

FACTSHEET

TITLE: CHANGE OF ZONE NO. 3307, requested by the Director of Planning, for a text amendment to § 27.69.044 of the Lincoln Municipal Code to adjust the permitted sign regulations in the O-3 Office Park District to better reflect a transitional district.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 03/21/01
Administrative Action: 03/21/01

STAFF RECOMMENDATION: Approval.

RECOMMENDATION: Approval, with amendments (8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent).

FINDINGS OF FACT:

1. This text amendment request was originally combined with proposed changes to the sign ordinance in the H-1, H-3 and H-4 zoning districts (Change of Zone No. 3299) and was heard by Planning Commission in January, 2001. The proposed sign changes to the H districts were also related to the proposed design standards for the Entryway Corridors District. This legislation was placed on the Planning Commission pending list on January 24, 2001. The proposed text amendment to the sign ordinance was split between the O-3 District and the H Districts, and this change of zone relates only to the O-3 District. The proposed changes to the sign ordinance in the H-1, H-3 and H-4 districts remain on the Planning Commission pending list.
2. The Planning Commission recommendation to approve Change of Zone No. 3307 is based upon the "Analysis" as set forth on p.2-4. This amendment is generally intended to resolve issues of transition signage in the O-3 Office Park District, as identified by members of the City Council.
3. The presentation by the Planning Department is found on p.5.
4. Testimony in opposition is found on p.5-7, and the record consists of three letters in opposition (p.010-012). The opposition offered to accept the non-illumination of a wall sign where the wall sign is within 500' of and facing a residential district. However, the testimony in opposition requested that on-premise wall signs and on-premises projecting signs remain at ten percent coverage of the wall face per building facade, or a total of 250 square feet, whichever is lesser, except in the case of a single tenant, where no more than 150 square feet may be used. The opposition also requested that electronically changing copy signs not be prohibited; and that the City Council have authority to modify the sign regulations in subsections (b) (2), (3) and (4), as previously allowed. (See Minutes p.6; also See Nebraska Neon Sign Company letter dated 3/19/01, p.012).
5. The Planning Commission discussion is found on p.8-9.
6. On March 21, 2001, the Planning Commission voted 8-0 to recommend approval, with the amendments as requested by the opposition. (See p.3-4; also see Minutes, p.8-9).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: March 26, 2001

REVIEWED BY: _____

DATE: March 26, 2001

REFERENCE NUMBER: FS\CC\FSCC3307

(iii) In addition to (i) and (ii) above, one ground sign not exceeding fifteen square feet in area and five feet in height shall be permitted at each building entrance.

(2) In the O-2 zoning district, the ground sign may be located up to fifteen feet from the front property line, provided it does not exceed twenty square feet in area and six feet in height.

(3) The projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not project above the roof line or top of cornice wall. Such sign shall have a minimum clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line.

(b) In the O-3 zoning district:

(1) On-premises wall signs and on-premises projecting signs are permitted. The total sign area of such signs per building facade shall not exceed an area equivalent to ten percent coverage of the wall face or a total of ~~250~~ ~~150~~ square feet, whichever is lesser. No more than 150 square feet may be used for any single tenant. Where the wall sign is within 500' of and facing, a residential district, the sign shall not be illuminated. The projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not project above a roofline or top of cornice wall. Such sign shall have a minimum clearance of eight feet above a walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line. The maximum area of any individual projecting sign shall not exceed twenty-five square feet. **(**Per Planning Commission 03/21/01–language regarding 150 sq. ft. for single tenant inserted by Planning Commission**)**

(2) One ground sign per vehicular entrance into the office park, not to exceed thirty-two square feet and eight feet in height, identifying the name of the office park and tenants(s) is permitted. The ground sign may be located in the required front yard with a minimum spacing of fifty feet from any other ground or pole sign.

(3) One internal direction sign per entrance not exceeding fifty square feet and eight feet in height located adjacent and parallel to the private street is permitted.

(4) In addition to (2) and (3) above, one ground sign not exceeding fifteen square feet in area and five feet in height shall be permitted at each building entrance.

(c) Signs must be located from an abutting residential district as follows:

(1) Sign perpendicular to street:

- (i) 50 feet if non-illuminated,
- (ii) 100 feet if internally illuminated;

(2) Sign parallel to street:

- (i) 50 feet if internally illuminated or non-illuminated.

~~(d) Electronically changing copy signs, also known as reader boards and message centers, shall be prohibited. The sign regulations in subsection (b), paragraphs (2), (3), and (4), may be modified by the City Council in connection with the granting of a use permit in conformance with all other requirements of Chapter 27.27. (Ord. 17650 §1; April 17, 2000: prior Ord. 17076 §1; October 21, 1996: Ord. 16781 §1; May 1, 1995: Ord. 16735 §6; February 13, 1995: Ord. 16127 §1; June 8, 1992: Ord. 14725 §2; August 3, 1987: Ord. 14613 §6; March 9, 1987: Ord. 14073 §1; April 1, 1985: Ord. (**Per Planning Commission, 03/21/01 – language inserted by Planning Department deleted by Planning Commission; language deleted by Planning Department re-inserted by Planning Commission**))~~

2. After the Council action on the O-3 Use Permit request at S. 27th and Pine Lake Road, Council members Jeff Fortenberry and Jonathan Cook requested that an amendment be brought forward to remove the council adjustment provision, reduce the wall sign size when facing a residential area, and to remove the electronic message center. There was an expressed concern about compatibility and sign appropriateness in the specific project and location that needed to be remedied. The Administration concurred in processing the request and the Planning Director has initiated this change.
3. The O-3 change is designed to have less impact on residential areas and better reflect the districts' use as an office park which is often utilized as a transitional and buffer between commercial and residential districts. The last change to this section, in April of 2000, reflected a substantial increase in allowed signs and size, to reflect the use of this district and the requests for signing that was being requested.
4. The Planning Commission placed Change of Zone 3299 on pending. That Change of Zone included provisions affecting both the O-3 and interstate provisions of the H-1, H-3 and H-4 zoning districts. The Mayor has established a working committee to review the entryway district Design Standards and Interstate Signs. This change allows the O-3 changes to move ahead independently.
5. This sign amendment package is generally intended to resolve issues of transition signage in the O-3, as identified by members of the City Council.

STAFF RECOMMENDATION:

Approval

Prepared by:

Michael V. DeKalb, AICP
Planner

CHANGE OF ZONE NO. 3307

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 21, 2001

Members present: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer; Schwinn absent.

Planning staff recommendation: Approval.

Proponents

Mike DeKalb of Planning staff presented the application. A year ago an application requested by Brian Carstens and Bob Norris was processed which was a substantial adjustment to the O-3 zoning relative to signs. That change was adopted by the Council in April, 2000. In the meantime, there was an application involving signage that came through and Council determined that the adopted language did not fit the circumstances, and two of the Council members suggested that the administration process an amendment to reflect those areas of concern. This change of zone represents that adjustment.

There are four items suggested to be changed: 1) total wall area change from 250 square feet to 150 square feet; 2) wall signs within 500' of residential should not be illuminated; 3) electronically changing copy signs or message centers are prohibited; and 4) this amendment deletes the language that allows the City Council to grant variances and adjustments through use permits.

Newman asked whether this amendment basically reverts the language to what it was before April, 2000. DeKalb explained that two versions ago the wall signs did not have a percentage; this tones it down, but you still have the 10% coverage and 150 sq. ft. versus 32 sq. ft. for a wall sign. Two versions ago, the provision relative to Council adjustment did not exist and that provision was added in the last change (April, 2000).

Carlson inquired about the maximum square footage before April, 2000. DeKalb explained that the wall sign was 32 sq. ft.

Bayer referred to a letter the Commission had received from Nebraska Neon agreeing to the non-illumination when 500' from residential, but disagreeing with the prohibition of electronically changing signs and the change from 250 square feet to 150 square feet. DeKalb did meet with Nebraska Sign Company and explained where this application was coming from and what was going on. He believes that their suggestions certainly have some merit but he could not comment relative to the Council's interest in bringing this forward.

Opposition

1. Bob Norris of Nebraska Sign Company testified in opposition. This discussion started after the sign ordinance was changed many years ago. In the O-3 district they allowed a specific number of signs (either 2 wall signs of 25 sq. ft. or one monument sign of 32' square feet, or a 25 square feet

monument sign and one wall sign of 25 square feet). That became unworkable because as the O-3 zones developed, they were becoming one or two larger buildings with multiple tenants and that is why we spent literally a year working up the change which was passed a year ago.

Norris is disappointed in that the initiators of this change (who seem to be anonymous) have chosen not to meet with Nebraska Sign Company. Thompson's letter explains some acceptable changes. The non-illumination of signs when within 500' and abutting a residential district is acceptable. The single user in a building having the ability for lesser square footage of 150 or 10% makes sense and we wouldn't mind working to implement that. We don't agree with what appears to be an arbitrary disallowing of all electronic changing signs in the O-3 zones. Electronic signs today are state-of-the-art, replacing the manual message changing systems; they are more expensive and not everyone uses them; but they are efficient and technologically speaking, they are what is coming hard and fast. Apparently the city recognizes the benefits of message centers because you will be hearing about an overlay district around the ballpark near the Haymarket that will eventually allow for electronic message centers. There are electronic message centers in residential zones in the City at churches. These are carefully done. Therefore, Norris requested that this restriction not be included.

With regard to the ability for Council to make adjustments, Norris reminded the Commission that O-3 is a use permit zone. All the other use permit zones in the city allow that to happen. This is worthwhile as a consistent measure.

Steward clarified the 250 versus 150 square feet with Norris. Norris took the position that if you have 3-4 tenants in the building, then it needs to be left at 10% wall cover or 250 square feet, whichever is less, but he thinks it is worthwhile if there is only one user in a building, that they be limited to 150 square feet or 10%, whichever is less.

2. Mark Bronder, President and CEO of Hampton Enterprises and Hampton Commercial Construction, testified in opposition and agreed with Mr. Norris' testimony. Limiting a single tenant to 150 square feet makes sense; Hampton has no opposition to non-illumination within 500' of a residential zone. However, the ability to go to 250 square feet is a need that Hampton does have. For example, Williamsburg Village has multiple tenant buildings and the signage that is granted is very discretionary, but they do need that ability to go to 250 square feet.

Hunter pointed out that even with the proposed reduction in wall sign size, there is also the ability to have ground signs. So, really it is not a restriction in terms of having duplicate signage on the building and on the ground but it's a matter of reducing wall signs in the city. A 250 square foot sign is about 17 x 17 feet and that is pretty big. She wonders if that really has an impact when you have the ability to have additional signage on the ground. Bronder stated that the signage on the ground does not do a lot of good. It is difficult to read as you are traveling in a vehicle. We can use larger letters on the wall that are more prominent and more identifiable for vehicular traffic. That is how we get people into our buildings.

3. Mark Hunzeker appeared on behalf of **Hampton Enterprises and Holdrege Investors**, in opposition. These are two areas, one developed and one undeveloped, that will be affected by this amendment. A year ago there was no problem with the language in the current ordinance. During that year, we have had no examples shown by anyone of "bad signage" that has been put up under the

current regulations. We have always had the ability to have changeable copy signs and there has been no objection to those to his knowledge. Every other use permit district in the city (B-2, B-5, etc.) has the ability to allow the City Council discretion to modify these requirements. It seems that the identification of individual businesses is not just a convenience to those businesses, but a necessity and a very great convenience to their clientele. The ground signs are limited to one per entrance to the office park, not to exceed 32 square feet. So in a Williamsburg context or Morning Glory Estates context, you have one ground sign per entrance and you need to be able to put up the signage on the buildings for people to find out where they are going. Hunzeker also agrees with the non-illuminated signs within 500' of residential. He also agrees that the wall sign be limited to 150 square feet per tenant in single tenant buildings, but the 250 square feet is important to have identification for individual buildings. There has been no real case made that there has been any abuse of this section and there is certainly a strong case to be made for multiple tenant buildings that they need additional signage to be able to identify those individual tenants. They need that identification and absent some real justification, Hunzeker believes it should be allowed to work.

Hunzeker also stated that no one wants to say what the real origin of this proposal is, but he believes it relates back to an individual application that was made to modify requirements for a particular office zoned parcel in south Lincoln. That modification was granted by the Planning Commission and the City Council, and, as far as he can tell, no one has objected other than one or two people who voted against it at the City Council. There is no regulation in the ordinance that is so perfect that it shouldn't have the opportunity for review in light of existing and particular circumstances. That is why we have Board of Zoning Appeals and these adjustment provisions in every other use permit district. These ordinances are written by people who have no experience dealing in businesses and signage.

Hunzeker requested that the text amendment be denied. If not denied in total, he requested that the Commission only approve the reduction to 150 square feet for single tenant buildings and non-illuminated signs within 500' of a residential district.

Response by the Applicant

With regard to the nameless location and individuals, DeKalb advised that this information appears on page 3 of the staff report. Bayer clarified that the location was at 27th and Pine Lake Road, and Jeff Fortenberry and Jonathan Cook were not in favor of that action and requested that staff bring this amendment forward.

Steward believes we are at a point of splitting small pieces of a larger pie and it sounds like the industry and this proposal are very close. Given two weeks, he wondered whether the language could be worked out. Steward might prefer to modify the 250/150 circumstances as requested by the opposition, but that is going to be tricky language and he would rather it be done more deliberately and reasonable. DeKalb would not disagree with a deferral and an attempt to compromise.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 21, 2001

Hunter moved to approve the staff recommendation, seconded by Newman.

Hunter commented that in the past year and a half there have been a lot of things before the Commission having to do with billboards and now having to do with building signage and the issue of signage along the interstate, all of which is crying out for the same thing—a standard that does not blight visibility and trash up the area. She believes that 250 square feet is huge. As far as signage and identification is concerned, the traveling consumer is usually looking for an address. Monument signage is attractive and they could be identified by address. The point that was brought forward was to set a standard that said this is a maximum number and you have ground signage to identify location. We did that with the billboards and she believes this is consistent.

Steward is concerned with the largest permissible size as well; however, there are two procedural characteristics that are going to cause him to vote against the motion. He does believe there is a valid argument about appeal and he believes signs all begin to be a matter of agreeing with or opposing taste, and while given a preference he would hope they would be 2' x 3' and limited one per building, that's never going to happen. He thinks the right to appeal to the City Council and to be consistent with other special use permits is important. Secondly, Steward believes we are being shortsighted from a potential graphics and appearance possibility in eliminating the electronically changing signs. One that he believes is not intrusive is the recent Journal Star sign at the new building. This would eliminate some potential technology that we are not even aware of that might be possible.

Carlson moved to amend that the language stricken in paragraph (d), “The sign regulations in subsection (b), paragraphs (2), (3), and (4), may be modified by the City Council in connection with the granting of a use permit in conformance with all other requirements of Chapter 27.27.”, be reinserted allowing modification by City Council, seconded by Newman. Newman believes it is the single most important issue. We can set the standard but she believes there needs to be an appeal process for individual applications. Motion to amend carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting ‘yes’; Schwinn absent.

Steward moved to amend to eliminate the underlined portion of paragraph (d), “Electronically changing copy signs, also known as reader boards and message centers, shall be prohibited.”, seconded by Duvall.

Hunter wondered whether that issue couldn't also be appealed to the City Council by virtue of the first motion to amend. Rick Peo of Law Department clarified that the appeal section is very limited. It only refers to subsections 2, 3 and 4 of paragraph (b). (b) 1 and (d) are not appealable rights. Bayer believes the electronic signs can be very well done and are the wave of the future. We don't even know how they can look in the future.

DeKalb advised that this prohibition was added because all non-residential districts are allowed to have message centers up to 80 square feet within the allowed sign package for the district. There was a specific request related to the action on So. 27th and Cook and Fortenberry felt it was inappropriate. By this action, only the O-3 district could not have electronic signs.

Newman inquired whether electronically changing copy signs include the little movable trailers. DeKalb clarified that those are not included and are considered temporary signs.

Carlson believes the amendment becomes more compelling because it seems odd that we would single out one district.

Motion to amend to delete the prohibition of electronic signs carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

Bayer moved to amend to add the language as requested by Nebraska Neon to leave the 250 square feet, except in the case where there is a single building tenant, which would be 150 square feet, seconded by Duvall.

Bayer thinks signs are critically important for the success of business in this community and we should not take away the opportunity for businesses to succeed. We have eliminated the number of billboards in this community; we have impacted signs in entryways; businesses need this opportunity to advertise their existence. We can limit the signs by limiting the number of O-3 districts. It is critical to remember that these are businesses trying to exist in our community. This is a good compromise.

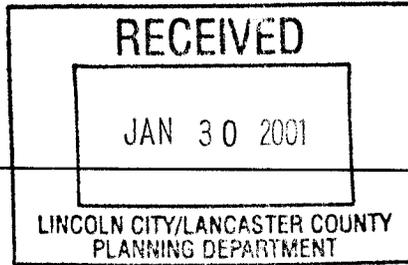
Steward clarified that the motion would actually read equivalent to 10% coverage of the wall face or 250 square feet for multiple tenant buildings, whichever is less, or 10% coverage or 150 square feet for a single tenant building, whichever is less.

Motion to mend carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

Main motion, as amended, carried 8-0: Krieser, Duvall, Hunter, Taylor, Steward, Carlson, Newman and Bayer voting 'yes'; Schwinn absent.

Nebraska Sign Company

1140 North 21st Street
P.O. Box 80956
Lincoln, Nebraska 68501



402/476-6563
FAX: 402/476-3461

January 29, 2001

Kathleen A. Sellman, AICP
Director of Planning
555 South 10th Street
Lincoln, NE 68508

Dear Kathleen:

As you are aware, Change of Zone #3299 was the cause of quite a bit of negative testimony at the last Planning Commission public hearing.

I would hope that for the purposes of future discussion the O-3 would be treated separately from the highway zones.

Concerning the O-3 ... last spring when the language now in question was developed, with the assistance and agreement of Planning and Building and Safety personnel, the resultant ordinance was deemed appropriate. The January 11 staff report says the newly proposed adjustments in the O-3 districts is necessary "to better reflect a transitional district". I would suggest that the ordinance as changed last May works well for the transitional O-3 districts. Many O-3 districts utilize larger multi-tenant buildings with users who require identification. The sign sizes we currently have were discussed and deemed appropriate. Electronic messaging, whether time and temperature signs of message centers have been used in transitional areas for years, with no adverse results noted. The ability to have City Council modify the sign regulations is consistent with all of the other use permit zones. I do not understand why these specific suggested changes are being brought forward at this time.

Concerning the H-1, H-3 and H-4....The ability to advertise to the traveling public is imperative for businesses that locate along the interstate highways. They are typically at these locations because that is where their markets are, and to comply with locations dictated by zoning ordinance. Have those who are proposing these changes gathered any data on the economic impact to the affected property owners, businesses and, ultimately to the City? If not I would hope that, action on the sign ordinance change and on the Entryway Corridor overlay district be postponed until the true impact can be evaluated.

I am sending this letter, as my schedule the next few weeks involves quite a bit of travel out of the City and I will not be able to attend many of the upcoming meetings dealing with these topics. Mr. Jack Thompson, marketing director at Nebraska Neon will be monitoring these issues and attending what ever meetings are appropriate. If you have any questions or with any further comments please contact Jack. Thank you very much.

Sincerely,

Bob Norris

COPY

Neon
Nebraska Sign Company

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402/476-6563
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March 5, 2001

Planning Department
City of Lincoln
Attn: Mr. Mike Dekalb
555 South 10th Street
Lincoln, NE 68508

Dear Mike,

I am writing in regard to a matter coming before the Planning Commission for a public hearing on March 21st.

The matter I refer to is the attempt to significantly rewrite the Lincoln Municipal Code pertaining to the O-3 sign regulations. It appears the proposed new language will substantially reduce the size and type of signs currently allowed.

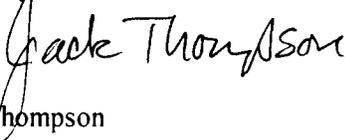
I have several concerns regarding the proposed changes. As you remember Mike, less than a year ago, the Planning and Building and Safety Departments met with representatives of the commercial development and management community as well as the sign industry. All of these parties worked together to write a new O-3 sign ordinance that was mutually agreeable and made sense. The new regulations accomodated the large multi-tenant buildings that were being permitted in the O-3 zoning district. The regulations were approved by the Planning Commission and the City Council.

Having not been made aware of any public outcry relative to the change, I am curious to know why our considerable efforts a year ago are being overturned.

I am requesting an opportunity prior to the Planning Commission public hearing to sit down with the affected parties to discuss these proposed changed. Mike, I think it would be appropriate if you and Terry Kathe of Building and Safety could attend since you both were integral in the development of the adopted changes a year ago.

Thank you for your consideration and assistance.

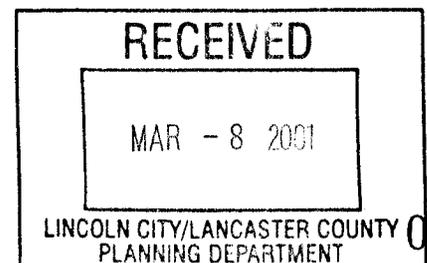
Sincerely,



Jack Thompson

CC: Kathleen Sellman
Terry Kathe
Russ Bayer
Jerry Shoecraft

JT/kk



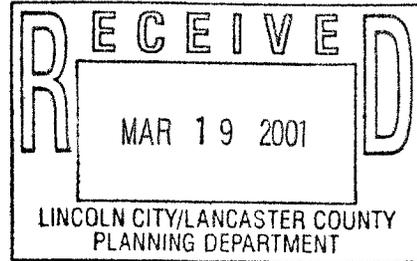
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March 19, 2001

City of Lincoln - Lancaster County
Planning Commission
555 South 10th Street
Lincoln, NE 68508



Dear Commission Members,

I will not personally be able to attend the March 21st Planning Commission Public Hearing. I therefore, would like to submit to you by letter my concerns relative to Change of Zone No. 3307 for a text change to the O-3 Office Park District sign regulations.

A mere year ago, the O-3 sign ordinances were changed to allow a greater maximum amount of square footage of signs on office buildings. During the public hearings for this change we presented on behalf of several commercial building developers, managers and tenants the argument that today's large, multi-storied, multi-tenant office buildings had outgrown the existing sign regulations. We prepared several scaled drawings showing existing office buildings with the largest possible signs that would be allowed under the changes being proposed. The changes we proposed were drafted with the assistance and approval of both the Building and Safety and Planning Departments.

In a recent meeting with representatives from both of these same departments, I specifically asked if in the past year there had been any sign or signs installed on a building in an O-3 district that had drawn the ire of the general public. I was told that there had not been any public outcry.

In reviewing the proposed changes, I feel the only one that makes sense is the 500' distance requirement so that when a sign on a building faces a residential district it shall not be illuminated. This would ensure that the signs will not be intrusive at night to their residential neighbors and I believe that most office building owners and tenants would support this.

I would also suggest that instead of reducing the total square footage allowed, new text be adopted to limit any single tenant from having more than 150 square feet of signage on the building with the 10% limit also applying. I think this stays within the original spirit of the changes adopted a year ago that if a building has multiple tenants they be allowed to have adequate and reasonable signage.