



MORGANTOWN PLANNING COMMISSION

September 10, 2015
6:30 PM
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Wyant, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kawecki, City Council

STAFF REPORT

CASE NO: RZ15-08 / Administrative / Annexation by WWYD, LLC

REQUEST and LOCATION:

Administratively requested Zoning Map Amendment to establish the zoning classification of B-5, Shopping Center District for that portion of Parcel 4.6 of Tax Map 6 in Clinton District included in a petition for annexation by WWYD, LLC under Ordinance No. 2015-60.

TAX MAP NUMBER(s):

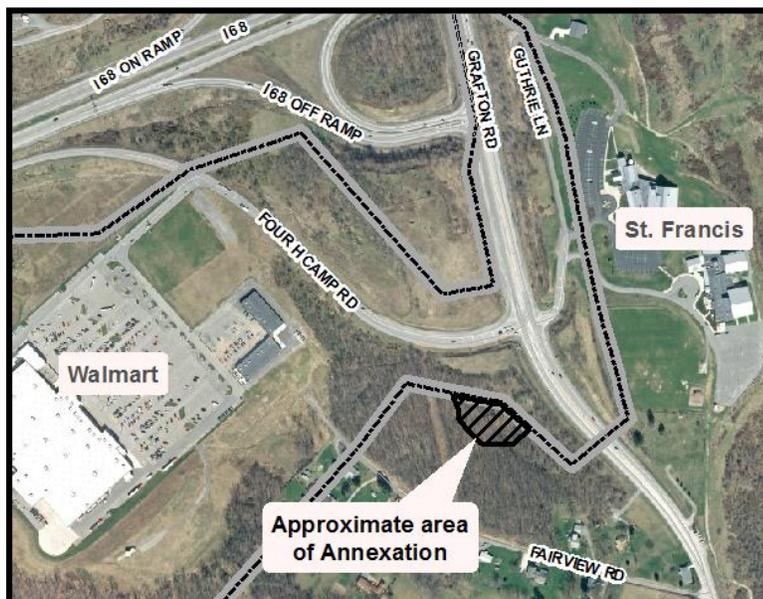
Clinton District, Tax Map 6, part of Parcel 4.6

SURROUNDING ZONING:

North: B-5, Shopping Center District

BACKGROUND and ANALYSIS:

On 18 AUG 2015, City Council enacted Ordinance No. 2015-60 approving WWYD, LLC's annexation by petition for realty near the intersection of U.S. Route 119 (Grafton Road) and County Route 76 (Hornbeck Road) [see attached ordinance]. The annexed realty is a part of the development site for a proposed *Sheetz* establishment. The following graphic illustrates the approximate location of the annexed realty.



**Development Services
Department**

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

A portion of the subject *Sheetz* development site is already located within the City's corporate boundaries. Specifically, that portion of the site already within the City was once West Virginia Division of Highways' (WVDOT) right-of-way recently acquired by the developer.



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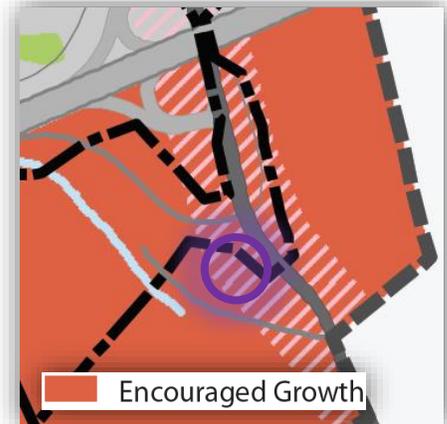
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Bill Kawecky, City Council

West Virginia State Code 8A-7-1 provides that, "A zoning ordinance shall cover a municipality's entire jurisdiction." As such, municipalities must amend their respective zoning district maps to include realty that is annexed into their corporate limits.

The graphic to the right is clipped from the 2013 Comprehensive Plan Update, Land Management Map [Page 39]. The purple circle depicts the general location of the WWDY, LLC annexation, which is located within an "Encouraged Growth" concept area identified in the Plan.



The Plan provides that "Encouraged Growth" concept areas illustrated on the Land Management Map are those where, "New growth is encouraged primarily for economic development." [Page 38].

The annexation is also within a "Corridor Enhancement" concept area where development principles include, "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" [Page 38].

The Planning Commission recommended on January 11, 2007 and City Council later enacted a zoning map amendment to establish the B-5, Shopping Center District classification for realty included in the 2006 annexation that brought into the City portions of WVDOH's U.S. Route 119 (Grafton Road) and County Route 76 (Hornbeck Road) rights-of-way, which extended to and included approximately 55.7 acres developed by Walmart Stores East, LP and four (4) out-parcels. There is no other City of Morgantown zoning districts south of Interstate 68.



Article 1353.01 of the Planning and Zoning Code provides the following purpose for the B-5 District.

"...to permit a group of establishments to be planned, constructed and managed as a total entity. Typically, B-5 Districts are located along major thoroughfares."

It appears prudent and proper to establish the B-5, Shopping Center District zoning classification for the realty included in the subject WWYD, LLC annexation.

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STAFF RECOMMENDATION:

It is the opinion of the Planning Division that this report responds to Article 1331.04 "Annexation" of Planning and Zoning Code by giving careful consideration of the principles and directives of the 2013 Comprehensive Plan Update.

Staff advises the Commission to forward a recommendation to City Council to amend the Official Zoning District Map by classifying the property annexed into the City of Morgantown by Ordinance 2015-60 as B-5, Service Business District.

**Development Services
Department**

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Director

Planning Division

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**AN ORDINANCE ANNEXING PROPERTY IN CLINTON DISTRICT INTO THE
CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN**

WHEREAS, West Virginia Code section 8-6-4 permits a municipality to order annexation of additional territory by ordinance without a vote if a majority of freeholders and qualified voters petition for such annexation; and

WHEREAS, all freeholders in the territory subject of the attached "Petition for Annexation," which is incorporated in this Ordinance by reference, have petitioned for annexation and no qualified voters, as defined by *W. Va. Code* § 8-6-4, are present in the territory; and

WHEREAS, the City has enumerated and verified the total number of eligible petitioners in each category and is satisfied that the petition is sufficient in every respect and that the territory to be annexed is contiguous to the current municipal boundaries;

NOW, THEREFORE, the City of Morgantown hereby ordains as follows:

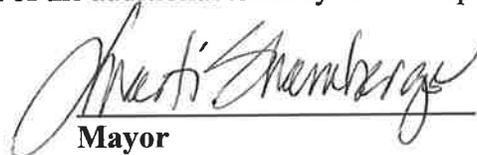
- (1) That the territory described in the Petition for Annexation, being a part of Parcel 4.6 of Tax Map Number 6 in Clinton District, Monongalia County, West Virginia, as more fully described in the Petition for Annexation and exhibit thereto, shall be annexed into the City of Morgantown;
- (2) That the City Clerk is directed to enter upon the journal of the City the finding that the Petition for Annexation is sufficient in every respect and forward a certificate to that effect to the County Commission of Monongalia County, West Virginia, pursuant to *W. Va. Code* § 8-6-4(g), notifying the Commission that it shall enter an order as described in *W. Va. Code* § 8-6-3 describing the annexation of the additional territory to the corporate limits of the City of Morgantown.

FIRST READING: August 4, 2015

ADOPTED: August 18, 2015

FILED: August 19, 2015

RECORDED: August 19, 2015



Mayor



City Clerk

PETITION FOR ANNEXATION

The undersigned, being the freeholder of the property situated within the area of proposed annexation, and not being a qualified voter of the territory or a signator to a qualified voters' petition for annexation of the territory, hereby petitions the City Council of the City of Morgantown, West Virginia, to annex the territory described in this Petition and shown and described on the attached map or plat, as required by law, pursuant to West Virginia Code Chapter 8, Article 6, Section 4.

| <u>Owner</u> | <u>District</u> | <u>Tax Map No.</u> | <u>Parcel No.</u> | <u>Signature</u> |
|--------------|-----------------|--------------------|-------------------|------------------|
| WWYD, LLC | Morgan | 6 | p/o 4.6 | |

Gregory A. Morgan, residing at 363 Lee Avenue, Clarksburg, West Virginia, the Manager and an authorized representative of WWYD, LLC, the freeholder of the parcel identified in the foregoing "Petition for Annexation," hereby petitions the City of Morgantown for annexation of that part of the parcel identified in the table and attached exhibit.

WWYD, LLC

By: _____


Gregory A. Morgan

Its: Manager

DESCRIPTION OF SURVEY
for
PROPOSED CONVEYANCE OF PROPERTY

A CERTAIN TRACT OR PARCEL, SITUATE ON THE WESTERLY RIGHT-OF-WAY LINE OF UNITED STATE ROUTE 119 (GRAFTON ROAD), AND THE SOUTHERLY RIGHT-OF-WAY LINE OF MONONGALIA COUNTY ROUTE 76 (HORNBECK ROAD), IN CLINTON DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

Beginning at a ¾" iron rebar now set on the westerly right-of-way line of United States Route 119, said rebar being 368.11 feet right of and radial to Centerline Station 65+99.50, Project # APD 483(7), said rebar also being on a line of Monongalia County Route 76 (Hornbeck Road), and on a line of WWYD, LLC (Tax Map 6 Parcel 4.6, Deed Book 1486 Page 730), said rod bears, South 77 degrees 40 minutes 36 seconds West, a distance of 221.52 feet from a 1/2" iron rod found at a corner common to said WWYD, LLC (Parcel 4.6);

Thence, leaving said WWYD, LLC (Parcel 4.6), and through said United States Route 119 for fourteen (14) lines, North 22 degrees 02 minutes 50 seconds West, a distance of 17.75 feet to a point;

Thence, North 19 degrees 02 minutes 50 seconds West, a distance of 7.17 feet to a point;

Thence, by a curve to the right having a radius of 100.00 feet, an arc length of 42.01 feet, and a chord bearing of North 06 degrees 08 minutes 55 seconds West, a distance of 41.70 feet to a point;

Thence, North 05 degrees 53 minutes 12 seconds East, a distance of 41.70 feet to a point;

Thence, by a curve to the right having a radius of 50.00 feet, an arc length of 19.66 feet, and a chord bearing of North 17 degrees 09 minutes 09 seconds East, a distance of 19.54 feet to a ¾" iron rebar now set, said rebar being 50.88 feet right of and radial to Centerline Station 125+36.79, of Monongalia County Route 76 (Hornbeck Road), Project # APD 483(7);

Thence, North 82 degrees 06 minutes 55 seconds East, a distance of 137.06 feet to a point;

Thence, by a curve to the left having a radius of 5.00 feet, an arc length of 0.54 feet, and a chord bearing of North 79 degrees 00 minutes 57 seconds East, a distance of 0.54 feet to a ¾" iron rebar now set, said rebar being 46.00 feet right of and radial to Centerline Station 126+63.85, of Monongalia County Route 76 (Hornbeck Road), Project # APD 483(7);

Thence, North 75 degrees 55 minutes 00 seconds East, a distance of 103.96 feet to a ¾" iron rebar now set, said rebar being 50.50 feet right of and radial to Centerline Station 127+62.50, of Monongalia County Route 76 (Hornbeck Road), Project # APD 483(7) and, and being 87.10 feet right of and radial to Centerline Station 65+46.63, of United States Route 119, Project # APD 483(7);

Thence, South 31 degrees 48 minutes 55 seconds East, a distance of 253.58 feet to a ¾" iron

rebar now set, said rebar being 71.00 feet right of and radial to Centerline Station 67+80.95, of United States Route 119, Project # APD 483(7);

Thence, South 30 degrees 50 minutes 55 seconds East, a distance of 40.00 feet to a ¾" iron rebar now set, said rebar being 73.69 feet right of and radial to Centerline Station 68+18.28, of United States Route 119, Project # APD 483(7);

Thence, South 13 degrees 56 minutes 14 seconds East, a distance of 56.24 feet to a ¾" iron rebar now set, said rebar being 98.11 feet right of and radial to Centerline Station 68+66.00, of United States Route 119, Project # APD 483(7);

Thence, South 43 degrees 32 minutes 29 seconds East, a distance of 13.22 feet to a ¾" iron rebar now set, said rebar being 97.87 feet right of and radial to Centerline Station 68+78.33, of United States Route 119, Project # APD 483(7);

Thence, by a curve to the right having a radius of 138.00 feet, an arc length of 46.28 feet, and a chord bearing of South 80 degrees 54 minutes 09 seconds West, a distance of 46.07 feet to a point;

Thence, North 89 degrees 29 minutes 22 seconds West, a distance of 5.88 feet to a point;

Thence, by a curve to the left having a radius of 165.43 feet, an arc length of 37.37 feet, and a chord bearing of South 83 degrees 54 minutes 03 seconds West, a distance of 37.29 feet to a ¾" iron rebar now set, said rebar being 173.06 feet right of and radial to Centerline Station 68+34.72, of United States Route 119, Project # APD 483(7) said rebar also being on a line of said WWYD, LLC (Parcel 4.6);

Thence, with said United States Route 119 and said WWYD, LLC (Parcel 4.6) for two (2) lines, North 47 degrees 15 minutes 41 seconds West, a distance of 165.73 feet to a ¾" iron rebar now set, said rebar being 210.00 feet right of and radial to Centerline Station 67+00.01, of United States Route 119, Project # APD 483(7);

Thence, North 77 degrees 42 minutes 17 seconds West, a distance of 205.08 feet to the **Point of Beginning**, containing 1.58 acres, MORE OR LESS, as shown on a plat attached hereto and made part of this description.

The tract or parcel of land herein described being a part of the same lands conveyed to West Virginia Department of Transportation Division of Highways as shown on United States Route 119, Project # APD 483(7), Monongalia County, West Virginia.

DESCRIPTION OF SURVEY
for
PROPOSED CONVEYANCE OF PROPERTY

A CERTAIN TRACT OR PARCEL, SITUATE ON THE WESTERLY RIGHT-OF-WAY LINE OF UNITED STATE ROUTE 119 (GRAFTON ROAD), AND THE SOUTHERLY RIGHT-OF-WAY LINE OF MONONGALIA COUNTY ROUTE 76 (HORNBECK ROAD), IN CLINTON DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

Beginning at a ¾" iron rebar now set on the westerly right-of-way line of United States Route 119, said rebar being 368.11 feet right of and radial to Centerline Station 65+99.50, Project # APD 483(7), said rebar also being on a line of Monongalia County Route 76 (Hornbeck Road), and on a line of WWYD, LLC (Tax Map 6 Parcel 4.6, Deed Book 1486 Page 730), said rod bears, South 77 degrees 40 minutes 36 seconds East, a distance of 221.52 feet from a 1/2" iron rod found at a corner common to said WWYD, LLC (Parcel 4.6);

Thence, with said United States Route 119 and said WWYD, LLC (Parcel 4.6) for two (2) lines, South 77 degrees 42 minutes 17 seconds East, a distance of 205.08 feet to a ¾" iron rebar now set, said rebar being 210.00 feet right of and radial to Centerline Station 67+00.01, of United States Route 119, Project # APD 483(7);

Thence, South 47 degrees 15 minutes 41 seconds East, a distance of 165.73 feet to a ¾" iron rebar now set, said rebar being 173.06 feet right of and radial to Centerline Station 68+34.72, of United States Route 119, Project # APD 483(7)), said rod bears, North 47 degrees 15 minutes 41 seconds West, a distance of 463.09 feet from a 1/2" iron rod found at a corner common to said WWYD, LLC (Parcel 4.6);

Thence, leaving said United States Route 119 and through said WWYD, LLC (Parcel 4.6) by a curve to the left having a radius of 162.00 feet, an arc length of 54.15 feet, a chord bearing of South 67 degrees 42 minutes 55 seconds West, a distance of 53.90 feet to a point;

Thence, South 58 degrees 08 minutes 23 seconds West, a distance of 4.86 feet to a point;

Thence, by a curve to the right having a radius of 138.00 feet, an arc length of 219.78 feet, and a chord bearing of North 76 degrees 14 minutes 07 seconds West, a distance of 197.28 feet to a point;

Thence, North 30 degrees 36 minutes 36 seconds West, a distance of 126.10 feet to a point;

Thence, by a curve to the right having a radius of 238.00 feet, an arc length of 26.69 feet, and a chord bearing of North 27 degrees 23 minutes 49 seconds West, a distance of 26.68 feet to the **Point of Beginning**, containing 0.76 acres, MORE OR LESS, as shown on a plat attached hereto and made part of this description.

The tract or parcel of land herein described being a part of the same lands conveyed to WWYD, LLC from 3M Realty, LLC as recorded in Deed Book 1486 Page 730 at the Office of the Clerk, Monongalia County, West Virginia.

DESCRIPTION OF SURVEY
for
PROPOSED AREA TO BE INCORPORATED

A CERTAIN TRACT OR PARCEL, SITUATE ON THE WESTERLY RIGHT-OF-WAY LINE OF UNITED STATE ROUTE 119 (GRAFTON ROAD), AND THE SOUTHERLY RIGHT-OF-WAY LINE OF MONONGALIA COUNTY ROUTE 76 (HORNBECK ROAD), IN CLINTON DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

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Thence, North 19 degrees 02 minutes 50 seconds West, a distance of 7.17 feet to a point;

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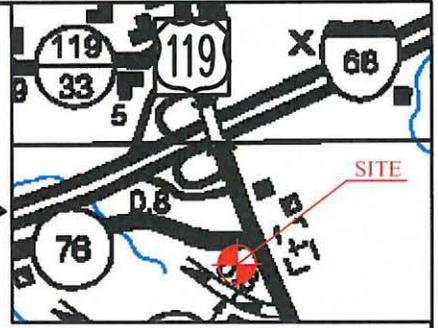
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Thence, North 30 degrees 36 minutes 36 seconds West, a distance of 126.10 feet to a point;

Thence, by a curve to the right having a radius of 238.00 feet, an arc length of 26.69 feet, and a chord bearing of North 27 degrees 23 minutes 49 seconds West, a distance of 26.68 feet to the **Point of Beginning**, containing 2.34 acres, MORE OR LESS, as shown on a plat attached hereto and made part of this description.

The tract or parcel of land herein described being a part of the same lands conveyed to West Virginia Department of Transportation Division of Highways as shown on United States Route 119, Project # APD 483(7), and a part of the same lands conveyed to WWYD, LLC from 3M Realty, LLC as recorded in Deed Book 1486 Page 730 at the Office of the Clerk, Monongalia County, West Virginia.

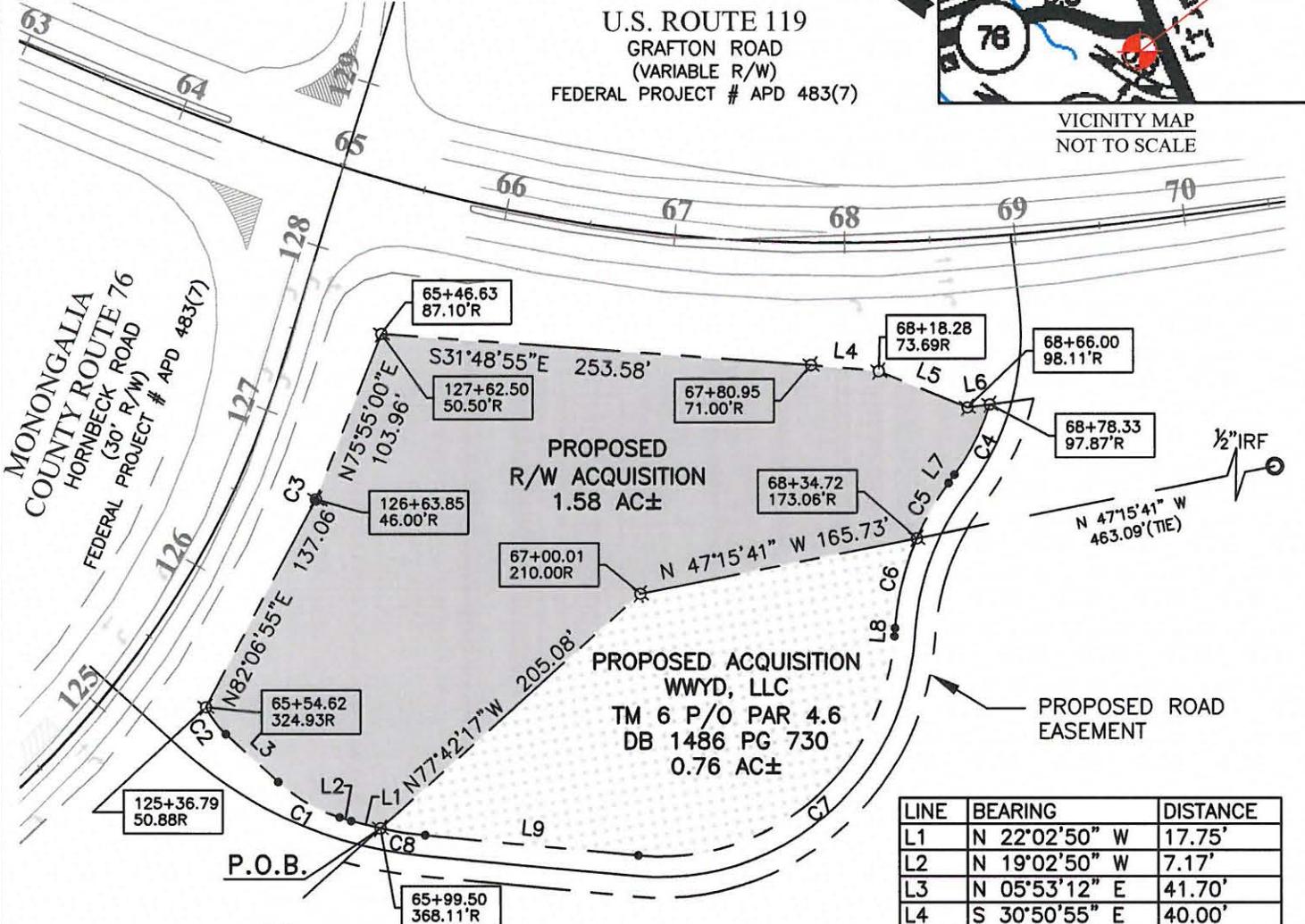
NOTE: THE TRACTS SHOWN BEING PART OF THE SAME LANDS CONVEYED TO WEST VIRGINIA DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS ACQUIRED AS PART OF FEDERAL PROJECT # APD 483(7) SHEETS 15 & 16 AND PART OF THE SAME LANDS CONVEYED TO WWYD, LLC FROM 3M REALTY, LLC AS RECORDED IN DEED BOOK 1486 PAGE 730 AT THE OFFICE OF THE CLERK, MONONGALIA COUNTY, WEST VIRGINIA.



U.S. ROUTE 119
GRAFTON ROAD
(VARIABLE R/W)
FEDERAL PROJECT # APD 483(7)

VICINITY MAP
NOT TO SCALE

USER: cirvine
LAYOUT: DOH EXHIBIT
PLOT DATE/TIME: 4/28/2015 - 10:55am



| LINE | BEARING | DISTANCE |
|------|---------------|----------|
| L1 | N 22°02'50" W | 17.75' |
| L2 | N 19°02'50" W | 7.17' |
| L3 | N 05°53'12" E | 41.70' |
| L4 | S 30°50'55" E | 40.00' |
| L5 | S 13°56'14" E | 56.24' |
| L6 | S 43°32'29" E | 13.22' |
| L7 | N 89°29'22" W | 5.88' |
| L8 | S 58°08'23" W | 4.86' |
| L9 | N 30°36'36" W | 126.10' |

| CURVE | RADIUS | ARC LENGTH | CHORD BEARING | CHORD LENGTH |
|-------|---------|------------|---------------|--------------|
| C1 | 100.00' | 42.01' | N 06°08'55" W | 41.70' |
| C2 | 50.00' | 19.66' | N 17°09'09" E | 19.54' |
| C3 | 5.00' | 0.54' | N 79°00'57" E | 0.54' |
| C4 | 138.00' | 46.28' | S 80°54'09" W | 46.07' |
| C5 | 165.43' | 37.37' | S 83°54'03" W | 37.29' |
| C6 | 162.00' | 54.15' | S 67°42'55" W | 53.90' |
| C7 | 138.00' | 219.78' | N 76°14'07" W | 197.28' |
| C8 | 238.00' | 26.69' | N 27°23'49" W | 26.68' |

PROPOSED ACQUISITION
1.58 AC±
0.76 AC±
2.34 AC± TOTAL

N/F
WWYD, LLC
TM 6 PAR 4.6
DB 1486 PG 730

- LEGEND/ABBREVIATIONS**
- = PROPERTY LINE
 - = POINT
 - = MONUMENT FOUND (AS NOTED)
 - = TOTAL
 - R/W = RIGHT-OF-WAY
 - P.O.B. = POINT OF BEGINNING
 - TM = TAX MAP NUMBER
 - PAR = PARCEL NUMBER
 - P/O = PART OF
 - N/F = NOW OR FORMERLY
 - IRF = REBAR FOUND (size as noted)
 - (S 45° 45' E 100.0') = DEED BEARING & DISTANCE

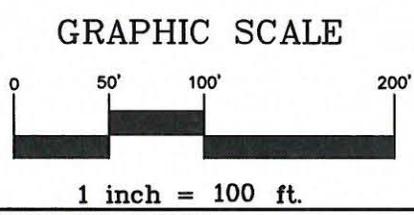


EXHIBIT FOR
CITY OF MORGANTOWN

| | | | |
|--|----------------------|---|---|
| <p>MISC. INFO: BEARINGS BASED ON WEST VIRGINIA STATE PLANE NORTH ZONE NAD 83 (CORS) TRIMBLE S3 TOTAL STATION</p> <p>⊕ = 3/4" * 30" REBAR SET</p> | TAX MAP N/A | <p>SHOWING PROPOSED AREA TO BE INCORPORATED on UNITED STATES ROUTE 119 (GRAFTON ROAD) MONONGALIA COUNTY ROUTE 76 (HORNBECK ROAD) SITUATE CLINTON DISTRICT MONONGALIA COUNTY WEST VIRGINIA</p> | |
| | PARCEL No. N/A | | |
| <p>THE THRASHER GROUP, INC. 600 WHITE OAKS BLVD. BRIDGEPORT, WV 26330 PHONE 304-624-4108</p> | JOB. No. 030-2431 | SCALE: 1" = 100' | |
| | OWNER: WWYD, LLC | REFERENCE: DB PG 1486 PG 730 | LAYOUT TAB: DOH EXHIBIT CAD FILE: R:\030-2431 WWDD- Rt 119 Sheetz\Survey\CIT |
| | DRAWN: CI | SURVEY: | BK: |

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