

**AN ORDINANCE VACATING, ABANDONING AND ANNULLING A 5' WIDE UNNAMED ALLEY RUNNING A DISTANCE OF APPROXIMATELY EIGHTY-ONE FEET LOCATED SOUTH OF FIRST STREET BETWEEN JONES AVENUE AND LORENTZ AVENUE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.**

**WHEREAS,** It appears to the Common Council of the City of Morgantown, West Virginia, that a 5' wide unnamed alley running a distance of approximately eighty-one feet located south of First Street between Jones Avenue and Lorentz Avenue in the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia, and as laid down, designated and dedicated to public use as a street on a map or plat, as shown on the exhibit hereto attached, is not useful for street purposes, is not needed for street purposes, nor for any other public uses and purposes except to reserve and retain sewer and utility rights-of-way and a pedestrian right-of-way, and it further appearing that it is in the interests of the City of Morgantown and of the public generally that said 5' unnamed alley running a distance of approximately eighty-one feet located south of First Street between Jones Avenue and Lorentz Avenue, be vacated, abandoned, and annulled as a public street within said City, and it further appearing that the property of no person, firm or corporation will be injured or damaged thereby, and that the owners of property abutting on said portion of Wharf Street have petitioned the Common Council to vacate, abandon and annul the portion of said street.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MORGANTOWN, WEST VIRGINIA, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:**

- Section 1. That for the reasons hereinbefore set forth that a 5' wide unnamed alley running a distance of approximately eighty-one feet located south of First Street between Jones Avenue and Lorentz Avenue, as shown on the exhibit hereto attached, reserving however, rights-of-way over the entire width thereof for storm, sanitary sewers and all other utilities, in the City of Morgantown, West Virginia, and a pedestrian walkway easement over a portion thereof as shown on the exhibit hereto attached, is hereby vacated, abandoned and annulled and from and after the date of adoption of this ordinance the same shall cease to be a public way or public street within the City of Morgantown, and the easement of the City of Morgantown therein, thereon and thereover for street purposes is hereby vacated, abandoned and annulled, and all right, titles, and interests of the City of Morgantown therein as an easement for street purposes are hereby expressly released.
- Section 2. That as set forth in Section 1 of this Ordinance the easement and right-of-way of the City of Morgantown for street purposes on and over the 5' wide unnamed alley running a distance of approximately eighty-one feet located south of First Street

between Jones Avenue and Lorentz Avenue, as shown on the exhibit hereto attached, is hereby vacated, abandoned, and annulled.

Section 3. That upon the adoption of this ordinance the City Clerk of the City of Morgantown shall cause a duly certified copy thereof to be recorded in the appropriate deed book in the office of the Clerk of the County Commission of Monongalia County, West Virginia, as evidence of the vacating, abandoning and annulling of said part of a portion of unnamed alley as shown on the exhibits hereto attached, for public uses and public purposes as a public street or public way within the City of Morgantown, and said Clerk shall also file with said certified copy of said ordinance exhibit showing the location of said street so vacated, abandoned and annulled.

Section 4. Prior to adoption of this ordinance the adjacent land owners shall pay to the City Clerk the cost of this proceeding.

This Ordinance shall be effective at the time that the easement agreement attached hereto and made a part hereof, is executed by Scott Properties, LLC, and is recorded in the Office of the Monongalia County Clerk.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

\_\_\_\_\_  
CITY CLERK

RECORDED:

EXHIBIT

May 29, 2014

**DESCRIPTION OF SURVEY  
5-FOOT ALLEY  
FOR  
SCOTT PROPERTIES LLC**

All that certain 5-foot strip or parcel of real estate, situate, lying and being in Fourth Ward, City of Morgantown, Monongalia County, West Virginia, and more particularly described as follows:

**Beginning** at a point in the westerly line of a 5-foot Alley where it intersects with the southern line of First Street, a 16-foot street, standing as a corner to Scott Properties LLC (Deed Book 1251 /Page 156), said point bears N 80° 59' 38" E 88.38 feet from a point in the easterly line of Jones Avenue where it intersects with the southern line of said First Street; thence leaving said Scott Properties and with said First Street

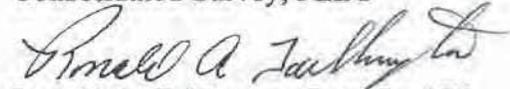
**N 80° 59' 38" E 5.04** feet to a point in the easterly line of said Alley, standing as a corner to other lands of said Scott Properties (Deed Book 1276 /Page 532); thence leaving said First Street and with said Scott Properties and Alley

**S 15° 56' 03" E 80.50** feet to a point, standing in the line of other lands of said Scott Properties (Deed Book 1410 /Page 560) and at the terminus of said Alley; thence with said Scott Properties and terminus of Alley

**S 80° 01' 38" W 5.03** feet to a point in the westerly line of said Alley, standing as a corner to other lands of Scott Properties (Deed Book 1276 /Page 532); thence with said Scott Properties and Alley

**N 15° 56' 03" W 80.58** feet to the place of beginning, **containing 403 square feet or 0.01 acres**, more or less, as surveyed in May, 2014 by Consolidated Survey, PLLC of Worthington, West Virginia and shown on a plat of 5-Foot Alley surveyed for Scott Properties LLC, dated the 29<sup>th</sup> day of May, 2014 attached hereto and made a part of this description. The meridian for all bearings in this description is based on "MAGNETIC NORTH" from a compass reading taken on site in September, 2007.

Consolidated Survey, PLLC

  
Ronald A. Talkington, P.S. No. 876



RIGHT OF WAY OR EASEMENT AGREEMENT

THIS RIGHT OF WAY OR EASEMENT AGREEMENT, Made this the 20<sup>th</sup> day of June, 2014, by and between SCOTT PROPERTIES, LLC, a West Virginia limited liability company, party of the first part, GRANTOR, and THE CITY OF MORGANTOWN, WEST VIRGINIA, a municipal corporation, party of the second part, GRANTEE.

WITNESSETH: That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, and of other good and valuable considerations, the receipt of all of which is hereby acknowledged, the said GRANTOR does hereby GRANT and CONVEY, unto the said GRANTEE, a non-exclusive right of way or easement as more particularly bounded and described as follows:

WALKWAY EASEMENT ONE

Beginning at a point in the western line of Lorentz Avenue, a 30-foot street, standing in the line of said Scott Properties, LLC (Deed Book 1333/ Page 248) and on the westerly edge of an existing walkway; thence with said Lorentz Avenue and Scott Properties, crossing the existing walkway, a curve to the left, having a radius of 160.00 feet; Beginning at a point in the western line of Lorentz Avenue, a 30-foot street, standing in the line of Scott Properties, LLC (Deed Book 1333/Page 248); thence with said Lorentz Avenue and Scott Properties, a curve to the left, having a radius of 160.00 feet; Southeasterly 4.56 feet along said curve through an angle of 1° 37' 56" to a point on the easterly edge of said walkway, said curve having a chord bearing a distance of S. 62° 27' 40" E. 4.56 feet; thence leaving said Lorentz Avenue and with lines through Scott Properties, along said existing walkway; S. 25° 58' 44" W. 5.56 feet to a point; thence, S. 24° 45' 40" W. 66.11 feet to a point; thence, S. 03° 43' 20" E. 3.29 feet to a point; thence, S. 05° 15' 54" E. 6.10 feet to a point; thence S. 10° 21' 54" E. 16.46 feet to a point; thence, S. 79° 38' 06" W. 4.50 feet to a point; thence, S. 30° 57' 17" W. 3.38 feet to a point; thence, S. 29° 56' 55" W. 16.25 feet to a point; thence, S. 27° 37' 28" W. 18.43 feet to a point in the northern line of First Street, a 16-foot street; thence with said First Street and Scott Properties, crossing said walkway; S. 80° 59' 38" W. 4.85 feet to a point on the western edge of said walkway, said point bears N. 80° 59' 38" E. 170.05 feet from a point in the eastern line of Jones Avenue where it intersects with the northern of said First Street; thence leaving said First Street and with lines through said Scott Properties, along said existing walkway; N. 27° 13' 10" E. 21.89 feet to a point; thence, N. 30° 10' 08" E. 18.00 feet to a point; thence, N. 38° 27' 00" E. 5.04 feet to a point; thence, N. 09° 02' 26" W. 11.79 feet to a point; thence, N. 06° 18' 35" W. 6.23 feet to a point; thence, N. 03° 01' 11" W. 4.30 feet to a point; thence, N. 24° 38' 52" E. 67.21 feet to a point; thence, N. 25° 01' 34" E. 5.91 feet to the place of beginning, containing 603 square feet or 0.01 acres, more or less, as surveyed in May, 2014 by Consolidated Survey, PLLC of Worthington, West Virginia and shown as Walkway Easement One on plat of Easements Surveyed for Scott Properties, LLC, dated the 2<sup>nd</sup> day of June, 2014 and attached hereto and reference herein for all pertinent purposes. The meridian for all bearings in this description is based on "MAGNETIC NORTH" from a compass reading taken on site in September, 2007.

WALKWAY EASEMENT TWO

Beginning at a point in the southern line of First Street, a 16-foot street, standing in the line of said Scott Properties, LLC (Deed Book 1333/Page 248); thence leaving said First Street and with lines through said Scott Properties (Deed Book 1333/ Page 248), (Deed Book 1333/Page 252), and (Deed Book 1276/Page 532); S. 09° 00' 22" E. 7.29 feet to a point on the southern edge of an existing walkway; thence continuing with lines through said Scott Properties, along said walkway; S. 77° 41' 47" W. 26.17 feet to a point; thence, S. 76° 33' 01" W. 38.87 feet to a point; thence, S. 79° 35' 55" W. 13.52 feet to a point in the eastern line of a 5-foot Alley, standing in the line of said Scott Properties; thence crossing said walkway and with said Alley and Scott Properties; N. 15° 56' 03" W. 6.11 feet to a point on the northern edge of said walkway; thence leaving said Alley and continuing with lines through said Scott Properties, along the northern line of said Walkway; N. 81° 04' 29" E. 10.97 feet to a point; thence, N. 75° 01' 57" E. 21.23

feet to a point; thence, N. 20° 10' 18" E. 4.45 feet to a point in the southern line of said First Street; thence crossing said walkway, with First Street and Scott Properties, N. 80° 59' 38" E. 44.88 feet to the place of beginning, containing 602 square feet or 0.01 acres, more or less, as surveyed in May, 2014 by Consolidated Survey, PLLC of Worthington, West Virginia and shown as Walkway Easement Two on plat of Easements Surveyed from Scott Properties, LLC, dated the 2<sup>nd</sup> day of June, 2014 and attached hereto and reference herein for all pertinent purposes. The meridian for all bearings in this description is based on "MAGNETIC NORTH" from a compass reading taken on site in September, 2007.

#### WALKWAY EASEMENT THREE

Beginning at a point in the eastern line of Jones Avenue, a 40-foot street, standing in the southern edge of an existing walkway and in the line of said Scott Properties, LLC (Deed Book 1251/ Page 156); thence with said Jones Avenue and Scott Properties, crossing said walkway, N. 14° 46' 52" W, 3.95 feet to a point on the northern edge of said walkway, said point bears S. 14° 46' 52" E. 2.43 feet from a point in the southern line of said First Street where it intersects the eastern line of said Jones Avenue; thence leaving said Jones Avenue and with lines through said Scott Properties, along existing walkway; N. 78° 37' 14" E. 10.91 feet to a point; thence, N. 79° 49' 50" E. 14.00 feet to a point; thence, N. 85° 41' 18" E. 17.45 feet to a point; thence, N. 87° 02' 26" E. 27.79 feet to a point; thence, N. 81° 04' 29" E. 18.95 feet to a point in the westerly line of a 5-foot Alley; thence with said Alley and Scott Properties, crossing said walkway; S. 15° 56' 03" E. 6.24 feet to a point on the southern edge of said walkway; thence leaving said Alley and with lines through said Scott Properties, along existing walkway; S. 79° 35' 55" W. 5.34 feet to a point; thence, S. 83° 40' 38" W. 14.19 feet to a point; thence, S. 84° 38' 59" W. 44.08 feet to a point; thence, N. 87° 34' 09" W. 15.33 feet to a point; thence, S. 78° 26' 51" W. 10.70 feet to the place of beginning, containing 530 square feet or 0.01 acres, more or less, as surveyed in May, 2014 by Consolidated Survey, PLLC of Worthington, West Virginia and shown as Walkway Easement Three on plat of Easements Surveyed for Scott Properties, LLC, dated the 2<sup>nd</sup> day of June, 2014 and attached hereto and reference herein for all pertinent purposes. The meridian for all bearings in this description is based on "MAGNETIC NORTH" from a compass reading taken on site in September, 2007.

The Grantor hereby agrees to be solely responsible for the maintenance, upkeep and repair of the aforescribed rights-of-way or easements.

#### DECLARATION OF CONSIDERATION OR VALUE

In compliance with Article 22, Chapter 11 of the Code of West Virginia, the GRANTOR does hereby declare that the total consideration for the property interest transferred by the document to which the declaration is appended is less than \$100.00.

#### DECLARATION OF RESIDENCY

**The Grantor claims exemption from the tax withholding requirements of the West Virginia Code Section 11-21-71b as the Grantor is a resident entity of the State of West Virginia.**

WITNESS the following signature and seal:

SCOTT PROPERTIES, LLC  
a West Virginia limited liability company

By: GREGORY METHENY, its Member

By: HEIDI METHENY, its Member

STATE OF \_\_\_\_\_,

COUNTY OF \_\_\_\_\_, TO-WIT:

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby CERTIFY that Scott Properties, LLC, a West Virginia limited liability company, by Gregory Metheny, its member, on and in behalf of said limited liability company, whose name is signed to the foregoing deed, has this day sworn to, affirmed, subscribed and acknowledged the same before me in said County, as its free act and deed.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 2014.

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

\_\_\_\_\_  
Notary Public  
For the State of \_\_\_\_\_

STATE OF \_\_\_\_\_,

COUNTY OF \_\_\_\_\_, TO-WIT:

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby CERTIFY that Scott Properties, LLC, a West Virginia limited liability company, by Heidi Metheny, its member, on and in behalf of said limited liability company, whose name is signed to the foregoing deed, has this day sworn to, affirmed, subscribed and acknowledged the same before me in said County, as its free act and deed.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 2014.

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

\_\_\_\_\_  
Notary Public  
For the State of \_\_\_\_\_

THIS INSTRUMENT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE EXAMINATION, TITLE REPORT, TITLE CERTIFICATE, OR TITLE INSURANCE COMMITMENT AND NEITHER THE PREPARER NOR COMPTON & ASSOCIATES, PLLC BY THE PREPARATION OF THIS INSTRUMENT MAKE ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS, OR AFFIRMATIONS OF ANY KIND, NATURE, OR CHARACTER, INCLUDING, WITHOUT LIMITATION, WARRANTIES, REPRESENTATIONS, OR AFFIRMATIONS RELATING TO THE QUALITY OF TITLE, THE NATURE OF TITLE, POSSESSION, QUIET ENJOYMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, THE CONDITION OF THE PROPERTY, ACCESS TO THE PROPERTY, OR THE CAPACITY OF ANY OF THE GRANTORS TO GRANT OR CONVEY TITLE.

Prepared by:  
Jeffery S. Compton  
Compton & Associates, PLLC  
1101 Mountainview Manor  
Morgantown, WV 26501

LINE CHART

LINE	BEARING	DISTANCE	BEARING	DISTANCE
L-1	S 25°58'44" W	5.56'	S 76°33'01" W	38.87'
L-2	S 03°43'20" E	3.29'	S 79°35'55" W	13.52'
L-3	S 05°15'54" E	6.10'	N 15°56'03" W	6.11'
L-4	S 10°21'54" E	16.46'	N 81°04'29" E	10.97'
L-5	S 79°38'06" W	4.50'	N 75°01'57" E	21.23'
L-6	S 30°57'17" W	3.38'	N 20°10'18" E	4.45'
L-7	S 29°56'55" W	16.25'	N 80°59'36" E	44.68'
L-8	S 27°37'28" W	18.43'	N 14°46'52" W	3.95'
L-9	S 80°59'36" W	4.85'	N 78°37'14" E	10.91'
L-9a	N 27°13'10" E	21.99'	N 79°49'50" E	17.40'
L-9b	N 30°10'08" E	18.00'	N 85°41'18" E	17.45'
L-9c	N 38°27'00" E	5.04'	N 87°02'26" E	27.79'
L-10	N 09°02'26" W	11.79'	N 81°04'29" E	18.95'
L-11	N 06°18'35" W	6.23'	S 15°56'03" E	5.24'
L-12	N 03°01'11" W	4.30'	S 79°35'55" W	5.34'
L-13	N 25°01'34" E	5.91'	S 83°40'38" W	14.19'
L-15	S 09°00'22" E	7.29'	S 84°38'59" W	44.08'
L-16	S 77°41'47" W	26.17'	N 87°34'09" W	15.33'
L-34	S 78°26'51" W	10.70'		

Plat of Easements

Survey for

### Scott Properties LLC

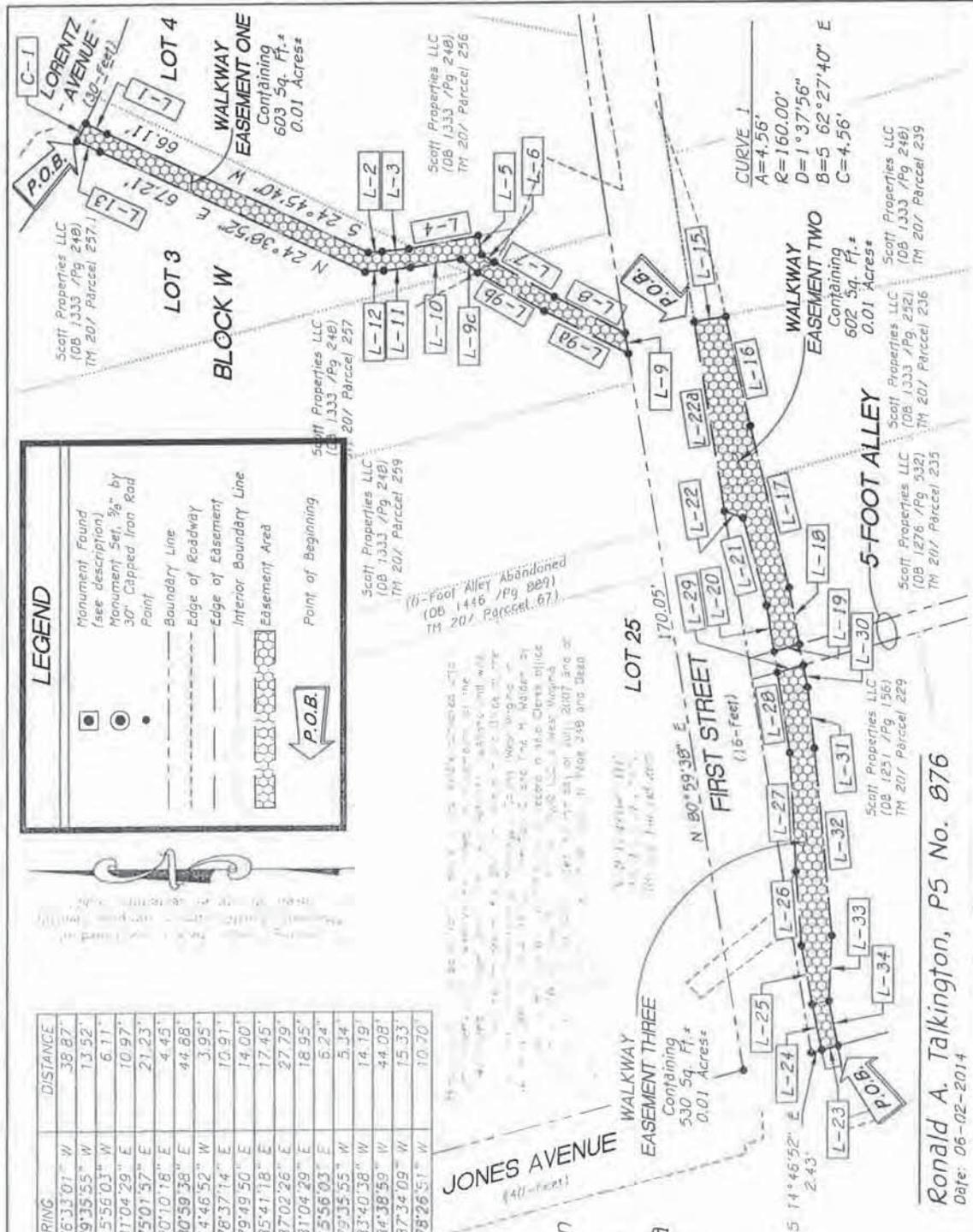
Fourth Ward, City of Morgantown  
 Tax Map 20, P/O Parcels 229,  
 235, 236, 239, 256 and 257.1  
 Monongalia County, West Virginia  
 Surveyed: May, 2014  
 Scale: 1" = 30'



Worthington, West Virginia  
 (304) 287-2870  
 Job No. 14-0030

### LEGEND

- Monument Found (see description)
- Monument Set, 3/4" by 30" Capped Iron Rod Point
- Boundary Line
- Edge of Roadway
- Edge of Easement
- Interior Boundary Line
- Easement Area
- Point of Beginning



Ronald A. Talkington, P5 No. 876  
 Date: 06-02-2014