



# MORGANTOWN BOARD OF ZONING APPEALS

October 15, 2014  
6:30 PM  
City Council Chambers

## Board Members:

Bernie Bossio, Chair  
Leanne Cardoso, Vice-Chair  
Bill Burton  
George Papandreas  
Jim Shaffer

## STAFF REPORT

**CASE NO:** V14-42 / Weatherly Plaza Realty Trust / 100 Hornbeck Road

### **REQUEST and LOCATION:**

Request by Michelle Boyers of City Neon, Inc., on behalf of Weatherly Plaza Realty Trust, for variance relief from Article 1369 as it relates to signage at 100 Hornbeck Road.

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

Tax Map 64, Parcel 1; B-5, Shopping Center District

### **SURROUNDING ZONING:**

B-5, Shopping Center District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks variance relief from Article 1369 as it relates to signage. Addendum A of this report illustrates the location of the subject site.

Article 1369.07(F)(1) provides that post-and-panel signs shall not exceed 6 feet in height and shall not exceed 32 square feet in area per side. However, Article 1369.07(F)(4) provides that:

“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.”

Article 1369.07(B) provides the following standards for directory signs (***emphasis added***).

- (B) Directory Sign. Directory signs shall be allowed where a particular site includes more than one tenant, provided that:
- (1) Logo/name directory signs in shopping centers may be located near entrances to parking areas, but not less than 20 feet from any public right-of-way, and at principal intersections within the site, where such intersections are not less than 20 feet from any public right-of-way. There may be one directory sign per entrance, which shall be in accordance with (B)(3) below if more than one tenant. Such signs ***shall not exceed 18 square feet in area and 6 feet in height***. Such signs may contain logos or business names with arrows or other directional information but shall not contain any commercial message. ***Such sign shall not be illuminated***. In addition to such directory signs, any shopping center may have one detailed directory sign as described below.
  - (2) All other signs for individual tenants must be wall signs, suspended signs, or sandwich board signs.
  - (3) All directory signs ***shall be of the monument style***.

## **Development Services**

Christopher Fletcher, AICP  
Director

## **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



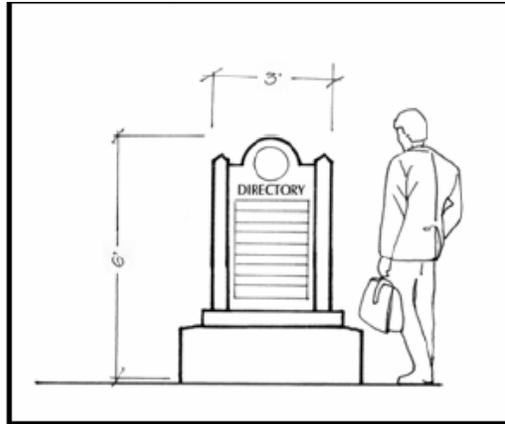
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Graphic 1369.07.01: Directory Sign



The proposed sign height is 46.5 feet. The total sign area (excluding supporting framework, base, bracing, etc.) proposed for the “Shopper’s World” portion, the top tenant panels, and the bottom tenant panels is 402 square feet. The proposed clearance below the sign and grade is 10 feet, 9 inches. Additionally, the petitioner seeks to internally illuminate the sign.

The following relief must be granted for the proposed sign:

1. To permit a post-and-panel style sign rather than a monument style sign.
2. To exceed the maximum height standard by 40.5 feet.
3. To exceed the maximum area standard by 384 square feet.
4. To permit internal illumination.

## **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 applicant.

Addendum B of this report provides Staff recommended revisions to the petitioner’s findings of fact. Please note that Staff has taken the petitioner’s Findings of Fact responses submitted with the old variance application and associated said responses to similar Findings of Fact provided in the new variance application, and included recommended revisions (deleted matter struck through; new matter underlined).

## **Development Services**

Christopher Fletcher, AICP  
Director

## **Planning Division**

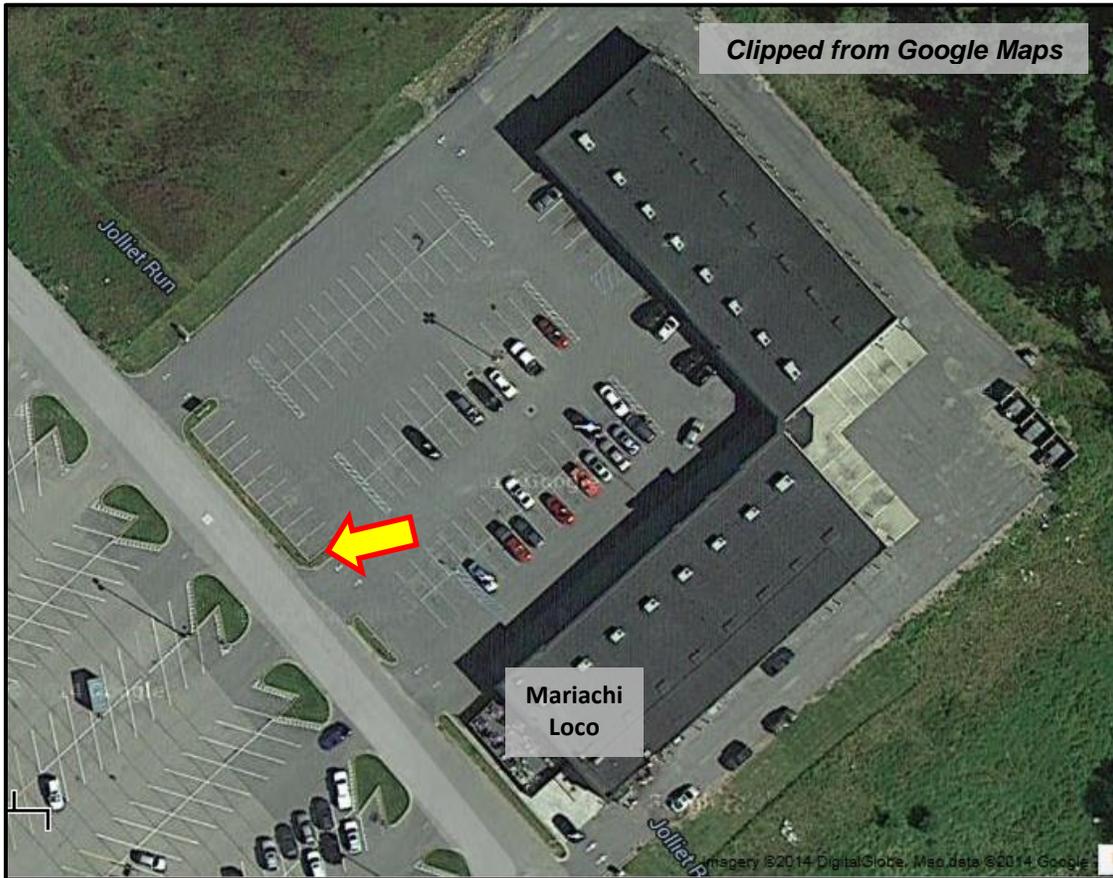
389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

No recommendation is submitted by Staff concerning whether or not variance relief should be granted.

Enclosures: Application and accompanying exhibits

# STAFF REPORT ADDENDUM A

V14-42 / Weatherly Plaza Realty Trust / 100 Hornbeck Road



## STAFF REPORT ADDENDUM B

### V14-42 / Weatherly Plaza Realty Trust / 100 Hornbeck Road

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Staff has taken the petitioner's Findings of Fact responses submitted with the old variance application, associated said responses to similar Findings of Facts of the new variance application, and included recommended revisions (deleted matter struck through; new matter underlined).

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Other business establishments in the area Morgantown have existing pylons multi-tenant post-and-panel style signs that exceed maximum height and area standards and are internally illuminated, which provides the type of with visibility to the public and we would like to have similar visibility for which the petitioner seeks to emulate and enjoy.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

We are requesting a variance to allow for a pylon sign with It appears that the auto-dependent nature of the development and the commercial uses requires enough sign area and illumination space for existing and future tenants of the existing shopping center. We believe that the max signage size does not allow for this. It appears that, given the number of tenants within the multi-tenant development, a monument sign that meets the maximum area and height standards would not permit a functional directory sign that can be legible from visitors arriving to the site by vehicle.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The sign is appears to be relatively consistent with other shopping centers throughout Morgantown including the Earl Core Road, Patteson Drive, and Van Voorhis Drive commercial corridors.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The sign will should help to promote business for the tenants and the community. The addition of the sign will also should serve to increase the market interest in the development and economic activity value for existing and future tenants given the heavily auto-dependent nature of the development.



OFFICE USE	
CASE NO.	114-42
RECEIVED:	9/5/14
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75 CK  
 17109

<b>I. APPLICANT</b>		Name:	CITY NEON, INC.	
Mailing Address:	PO BOX 40		Phone:	304-599-1852
	Street	MORGANTOWN WV 26507	Mobile:	
	City	State Zip	Email:	SIGNS@CITYNEON.COM

<b>II. PROPERTY</b>		Street Address:	
Owner:	1400 Weatherly Plaza Realty Trust		Zoning:
Mailing Address:	49 Lexington St. Suite 5		Tax Map No:
	Street	Newton MA 02465	Parcel No:
	City	State Zip	Phone:

**III. NARRATIVE** Please describe the nature and extent of your variance request(s).

The client would like to construct a multi-tenant Pylon sign for the existing shopping plaza. The proposed Pylon sign would be 46'-6" tall by 16'-0" wide. The sign would have a 10'-9" ground clearance. The sign will be illuminated with high output fluorescent lamps with electronic ballasts.

**V. 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. 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.

Rudy Hoffert \_\_\_\_\_ 9/5/14  
 Type/Print Name of Applicant/Agent Signature of Applicant/Agent Date

**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.	V14-42
RECEIVED:	
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)  
COMMERCIAL

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

CASE NO.

V14-42

RECEIVED: \_\_\_\_\_

COMPLETE: \_\_\_\_\_

Suggested Scale: 1 square = 5'

**\*\*SEE ATTACHED DRAWINGS**



## APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V14-42
RECEIVED:	_____
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:

We are requesting a variance to allow for a pylon sign with enough space for existing and future tenants of the existing shopping center. We believe that the max signage size does not allow for this.

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:

Other business establishments in the area have existing pylons with visibility to the public and we would like to have similar visibility.

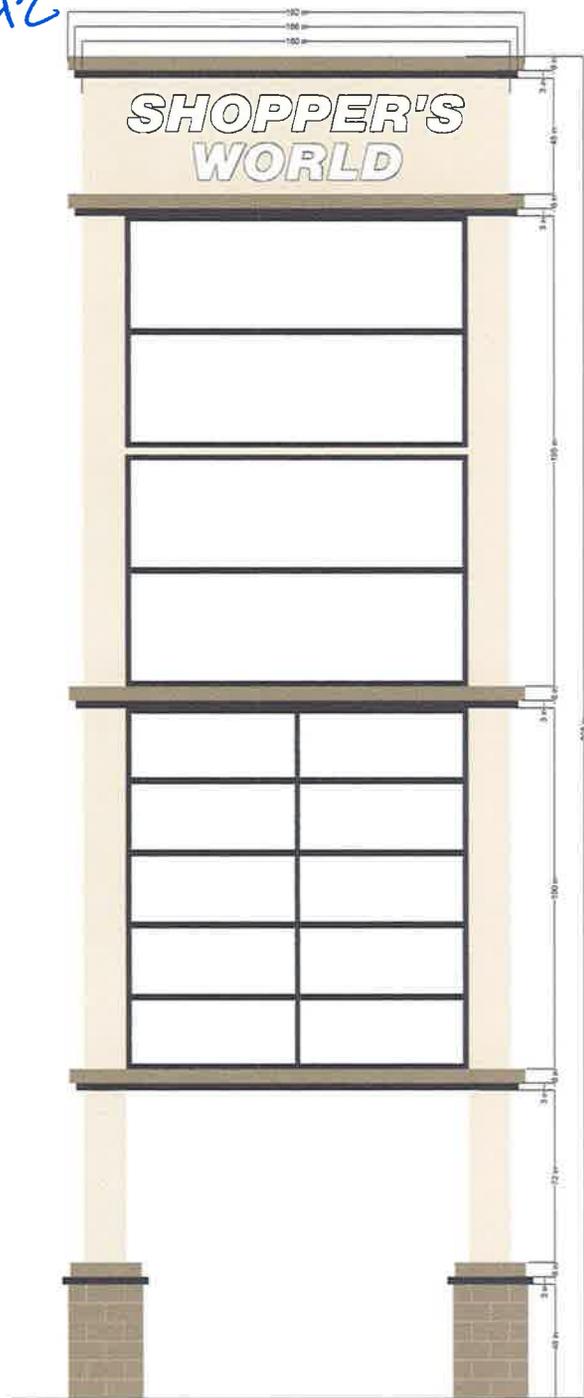
3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The sign is consistent with other shopping centers throughout Morgantown.

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 sign will help to promote business for the tenants and the community. The addition of the sign will also increase the value for future tenants.

V14-42



Shopper's World Pylon Sign  
Overall height: 46'-6"

4' x 15' Header with cladding

15 3/4" Channel letters

Top tenant cabinet:  
4' x 12' with 4 panels per side

Bottom tenant cabinet:  
12' x 12'-6" with 10 panels per side

Ground Clearance: 10'-9"

Split face block at bottom to  
match building



1095 Chaplin Hill Road  
Morgantown, WV 26501  
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
<b>Shoppers World</b> Morgantown, WV

CUSTOMER APPROVAL
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FILE NAME: Shoppers_World04.plt
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DRAWING NO.
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SCALE N/A
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DRAWN BY: Rudy
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DATE: 8/5/14
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SALESMAN
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REVISIONS
REV.1:
REV.2:

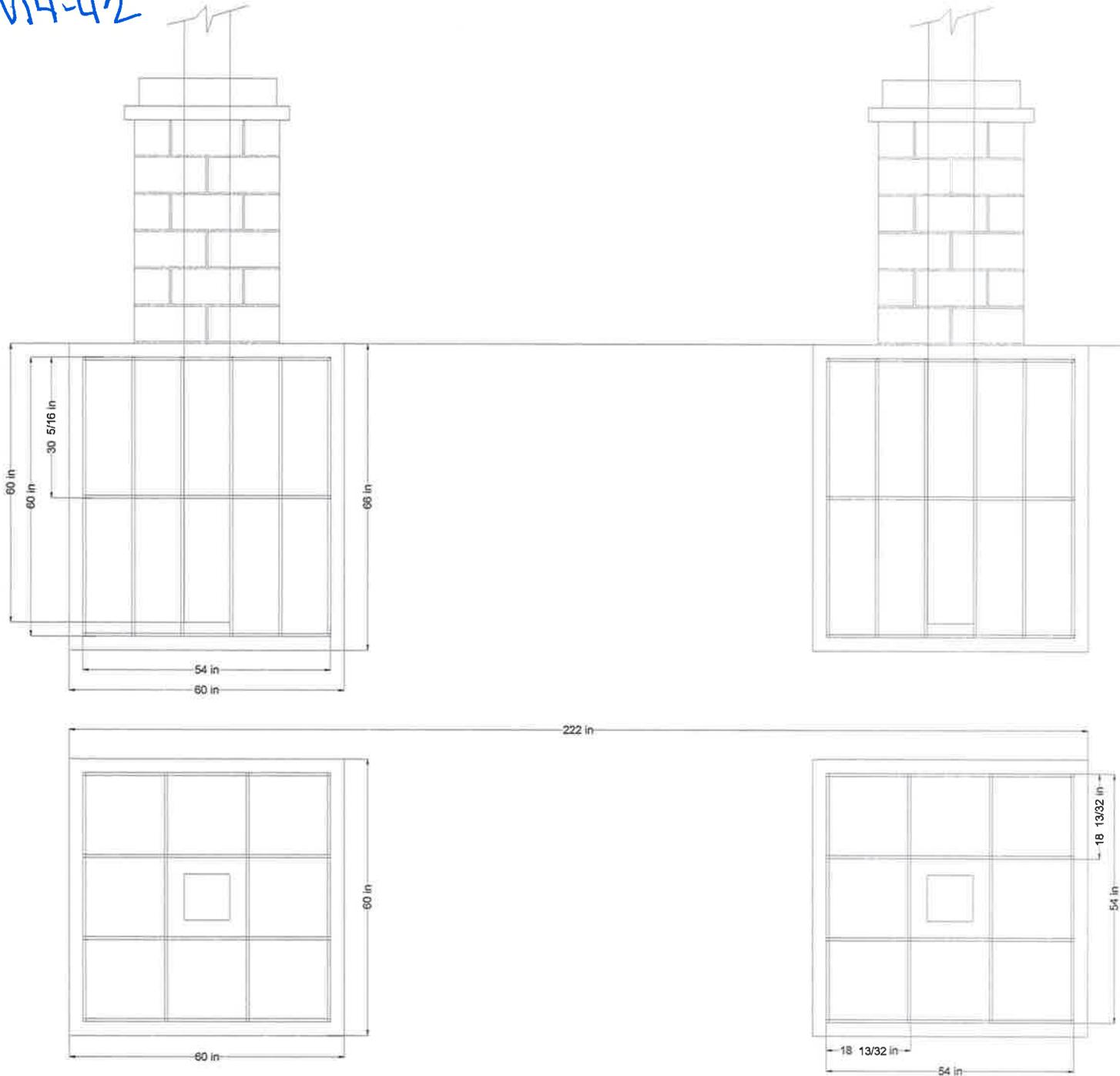
V14-42



1095 Chaplin Hill Road  
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CLIENT/PROJECT  
**Shoppers World**  
 Morgantown, WV

CUSTOMER APPROVAL

FILE NAME:  
 Shoppers\_World05.plt

DRAWING NO.

SCALE  
 N/A

DRAWN BY:  
 Rudy

DATE:  
 8/5/14

SALESMAN

REVISIONS
REV.1:
REV.2:

PLAT OF SURVEY FOR  
**1400 WEATHERLY PLAZA REALTY TRUST  
 & RIALTO REALTY**

Description: All of Lots No. 4 & 5 of the Recombination and Subdivision Plat for Wal-Mart Stores East, LP.

Addition Ref.: Map Cabinet D, at File 85 A&B

Total Area: 108,294 sq.ft., or 2.485 acres

Lot 4 Area: 52,347 sq.ft., or 1.201 acres

Lot 5 Area: 55,947 sq.ft., or 1.284 acres

Title: RL BB-WV, LLC

D.B.1443, at Page 561

Tax Map No. 64, Parcel 5 & 6

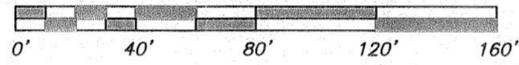
First Ward of Morgantown Corporation,  
 Clinton District, Monongalia County, WV.

Address: 100 Hornbeck Road, Morgantown, WV

Scale 1" = 40' Date: June 16, 2014

NOTES:

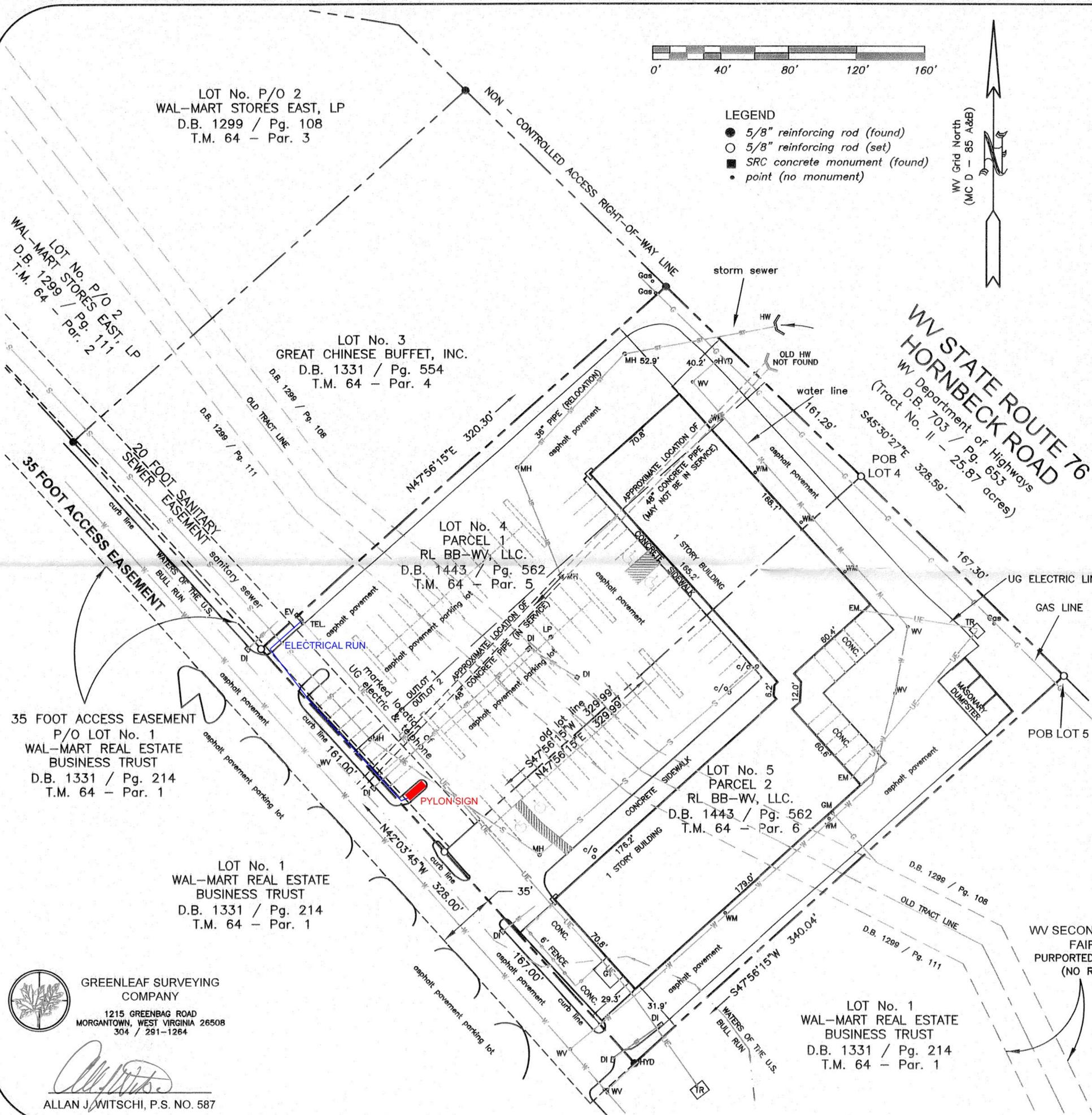
- 1) Location of all underground utilities only approximately shown.
- 2) Survey was conducted without benefit of lawyer's title report and may not reflect all exceptions, rights-of-way, easements or restrictions.
- 3) Parcel surveyed subject to the following:
  - a) Hope Gas, Inc. easement - D.B. 1364, Pg. 245.
  - b) Access easement - D.B. 1335, Pg. 656.
  - c) Verizon West Virginia, Inc. easement - D.B. 1332, Pg. 420.
  - d) Dorsey Knob Public Service District easement - D.B. 1305, Pg. 695.
  - e) Monongahela Power Company easement - D.B. 1312, Pg. 143, D.B. 838, Pg. 144, D.B. 838, Pg. 146 and D.B. 592, Pg. 5.
  - f) Stream Mitigation agreement - easement - D.B. 1299, Pg. 129.
  - g) Rights-of-way or easements shown on Plats recorded in Map Cabinet D. in Files 42 A&B and 85 A&B.
  - h) Rights for West Virginia Secondary Route 119 crossing the parcel surveyed. No record of abandoned roadway found in the records.
  - i) Area of "water of the U.S." as shown - stream reported to be relocated (piped) through Wal-Mart lands.
  - j) City of Morgantown - Wal-Mart Annexation - D.B. 1336, Pg. 574. Parcel is Zoned B-5.
  - k) Service utility lines shown on this plat crossing the parcel surveyed to serve the buildings and adjoining parcels.



LEGEND

- 5/8" reinforcing rod (found)
- 5/8" reinforcing rod (set)
- SRC concrete monument (found)
- point (no monument)

WV Grid North  
 (MC D - 85 A&B)



LOT No. P/O 2  
 WAL-MART STORES EAST, LP  
 D.B. 1299 / Pg. 108  
 T.M. 64 - Par. 3

LOT No. P/O 2  
 WAL-MART STORES EAST, LP  
 D.B. 1299 / Pg. 111  
 T.M. 64 - Par. 2

LOT No. 3  
 GREAT CHINESE BUFFET, INC.  
 D.B. 1331 / Pg. 554  
 T.M. 64 - Par. 4

LOT No. 4  
 PARCEL 1  
 RL BB-WV, LLC.  
 D.B. 1443 / Pg. 562  
 T.M. 64 - Par. 5

LOT No. 5  
 PARCEL 2  
 RL BB-WV, LLC.  
 D.B. 1443 / Pg. 562  
 T.M. 64 - Par. 6

LOT No. 1  
 WAL-MART REAL ESTATE  
 BUSINESS TRUST  
 D.B. 1331 / Pg. 214  
 T.M. 64 - Par. 1

35 FOOT ACCESS EASEMENT  
 P/O LOT No. 1  
 WAL-MART REAL ESTATE  
 BUSINESS TRUST  
 D.B. 1331 / Pg. 214  
 T.M. 64 - Par. 1

LOT No. 1  
 WAL-MART REAL ESTATE  
 BUSINESS TRUST  
 D.B. 1331 / Pg. 214  
 T.M. 64 - Par. 1

GREENLEAF SURVEYING  
 COMPANY  
 1215 GREENBAG ROAD  
 MORGANTOWN, WEST VIRGINIA 26508  
 304 / 291-1264

ALLAN J. WITSCHI, P.S. NO. 587