



MORGANTOWN BOARD OF ZONING APPEALS

January 16, 2013
6:30 PM
City Council Chambers

Board Members:

Bernie Bossio
Leanne Cardoso
Jim Shaffer
George Papandreas
Tom Shamberger

STAFF REPORT

CASE NO: V11-48 / Jim Prete / 3040 University Avenue

REQUEST and LOCATION:

Request by Jim Prete, for an extension of the Board variance approval granted on December 21, 2011 for Case No. V11-48 in accordance with Article 1381.05 of the Planning and Zoning Code.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 6, Parcel 13; B-2, Service Business District

SURROUNDING ZONING:

North: R-1, Single-Family Residential District
South: B-2, Service Business District
East: R-2, Single- and Two-Family Residential District
West: B-2, Service Business District

BACKGROUND and ANALYSIS:

The petitioner seeks to extend this variance request for an additional 6 (six) months in order to develop two multi-tenant post and panel signs at 3040 University Avenue, one at each of the primary driveway entrances from University Avenue.

Article 1381.05, "Expiration" states:

"In the case where a variance has not been used within twelve (12) months after the granting thereof, then without further action it shall be null and void. This may be extended to eighteen (18) months upon prior written request of the Board. The word 'used' shall mean that the approved variance has been activated as evidenced by permits, construction, or required licenses."

The following exhibits are attached hereto to confirm the petitioner's written request and aid the Board's recollection of the subject variance petition:

- Email dated January 2, 2013 from Mr. Prete. Please note that the petitioner contacted Staff on December 20, 2012 requesting assistance in extending the Board's approval.
- The Board's approval notification letter dated December 22, 2011.
- The Staff Report presented to the Board during its December 21, 2011 hearing.

Please note that the facts and merits of the petitioner's variance relief are not matters for deliberation or reconsideration by the Board at this point. The matter before the Board is simply whether or not to extend the vested right granted by the Board on December 21, 2011 to develop the subject grounds signs as previously reviewed and approved.

Planning Department

Christopher Fletcher, AICP
Planning Director
389 Spruce Street
Morgantown, WV 26505
304.284.7431



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The expiration of the variance approval, should the Board extend same as provided in Article 1381.05, would become June 21, 2013.

STAFF RECOMMENDATION:

Staff recommends that the Board grant the petitioner's request to extend the December 21, 2011 variance approval for Case No. V11-48 as requested so that said approval expires on June 21, 2013 unless activated prior to same as provided in Article 1381.05 "Expiration" of the Planning and Zoning Code.

Enclosures noted above.

Planning Department

Christopher Fletcher, AICP
Planning Director
389 Spruce Street
Morgantown, WV 26505
304.284.7431

Zimbra

Fwd: Request from James A. Prete for extension

From : Stacy Hollar <shollar@cityofmorgantown.org>
Subject : Fwd: Request from James A. Prete for extension
To : Christopher Fletcher <cfletcher@cityofmorgantown.org>

Fri, Jan 04, 2013 01:54 PM

FYI. I will print this out and put this in his file.

Stacy Hollar
Executive Secretary

From: morgano6@comcast.net
To: "Stacy Hollar" <shollar@cityofmorgantown.org>
Sent: Friday, January 4, 2013 1:47:57 PM
Subject: Re: Request from James A. Prete for extension

Mr. Fletcher,

I will be out of town from January 12 thru April 1st, 2013.

I would appreciate it if you would present my appeal to the BZA on January 16th for a 6 month extension to erect a pylon pole sign at 3040 University Avenue. The two main reasons for the delay are that it took a long time to obtain more than one bid for the project plus I have encountered a few very large expenditures for my rental business such as replacing 130 new evergreen trees along Koontz Ave.

If you need any other information or have any quesitons please call me at 304-599-3545 or 304-685-6293.

Thank You,

James A. Prete

From: "Stacy Hollar" <shollar@cityofmorgantown.org>
To: morgano6@comcast.net
Cc: "Christopher Fletcher" <cfletcher@cityofmorgantown.org>
Sent: Wednesday, January 2, 2013 12:58:31 PM
Subject: Re: Request from James A. Prete for extension

Mr. Prete,

We have you on the agenda for the Board of Zoning Appeals hearing that will take place on January 16th, 2012. The meeting begins at 6:30 pm and will be held in the Council Chambers of City Hall, 389 Spruce Street.

You or a representative are expected to attend this meeting to present your petition and address any questions that may be raised. Staff can represent you that evening if you are unable to attend. However, we will need a written request (letter or email) expressing your wishes accordingly.

Please feel free to contact me with any questions or further clarification. We look forward to serving your development review and approval needs.

Stacy Hollar
Executive Secretary

From: morgano6@comcast.net

To: shollar@cityofmorgantown.org
Cc: "Rob Morgano" <rob@preterental.com>
Sent: Wednesday, January 2, 2013 12:16:28 PM
Subject: Request from James A. Prete for extension

Dear Mr. Fletscher,

I am hereby requesting a 6 month extension of the BZA approval granting me permission to erect a pylon pole sign at 3040 University Ave. Morgantown, WV.

Thank You,

James A. Prete



The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7431 TDD (304) 284-7512
FAX (304) 284-7534 www.morgantown.com

December 22, 2011

City Neon
PO Box 40
Morgantown, WV 26507

RE: V11-48 / Jim Prete / 3040 University Avenue

Dear City Neon:

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning variance relief from Planning and Zoning Code Article 1369 as it relates to the maximum height and maximum area of post and panel signs at 3040 University Avenue.

The decision is as follows:

Board of Zoning Appeals, December 21, 2011:

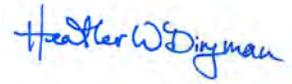
1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board approved your conditional use petition as requested with the following condition:
 - a. That each post and panel sign must be identical in design and content on both sides.
 - b. That the location of the post and panel signs may not, to the satisfaction of the City Engineer, obstruct the clear line of site needed for vehicles exiting onto University Avenue. To accomplish this objective, the locations of the sign must be staked and inspected by the City Engineer prior to building permit issuance.
 - c. That the copy/display included on the post and panel signs must be limited to logos and/or business names of establishments located within the Prete Building development and may not contain any additional commercial messaging or off-premise signage.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approval is set to expire in twelve (12) months unless you can demonstrate that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Should you have any questions or require further clarification, please contact the undersigned.

Respectfully,

A handwritten signature in blue ink that reads "Heather W. Dingman". The signature is written in a cursive style with a light blue shadow effect behind the text.

Heather Whitmore Dingman, AICP
Principal Planner
hdingman@cityofmorgantown.org

ADDENDUM A – Approved Findings of Fact

V11-48 / Jim Prete / 3040 University Avenue

Finding of Fact #1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The subject site is situated in a heavily traveled corridor where the predominant commercial signage and messaging patterns exceed the maximum height and area standards set forth in the Planning and Zoning Code. Compliance with said maximum standards may result in a competitive disadvantage for tenants occupying the uniquely large professional office building. Additionally, the approximate six-foot clearance between grade and the lowest horizontal plain or bottom of the sign appears necessary to preserve safe visibility for exiting vehicles.

Finding of Fact #2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

It appears that the majority of commercial signs within the vicinity of the Prete Building, particularly those serving multi-tenant developments, are nonconforming as all do not meet maximum area and maximum height standards set forth in Article 1369 of the Planning and Zoning Code.

Finding of Fact #3 – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The height and area of the proposed multi-tenant sign appears to be consistent with the predominant commercial signage within the vicinity of the Prete Building, which do not presently appear to harm public welfare, adjoining properties, or improvements. Additionally, the approximate six-foot clearance between grade and the lowest horizontal plain or bottom of the sign appears necessary to preserve safe visibility for exiting vehicles.

Finding of Fact #4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

The height and area of the proposed multi-tenant sign appears to be consistent with the predominant commercial signage patterns within the vicinity of the Prete Building, which do not appear to diminish the market value or vitality of the well-established commercial corridor. Variance relief relative to sign height and area cannot contribute to nor mitigate existing traffic volumes on neighboring streets.



MORGANTOWN BOARD OF ZONING APPEALS

December 21, 2011
6:30 PM
City Council Chambers

Board Members:

Bernie Bossio, Chair
Leanne Cardoso, Vice-Chair
Jim Shaffer
George Papandreas
Tom Shamberger

STAFF REPORT

CASE NO: V11-48 / Jim Prete / 3040 University Avenue

REQUEST and LOCATION:

Request by Rudy Hoffert, on behalf of Jim Prete, for variance relief from Planning and Zoning Code Article 1369 as it relates to the maximum height and maximum area of post and panel signs at 3040 University Avenue

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 6, Parcel 13; B-2, Service Business District

SURROUNDING ZONING:

North: R-1, Single-Family Residential District
South: B-2, Service Business District
East: R-2, Single- and Two-Family Residential District
West: B-2, Service Business District

BACKGROUND and ANALYSIS:

The petitioner seeks to develop two multi-tenant post and panel signs at 3040 University Avenue, one at each of the primary driveway entrances from University Avenue. Addendum A of this report illustrates the location of the subject site.

The petitioner advised Staff that the *Prete Building* has been predominantly occupied over the years by West Virginia University related offices, services, and programming. As such, commercial messaging for tenants has not been necessary. However, many of these WVU related uses have begun relocating to other sites as a part of WVU's ongoing facility upgrades and new construction. Therefore, the demand for multi-tenant signage is logical.

Additionally, the *Prete Building* development is accessed by two primary driveway entrances from University Avenue serving multiple building entrances on the lower level closest to Koontz Avenue and the upper level closest to Collins Ferry Road.

The proposed post and panel signs will have an overall dimension of 18.7 feet in height and 10 feet in width. The lowest horizontal plain or bottom of the panel will be six feet above grade.

Signage area computation is based on the smallest rectangle that encompasses the extreme limits of the writing, representation, emblem, and/or other display. Based on the illustration provided by the sign contractor, the aggregate area of the sign cabinets was calculated as follows.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

Heather Dingman, AICP
Principal Planner

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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Area of <i>Prete Building</i> sign cabinet.....	16.5 SF
Area of tenant sign cabinets (12).....	72 SF
Total Area.....	88.5 SF

Article 1369.07 (F) provides the following regulations for post and panel signs specific to the petitioner’s proposed design:

- (1) Post and panel signs shall be allowed, provided that:
 - (a) Such signs shall not exceed **6 feet in height**;
 - (b) Such signs shall not exceed **32 square feet in area** per side; and,
 - (c) Setbacks shall be adequate to protect the clear sight triangle, in accordance with the Zoning Ordinance.
- (2) Both sides of a two-sided post and panel sign shall be identical in design and content;
- (3) NOT APPLICABLE.
- (4) For multi-tenant buildings the only post and panel sign allowed on the property shall be a directory sign. All other signs for tenants shall be wall signs or sandwich board signs; and
- (5) NOT APPLICABLE

Staff’s interpretation of subparagraph (4) above is that the post and panel signs for multi-tenant buildings are limited to logos and/or business names and may not contain any additional commercial messaging. Additionally, one directory sign is permitted per driveway entrance.

The following table identifies requisite variance relief for the sign as proposed.

Standard	Proposed	Variance
Height – maximum 6 feet	18.7 feet	12.7 feet
Area – maximum 32 SF	88.5 SF	56.5 SF

STAFF RECOMMENDATION:

The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the “Findings of Fact” submitted by the petitioner.

Addendum B of this report provides Staff recommended revisions to the petitioner’s findings of fact (deleted matter struck through; new matter underlined).

Staff recommends approval of petition V11-48 as requested with the following conditions:

- 1. That each post and panel sign must be identical in design and content on both sides.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

Heather Dingman, AICP
Principal Planner

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2. That the location of the post and panel signs may not, to the satisfaction of the City Engineer, obstruct the clear line of site needed for vehicles exiting onto Earl Core Road. To accomplish this objective, the locations of the sign must be staked and inspected by the City Engineer prior to building permit issuance.
3. That the copy/display included on the post and panel signs must be limited to logos and/or business names of establishments located within the *Prete Building* development and may not contain any additional commercial messaging or off-premise signage.

Enclosures: Application and accompanying exhibits

Development Services

Christopher Fletcher, AICP
Director

Planning Division

Heather Dingman, AICP
Principal Planner

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V11-48 / Jim Prete / 3040 University Avenue





STAFF REPORT ADDENDUM B

V11-48 / Jim Prete / 3040 University Avenue

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined)

Finding of Fact #1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

~~The other properties in the vicinity have ample and large signage. A few examples are Tudor's Biscuit World, Suncrest Professional Building and Sellaro Plaza which includes Fox's Pizza and Cartridge Depot. The subject site is situated in a heavily traveled corridor where the predominant commercial signage and messaging patterns exceed the maximum height and area standards set forth in the Planning and Zoning Code. Compliance with said maximum standards may result in a competitive disadvantage for tenants occupying the uniquely large professional office building. Additionally, the approximate six-foot clearance between grade and the lowest horizontal plain or bottom of the sign appears necessary to preserve safe visibility for exiting vehicles.~~

Finding of Fact #2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

~~Several other businesses within the direct vicinity have large pylon signs. We are not asking to exceed what they have, but are asking to match what they have or in some cases, be smaller. It appears that the majority of commercial signs within the vicinity of the Prete Building, particularly those serving multi-tenant developments, are nonconforming as all do not meet maximum area and maximum height standards set forth in Article 1369 of the Planning and Zoning Code.~~

Finding of Fact #3 – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

~~The post and panel signs would be less obstructive to the public than a monument sign. The post and panel sign will lift the main signage above the visibility plan allowing for a clear vision area. The height and area of the proposed multi-tenant sign appears to be consistent with the predominant commercial signage within the vicinity of the Prete Building, which do not presently appear to harm public welfare, adjoining properties, or improvements. Additionally, the approximate six-foot clearance between grade and the lowest horizontal plain or bottom of the sign appears necessary to preserve safe visibility for exiting vehicles.~~

Finding of Fact #4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

~~The building signage will not alter any form of land use. It will provide a clear understanding to the customers of location. The post and panel signs will not diminish any property values and will give customers and understanding of which tenants are located in the building. The height and area of the proposed multi-tenant sign appears to be consistent with the predominant commercial signage patterns within the vicinity of the Prete Building, which do not appear to diminish the market value or vitality of the well-established commercial corridor. Variance relief relative to sign height and area cannot contribute to nor mitigate existing traffic volumes on neighboring streets.~~



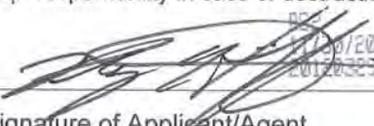
City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	VII-48
RECEIVED:	11/11
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	City Neon, Inc.	
Mailing Address:	PO Box 40	Phone:	304-599-1852	
	Street Morgantown WV 26507	Mobile:		
	City State Zip	Email:	rudy@cityneon.com	
II. PROPERTY		Street Address:	3040 University Avenue	
Owner:	Jim Prete	Zoning:	B-2	
Mailing Address:	3040 University Avenue	Tax Map No:	6	
	Street Morgantown WV 26505	Parcel No:	13	
	City State Zip	Phone:	304-599-3545	
III. NARRATIVE		Please describe the nature and extent of your variance request(s).		
<p>The variance is to request additional signage for building since the building has multiple tenants</p>				
V. ATTEST				
<p>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. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. 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. I hereby authorize the Planning Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>				
Rudy Höffert - City Neon, Inc		 <small>PAID</small>		<small>CARRIE</small> <small>9:53:48</small> <small>SITE PLAN</small> 11/14/11
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date

75.00

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	VII-48
RECEIVED:	11/11/11
COMPLETE:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

Land Use Characteristics (complete only those that apply)

- Residential
 - Single-Family Dwelling
 - Townhouse Dwelling
 - Two-Family Dwelling
 - Multi-Family Dwelling
- Non-Residential or Mixed (please explain)

Structure Characteristics (complete only those that apply)

Total number of buildings: _____ Gross floor area of each building: _____

Estimated number of employees: _____ No. of dwelling units: _____ No. of bedrooms: _____

Additional structure-related details:

Additional Information (as required by Staff):

Site Plan A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required

For simple variance requests (as determined by Staff), please use the graph area on the following page to illustrate applicable features listed above.



City of Morgantown, West Virginia

**APPLICATION FOR
ZONING VARIANCE**

OFFICE USE	
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COMPLETE:	

Suggested Scale: 1 square = 5'

See
Attachments



APPLICATION FOR
ZONING VARIANCE

OFFICE USE	
CASE NO.	VIF 48
RECEIVED:	11/11/11
COMPLETE:	

VII. FINDINGS OF FACT

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

1. There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because: The other properties in the vicinity have ample + large signage. A few examples are Tudor's Biscuit World, Suncrest Professional Building and Sellaro Plaza which includes Fox's Pizza and Cartridge Depot.
2. The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because: Several other businesses within the direct vicinity have large pylon signs. We are not asking to exceed what they have, but are asking to match what they have or in some cases, be smaller.
3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because: The post and panel signs would be less obstructive to the public than a monument sign. The post and panel sign will lift the main signage above the visibility plan allowing for a clear vision area.
4. The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:
The building signage will not alter any form of land use. It will provide a clear understanding to the customers of location. The post and panel signs will not diminish any property values and will give customers an understanding of which tenants are located in the building.



428 Industrial Avenue
Morgantown, WV 26505
Phone: 304-599-1854
Fax: 304-599-5852

PO Box 40
Morgantown, WV 26507
304-225-2056

INFORMATION SHOWN IN THIS DRAWING IS PROPRIETARY AND SOLE PROPERTY OF CITY NEON INC. AND IS NOT TO BE REPRODUCED, DISCLOSED OR TRANSMITTED TO OTHERS FOR ANY PURPOSE NOT AUTHORIZED BY CITY NEON INC.

CLIENT/PROJECT
Prete Building
Morgantown, WV

CUSTOMER APPROVAL

FILE NAME:
PreteBuilding11.plt

DRAWING NO.
PB.MARQ_18.8

SCALE
N/A

DRAWN BY:
Rudy

DATE:
11/28/11

SALESMAN

REVISIONS

REV.1:

REV.2:





428 Industrial Avenue
 Morgantown, WV 26505
 Phone: 304-599-1854
 Fax: 304-599-5852

PO Box 40
 Morgantown, WV 26507
 304-225-2056

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CLIENT/PROJECT
**Prete
 Building**
 Morgantown, WV

CUSTOMER APPROVAL

FILE NAME:
 PreteBuilding11.plt

DRAWING NO.
PB.MARO_18.8

SCALE
 N/A

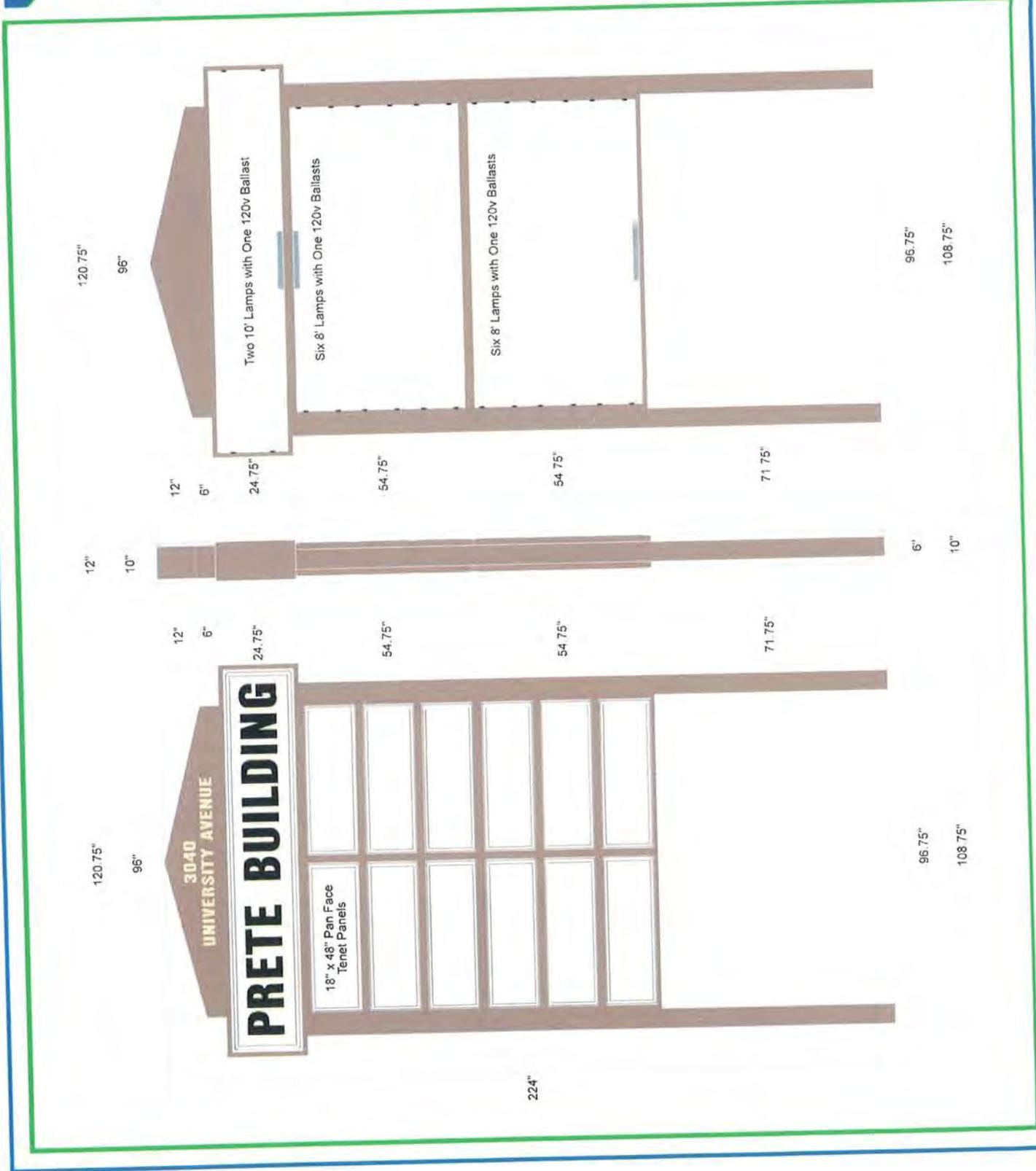
DRAWN BY:
 Rudy

DATE:
 11/28/11

SALESMAN

REVISIONS
 REV 1:

REV 2:



VII-48



428 Industrial Avenue
Morgantown, WV 26505
Phone: 304-599-1854
Fax: 304-599-5852

PO Box 40
Morgantown, WV 26507
304-225-2056

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PURPOSE NOT AUTHORIZED
BY CITY NEON INC.

CLIENT/PROJECT
**Prete
Building**
Morgantown, WV

CUSTOMER APPROVAL

FILE NAME:
PreteBuilding12.plt

DRAWING NO.
PB.Aerial

SCALE
N/A

DRAWN BY:
Rudy

DATE:
11/30/11

SALESMAN

REVISIONS
REV.1:

REV.2:

REV.3:

