

East Providence  
Zoning Board of Review

**SPECIAL USE PERMIT FORM**  
(Ref. #19-42)

This Form must be completed in full prior to  
being considered by the Zoning Board of Review.

Date of Filing	
Received By	
Date of Hearing	
Action	
Recorded	Bk Pg

Phone Number: 401-274-6644

1. **LOCATION OF PROPERTY** 1175 Warren Avenue Avenue/Street  
Map "607" Block 16 Parcel 1 Zoning District C5

2. **Owner** Luckys Realty LLC  
**Address** 1175 Warren Avenue  
**Date of Purchase** 8-31-18  
**Proposed Lessee/Purchaser** Murray Marketing Inc. - Applicant\*  
**Attorney** Stephen J. Sypole, Gidley Saril & Marusak, LLP  
**Phone Number** 401-274-6644; ssypole@gsm-law.com  
**Address** One Turks Head Place, #900, Providence, RI 02903  
**Representing** Murray Marketing Inc.  
*\*Applicant has permanent easement for billboard (attached)*

3. **DIMENSIONS OF SITE** 510' +/- 330' +/- 104.108  
**WIDTH** **DEPTH** **AREA (SQ.FT.)**  
Irregular shaped lot - see GIS map and survey attached.

**LIST OF ALL EXISTING BUILDINGS AND USES:**

	Building Type	Height	Area (SQ.FT.) (Building Footprint)	USE
(1)	Retail/Strip	12'	5,280	Commercial
(2)	Billboard	79'	Sign area = 672 sf	
(3)				


Please see attached tax assessor's record and photo of billboard.

4. **SPECIAL USE PERMIT SOUGHT PER SECTION 19-98, SCHEDULE OF USE:**  
Billboard is a pre-existing non-conforming use. See Ordinance Section 19-419.  
in C5 Zoning District  
Type of Use

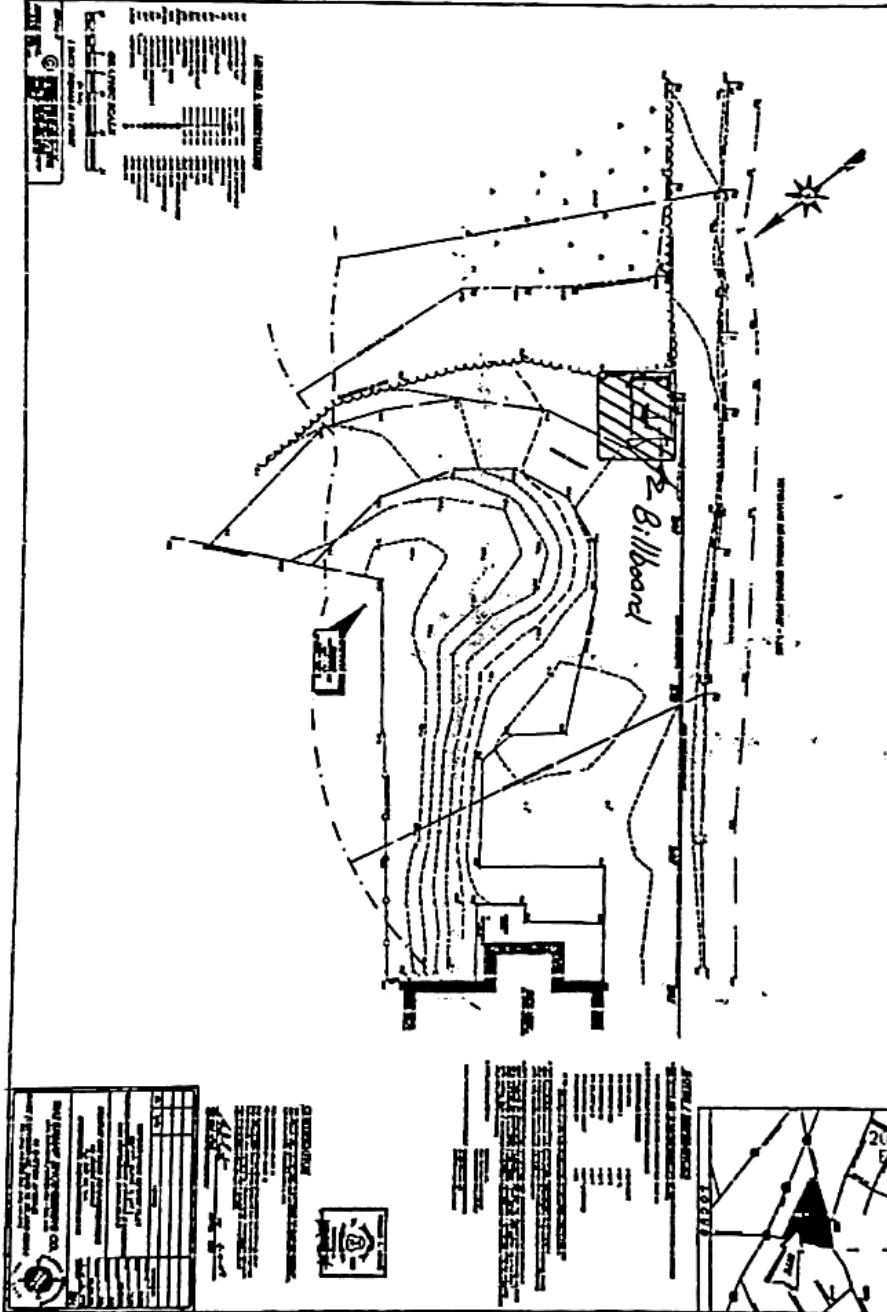
5. **DESCRIPTION OF PROPOSAL:** Describe the proposed use, include information on the scale and size of proposal.  
Applicant proposes to convert both sides of the pre-existing "static" billboard to an LED display. There are no changes proposed to the location or size of the billboard or to the use of the property.  
 \_\_\_\_\_  
 \_\_\_\_\_
6. **PRECEDENT STANDARDS:** List the Sections of Chapter 19 which include precedent standards applicable to the proposed use. Describe how the proposal will meeting the standards.

SECTION NUMBER	STANDARD	DESCRIBE COMPLIANCE
	Applicant's attorney shall submit a memorandum addressing the criteria for special use permits and the Board's prior relevant decisions.	
_____	_____	_____
_____	_____	_____
_____	_____	_____

**NOTE:** PLANS ACTED UPON BY THE BOARD BECOME INCORPORATED AS PART OF THE DECISION AND ARE FINAL.

OWNER(S) SIGNATURE  DATE 9/5/24  
 \_\_\_\_\_ DATE \_\_\_\_\_

AGENT/ATTORNEY Stephét Sybble  
 ADDRESS One Turks Head Place, #900, Providence, RI 02903  
 Phone Number (401) 274-6644 - ssypole@gsm-law.com



**PROPERTY LIST**

NO.	DESCRIPTION	AREA
1	...	...
2	...	...
3	...	...
4	...	...
5	...	...
6	...	...
7	...	...
8	...	...
9	...	...
10	...	...

**RECORDING INFORMATION**

DATE	2007 OCT 26
TIME	09:57:54A
FILE NO.	...
...	...

RECORDED  
 2007 OCT 26 09:57:54A  
 EAST PROVIDENCE, R.I.  
 VIRGINIA B. NUNES  
 CITY CLERK

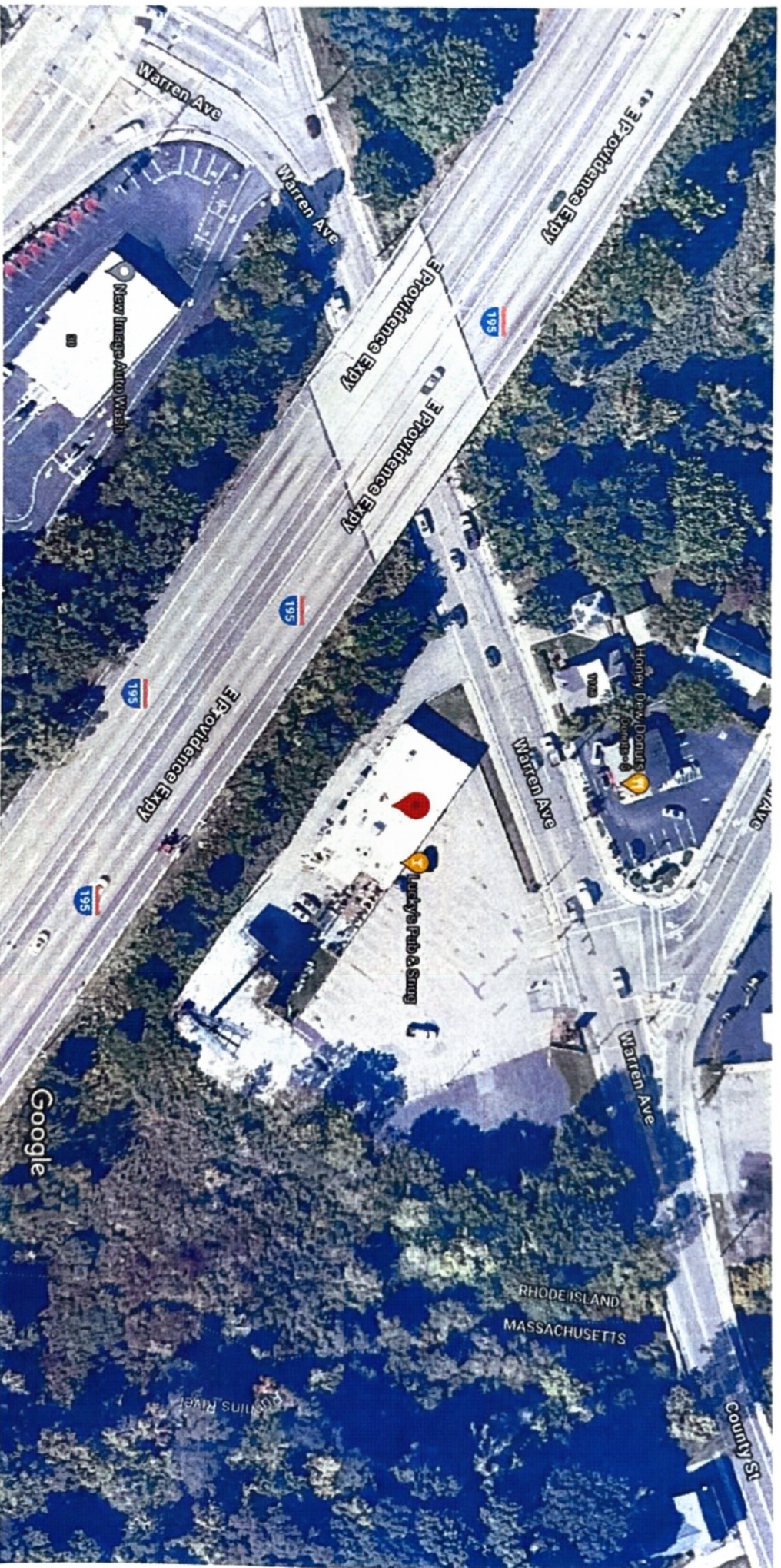


**NOTES**

1. ...
2. ...
3. ...
4. ...
5. ...
6. ...
7. ...
8. ...
9. ...
10. ...



RECORDED  
 2007 Oct 26 09:57:54A  
 EAST PROVIDENCE, R.I.  
 VIRGINIA B. NUNES  
 CITY CLERK



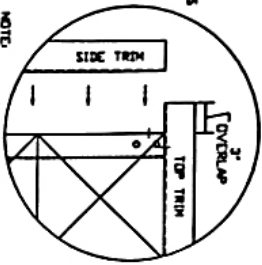
Google Street View

Sep 2011



**TRIM COMPONENTS**  
**3" PREPARED ANGLE**

- > TOP/BOTTOM TRIM
- > 4 PCS AT 20°-0'
- > 2 PCS AT 6°-0'
- > 50# TRIM
- > 2 PCS AT 6°-30'
- > 2 PCS AT 7°-4'
- > 50PCS - 10PIECES

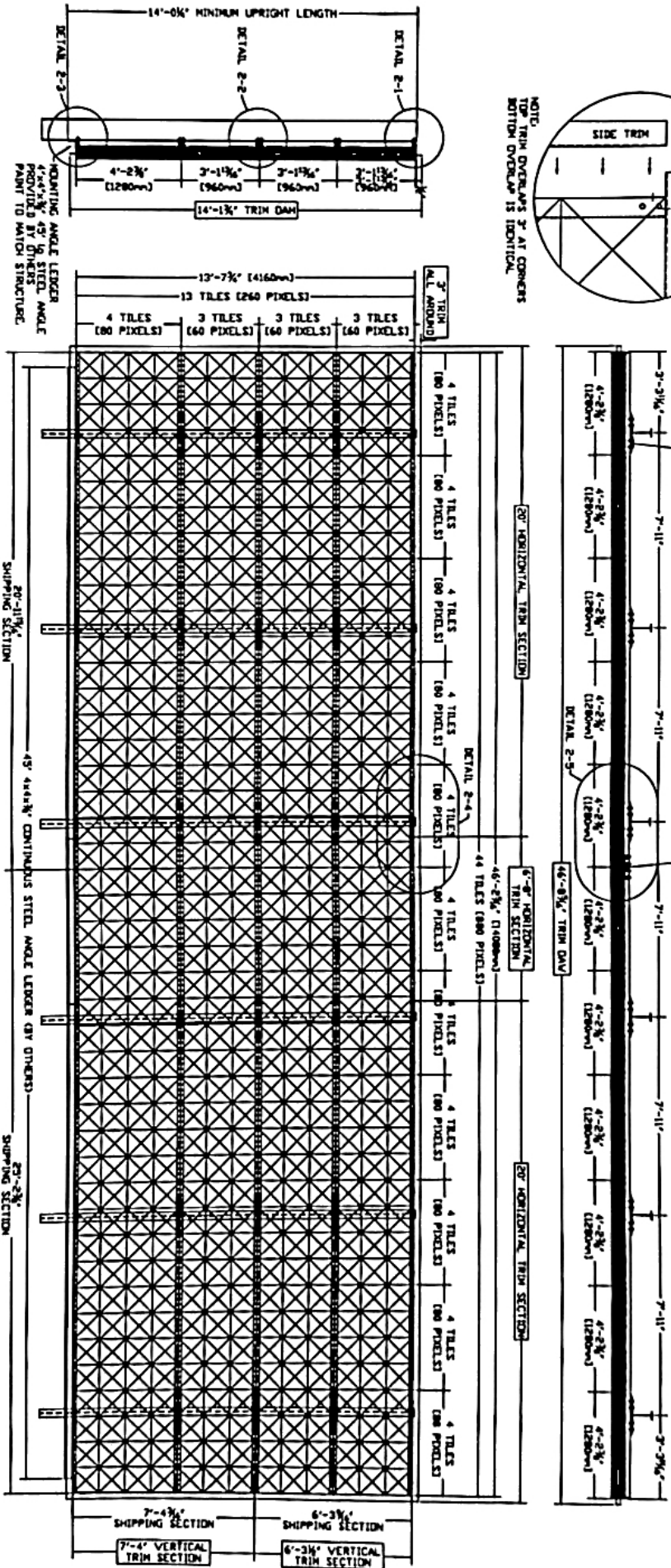


NOTE:  
 TOP TRIM OVERLAPS 3" AT CORNERS  
 BOTTOM OVERLAP IS IDENTICAL

**STANDARD CONFIGURATION**

**ON-SITE SERVICE REQUIREMENTS**

- 1) THE DISPLAY MUST BE ACCESSIBLE THROUGH USE OF A 30 FOOT OR SHORTER LADDER.
- 2) ALL REAR SERVICE CONNECTIONS OR BASE FROM WHICH SERVICE MAY BE PERFORMED.
- 3) ALL REAR SERVICE CONNECTIONS MUST BE SECURED TO THE SUPPORT STRUCTURE.
- 4) THERE MUST BE A GUARD RAIL OR A SAFETY LIFELINE SECURELY ATTACHED TO THE SUPPORT STRUCTURE IF THE DISPLAY IS OVER 6 FEET OFF THE GROUND COLLECTIVELY AN ACCESSIBLE SITE, IN THE ABSENCE OF AN ACCESSIBLE SITE, THE CUSTOMER IS RESPONSIBLE FOR THE COST OF A RACKET OR BOOM TRUCK OR LIFT OR PROVIDING SAFE ACCESS TO THE DISPLAY SERVICE AREA. THE CUSTOMER SHALL BE RESPONSIBLE FOR THE COST OF PROVIDING SAFE ACCESS IN COMPLIANCE WITH APPLICABLE FEDERAL AND LOCAL LAWS AND REGULATIONS.



**DESIGN PARAMETERS PER REQUIREMENTS OF**  
 IBC 2012/IBC 2015/IBC 2018/ASCE 7-10, 165 MPH,  
 MAXIMUM UPRIGHT SPACING 8'-4 1/2" (2560mm)  
 ALLOWABLE CANTILEVER 4'-2 3/4" (1290mm) MAX.  
 CONTINUOUS 4"x4"x1/2" SA LEADER OR EQUIVALENT

**PRODUCTION NOTES:**  
 1) CABINET COVER PRE-VIRED BY COLUMN  
 2) TRIM COLOR - AS REQ'D  
 3) USE #4-13 GAUGE 5 SEPARATED FLANGE BOLTS  
 AND NUTS UNLESS OTHERWISE NOTED  
 4) ALL FABRICATED ALUMINUM AND STEEL PARTS  
 TO BE PAINTED SATIN BLACK.

**APPROXIMATE SIGN WEIGHT WITH 2x3 ANGLE TRIM**

6944#  
 150#  
 6,283#  
 106#  
 132#  
**TOTAL 7,633#**

SEE B-2798 FOR POWER RISER AND DATA LAYOUT

REV	DESCRIPTION	DATE	APP'D
-	REVISIONS		

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**FORMETCO**

2963 Pleasant Hill Rd. Dublin, CA 95099-3808  
 16mm 260 x 880 DBB UNISFRUIT MTG  
 13-8"x46-2" 16mm FTX-A DBB

SCALE 1/2" = 1'-0"  
 DATE B-2797

**ABUTTERS LIST**  
**1175 Warren Avenue**  
**607-16-1**

Parcel ID	Owners Name	Owners Name	City, State, Zip Code	Location
607-14-003-00	AHEARN REALTY GROUP LLC	236 GULF ST	SHREWSBURY, MA 01545	1100 WARREN AVE
607-14-006-00	AHEARN REALTY GROUP LLC	236 GULF ST	SHREWSBURY, MA 01545	0 WATERMAN AVE
607-15-001-00	HAZARD, DONALD L	1168 WARREN AVE	EAST PROVIDENCE, RI 02914	1168 WARREN AVE
607-15-002-00	1085 WATERMAN AVENUE LLC	PO BOX 357	HOPE, RI 02831	1085 WATERMAN AVE
607-15-003-00	HAMZO, CYNTHIA C & MURAT	54 ROSE ST	WARWICK, RI 02888	1075 WATERMAN AVE
607-15-004-00	PESCE, JOHN & GEORGE A	1021 WATERMAN AVE	East Providence, RI 02914	0 STATE ST
607-16-001-00	LUCKYS REALTY LLC	1175 WARREN AVE	EAST PROVIDENCE, RI 02914	1175 WARREN AVE

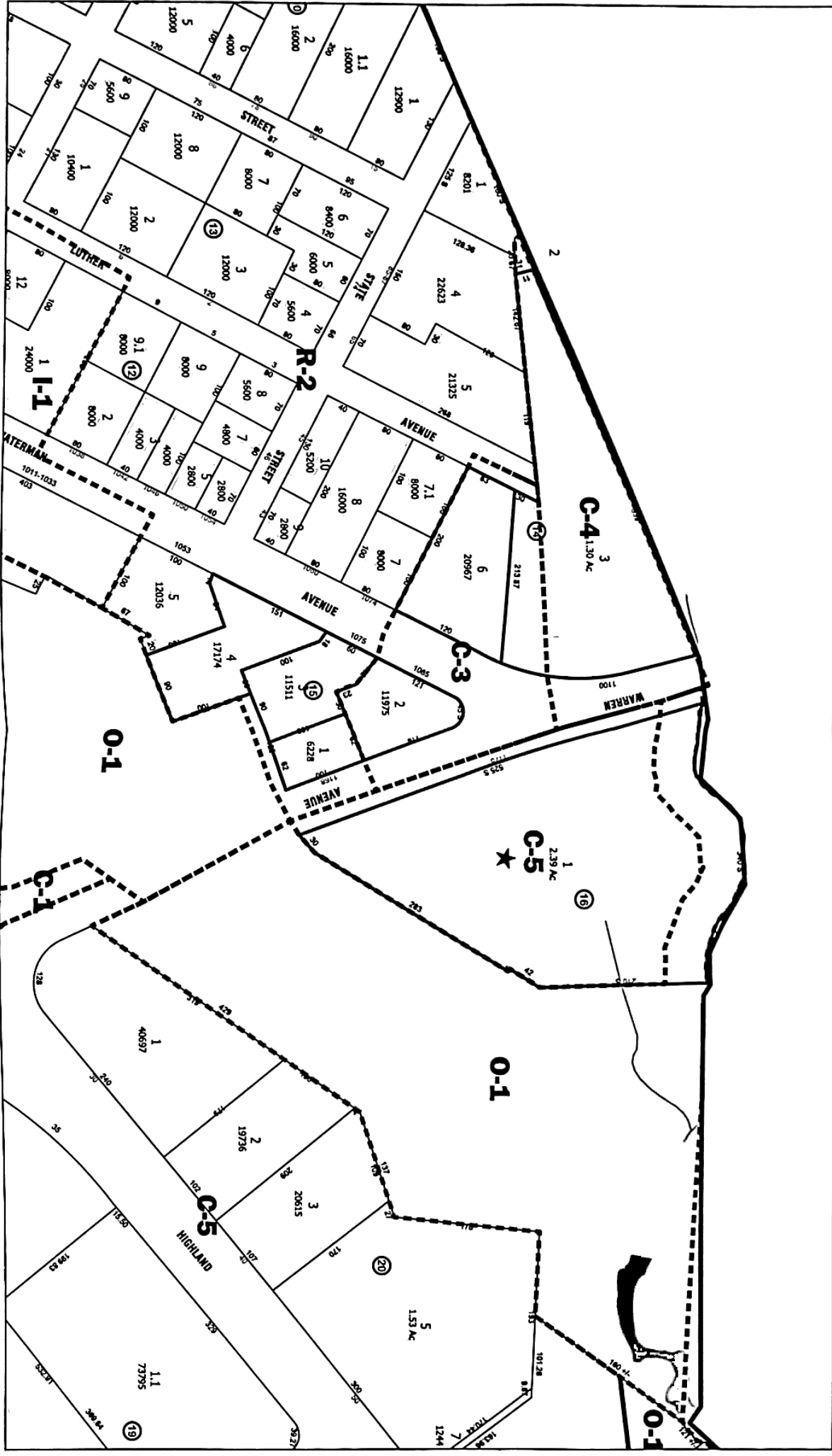
Please also notify:

Shawn Cadime Town Administrator Seekonk Town Hall 100 Peck Street Seekonk, MA 02771	John Aubin III Town Planner Seekonk Town Hall 100 Peck Street Seekonk, MA 02771
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**RADIUS MAP**  
1175 Warren Avenue  
607-16-1

**Legend**  
— PARCELS WITHIN 200'  
★ SELECTED PARCEL







**MEMORANDUM**

TO: City of East Providence Zoning Board of Review

FROM: Stephen J. Sypole, Esq.

DATE: September 6, 2024

RE: Murray Marketing, Inc. – Special Use Permit Application  
Conversion of Billboard to LED Display at 1175 Warren Avenue

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Dear Honorable Members of the Zoning Board:

This Memorandum is being provided in support of the Special Use Permit Application that was submitted by Murray Marketing, Inc. d/b/a Murray Outdoor Communications (“Murray” or “Applicant”) on September 6, 2024.

This application was filed because the Applicant respectfully seeks this Board’s blessing to convert both sides of its “static” monopole billboard located at 1175 Warren Ave. to an electronic billboard with an LED display. Murray simply proposes to remove the existing sign face panels and replace them with LED screens. There is no plan to change the dimensions or location of the billboard or to make any changes to the current use of the property.

**A. PRESENT STATUS OF PROPERTY**

The property at 1175 Warren Ave. is located immediately west of the Seekonk, MA town line. Route 195 is directly to the south/southwest of the property. It is located in the C5 zone (Commercial/Heavy Business). The surrounding area is heavily developed with commercial uses. Numerous businesses are nearby on Route 6 including restaurants, medical offices, retail stores, a car wash, and a hotel. There is a donut shop and a construction equipment dealership directly across the street from the property.

The property is improved with a parking lot and a strip-mall style commercial building that houses a bar/restaurant. A billboard owned and operated by Murray is located in the southern corner of the property next to Route 195 (see survey, maps, and photos submitted with Application). The sign was located and designed such that it is visible to the motorists on the freeway but is not visible from, or detrimental to, the surrounding properties. Murray has a permanent easement on the property for the billboard that was granted by a prior owner (a copy of the recorded easement was submitted with the Application).

**B. HISTORY OF THE BILLBOARD**

The subject billboard was erected in its current location after receiving unanimous approval from the Zoning Board in 2007. A copy of the prior zoning application is attached as **Exhibit 1**, the Board's prior decision is attached as **Exhibit 2**, and the corresponding meeting minutes are attached as **Exhibit 3**.

The record of those prior proceedings shows that Murray previously had a building-mounted billboard at the old I-195 Exit 4 (now Exit 1) for Taunton Ave.<sup>1</sup> at the "gateway entrance" to the City. This old billboard was in a location that was deemed "inappropriate" by the Planning Department's staff and it was described as an "eyesore"<sup>2</sup> by the Board. Fortunately, 1175 Warren Ave. was deemed to be a location "where a billboard should be properly situated" (discussing the Planning Department staff report). Murray's decision to transfer its rights from that old, less desirable billboard to the new location at 1175 Warren Ave. provided a substantial benefit to the City.

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<sup>1</sup> The address of the former billboard location was 3-5 Cobb Street.

<sup>2</sup> This old billboard had multiple upright supports whereas the new billboard is a sleek monopole design and has been painted frequently to have a neat appearance.

In 2007 the Board “concluded that considering the intense commercial character at the end of Water Man [sic] Avenue<sup>3</sup>, intense vegetative buffer, direct visual access to I-195, and elimination of the existing billboard at the ‘gateway’ entrance to the City of East Providence, off of Taunton Avenue, the subject proposal was equitable.”<sup>4</sup> *See Ex. 2.* The Applicant agreed to reduce the proposed height of 96.5 feet down to 79 feet as a further compromise with the Board at that time.

The Board granted relief that, among other things, allowed the new billboard to be erected as close as possible to the highway and with as little impact as possible on surrounding properties.

**C. THE APPLICANT’S PROPOSAL TO CONVERT THE “STATIC” BILLBOARD TO LED INCLUDING RIDOT APPLICATION**

The Applicant now proposes to alter the billboard at 1175 Warren Ave. in a manner that will have no impact on the nearby properties in East Providence.

Murray simply plans to remove the existing sign face panels and replace them with LED screens. (*See* manufacturer’s technical drawing of “standard configuration” for LED billboard submitted with Application). The dimensions and location of the structure will remain the same and the use of the property will not change.

The LED technology is designed to automatically adjust brightness in accordance with the ambient light. In other words, it is brighter when it is very sunny and dimmer when cloudy. At night, brightness is set at 350 NITS which is no brighter than a static billboard. LED images are very clear and there is no glare from the reflection of light bouncing off the substrate as can

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<sup>3</sup> 1175 Warren Ave is located at the intersection with Waterman Ave.

<sup>4</sup> The Board’s description of the surrounding area in 2007 remains accurate today. If anything, the area has seen more commercial development since that time.

happen with the shiny vinyl that is used on most static billboards. When an LED screen is viewed from the side it has no brightness at all. An LED billboard also requires less maintenance than a “static” or vinyl billboard.

Attached as Exhibit 4 are photographs of two Murray billboards that are nearby in Massachusetts – they are displaying the same image but one is LED and the other vinyl. Attached as Exhibit 5 is a rendering of how the billboard at 1175 Warren Ave. would appear to motorists on I-195 east after the conversion to LED. The image on the LED sign would change no more frequently than once every ten seconds – this is a requirement contained in the City’s Zoning Ordinance that the Applicant will comply with. Attached as Exhibit 6 is a “Light Study” for the proposed LED billboard. Attached as Exhibit 7 are seventeen additional photographs that are submitted in support of the application and that will be discussed at the hearing. These photographs provide additional evidence regarding the benefits of conversion to LED and the fact that this conversion will not impact nearby properties.

In addition to approval from this Board, Murray is also in the process of obtaining the permit that is required from RIDOT.

**D. THE ZONING BOARD HAS PREVIOUSLY ISSUED A SPECIAL USE PERMIT TO AUTHORIZE A SIMILARLY SITUATED BILLBOARD TO CONVERT FROM STATIC TO LED**

The last special use permit application to convert a static billboard to LED was unanimously granted by this Board. *See Exhibit 8 (Lamar Decision) and Exhibit 9 (minutes from Lamar hearing).*

On October 4, 2017 the Board heard an application from Lamar Outdoor Advertising (“Lamar”) that was virtually identical to the present application from Murray. Lamar has a

billboard at 360 Warren Ave.<sup>5</sup> – in a commercial zone – that is directed toward I-195. The Zoning Officer determined that a special use permit was required because the billboard was a pre-existing non-conforming use. The Board was favorable to the application and found that Lamar satisfied the criteria for a special use permit because:

- “... the pre-existing static billboard had long been present, and the subject modification would not have any impact on the interior neighborhood.”
- “... all improvements were entirely directed ... [and] oriented towards those vehicles travelling ... along Interstate 195 – there would not be any resulting negative impact on surrounding land uses (residential and commercial alike).”
- “Presence of very limited residential land uses, all of which are in their own right, pre-existing, given the commercialized zoning of the area.”
- “The limited message change, once every ten (10) seconds.”
- “Pre-existing nature of the billboard sign, and pre-existing placement sandwiched between a major thoroughfare (namely Warren Avenue) and Interstate 195.”
- “Maintenance of the sign in the exact same dimensions and overall height.”

Each of the reasons that supported conversion of this Lamar billboard to LED apply equally to Murray’s application and it would inequitable to treat these similar applications from similarly situated owners in a different manner.

#### **E. APPLICABLE ZONING ORDINANCE PROVISIONS**

##### **Definitions**

- “*Billboard* means any sign that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises where the sign is located.”
- “*Digital sign* means a sign that features static images that change over a period of time not to exceed once every ten seconds and are used to advertise to consumers in a public place(s), including to those in private automobiles. A *digital sign* and an *electronic message center* shall be considered synonymous terms.”

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<sup>5</sup> Lamar has another LED billboard at 2312 Pawtucket Ave. that is directed toward I-195.

- **“Nonconformance means a building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of this chapter and not in conformity with the provisions of this chapter or amendment thereof ..” (emphasis added)**<sup>6</sup>
- **“Nonconformance by use means a lawfully established use of land, building or structure which is not a permitted use in that zoning district.”**<sup>7</sup>

### Special Use Permits

- **“In granting a special use permit, the zoning board of review ... shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings. The special use permit shall conform to the specific criteria established in this ordinance for each type of use category ...” (Section 19-39).**

### Use Table

- The use table in Article III of the Ordinance shows that the Ordinance has been amended (subsequent to Murray’s previous application for this property) to make “billboards” a prohibited use in the C5 zone (it is currently prohibited in all other zoning districts as well).<sup>8</sup>

### Alteration of Nonconforming Use

- **“(a) No addition, enlargement, expansion or intensification in the extent of the nonconforming use of premises or land shall be made, unless a special use permit is authorized in accordance with the provisions of this chapter. ...**

**(1) Special use permit criteria. In cases where addition, enlargement, expansion or intensification in the extent of a nonconforming use of premises or land is requested, the following criteria shall apply:**

- (a) The proposed addition, enlargement, expansion or intensification shall be limited to no more than 25 percent of its existing size. Such expansions shall only**

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<sup>6</sup> The bolded language is important here because Murray’s billboard became a nonconforming use as the result of an amendment that occurred *after* the billboard was approved by the Board in 2007.

<sup>7</sup> See also R.I.G.L. § 45-24-31 defining “nonconformance” as “[a] building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with the provisions of that ordinance or amendment.”

<sup>8</sup> This amendment occurred *after* the Board’s decision related to this billboard in 2007. At that time this use was allowed by special use permit. See Exhibit 2.

be permitted one time; subsequent applications that exceed a total of 25 percent shall not be permitted.<sup>9</sup>

(b) The proposed use shall be found by the permitting authority to not have a negative impact on the surrounding area. Factors to be reviewed may include, but are not limited to impacts to area traffic, parking, public safety, environmental quality, stormwater management/flooding, provision of adequate utilities, noise, odor, lighting, historic preservation, and economic development. ...”

**F. THE CITY’S CRITERIA FOR ISSUANCE OF A SPECIAL USE PERMIT ARE SATISFIED BY THE APPLICANT**

Murray’s request is properly being submitted as a special use permit application because (1) the billboard is a lawfully established nonconformance that may be altered in accordance with Section 19-413 and (2) this is the same procedure that was applied when Lamar requested the same relief in 2017.

The Applicant’s billboard was lawfully established by way of the Zoning Board’s 2007 decision which, at that time, allowed it by special use permit. Since that time the Ordinance has been amended such that billboards are now a prohibited use in the zone i.e. they are no longer allowed by special use permit. Accordingly, this billboard falls squarely within the Ordinance’s (and State law’s) definition of a nonconformance and hence it may be altered by special use permit according to Section 19-413 (Alteration of nonconforming use).<sup>10</sup>

Because this application is properly governed by Section 19-413 the criteria for approval are as follows:

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<sup>9</sup> This criterion does not apply because Murray is not proposing any change to the size of the structure.

<sup>10</sup> Ordinance Section 19-413(c) (“Alteration of nonconforming use”) says that a “use established by variance or special use permit shall not acquire the rights of this section.” This is not a bar to the relief sought by Murray because the 2007 special use permit was granted before the ordinance was amended to prohibit billboards. This means that Murray enjoys a lawfully established use that later became prohibited by way of an amendment. It is a nonconformance as defined above and may be altered by way of a special use permit.



“The proposed use shall be found by the permitting authority to not have a negative impact on the surrounding area. Factors to be reviewed may include, but are not limited to impacts to area traffic, parking, public safety, environmental quality, stormwater management/flooding, provision of adequate utilities, noise, odor, lighting, historic preservation, and economic development. ...”<sup>11</sup>

This is satisfied because the proposal to convert this billboard to LED will not have a negative impact on the surrounding area.

The City has already determined that Murray’s billboard is in a location “where a billboard should be properly situated.” See Exhibit 3 (discussing the Planning Department staff report). The Board has already determined that the billboard “is compatible with neighboring land uses,” that it “does not create a nuisance in the neighborhood,” that it is located in an area with “intense commercial character,” that it has an “intense vegetative buffer,” and that the signage is appropriately directed toward freeway. See Exhibits 2-3. In connection with Lamar’s 2017 application, the Board has found that converting a similar sign from static to LED “would not have any impact on the interior neighborhood.” See Exhibit 8-9.

The documentary evidence submitted with the application and the testimony that will be provided at the hearing will establish that the conversion to LED will be a *de minimis* alteration that will not have any effect on the neighbors of this property. The conversion to LED will be an improvement and the billboard will require less maintenance.

#### **G. CONCLUSION**

This is a reasonable request for a minor alteration to a lawfully established, pre-existing, non-conforming use that will not impact the use and enjoyment of surrounding properties and that is properly being brought pursuant to Section 19-413 of the Zoning Ordinance. The

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<sup>11</sup> Most of these factors simply do not apply. Changing the billboard from static to LED has nothing to do with parking, traffic, stormwater, noise, odor, etc.

**Applicant respectfully requests that this Honorable Board grant the application and allow Murray to proceed with the conversion of its billboard to LED.**