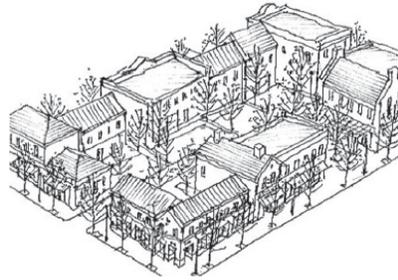
## RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

### DEVELOPMENT TYPE DESCRIPTIONS

### PATTERN AND CHARACTER EXAMPLES

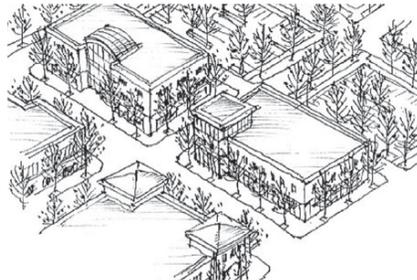
#### **NX Neighborhood Center Mixed-Use**

A mix of housing, office, commercial, and civic uses adjacent to one another or contained within the same structure (such as offices or apartments above ground-floor retail). Such uses should be compatible with and primarily serve nearby neighborhoods (within 1/2 mile). Parking should be located behind or to the side of buildings and may be shared between multiple uses.



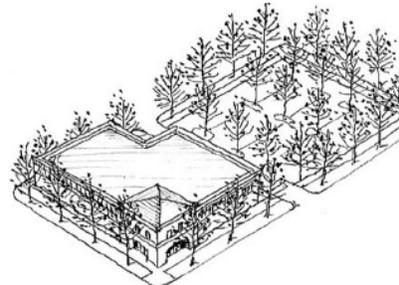
#### **UC Urban Center Mixed-Use**

A mix of housing, office, commercial, and civic uses located adjacent to one another or sharing the same building. Buildings are generally larger in scale than neighborhood mixed-use and contain more employment and commercial uses that serve the broader community. Buildings should be located near the street with parking provided on-street or in shared parking configurations behind or between buildings.



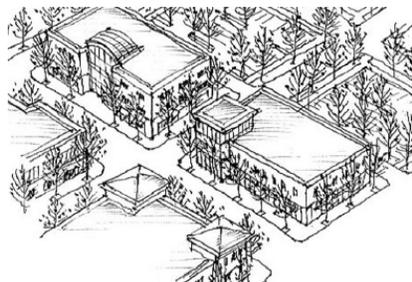
#### **CC Community Commercial**

Larger scale, primarily retail, restaurant and accommodation uses that serve the broader community. Buildings should be located close to the street with parking to the rear or side and should be well-connected to surrounding development and pedestrian infrastructure.



#### **O Office / Research**

Larger-scale 2-6 story buildings generally housing professional offices or research/development activities with single or multiple tenants. May involve multiple large-scale buildings in a campus setting, but buildings should be in a walkable configuration with shared parking typically behind or to the side. Supportive retail establishments may occupy the lower levels of a multistory building. Supportive retail uses include coffee shops, delicatessens, barbers, and bookstores among others.



# STAFF REPORT ADDENDUM C

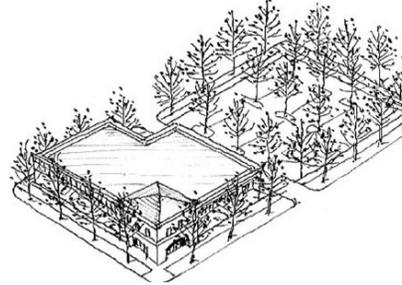
## RZ20-03 / West Virginia University Hospitals, Inc. / 445 Van Voorhis Road

### DEVELOPMENT TYPE DESCRIPTIONS

### PATTERN AND CHARACTER EXAMPLES

#### I Limited Industrial

Typically 1-2 story large footprint buildings intended for light industrial development, clean manufacturing or warehousing activities.



#### OS Greenspace

Includes formal parks, recreation areas, trails, and natural open space.





## APPLICATION FOR ZONING MAP AMENDMENT

Fee:  Less than one acre = \$250.00  One acre or greater = \$500.00 [Z-RZ]

(PLEASE TYPE OR PRINT IN INK)

I. OWNER / APPLICANT			
Name:	West Virginia University Hospitals, Inc.		Phone: 304 598 4125
Mailing Address:	1 Medical Center Drive, Attn: Alan Neptune		Mobile:
	Street Morgantown WV	26506	Email: donald.neptune@wvumedicine.org
	City	State	Zip
II. AGENT / CONTACT INFORMATION			
Name:	Seth Wilson		Phone: 304 285 2531
Mailing Address:	Bowles Rice LLP		Mobile: 304 685 5046
	Street 125 Granville Sq., Suite 400		Email: swilson@bowlesrice.com
	City Morgantown WV	State	Zip 26501
Mailings:	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input checked="" type="checkbox"/> Agent/Contact		
III. PROPERTY			
Street Address (if assigned):	445 Van Voorhis Road, 7th Ward		
Tax Map(s) #:	6	Parcel(s) #:	76.1
		Size (sq. ft. or acres):	1.59
Current Zoning Classification:	I/O	Proposed Zoning Classification:	B-2
Current Land Use:	Vacant	Proposed Land Use*:	Parking Lot/Medical Office
*The Planning Commission does not take proposed use into consideration. The question is asked merely for staff to determine if the proposed district allows the intended use.			
IV. ATTEST			
I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and I agree to conform to all applicable laws of this jurisdiction, whether specified herein or not. I certify that I have read and examined this document and know the same to be true and correct. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.			
Type/Print Name of Applicant/Agent		Type/Print Name of Applicant/Agent	
Seth Wilson, Bowles Rice LLP		Seth Wilson, Bowles Rice LLP	
		Date	
		4/10/20	

Ethenore Road

# **DRAFT ORDINANCE**

**RZ20-03**

**WVU Hospitals, Inc.  
445 Van Voorhis Road**

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN PARCELS OF REAL ESTATE IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN FROM OI, OFFICE AND INSTITUTIONAL DISTRICT TO B-2, SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN.

Properties included in this ordinance are identified as Parcel 76.1, Tax Map 6, Morgantown Seventh Ward Tax District and part of Parcel 258, Tax Map 11, Seventh Ward Tax District.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation for Parcel 76.1, Tax Map 6, Morgantown Seventh Ward Tax District of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same were fully set forth herein is reclassified from OI, Office and Institutional District to B-2, Service Business District.
2. That the zoning designation for that portion of Parcel 258, Tax Map 11, Seventh Ward Tax District of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same were fully set forth herein are reclassified from OI, Office and Institutional District to B-2, Service Business District.
3. That the Official Zoning Map be accordingly changed to show said zoning classifications.

This Ordinance shall be effective from the date of adoption and the Official Zoning Map shall be duly noted with the effective date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk



**B-2**

VAN-VOORHIS RD

**PRO**

Parcel 76.1  
Tax Map 6  
District 15

**O-1**

Part of:  
Parcel 258  
Tax Map 11  
District 15

ELMER PRINCE DR

**B-2**

**ORDINANCE EXHIBIT**  
**Case No. RZ20-03**



THE CITY OF  
**MORGANTOWN**  
WEST VIRGINIA



**Legend**

-  Area to be Rezoned to B-2
-  Zoning
-  Parcels



**AN ORDINANCE AUTHORIZING AN EASEMENT TO SEGRA AT THE  
MORGANTOWN MUNICIPAL AIRPORT**

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached easement agreement, which is incorporated by reference into this Ordinance, together with any ancillary documents necessary to the easement.

This ordinance is effective upon adoption.

First Reading: \_\_\_\_\_  
Mayor

Second Reading: \_\_\_\_\_

Adopted: Clerk

Filed:

## **RIGHT-OF-WAY AND EASEMENT AGREEMENT**

THIS RIGHT-OF-WAY AND EASEMENT AGREEMENT, made and executed this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between THE CITY OF MORGANTOWN, West Virginia, a municipal corporation, party of the first party, GRANTOR, and LUMOS NETWORKS OF WEST VIRGINIA, INC., a West Virginia corporation duly authorized to conduct business in the state of West Virginia and operating under the registered tradename Segra, party of the second part, GRANTEE.

WITNESSETH: That for and in consideration of the payment of **Two Thousand Two Hundred Seventy-eight dollars and eighty cents (\$2,278.80)**, cash in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration hereinafter detailed, GRANTOR does now hereby grant and convey unto the GRANTEE, its successors and/or assigns, a non-exclusive right-of-way and easement for the laying, relaying, constructing, reconstructing, placing, replacing, repairing, operating, maintaining, and removing the following:

- (1) approximately **728 feet (728')** of subsurface 4-inch high-density polyethylene conduit housing fiber optic cable,
- (2) A single aboveground pole, not to exceed **39** feet in height, in the location identified in the FAA 1A Survey Certification and subject to all conditions in the Determination of No Hazard to Air Navigation included in **Exhibit 1** to this Agreement, or as authorized by application approved by GRANTOR and under FAA form 7460-1 and in adherence to the Grant Assurances required under Federal Aviation order 5190.6b, or the successor forms or orders thereto.
- (3) Related facilities that are necessary and appurtenant to the facilities identified in the foregoing paragraphs (1) and (2) such as conductor, transformers, anchors, guys, and appurtenances related to the facilities, provided that such facilities are placed underground or are authorized by a Determination of No Hazard to Air Navigation issued by FAA.

in and upon the part of the property of Grantor described herein and lying and being within the Sixth Ward of the City of Morgantown, Monongalia County, West Virginia., and shown on Tax Map 32A, Parcel 1, being a part of the property conveyed to The City of Morgantown in a deed of record with the Office of the Clerk of Monongalia County at Deed Book 364, page 469 (the "Property").

The right-of-way and easement shall encompass the following area (the "Easement Area"):

### **15' Permanent Utility Easement**

Beginning at an existing Mon Power utility pole bearing number H3-379 which bears, North 21 degrees 54 minutes 50 seconds West, a distance of 16.63 feet from a gate post found in the lands of N/F City of Morgantown (Tax Map 32A Parcel 1 Deed Book 364 Page 469);  
Thence, through said N/F City of Morgantown (Parcel 1) for thirteen (13) lines, North 35 degrees 41 minutes 45 seconds East, a distance of 19.96 feet to a proposed utility pole;  
Thence, North 65 degrees 28 minutes 50 seconds East, a distance of 16.73 feet to a point;  
Thence, North 52 degrees 57 minutes 17 seconds East, a distance of 12.70 feet to a point;  
Thence, North 41 degrees 14 minutes 39 seconds East, a distance of 10.95 feet to a point;  
Thence, North 22 degrees 10 minutes 30 seconds East, a distance of 27.34 feet to a point;  
Thence, North 04 degrees 06 minutes 16 seconds East, a distance of 227.72 feet to a point;

Thence, North 08 degrees 22 minutes 49 seconds East, a distance of 107.99 feet to a point;  
Thence, North 09 degrees 12 minutes 03 seconds East, a distance of 58.40 feet to a point;  
Thence, North 19 degrees 33 minutes 32 seconds East, a distance of 7.50 feet to a point;  
Thence, North 19 degrees 32 minutes 38 seconds East, passing through a Proposed Underground Electric pull box at a distance of 7.50 feet for a total distance 19.96 feet to a point, said proposed permanent utility easement width for this call is 15.00 feet left and 7.50 feet right for a total width of 22.50 feet;

Thence, North 19 degrees 31 minutes 44 seconds East, a distance of 90.61 feet to a point;  
Thence, North 22 degrees 45 minutes 27 seconds East, a distance of 99.73 feet to a point;  
Thence, North 28 degrees 49 minutes 41 seconds East, a distance of 8.43 feet to a point on the CL of a Proposed 10' Permanent Utility Easement;

Thence, leaving said CL of Proposed 10' Permanent Utility Easement and continuing through said N/F City of Morgantown (Parcel 1) for six (6) lines, North 28 degrees 52 minutes 23 seconds East, a distance of 88.04 feet to a point;

Thence, North 32 degrees 02 minutes 40 seconds East, a distance of 28.45 feet to a point;  
Thence, North 42 degrees 34 minutes 25 seconds East, a distance of 17.62 feet to a point;  
Thence, North 51 degrees 03 minutes 10 seconds East, a distance of 15.04 feet to a point;  
Thence, North 58 degrees 15 minutes 53 seconds East, a distance of 23.33 feet to a point;  
Thence, North 59 degrees 45 minutes 20 seconds East, a distance of 320.22 to the Point of Terminus.

The Permanent Utility Easement shall be 15.00 feet in width, 7.50 feet on either side of the above-described centerline unless otherwise noted having a total area of 0.42 acres more or less, as shown on an exhibit and made a part of this description.

### **10' Permanent Utility Easement**

Beginning at a point on a Proposed 15' Permanent Utility Easement which bears, North 14 degrees 06 minutes 06 seconds East, a distance of 698.39 feet from a gate post found in the lands of N/F City of Morgantown (Tax Map 32A Parcel 1 Deed Book 364 Page 469);

Thence, leaving said Proposed 15' Permanent Utility Easement and through said N/F City of Morgantown (Parcel 1), South 61 degrees 07 minutes 51 seconds East, a distance of 70.37 feet to the Point of Terminus.

The Permanent Utility Easement shall be 10.00 feet in width, 5.00 feet on either side of the above-described centerline having a total area of 629 square feet more or less, as shown on a exhibit and made a part of this description.

The location of said rights-of-way and easements are more particularly shown upon the drawing and description attached as **Exhibit 1** to this Agreement. There is also granted such reasonable temporary easements for construction and burial that may be needed by the GRANTEE, which temporary easements shall not interfere with airport operations and shall extend no further than thirty (30) feet on either side of the Easement Area

For the consideration aforesaid, GRANTOR does now also hereby grant and convey unto the GRANTEE, its contractors, licensees, lessees, sublessees, successors and/or assigns, the right of ingress, egress, and regress to and from the Easement Area for the purposes described in this Agreement and subject to the conditions of this Agreement.

The facility(ies) and/or structure(s) shall be constructed, maintained, and repaired at GRANTEE's sole cost and expense.

The rights granted in this Agreement, and all entry upon the Easement Area and any work to construct, install, maintain, and/or repair the facility(ies) and/or structure(s) (the “Work”), shall be subject to the following conditions:

(a) all Work shall be performed by GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, as expeditiously as possible in accordance with good construction practices and so as to minimize interference with the use of the GRANTOR’s property;

(b) any surface or subsurface damage to paved areas or other improvements in the GRANTOR’s property caused in whole or in part by GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, in connection with the Work shall be promptly repaired by Grantee to a condition equal to that existing before any such Work or actions were undertaken, or as directed by the City Engineer; and

(c) Whenever entry onto GRANTOR’s property is required for construction, maintenance, or repairs, GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, shall obtain approval from an authorized representative of GRANTOR prior to entry, and shall conduct such entry only at such times as permitted by Grantor, provided that GRANTOR shall exercise its best efforts to ensure prompt approval of entry and approval shall not be unreasonably withheld;

(d) GRANTOR will not be responsible for repair or replacement of any item or material placed in the property pursuant to this Agreement, or of any item relying upon materials or items placed in the property;

(e) In the event the property or work of GRANTEE would compromise the safety of life or property upon or adjacent to GRANTOR’s property, at the direction of the City Engineer, GRANTEE shall promptly repair the condition compromising safety and restore the surface or subsurface damage to GRANTOR’s property to a condition equal to that existing before any such Work or actions were undertaken.

(f) GRANTOR retains the right to fill, excavate, erect structures upon, and otherwise alter the ground and elevation thereof above GRANTEE’s facilities placed pursuant to this easement and right-of-way agreement, and GRANTOR shall not be responsible for any costs incurred by GRANTEE as a result of such activities. Each and every obligation of GRANTEE to repair or restore property shall include the duty to restore the property to the elevation, contour, and condition of the property as it existed immediately prior to GRANTEE’s Work, regardless of whether those conditions were the conditions in existence on the date of this Agreement;

(g) GRANTEE will place, replace, repair, maintain, and otherwise access all facilities authorized by this right-of-way and easement agreement by directional boring and will not perform excavation to access such facilities, subject only to the following exceptions:

(1) placement of the aboveground pole and placement or repair of lines or wires that may be attached thereto;

(2) upon prior written approval of GRANTOR to access facilities by excavation or other means.

(h) If requested by GRANTOR, GRANTEE shall relocate said facilities to a mutually agreeable location on GRANTOR’s lands, at GRANTEE’s expense, when determined necessary by GRANTOR in connection with maintenance or improvements to GRANTOR’s property. If GRANTOR requires that relocation will occur outside the Easement Area, the parties will enter into a separate agreement providing for dedication of the new easement area and abandonment of the easement where facilities will no longer be located.

(i) GRANTEE shall name GRANTOR as an additional insured on its insurance policy covering the Work and shall provide evidence of the same upon demand by Grantor. GRANTEE and its successor and assigns do hereby agree to defend, indemnify, hold harmless, and release the City from any and all claims, demands, lawsuits, or liability in any way related to the use of the right-of-way and easement granted in this Agreement, including without limitation the conduct of the Work and the function of any structure(s) placed in the easement area, except for claims based only upon the negligence of GRANTOR, others acting on GRANTOR's behalf, or causes outside of the control of Grantee.

(j) Upon either the removal of the subsurface structure(s) placed in the easement area or the cessation of use of such structure(s) for a period of 6 months, the easement to GRANTEE and its successors and assigns shall terminate, and no additional or other use of the easement area will be permitted; provided, however, that the defense and indemnity obligations of GRANTEE and its successors and assigns shall survive the termination of the easement.

This right-of-way and easement is subject to all exceptions, reservations, conditions, restrictions, easements, protective and restrictive covenants, and rights-of-way of record in the Office of the Clerk of Monongalia County, West Virginia or capable of observation affecting the Property. This right-of-way and easement is subject to all rules and regulations of, and obligations to, the Federal Aviation Administration, including without limiting the generality of the foregoing the "Master Agreement on Terms and Conditions of Accepting Airport Improvement Program Grants" issued by the Federal Aviation Administration, as it may be amended, revised, renamed, or restated.

This Agreement shall be binding upon the parties and their respective successors and/or assigns. The rights of way and easements granted herein shall be appurtenant to and run with the land thereby benefited and burdened.

This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original and all of which, taken together, shall constitute one and the same agreement.

#### **DECLARATION OF CONSIDERATION**

Under the penalties of fine and imprisonment as provided by law, the undersigned hereby declares that the transfer involved in the document to which this Declaration is appended is a transfer to or from the State of West Virginia, or to or from any of its instrumentalities, agencies or political subdivisions, and therefore is not subject to West Virginia excise tax and is exempt under the provisions of Chapter 11, Article 22, Section 1 of the West Virginia Code, 1931, as amended.

WITNESS the following signature and seal:

**THE CITY OF MORGANTOWN**, West Virginia,  
a municipal corporation

By: \_\_\_\_\_  
Emily Muzzarelli, P.E.  
Its: City Manager

STATE OF WEST VIRGINIA  
COUNTY OF MONONGALIA, TO-WIT:

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby CERTIFY that Emily Muzzarelli, The City Manager of City of Morgantown, West Virginia, a municipal corporation, whose name is signed to the foregoing agreement, has this day sworn to, affirmed, subscribed and acknowledged the same before me in said County, as the free act and deed of said corporation, upon authority duly granted.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 2020.

My commission expires: \_\_\_\_\_.

{SEAL}

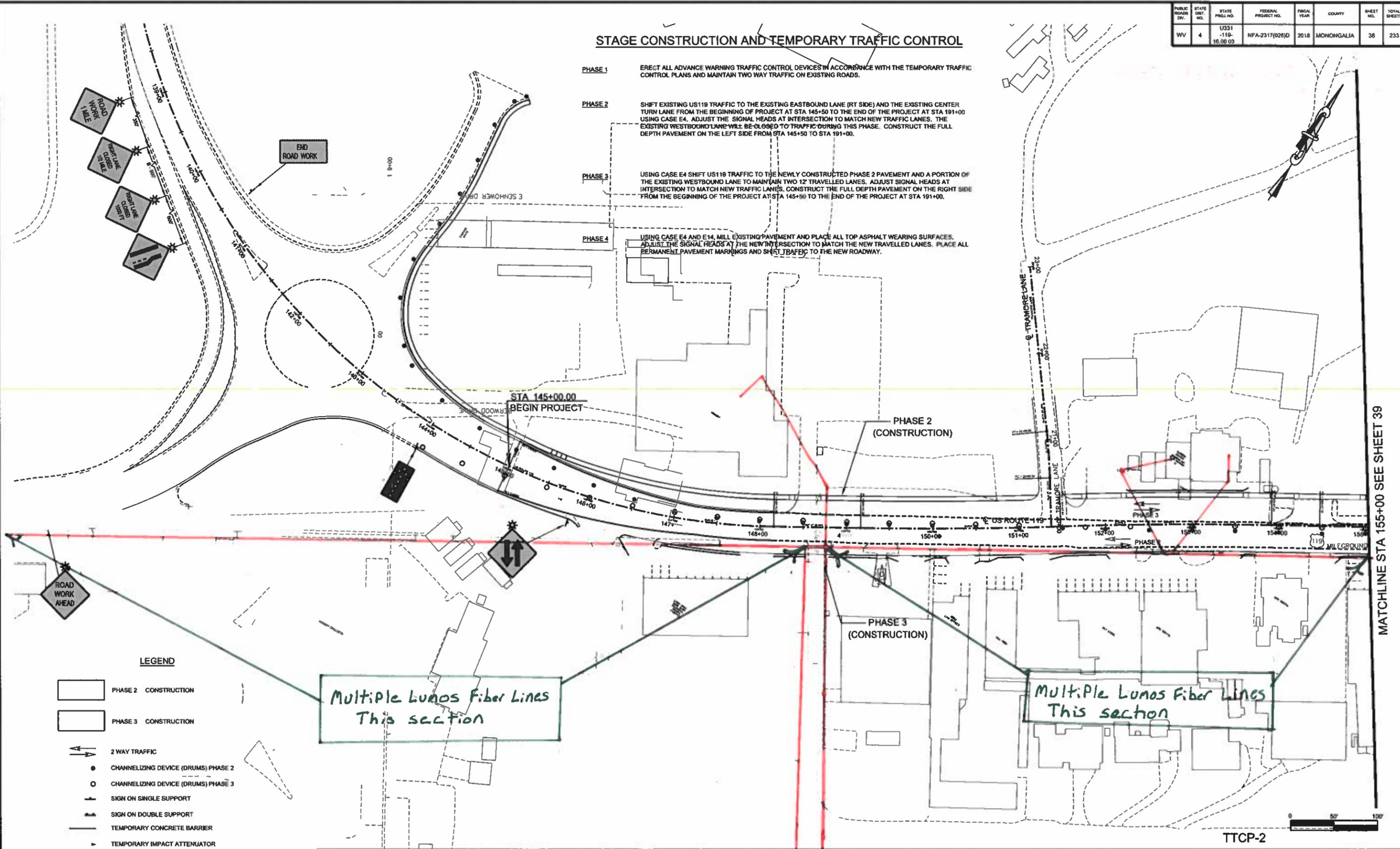
\_\_\_\_\_  
Notary Public

Prepared without title examination on behalf of Grantor by Ryan Simonton, Kay Casto & Chaney, PLLC, 1085 Van Voorhis Rd., Suite 100, Morgantown, WV 26505.

PUBLIC ROAD DIST.	STATE DIST. NO.	STATE PROJ. NO.	FEDERAL PROJECT NO.	FISCAL YEAR	COUNTY	SHEET NO.	TOTAL SHEETS
WV	4	U331-119-16.00 03	NFA-2317(02)D	2018	MONONGALIA	38	233

**STAGE CONSTRUCTION AND TEMPORARY TRAFFIC CONTROL**

- PHASE 1** ERECT ALL ADVANCE WARNING TRAFFIC CONTROL DEVICES IN ACCORDANCE WITH THE TEMPORARY TRAFFIC CONTROL PLANS AND MAINTAIN TWO WAY TRAFFIC ON EXISTING ROADS.
- PHASE 2** SHIFT EXISTING US119 TRAFFIC TO THE EXISTING EASTBOUND LANE (RT SIDE) AND THE EXISTING CENTER TURN LANE FROM THE BEGINNING OF PROJECT AT STA 145+50 TO THE END OF THE PROJECT AT STA 191+00 USING CASE E4. ADJUST THE SIGNAL HEADS AT INTERSECTION TO MATCH NEW TRAFFIC LANES. THE EXISTING WESTBOUND LANE WILL BE CLOSED TO TRAFFIC DURING THIS PHASE. CONSTRUCT THE FULL DEPTH PAVEMENT ON THE LEFT SIDE FROM STA 145+50 TO STA 191+00.
- PHASE 3** USING CASE E4 SHIFT US119 TRAFFIC TO THE NEWLY CONSTRUCTED PHASE 2 PAVEMENT AND A PORTION OF THE EXISTING WESTBOUND LANE TO MAINTAIN TWO 12 TRAVELLED LANES. ADJUST SIGNAL HEADS AT INTERSECTION TO MATCH NEW TRAFFIC LANES. CONSTRUCT THE FULL DEPTH PAVEMENT ON THE RIGHT SIDE FROM THE BEGINNING OF THE PROJECT AT STA 145+50 TO THE END OF THE PROJECT AT STA 191+00.
- PHASE 4** USING CASE E4 AND E14, MILL EXISTING PAVEMENT AND PLACE ALL TOP ASPHALT WEARING SURFACES. ADJUST THE SIGNAL HEADS AT THE NEW INTERSECTION TO MATCH THE NEW TRAVELLED LANES. PLACE ALL PERMANENT PAVEMENT MARKINGS AND SHIFT TRAFFIC TO THE NEW ROADWAY.



**LEGEND**

- PHASE 2 CONSTRUCTION
- PHASE 3 CONSTRUCTION
- 2 WAY TRAFFIC
- CHANNELIZING DEVICE (DRUMS) PHASE 2
- CHANNELIZING DEVICE (DRUMS) PHASE 3
- SIGN ON SINGLE SUPPORT
- SIGN ON DOUBLE SUPPORT
- TEMPORARY CONCRETE BARRIER
- TEMPORARY IMPACT ATTENUATOR
- TYPE III BARRICADE

Multiple Lunos Fiber Lines  
This section

Multiple Lunos Fiber Lines  
This section

NO.	REVISION	BY	DATE

**Lunos Aerial Fiber 1840'**  
**Lunos Buried Fiber 0'**

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
MILEGROUND - AIRPORT ROAD  
MONONGALIA COUNTY, WEST VIRGINIA

TEMPORARY TRAFFIC CONTROL PLAN

SHEET NO. **38**

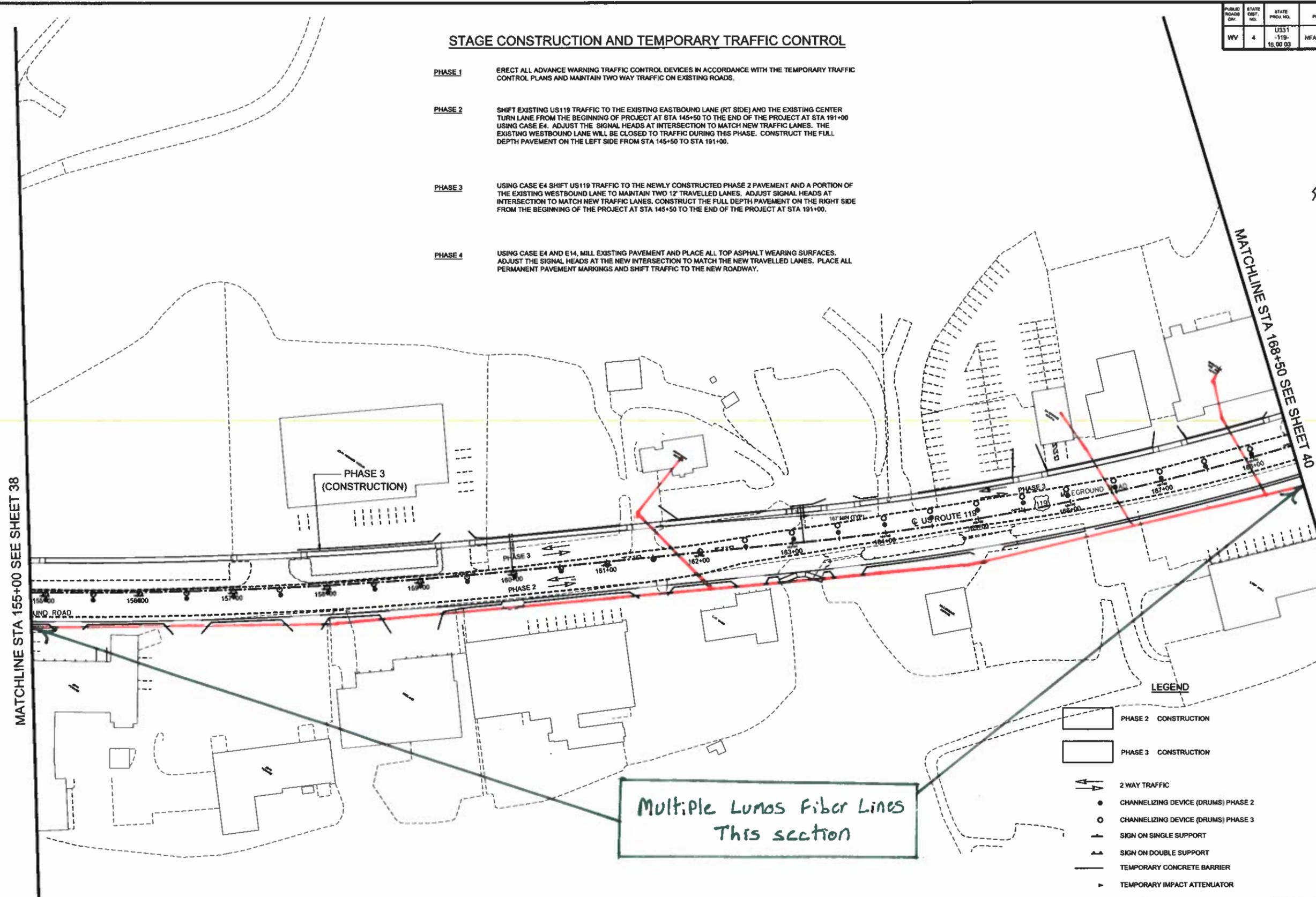
MATCHLINE STA 155+00 SEE SHEET 39

TTCP-2

PUBLIC ROAD DIST.	STATE DIST. NO.	STATE PROJ. NO.	FEDERAL PROJECT NO.	FISCAL YEAR	COUNTY	SHEET NO.	TOTAL SHEETS
WV	4	US31-119-16.00.03	NFA-2317(026)D	2018	MONONGALIA	39	233

### STAGE CONSTRUCTION AND TEMPORARY TRAFFIC CONTROL

- PHASE 1** ERECT ALL ADVANCE WARNING TRAFFIC CONTROL DEVICES IN ACCORDANCE WITH THE TEMPORARY TRAFFIC CONTROL PLANS AND MAINTAIN TWO WAY TRAFFIC ON EXISTING ROADS.
- PHASE 2** SHIFT EXISTING US119 TRAFFIC TO THE EXISTING EASTBOUND LANE (RT SIDE) AND THE EXISTING CENTER TURN LANE FROM THE BEGINNING OF PROJECT AT STA 145+50 TO THE END OF THE PROJECT AT STA 191+00 USING CASE E4. ADJUST THE SIGNAL HEADS AT INTERSECTION TO MATCH NEW TRAFFIC LANES. THE EXISTING WESTBOUND LANE WILL BE CLOSED TO TRAFFIC DURING THIS PHASE. CONSTRUCT THE FULL DEPTH PAVEMENT ON THE LEFT SIDE FROM STA 145+50 TO STA 191+00.
- PHASE 3** USING CASE E4 SHIFT US119 TRAFFIC TO THE NEWLY CONSTRUCTED PHASE 2 PAVEMENT AND A PORTION OF THE EXISTING WESTBOUND LANE TO MAINTAIN TWO 12' TRAVELLED LANES. ADJUST SIGNAL HEADS AT INTERSECTION TO MATCH NEW TRAFFIC LANES. CONSTRUCT THE FULL DEPTH PAVEMENT ON THE RIGHT SIDE FROM THE BEGINNING OF THE PROJECT AT STA 145+50 TO THE END OF THE PROJECT AT STA 191+00.
- PHASE 4** USING CASE E4 AND E14, MILL EXISTING PAVEMENT AND PLACE ALL TOP ASPHALT WEARING SURFACES. ADJUST THE SIGNAL HEADS AT THE NEW INTERSECTION TO MATCH THE NEW TRAVELLED LANES. PLACE ALL PERMANENT PAVEMENT MARKINGS AND SHIFT TRAFFIC TO THE NEW ROADWAY.



MATCHLINE STA 155+00 SEE SHEET 38

MATCHLINE STA 191+00 SEE SHEET 40

- LEGEND**
- PHASE 2 CONSTRUCTION
  - PHASE 3 CONSTRUCTION
  - 2 WAY TRAFFIC
  - CHANNELIZING DEVICE (DRUMS) PHASE 2
  - CHANNELIZING DEVICE (DRUMS) PHASE 3
  - SIGN ON SINGLE SUPPORT
  - SIGN ON DOUBLE SUPPORT
  - TEMPORARY CONCRETE BARRIER
  - TEMPORARY IMPACT ATTENUATOR
  - TYPE III BARRICADE

Multiple Lumos Fiber Lines  
This section



TTCP-3

NO.	REVISION	BY	DATE

Aerial Footage 1607'

Buried 0'

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
MILEGROUND - AIRPORT ROAD  
MONONGALIA COUNTY, WEST VIRGINIA

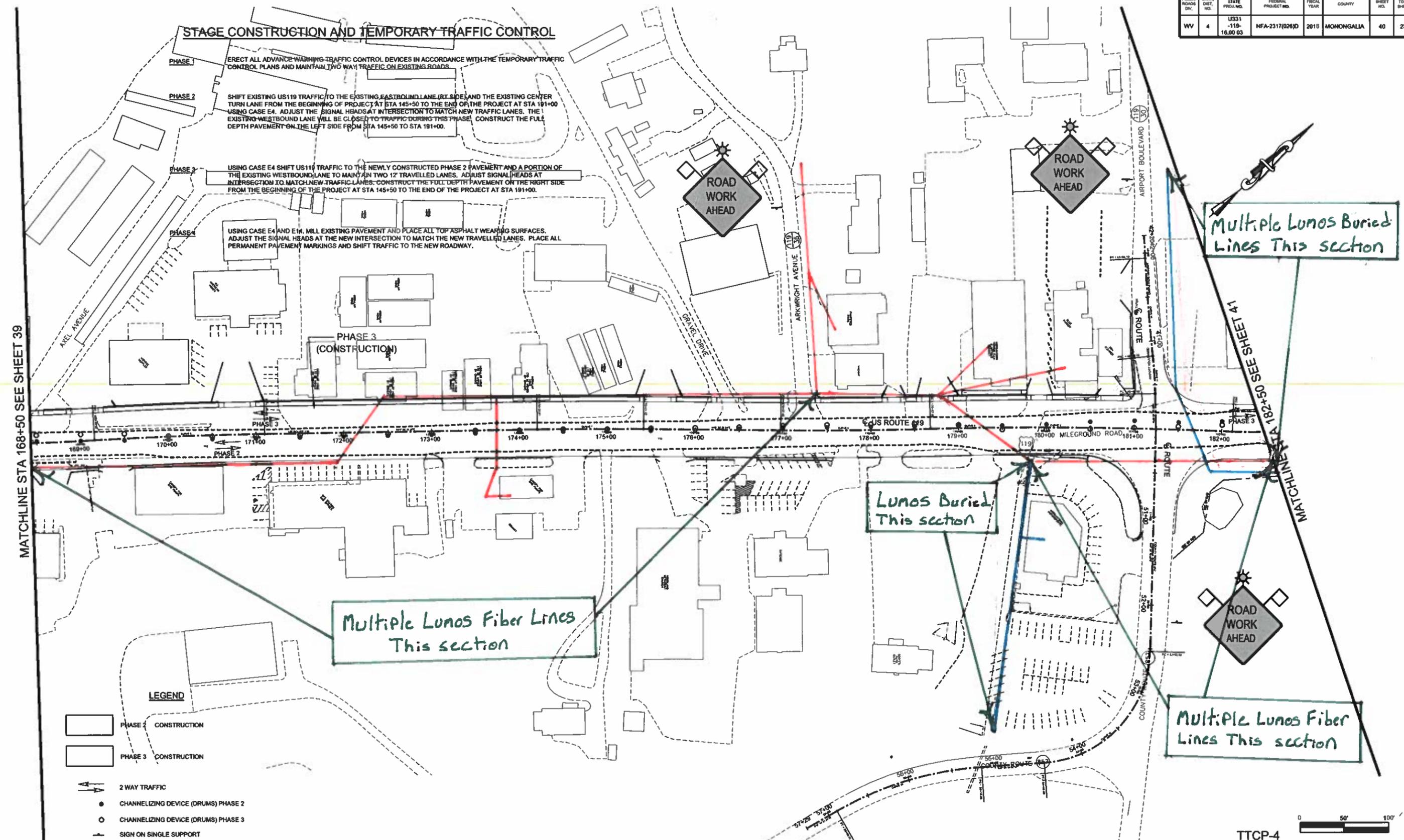
**TEMPORARY TRAFFIC CONTROL PLAN**

SHEET NO.  
**39**  
SEP 18

PUBLIC ROAD DIST.	STATE DIST. NO.	STATE PROJ. NO.	FEDERAL PROJ. NO.	FISCAL YEAR	COUNTY	SHEET NO.	TOTAL SHEETS
WV	4	1331-119-16.00 03	NFA-2317(028)D	2018	MONONGALIA	40	233

**STAGE CONSTRUCTION AND TEMPORARY TRAFFIC CONTROL**

- PHASE 1**  
ERECT ALL ADVANCE WARNING TRAFFIC CONTROL DEVICES IN ACCORDANCE WITH THE TEMPORARY TRAFFIC CONTROL PLANS AND MAINTAIN TWO WAY TRAFFIC ON EXISTING ROADS.
- PHASE 2**  
SHIFT EXISTING US 119 TRAFFIC TO THE EXISTING EASTBOUND LANE (RT SIDE) AND THE EXISTING CENTER TURN LANE FROM THE BEGINNING OF PROJECT AT STA 145+50 TO THE END OF THE PROJECT AT STA 191+00 USING CASE E4. ADJUST THE SIGNAL HEADS AT INTERSECTION TO MATCH NEW TRAFFIC LANES. THE EXISTING WESTBOUND LANE WILL BE CLOSED TO TRAFFIC DURING THIS PHASE. CONSTRUCT THE FULL DEPTH PAVEMENT ON THE LEFT SIDE FROM STA 145+50 TO STA 191+00.
- PHASE 3**  
USING CASE E4 SHIFT US 119 TRAFFIC TO THE NEWLY CONSTRUCTED PHASE 2 PAVEMENT AND A PORTION OF THE EXISTING WESTBOUND LANE TO MAINTAIN TWO 12' TRAVELLED LANES. ADJUST SIGNAL HEADS AT INTERSECTION TO MATCH NEW TRAFFIC LANES. CONSTRUCT THE FULL DEPTH PAVEMENT ON THE RIGHT SIDE FROM THE BEGINNING OF THE PROJECT AT STA 145+50 TO THE END OF THE PROJECT AT STA 191+00.
- PHASE 4**  
USING CASE E4 AND E14, MILL EXISTING PAVEMENT AND PLACE ALL TOP ASPHALT WEARING SURFACES. ADJUST THE SIGNAL HEADS AT THE NEW INTERSECTION TO MATCH THE NEW TRAVELLED LANES. PLACE ALL PERMANENT PAVEMENT MARKINGS AND SHIFT TRAFFIC TO THE NEW ROADWAY.



MATCHLINE STA 168+50 SEE SHEET 39

Multiple Lunos Buried Lines This section

Lunos Buried This section

Multiple Lunos Fiber Lines This section

Multiple Lunos Fiber Lines This section

**LEGEND**

- PHASE 2 CONSTRUCTION
- PHASE 3 CONSTRUCTION
- 2 WAY TRAFFIC
- CHANNELIZING DEVICE (DRUMS) PHASE 2
- CHANNELIZING DEVICE (DRUMS) PHASE 3
- SIGN ON SINGLE SUPPORT
- SIGN ON DOUBLE SUPPORT
- TEMPORARY CONCRETE BARRIER
- TEMPORARY IMPACT ATTENUATOR
- TYPE III BARRICADE

NO.	REVISION	BY	DATE

Aerial Footage 1910'

Buried 728' 4" HDPE

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
 MILEGROUND - AIRPORT ROAD  
 MONONGALIA COUNTY, WEST VIRGINIA

TEMPORARY TRAFFIC CONTROL PLAN

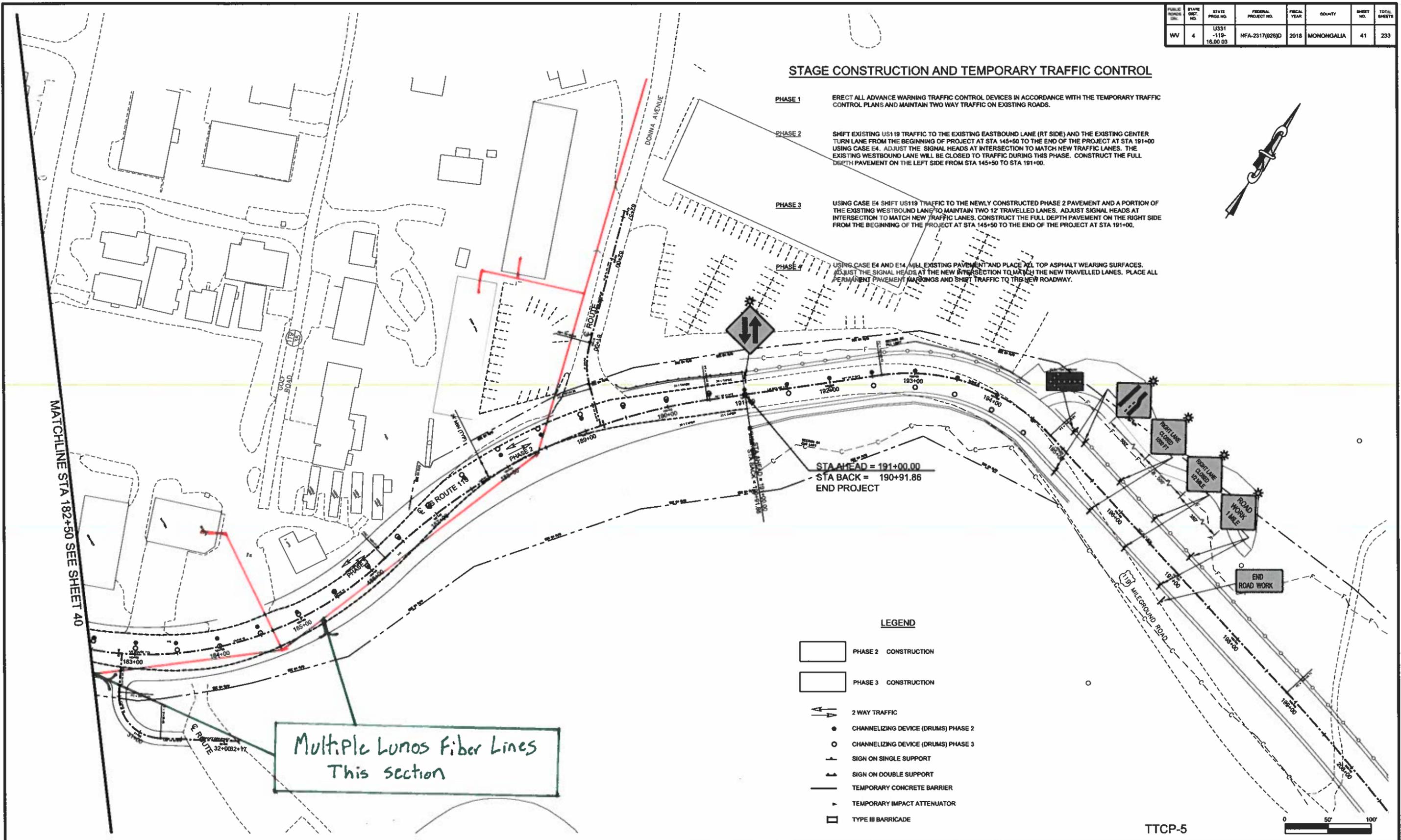
SHEET NO.  
**40**



PUBLIC WORKS DIST.	STATE DIST. NO.	STATE PROJ. NO.	FEDERAL PROJECT NO.	FISCAL YEAR	COUNTY	SHEET NO.	TOTAL SHEETS
WW	4	1331-119-16.00 03	NFA-2317(028)D	2018	MONONGALIA	41	233

### STAGE CONSTRUCTION AND TEMPORARY TRAFFIC CONTROL

- PHASE 1** ERECT ALL ADVANCE WARNING TRAFFIC CONTROL DEVICES IN ACCORDANCE WITH THE TEMPORARY TRAFFIC CONTROL PLANS AND MAINTAIN TWO WAY TRAFFIC ON EXISTING ROADS.
- PHASE 2** SHIFT EXISTING US119 TRAFFIC TO THE EXISTING EASTBOUND LANE (RT SIDE) AND THE EXISTING CENTER TURN LANE FROM THE BEGINNING OF PROJECT AT STA 145+50 TO THE END OF THE PROJECT AT STA 191+00 USING CASE E4. ADJUST THE SIGNAL HEADS AT INTERSECTION TO MATCH NEW TRAFFIC LANES. THE EXISTING WESTBOUND LANE WILL BE CLOSED TO TRAFFIC DURING THIS PHASE. CONSTRUCT THE FULL DEPTH PAVEMENT ON THE LEFT SIDE FROM STA 145+50 TO STA 191+00.
- PHASE 3** USING CASE E4 SHIFT US119 TRAFFIC TO THE NEWLY CONSTRUCTED PHASE 2 PAVEMENT AND A PORTION OF THE EXISTING WESTBOUND LANE TO MAINTAIN TWO 12' TRAVELLED LANES. ADJUST SIGNAL HEADS AT INTERSECTION TO MATCH NEW TRAFFIC LANES. CONSTRUCT THE FULL DEPTH PAVEMENT ON THE RIGHT SIDE FROM THE BEGINNING OF THE PROJECT AT STA 145+50 TO THE END OF THE PROJECT AT STA 191+00.
- PHASE 4** USING CASE E4 AND E14 WITH EXISTING PAVEMENT AND PLACE ALL TOP ASPHALT WEARING SURFACES. ADJUST THE SIGNAL HEADS AT THE NEW INTERSECTION TO MATCH THE NEW TRAVELLED LANES. PLACE ALL PERMANENT PAVEMENT MARKINGS AND SHIFT TRAFFIC TO THE NEW ROADWAY.



STA AHEAD = 191+00.00  
 STA BACK = 190+91.86  
 END PROJECT

*Multiple Lunos Fiber Lines  
 This section*

#### LEGEND

- PHASE 2 CONSTRUCTION
- PHASE 3 CONSTRUCTION
- 2 WAY TRAFFIC
- CHANNELIZING DEVICE (DRUMS) PHASE 2
- CHANNELIZING DEVICE (DRUMS) PHASE 3
- SIGN ON SINGLE SUPPORT
- SIGN ON DOUBLE SUPPORT
- TEMPORARY CONCRETE BARRIER
- TEMPORARY IMPACT ATTENUATOR
- TYPE III BARRICADE

TTCP-5



NO.	REVISION	BY	DATE

**Aerial 740'**  
**Buried 0'**

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
 MILEGROUND - AIRPORT ROAD  
 MONONGALIA COUNTY, WEST VIRGINIA

TEMPORARY TRAFFIC CONTROL PLAN

SHEET NO.  
**41**

**AN ORDINANCE AUTHORIZING AN EASEMENT TO CITYNET AT THE MORGANTOWN MUNICIPAL AIRPORT**

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached easement agreement, which is incorporated by reference into this Ordinance, together with any ancillary documents necessary to the easement.

This ordinance is effective upon adoption.

First Reading: \_\_\_\_\_  
Mayor

Second Reading: \_\_\_\_\_

Adopted: Clerk

Filed:

**RIGHT-OF-WAY AND EASEMENT AGREEMENT**

THIS RIGHT-OF-WAY AND EASEMENT AGREEMENT, made and executed this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between THE CITY OF MORGANTOWN, West Virginia, a municipal corporation, party of the first party, GRANTOR, and CITYNET, LLC, a West Virginia limited liability company duly authorized to conduct business in the state of West Virginia, party of the second part, GRANTEE.

WITNESSETH: That for and in consideration of the payment of **Two Thousand Two Hundred Seventy-eight dollars and eighty cents (\$2,278.80)**, cash in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration hereinafter detailed, GRANTOR does now hereby grant and convey unto the GRANTEE, its successors and/or assigns, a non-exclusive right-of-way and easement for the laying, relaying, constructing, reconstructing, placing, replacing, repairing, operating, maintaining, and removing the following:

- (1) approximately \_\_\_\_\_ **feet** (\_\_\_\_) of subsurface 4-inch high-density polyethylene conduit housing fiber optic cable,
- (2) A single aboveground pole, not to exceed **39** feet in height, in the location identified in the FAA 1A Survey Certification and subject to all conditions in the Determination of No Hazard to Air Navigation included in **Exhibit 1** to this Agreement, or as authorized by application approved by GRANTOR and under FAA form 7460-1 and in adherence to the Grant Assurances required under Federal Aviation order 5190.6b, or the successor forms or orders thereto.
- (3) Related facilities that are necessary and appurtenant to the facilities identified in the foregoing paragraphs (1) and (2) such as conductor, transformers, anchors, guys, and appurtenances related to the facilities, provided that such facilities are placed underground or are authorized by a Determination of No Hazard to Air Navigation issued by FAA.

in and upon the part of the property of Grantor described herein and lying and being within the Sixth Ward of the City of Morgantown, Monongalia County, West Virginia., and shown on Tax Map 32A, Parcel 1, being a part of the property conveyed to The City of Morgantown in a deed of record with the Office of the Clerk of Monongalia County at Deed Book 364, page 469 (the "Property").

The right-of-way and easement shall encompass the following area (the "Easement Area"):

**15' Permanent Utility Easement**

Beginning at an existing Mon Power utility pole bearing number H3-379 which bears, North 21 degrees 54 minutes 50 seconds West, a distance of 16.63 feet from a gate post found in the lands of N/F City of Morgantown (Tax Map 32A Parcel 1 Deed Book 364 Page 469);  
Thence, through said N/F City of Morgantown (Parcel 1) for thirteen (13) lines, North 35 degrees 41 minutes 45 seconds East, a distance of 19.96 feet to a proposed utility pole;  
Thence, North 65 degrees 28 minutes 50 seconds East, a distance of 16.73 feet to a point;  
Thence, North 52 degrees 57 minutes 17 seconds East, a distance of 12.70 feet to a point;  
Thence, North 41 degrees 14 minutes 39 seconds East, a distance of 10.95 feet to a point;  
Thence, North 22 degrees 10 minutes 30 seconds East, a distance of 27.34 feet to a point;  
Thence, North 04 degrees 06 minutes 16 seconds East, a distance of 227.72 feet to a point;  
Thence, North 08 degrees 22 minutes 49 seconds East, a distance of 107.99 feet to a point;

Thence, North 09 degrees 12 minutes 03 seconds East, a distance of 58.40 feet to a point;  
Thence, North 19 degrees 33 minutes 32 seconds East, a distance of 7.50 feet to a point;  
Thence, North 19 degrees 32 minutes 38 seconds East, passing through a Proposed Underground Electric pull box at a distance of 7.50 feet for a total distance 19.96 feet to a point, said proposed permanent utility easement width for this call is 15.00 feet left and 7.50 feet right for a total width of 22.50 feet;

Thence, North 19 degrees 31 minutes 44 seconds East, a distance of 90.61 feet to a point;  
Thence, North 22 degrees 45 minutes 27 seconds East, a distance of 99.73 feet to a point;  
Thence, North 28 degrees 49 minutes 41 seconds East, a distance of 8.43 feet to a point on the CL of a Proposed 10' Permanent Utility Easement;

Thence, leaving said CL of Proposed 10' Permanent Utility Easement and continuing through said N/F City of Morgantown (Parcel 1) for six (6) lines, North 28 degrees 52 minutes 23 seconds East, a distance of 88.04 feet to a point;

Thence, North 32 degrees 02 minutes 40 seconds East, a distance of 28.45 feet to a point;

Thence, North 42 degrees 34 minutes 25 seconds East, a distance of 17.62 feet to a point;

Thence, North 51 degrees 03 minutes 10 seconds East, a distance of 15.04 feet to a point;

Thence, North 58 degrees 15 minutes 53 seconds East, a distance of 23.33 feet to a point;

Thence, North 59 degrees 45 minutes 20 seconds East, a distance of 320.22 to the Point of Terminus.

The Permanent Utility Easement shall be 15.00 feet in width, 7.50 feet on either side of the above-described centerline unless otherwise noted having a total area of 0.42 acres more or less, as shown on an exhibit and made a part of this description.

### **10' Permanent Utility Easement**

Beginning at a point on a Proposed 15' Permanent Utility Easement which bears, North 14 degrees 06 minutes 06 seconds East, a distance of 698.39 feet from a gate post found in the lands of N/F City of Morgantown (Tax Map 32A Parcel 1 Deed Book 364 Page 469);

Thence, leaving said Proposed 15' Permanent Utility Easement and through said N/F City of Morgantown (Parcel 1), South 61 degrees 07 minutes 51 seconds East, a distance of 70.37 feet to the Point of Terminus.

The Permanent Utility Easement shall be 10.00 feet in width, 5.00 feet on either side of the above-described centerline having a total area of 629 square feet more or less, as shown on a exhibit and made a part of this description.

The location of said rights-of-way and easements are more particularly shown upon the drawing and description attached as **Exhibit 1** to this Agreement. There is also granted such reasonable temporary easements for construction and burial that may be needed by the GRANTEE, which temporary easements shall not interfere with airport operations and shall extend no further than thirty (30) feet on either side of the Easement Area

For the consideration aforesaid, GRANTOR does now also hereby grant and convey unto the GRANTEE, its contractors, licensees, lessees, sublessees, successors and/or assigns, the right of ingress, egress, and regress to and from the Easement Area for the purposes described in this Agreement and subject to the conditions of this Agreement.

The facility(ies) and/or structure(s) shall be constructed, maintained, and repaired at GRANTEE's sole cost and expense.

The rights granted in this Agreement, and all entry upon the Easement Area and any work to construct, install, maintain, and/or repair the facility(ies) and/or structure(s) (the “Work”), shall be subject to the following conditions:

(a) all Work shall be performed by GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, as expeditiously as possible in accordance with good construction practices and so as to minimize interference with the use of the GRANTOR’s property;

(b) any surface or subsurface damage to paved areas or other improvements in the GRANTOR’s property caused in whole or in part by GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, in connection with the Work shall be promptly repaired by Grantee to a condition equal to that existing before any such Work or actions were undertaken, or as directed by the City Engineer; and

(c) Whenever entry onto GRANTOR’s property is required for construction, maintenance, or repairs, GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, shall obtain approval from an authorized representative of GRANTOR prior to entry, and shall conduct such entry only at such times as permitted by Grantor, provided that GRANTOR shall exercise its best efforts to ensure prompt approval of entry and approval shall not be unreasonably withheld;

(d) GRANTOR will not be responsible for repair or replacement of any item or material placed in the property pursuant to this Agreement, or of any item relying upon materials or items placed in the property;

(e) In the event the property or work of GRANTEE would compromise the safety of life or property upon or adjacent to GRANTOR’s property, at the direction of the City Engineer, GRANTEE shall promptly repair the condition compromising safety and restore the surface or subsurface damage to GRANTOR’s property to a condition equal to that existing before any such Work or actions were undertaken.

(f) GRANTOR retains the right to fill, excavate, erect structures upon, and otherwise alter the ground and elevation thereof above GRANTEE’s facilities placed pursuant to this easement and right-of-way agreement, and GRANTOR shall not be responsible for any costs incurred by GRANTEE as a result of such activities. Each and every obligation of GRANTEE to repair or restore property shall include the duty to restore the property to the elevation, contour, and condition of the property as it existed immediately prior to GRANTEE’s Work, regardless of whether those conditions were the conditions in existence on the date of this Agreement;

(g) GRANTEE will place, replace, repair, maintain, and otherwise access all facilities authorized by this right-of-way and easement agreement by directional boring and will not perform excavation to access such facilities, subject only to the following exceptions:

(1) placement of the aboveground pole and placement or repair of lines or wires that may be attached thereto;

(2) upon prior written approval of GRANTOR to access facilities by excavation or other means.

(h) If requested by GRANTOR, GRANTEE shall relocate said facilities to a mutually agreeable location on GRANTOR’s lands, at GRANTEE’s expense, when determined necessary by GRANTOR in connection with maintenance or improvements to GRANTOR’s property. If GRANTOR requires that relocation will occur outside the Easement Area, the parties will enter into a separate agreement providing for dedication of the new easement area and abandonment of the easement where facilities will no longer be located.

(i) GRANTEE shall name GRANTOR as an additional insured on its insurance policy covering the Work and shall provide evidence of the same upon demand by Grantor. GRANTEE and its successor and assigns do hereby agree to defend, indemnify, hold harmless, and release the City from any and all claims, demands, lawsuits, or liability in any way related to the use of the right-of-way and easement granted in this Agreement, including without limitation the conduct of the Work and the function of any structure(s) placed in the easement area, except for claims based only upon the negligence of GRANTOR, others acting on GRANTOR's behalf, or causes outside of the control of Grantee.

(j) Upon either the removal of the subsurface structure(s) placed in the easement area or the cessation of use of such structure(s) for a period of 6 months, the easement to GRANTEE and its successors and assigns shall terminate, and no additional or other use of the easement area will be permitted; provided, however, that the defense and indemnity obligations of GRANTEE and its successors and assigns shall survive the termination of the easement.

This right-of-way and easement is subject to all exceptions, reservations, conditions, restrictions, easements, protective and restrictive covenants, and rights-of-way of record in the Office of the Clerk of Monongalia County, West Virginia or capable of observation affecting the Property. This right-of-way and easement is subject to all rules and regulations of, and obligations to, the Federal Aviation Administration, including without limiting the generality of the foregoing the "Master Agreement on Terms and Conditions of Accepting Airport Improvement Program Grants" issued by the Federal Aviation Administration, as it may be amended, revised, renamed, or restated.

This Agreement shall be binding upon the parties and their respective successors and/or assigns. The rights of way and easements granted herein shall be appurtenant to and run with the land thereby benefited and burdened.

This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original and all of which, taken together, shall constitute one and the same agreement.

#### **DECLARATION OF CONSIDERATION**

Under the penalties of fine and imprisonment as provided by law, the undersigned hereby declares that the transfer involved in the document to which this Declaration is appended is a transfer to or from the State of West Virginia, or to or from any of its instrumentalities, agencies or political subdivisions, and therefore is not subject to West Virginia excise tax and is exempt under the provisions of Chapter 11, Article 22, Section 1 of the West Virginia Code, 1931, as amended.

WITNESS the following signature and seal:

**THE CITY OF MORGANTOWN**, West Virginia,  
a municipal corporation

By: \_\_\_\_\_  
Emily Muzzarelli, P.E.  
Its: City Manager

STATE OF WEST VIRGINIA  
COUNTY OF MONONGALIA, TO-WIT:

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby CERTIFY that Emily Muzzarelli, The City Manager of City of Morgantown, West Virginia, a municipal corporation, whose name is signed to the foregoing agreement, has this day sworn to, affirmed, subscribed and acknowledged the same before me in said County, as the free act and deed of said corporation, upon authority duly granted.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 2020.

My commission expires: \_\_\_\_\_.

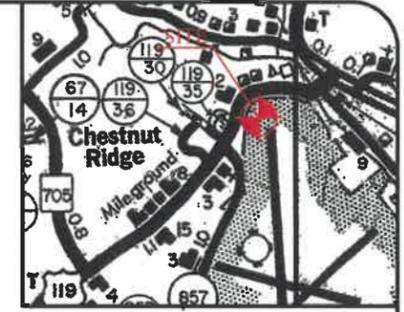
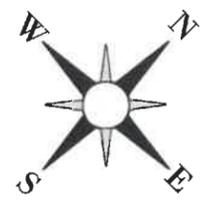
{SEAL}

\_\_\_\_\_  
Notary Public

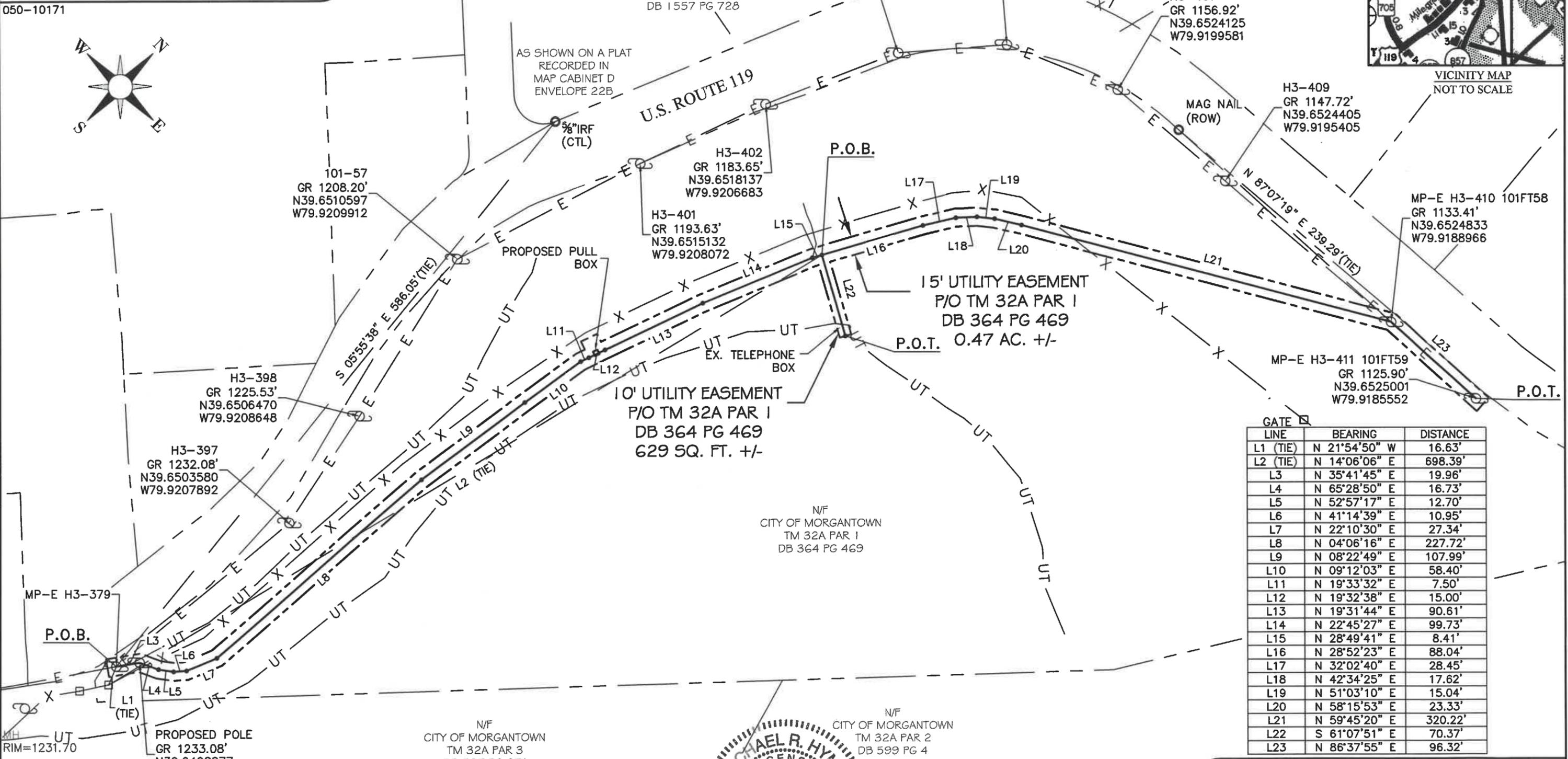
Prepared without title examination on behalf of Grantor by Ryan Simonton, Kay Casto & Chaney, PLLC, 1085 Van Voorhis Rd., Suite 100, Morgantown, WV 26505.

PLOT DATE/TIME: 5/20/2019 10:19am  
 CAD FILE: R:\050-10171\CITYNET MORGANTOWN MUNICIPAL AIRPORT SURVEY\CITYNET MORGANTOWN MUNICIPAL AIRPORT.dwg

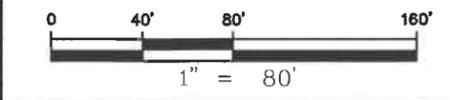
**NOTE: THE EASEMENTS SHOWN BEING A PART OF THE SAME LANDS CONVEYED TO THE CITY OF MORGANTOWN AS RECORDED IN DEED BOOK 364 PAGE 469 AT THE OFFICE OF THE CLERK, MONONGALIA COUNTY, WEST VIRGINIA.**



VICINITY MAP NOT TO SCALE



LINE	BEARING	DISTANCE
L1 (TIE)	N 21°54'50" W	16.63'
L2 (TIE)	N 14°06'06" E	698.39'
L3	N 35°41'45" E	19.96'
L4	N 65°28'50" E	16.73'
L5	N 52°57'17" E	12.70'
L6	N 41°14'39" E	10.95'
L7	N 22°10'30" E	27.34'
L8	N 04°06'16" E	227.72'
L9	N 08°22'49" E	107.99'
L10	N 09°12'03" E	58.40'
L11	N 19°33'32" E	7.50'
L12	N 19°32'38" E	15.00'
L13	N 19°31'44" E	90.61'
L14	N 22°45'27" E	99.73'
L15	N 28°49'41" E	8.41'
L16	N 28°52'23" E	88.04'
L17	N 32°02'40" E	28.45'
L18	N 42°34'25" E	17.62'
L19	N 51°03'10" E	15.04'
L20	N 58°15'53" E	23.33'
L21	N 59°45'20" E	320.22'
L22	S 61°07'51" E	70.37'
L23	N 86°37'55" E	96.32'



**REFERENCE**  
 PROPERTY BOUNDARY BASED FROM TAX MAPS AND/OR RECORDED DEED INFORMATION.

**GENERAL NOTE**  
 THIS EXHIBIT DOES NOT REPRESENT A BOUNDARY SURVEY AND IS INTENDED FOR UTILITY RIGHT OF WAY PURPOSES ONLY.



**LEGEND/ABBREVIATIONS**

— UT —	= UNDERGROUND TELEPHONE
— E —	= OVERHEAD ELECTRIC
- - - -	= PROPOSED EASEMENT LINE
— — — —	= PROPOSED CENTERLINE
•	= POINT
⊙	= UTILITY POLE
□	= GATE POST

**SURVEY FOR CITYNET, LLC**  
 SHOWING PROPOSED UTILITY EASEMENTS OF THE  
 6TH WARD CORP. WEST VIRGINIA  
 MONONGALIA COUNTY MAY 20 2019

**THRASHER** THE THRASHER GROUP, INC.  
 600 WHITE OAKS BLVD.  
 BRIDGEPORT, WV 26330  
 www.thrashergroup.com PHONE 304-624-4108

**DESCRIPTION OF EASEMENTS**  
showing  
**PROPOSED PERMANENT UTILITY EASEMENTS**  
for  
**CITYNET, LLC**

A CERTAIN EASEMENT SITUATE ALONG UNITED STATES ROUTE 119, MORGANTOWN 6<sup>TH</sup> WARD DISTRICT, CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

**15' Permanent Utility Easement**

**Beginning** at an existing Mon Power utility pole bearing number H3-379 which bears, North 21 degrees 54 minutes 50 seconds West, a distance of 16.63 feet from a gate post found in the lands of N/F City of Morgantown (Tax Map 32A Parcel 1 Deed Book 364 Page 469) said utility pole also bears, South 05 degrees 55 minutes 38 seconds East, a distance of 586.05 feet from a 5/8" iron rebar with cap (CTL) found at a corner to RDR Properties, LLC (Tax Map 4G Parcel 13 Deed Book 1286 Page 130) as shown on a plat recorded in Map Cabinet D, Envelope 22B;

**Thence**, through said N/F City of Morgantown (Parcel 1) for thirteen (13) lines, North 35 degrees 41 minutes 45 seconds East, a distance of 19.96 feet to a proposed utility pole;

**Thence**, North 65 degrees 28 minutes 50 seconds East, a distance of 16.73 feet to a point;

**Thence**, North 52 degrees 57 minutes 17 seconds East, a distance of 12.70 feet to a point;

**Thence**, North 41 degrees 14 minutes 39 seconds East, a distance of 10.95 feet to a point;

**Thence**, North 22 degrees 10 minutes 30 seconds East, a distance of 27.34 feet to a point;

**Thence**, North 04 degrees 06 minutes 16 seconds East, a distance of 227.72 feet to a point;

**Thence**, North 08 degrees 22 minutes 49 seconds East, a distance of 107.99 feet to a point;

**Thence**, North 09 degrees 12 minutes 03 seconds East, a distance of 58.40 feet to a point;

**Thence**, North 19 degrees 33 minutes 32 seconds East, a distance of 7.50 feet to a point;

**Thence**, North 19 degrees 32 minutes 38 seconds East, passing through a Proposed Underground Electric pull box at a distance of 7.50 feet for a total distance 19.96 feet to a point, said proposed permanent utility easement width for this call is 15.00 feet left and 7.50 feet right for a total width of 22.50 feet;

**Thence**, North 19 degrees 31 minutes 44 seconds East, a distance of 90.61 feet to a point;

**Thence**, North 22 degrees 45 minutes 27 seconds East, a distance of 99.73 feet to a point;

**Thence**, North 28 degrees 49 minutes 41 seconds East, a distance of 8.43 feet to a point on the CL of a Proposed 10' Permanent Utility Easement;

**Thence**, leaving said CL of Proposed 10' Permanent Utility Easement and continuing through said N/F City of Morgantown (Parcel 1) for six (6) lines, North 28 degrees 52 minutes 23 seconds East, a distance of 88.04 feet to a point;

**Thence**, North 32 degrees 02 minutes 40 seconds East, a distance of 28.45 feet to a point;

**Thence**, North 42 degrees 34 minutes 25 seconds East, a distance of 17.62 feet to a point;

**Thence**, North 51 degrees 03 minutes 10 seconds East, a distance of 15.04 feet to a point;

**Thence**, North 58 degrees 15 minutes 53 seconds East, a distance of 23.33 feet to a point;

**Thence**, North 59 degrees 45 minutes 20 seconds East, a distance of 320.22 to a point which bears, North 87 degrees 07 minutes 19 seconds East, a distance of 239.29 feet from a mag nail found on the southeasterly right-of-way line of United States Route 119;

**Thence**, North 86 degrees 37 minutes 55 seconds East, a distance of 96.32 to the Point of Terminus at a an existing Mon Power utility pole bearing number H3-411.

The Permanent Utility Easement shall be 15.00 feet in width, 7.50 feet on either side of the above-described centerline unless otherwise noted having a total area of 0.47 acres more or less, as shown on an exhibit and made a part of this description.

### **10' Permanent Utility Easement**

**Beginning** at a point on a Proposed 15' Permanent Utility Easement which bears, North 14 degrees 06 minutes 06 seconds East, a distance of 698.39 feet from a gate post found in the lands of N/F City of Morgantown (Tax Map 32A Parcel 1 Deed Book 364 Page 469);

**Thence**, leaving said Proposed 15' Permanent Utility Easement and through said N/F City of Morgantown (Parcel 1), South 61 degrees 07 minutes 51 seconds East, a distance of 70.37 feet to the Point of Terminus.

The Permanent Utility Easement shall be 10.00 feet in width, 5.00 feet on either side of the above-described centerline having a total area of 629 square feet more or less, as shown on an exhibit and made a part of this description.

**AN ORDINANCE AUTHORIZING ACCEPTANCE OF AN EASEMENT IN FOURTH WARD AND SEVENTH WARD DISTRICTS**

The City of Morgantown hereby ordains that the City Manager is authorized to accept, record, and take all other actions necessary with respect to the receipt and use of the attached easement agreement, which is incorporated by reference into this Ordinance, together with any ancillary documents necessary to the easement.

This ordinance is effective upon adoption.

First Reading: \_\_\_\_\_  
Mayor

Second Reading: \_\_\_\_\_

Adopted: Clerk

Filed:

This instrument was prepared by:

Ryan Simonton  
The City of Morgantown, West Virginia  
389 Spruce Street Morgantown, West Virginia 26505

---

## EASEMENT DECLARATION

This Declaration is made and entered into this the \_\_\_ day of \_\_\_\_\_, 2019, by JOSHUA P. FERSHEE and KENDRA J.H. FERSHEE, husband and wife ("Grantors"), in favor of and for the benefit of THE CITY OF MORGANTOWN, West Virginia, a municipal corporation ("City").

For and in consideration of the amount of Ten Dollars (\$10.00), other good and valuable consideration, the receipt, sufficiency, and adequacy of all of which are acknowledged by Grantor, and with the intent of being legally bound by and obligated under, in accordance with, and pursuant to this Declaration, Grantor declares, covenants, and agrees in favor of and for the benefit of City as follows:

Grantor grants, conveys, and transfers to City and creates, dedicates, and establishes in favor of and for the benefit of City, in, on, over, upon, under, through, and across the below-described parcel, perpetual easements and rights-of-way for the purposes of building, installing, constructing, improving, extending, maintaining, operating, inspecting, repairing, removing, replacing, rebuilding, reinstalling, reconstructing, re-improving, and re-extending a public way for pedestrian and nonmotorized travel and recreation, and the establishment or maintenance of undeveloped open or vegetated space, with related appurtenances including utilities, and otherwise generally developing and improving the parcel for the foregoing purposes, including, without limitation, as rights appurtenant, material, essential, and integral to such easements and rights-of-way and such purposes, the rights to use and enjoy the parcel to (a) access the parcel by way of other easements, rights-of-way, and properties of City, (b) travel and traverse the parcel with persons, equipment, materials, and supplies, and (c) locate, set, stage, and operate equipment and machinery on and/or from the parcel while City shall be using or enjoying the parcel for the purposes set forth, contained, and provided for in this Declaration.

The parcel dedicated by this Declaration is more specifically described as that certain property described in the Legal Description and Plat attached hereto as **Exhibit 1** (the "Easement Area").

The Declaration of Easement shall be subject to the following conditions:

- (a) Grantee shall not construct any building, pole, tower, or other structure upon the Easement Area, excepting such signs or maps as are commonly used in conjunction with trails and open space.
- (b) Grantor retains for itself, its successors, and assigns the right to light and air serving the residence existing on Parcel ID 15 15003700000000, described in a deed to Grantors recorded at Deed Book 1462 page 522 in the Office of the Clerk of the County Commission of Monongalia County. For purposes of this Easement Declaration, the right to light and air shall mean the following: All the land, property, and space, at and above a horizontal plane at an elevation of \_\_\_\_\_ feet above the Easement Area, the horizontal limits of which are the planes formed by projecting vertically upward and downward from the surface of the earth the boundaries of the Easement Area.
- (c) All trees, stumps, brush, and other debris cleared for the purposes set forth herein shall become the property and responsibility of Grantee and Grantee shall appropriately dispose of same.

- (d) Grantee shall have the right to post such signs, maps, and installations as are deemed necessary and suitable to identify the Easement Area and provide notice of its appropriate public use.
- (e) Grantee agrees to take reasonable steps to assist Grantors, their successors, and assigns in correcting any conditions which are detrimental to Grantors resulting from such use.
- (f) Grantee shall include the Easement Area as property covered under its applicable policies of insurance. Grantor and Grantee agree that Grantee shall have the right and responsibility to maintain the Easement Area in a condition suitable for public use or to restrict public access to areas not suitable for public use.

The benefits, rights, burdens, obligations, covenants and restrictions set forth in this Declaration shall inure to the benefit of and be binding upon the heirs, devisees, legatees, personal representatives, agents, employees, contractors, tenants, invitees, licensees, successors and/or assigns of each party herein, and are intended to and shall run with the land.

In the event that any one or more of the provisions set forth, contained, or provided for in this Declaration, or the application thereof, in any circumstance, shall be held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of such provision or provisions in any other circumstance shall not be affected or impaired thereby, and the remaining provisions set forth, contained, and provided for in this Declaration shall remain of full force and effect and be construed and interpreted as if such invalid, illegal, or unenforceable provision or provisions were never included. The provisions of this Declaration shall be severable.

Declaration of Consideration or Value

In accordance with the provisions of Article 22 of Chapter 11 of the West Virginia Code, Grantor declares that the transfer made and effected by this Declaration is exempt from the applicable excise taxes on the basis that City is a political subdivision of the State of West Virginia.

Witness the following signatures:

\_\_\_\_\_   
 Kendra J.H. Fershee, Grantor

\_\_\_\_\_   
 Joshua P. Fershee, Grantor

STATE OF WEST VIRGINIA

COUNTY OF MONONGALIA, to wit:

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid do certify that \_\_\_\_\_, who signed the foregoing writing bearing date the \_\_\_\_ day of \_\_\_\_\_ 2019, as Grantor, has this day in my said County and State before me acknowledged the said writing to be the act and deed of said individual.

Given under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_ 2019.

My commission expires \_\_\_\_\_.

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Notary Public

DESCRIPTION OF SURVEY  
FOR  
MILDRED ANN SAAB TRUST  
0.341 ACRE PARCEL  
(Parcel 1)

A tract of land, situate in Fourth Ward and Seventh Ward Districts, in the City of Morgantown, Monongalia County, more particularly described as follows:

Beginning at a 5/8 inch rebar with plastic cap found at the common corner to Gregory & Carol Hand, recorded in deed Book 1503 at page 615, thence running through and across the property of Mildred Ann Saab Trust, recorded in Deed Book 1445 at page 554

S09°48'42"W, 235.41 feet to a rebar with plastic cap set in the common division line of C & E Development, recorded in Deed Book 1062 at page 463, thence with the line of said C & E Development

N76°49'03"W, 95.67 feet to a 5/8 inch rebar with plastic cap found, thence

N25°23'00"E, 20.51 feet to a concrete monument found at the common corner between West Virginia Board of Governors, recorded in Deed Book 1501 at page 722, and said C & E Development Inc., thence running with said West Virginia Board of Governors

N25°06'49"E, 209.77 feet to a 1/2 inch rebar found in the southern division line of Joshua P. & Kendra J. Fershee, recorded in Deed Book 1462 at page 522, thence with said Fershee

N87°17'15"E, 35.51 feet to the point of beginning containing 0.341 acres more or less as shown on a plat of survey by Potesta and Associates, Inc entitled "PLAT OF SURVEY SHOWING THE SUBDIVISION OF PARCEL A, PARCEL B, & PARCEL C OF THE PROPERTY RECORDED IN DEED BOOK 1445 PAGE 554, FOURTH WARD & SEVENTH WARD DISTRICTS, CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, SCALE: 1"=50', DATE: FEBRUARY 28, 2019", said plat is hereby made mention of and made a part of this description.

**Options for City Council Terms and Elections  
May 26, 2020**

Council Term Options

1. **Entire Council Elected Every Two Years (No Change)**
  - 2-year terms with elections every 2 years
  - Elections select all 7 members of Council every two years (no change)
  
2. **Three or Four Members of Council Elected Every Two Years**
  - 4-year terms with elections every 2 years
  - Elections will alternate between selecting 4 members and 3 members of the 7-member Council
  
3. **A Minority of Council Elected Every Year (Annual Elections)**
  - 3-year terms with elections every year
  - Elections will successively select 3 members, 2 members, and 2 members
  
4. **A Minority of Council Elected Every Two Years (Six-Year Terms)**
  - 6-year terms with elections every 2 years
  - Elections will successively select 3 members, 2 members, and 2 members

Election Date Options

1. **City Election in April of Odd-Numbered Years (no change)**
  - Option for current system (Option 1 above), 4/3 staggered terms (Option 2 above), and 6-year terms (Option 4 above)
  - No change in election date required
  
2. **City Election in April of Each Year**
  - Only option for 3-year terms with a minority of Council Members selected at each election (Option 3 above)
  
3. **City Election in November of Even-Numbered Years**
  - Requires County authorization to place City election on ballot
  - Requires change in initial Council member terms to coincide with November election and taking office in January

## Summary of Council Member terms – West Virginia Cities<sup>1</sup>

1. Beckley – 4-year terms; all members elected at each election (hereafter “concurrent”)
2. Bluefield – 4-year terms; staggered 3/2
3. Bridgeport – 4-year terms; staggered 3/2
4. Charleston – 4-year terms; concurrent (20 wards)
5. Clarksburg – 4-year terms; staggered 4/3
6. Fairmont – 4-year terms; staggered 5/4
7. Huntington – 4-year terms; concurrent
8. Martinsburg – 4-year terms; concurrent
9. Parkersburg – 4-year terms; concurrent
10. Wheeling – 4-year terms; concurrent

## Process to Change Council Terms

Council terms are set by the City Charter. City Council may adopt an ordinance stating the proposed change in terms (and election date, if preferred) and setting a date for an election for public voting on the change. The election can be set for the next City Council election in April of 2021. The City Council could also choose to hold a special election for the vote. The City could conduct a special election at any time, or it could ask the County Clerk’s office to allow the special election to be held as part of the November 2020 general election.

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<sup>1</sup> Current through 2018