

## **FACTSHEET**

**TITLE:** CHANGE OF ZONE NO. 04042, a text amendment to Title 27 of the Lincoln Municipal Code (zoning ordinance), requested by W. Michael Morrow on behalf of Anderson Ford, to amend Chapter 27.69 relating to signs by amending Section 27.69.049 relating to permitted signs in the H-3 zoning district to clarify language and to allow on-premises pole signs located within 660 feet of the designated interstate to include electronic changeable copy up to 240 square feet in sign area; by amending Section 27.69.270 relating to other permitted signs in non-residential districts to allow an exception to the maximum changing sign area as provided in Section 27.69.049(d); and repealing Sections 27.69.049 and 27.69.270 of the Lincoln Municipal Code as hitherto existing.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 08/18/04 and 09/15/04  
Administrative Action: 09/15/04

**RECOMMENDATION: DENIAL** (7-1: Carlson, Carroll, Krieser, Marvin, Taylor, Bills-Strand and Sunderman voting 'yes'; Larson voting 'no'; Pearson absent).

**STAFF RECOMMENDATION: DENIAL.**

### **FINDINGS OF FACT:**

1. This text amendment would allow a 240 sq. ft. message center within 660 feet of an Interstate Highway in the H-3 Zoning District. The reason for the request is to legalize an existing sign for Anderson Ford at N. 27<sup>th</sup> and Interstate 80, for which a permit was issued in error in December of 2000.
2. The staff recommendation to deny the proposed text amendment, as revised by the City Attorney, is based upon the "Analysis" as set forth on p.2-3, concluding that the proposal would make very limited and targeted changes to the sign ordinance to legalize the current Anderson Ford message center sign. The 240 sq. ft. message center is three times the maximum size permitted by the sign code. The proposed amendment would add to driver distractions on the interstate, and it sets a very poor precedent to add large signs in other locations and zoning districts. The existing sign adds to light pollution that will likely have a negative impact on the endangered Salt Creek Tiger Beetle.
3. On August 18, 2004, the applicant's representative requested a four-week deferral after meeting with the Mayor's Neighborhood Roundtable.
4. The public hearing was held on September 15, 2004. The applicant's testimony is found on p.4-6. The additional information submitted by the applicant is found on p.14-21.
5. There was no testimony in opposition; however, the record consists of an e-mail from Carol Brown on behalf of the Lincoln Neighborhood Alliance in opposition (p.22).
6. On September 15, 2004, the Planning Commission agreed with the staff recommendation and voted 7-1 to recommend denial (Commissioner Larson dissenting).
7. An application for special sign district was suggested as an alternative by one Commissioner.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** September 20, 2004

**REVIEWED BY:** \_\_\_\_\_

**DATE:** September 20, 2004

**REFERENCE NUMBER:** FS\CC\2004\CZ.04042

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for August 18, 2004 PLANNING COMMISSION MEETING

**P.A.S.:** Change of Zone #04042 - Signs

**PROPOSAL:** Text amendments to :

*Zoning, Title 27 LMC;*  
Chapter 27.69.049 H-3 signs  
Chapter 27.69.270 Other Permitted Signs

**CONCLUSION:** These amendments would make very limited and targeted changes to the sign ordinance to legalize the current Anderson Ford message center sign. This size message center is not justified, sets a very poor precedent to add larger signs in other locations and zoning districts, and in the case of the existing signs, adds to light pollution that will likely have a negative impact on the endangered Salt Creek Tiger Beetle. For these reasons it should be denied.

**RECOMMENDATION:**

Denial of the attached text

**HISTORY:** The referenced sections of the zoning text have been in place since 1979.

**ANALYSIS:**

1. The applicant is requesting changes to the sign section for the H -3 District to allow a 240 square foot message center within 660 feet of an Interstate Highway. The reason for the request is to legalize an existing sign for Anderson Ford at North 27<sup>th</sup> and Interstate 80.
2. The applicant states a sign permit was issued for the existing sign in December 2000 and Building and Safety did not notify the applicant until a letter was sent on February 2004.
3. Building and Safety has indicated the permit was issued in error to a licensed sign contractor who should have known it was not a legal sign. After it was erected and discovered to be in error in 2001, Building and Safety did contact the sign contractor and the land owner to advise them the sign was not legal.
4. The City has received numerous complaints about the size, location and light levels of the existing sign. Several other businesses have asked if they can have a similar sign. Based on complaints, the letter of February 2004 was sent.
5. The current limit of 80 square foot of area for a sign that blinks and flashes has been part of the code since 1979 and is applied across the city except for the Downtown B-4 district.

6. Provision of this request for additional electronic signing raises the question of making the same opportunity available for other zoning districts.
7. Most of the Interstate interchanges for Lincoln (with the exception of the Waverly exit and the I-180 exit) have H-3 in place and could utilize this provision. Freeway interchanges are especially poor locations for motorists to be distracted by large changeable messages.
8. Light pollution is a city wide issue but is much more sensitive in the area of the Salt Creek Tiger Beetle since it has been shown to be attracted to light. The existing sign is within one mile of, and visible from, existing known beetle habitat.
9. The City Attorney's office has suggested alternative language, and a draft Ordinance, if the City chooses to approve the text amendment.
10. The impact and potential impact of this change is such that the change of zone should be denied. The existing sign should be removed. An error by a building official does not legalize an action. After four years of use, it is now time to come into conformance with the code and the rest of the City.

Prepared by:

Mike DeKalb, AICP  
441-6370, [mdekalb@ci.lincoln.ne.us](mailto:mdekalb@ci.lincoln.ne.us)  
Planner  
August 2, 2004

**APPLICANT:** Anderson Ford  
2500 Wildcat Dr.  
Lincoln, NE 68521  
(402) 458 - 9800

**CONTACT:** W. Michael Morrow, Attorney  
P.O. Box 83439  
Lincoln, NE 68501  
(402) 474 - 1731

# CHANGE OF ZONE NO. 04042

## PUBLIC HEARING BEFORE PLANNING COMMISSION:

August 18, 2004

Members present: Marvin, Pearson, Krieser, Sunderman, Carlson, Carroll, Taylor and Bills-Strand; Larson absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

The Clerk announced that the applicant's representative has submitted a written request for four-week deferral.

Carlson moved to defer four weeks, with continued public hearing and administrative action scheduled for September 15, 2004, seconded by Carroll and carried 8-0: Marvin, Pearson, Krieser, Sunderman, Carlson, Carroll, Taylor and Bills-Strand voting 'yes'; Larson absent.

## CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 15, 2004

Members present: Larson, Carroll, Marvin, Carlson, Krieser, Sunderman, Taylor and Bills-Strand; Pearson absent.

Staff recommendation: Denial.

Ex Parte Communications: Marvin reported that he attended a Neighborhood Roundtable meeting where this topic came up and there is a letter from Carol Brown as Chair of the Neighborhood Roundtable in opposition.

### Proponents

**1. Mike Morrow** appeared on behalf of the applicant, **Anderson Ford**. Anderson Ford has pioneered the development of the Auto Mall on N. 27<sup>th</sup> and I-80 and several other dealers have now located out there. Anderson Ford was the first one to go in the area and in December of 2000, Anderson Ford filed an application with the Building & Safety Department for the sign that has been constructed. Morrow submitted a copy of the building permit application which includes a very specific drawing of the sign. Building & Safety issued the permit and Anderson Ford constructed the sign at their expense of \$80,000. At some point, someone orally contacted Anderson Ford and advised they might be in violation, but it was not until February of 2004 that an official letter came from Building & Safety advising Anderson Ford specifically that the sign violated the provisions of the ordinance because the size of the message changing board exceeded 80 sq. ft. Morrow agreed that the sign exceeds 80 sq. ft., being approximately 140 sq. ft. However, Morrow submitted that the size of the sign does not violate the ordinance; the fact that it is illuminated does not violate the ordinance; the location does not violate the ordinance; and no complaints have been received by anyone based on the sign changing board. If this sign did not have the message changing board, it would be in full complete compliance.

Morrow pointed out that this is a request that the zoning ordinance be amended in a very limited manner so that signs that are located in this zoning district, that are within 50' of the main building of the premises, and within 660 feet of the interstate, be allowed to have an increased size changing board. That is the only violation. The 80 sq. ft. size limit pertains to any sign in the city. This is a request to increase that limit to 240 sq. ft. only within the limited areas under the proposed amendment. The applicant does consent to the amendment as revised by the City Attorney. This amendment is extremely narrow. The sign has to be within 50 feet of the premises and 660 feet of the interstate.

Morrow believes this is an unfortunate situation. Anderson Ford has even offered to look at placing city messages on this sign. Amber Alert has suggested that this would be a great sign for the Amber Alert system and Anderson Ford has already signed up. Morrow believes the sign is technically in full conformance with all provisions with the exception of the changing board sign. There are no studies that show changing board signs are detrimental to the traveling public. The city uses changing boards all over this town right now – mobile changing signs, which are not in compliance.

There was no testimony in opposition.

#### Staff questions

Bills-Strand inquired about any other remedy, since the city also made a mistake. Would it be possible to allow the sign if it is used for the Amber Alert system and that it be allowed to remain in place until any changes are made to the sign? Rick Peo of the City Law Department stated that the sign is an illegal sign that was inappropriately approved by Building & Safety, but that doesn't give them a right to maintain or keep that sign. They do not have any vested rights to the sign. The city should revoke that permit that was erroneously issued. With regard to the issue as to whether the city is liable for any damages, the City Attorney would argue that the City is exempt under the tort claims act for this type of mistake, but those are legal disputes to be resolved at the court level. The sign cannot be accommodated by conditions. It is an illegal sign so it either needs to be made legal or it needs to come down or be modified to remove the message board display in excess of the limits.

Marvin inquired whether the sign can broadcast the time of day. Peo stated that it is the amount of square footage of the changing board that is the problem. The city does not monitor the message content anymore, but the 80 sq. ft. is the maximum that would be allowed. The issue is 240 sq. ft. versus 80 sq. ft.

Sunderman wondered whether they could use the existing sign but turn off part of it to bring it within the 80 sq. ft.. Peo assumes that if they modify the sign so that the message board is not in excess of 80 sq. ft., it would be permitted. Morrow stated that there have been discussions on modification but it depends on the capabilities of the sign. It becomes an enforcement issue.

Bills-Strand inquired whether the city would still be liable if changes are required to be made to make it a legal sign. Peo could not answer the question, but he believes there are some defenses that the city would have.

Larson stated that he has a lot of empathy for the applicant, first of all because of the error the city made, and secondly, because Anderson Ford is in the position of being on the high speed interstate. Any message they put up there has to be short and quick, so he thinks some sort of zoning change for situations like this might be appropriate.

Morrow pointed out that the city has established special sign districts, such as the Downtown movie theater project, which allows them to have changing movable sign boards that are much larger than 80 sq. ft. This has also been done for Haymarket Park. Anderson Ford would be willing to look at doing a special sign district for this sign. This mall has brought in considerable sales tax dollars to this city. Signs change around the city all of the time. What about the changing sign at the gas stations? What about the billboards changing? The church at 48<sup>th</sup> & Cotner has the exact same kind of sign. There are some optional ways that this can be done. Building & Safety advised Anderson Ford to come forward with this request.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 15, 2004

Carlson moved to deny, seconded by Marvin.

Carlson is sympathetic to the owner because he thinks Building & Safety should have caught it and the applicant is probably going to have a legal remedy. The applicant does have an avenue to try to recover costs. It is tough to change the rule to accommodate someone who was allowed an exception to the rule by mistake. The rule is 80 sq. ft.

Taylor believes that we must also consider the nature of signage on the interstate. A very noble effort has been made to get rid of all the signs on the highways which are sight pollution. He can see that this sign is a sight pollution and he does not want to undo a great effort that was made in the past and he believes our highways should be as clean as possible.

Bills-Strand indicated that she is not in favor of the zoning change but she would like to see the possibility of a special sign district.

Motion to deny carried 7-1: Carroll, Marvin, Carlson, Krieser, Sunderman, Taylor and Bills-Strand voting 'yes'; Larson voting 'no'; Pearson absent. This is a recommendation to the City Council.

Bills-Strand asked how a special sign district works. Mike DeKalb of Planning staff advised that special sign district is in the code today – Haymarket, Haymarket Park and the Downtown Entertainment Center have special sign districts. The applicant must make application and then it goes through the Planning Commission and City Council.

W. MICHAEL MORROW  
TERRANCE A. POPPE  
ROBERT R. OTTE  
DAVID W. WATERMEIER  
TIMOTHY C. PHILLIPS  
JOEL G. LONOWSKI  
JOSEPH E. DALTON  
KELLY N. TOLLEFSEN

**MORROW, POPPE, OTTE,  
WATERMEIER & PHILLIPS, P.C.**

Attorneys at Law

A Limited Liability Organization

TELEPHONE: (402) 474-1731

FACSIMILE: (402) 474-5020

E-MAIL ADDRESS: info@morrowpoppelaw.com

WEBSITE: www.morrowpoppelaw.com

*Location:*

201 N. 8th Street, Suite 300  
Lincoln, Nebraska 68508

*Mailing Address:*

P.O. Box 85439  
Lincoln, Nebraska 68501-3439

JUN 25 2004

June 25, 2004

County/City Planning Department  
County-City Building  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

**HAND DELIVERED**

Re: Applications to amend text of City Zoning Code

Dear Sir or Madam:

Please be formally advised that this firm represents R & D Investments, LLC, now known as RMA Investments, L.L.C. (the "Property Owner") and Anderson Ford (the "Applicant"). On behalf of the Property Owner and the Applicant, I am forwarding to you herewith the following:

1. Application to amend the text of 27.69.049(d) of the Lincoln Municipal Code.
2. Application to amend the text of 27.69.270 of the Lincoln Municipal Code.
3. Our firm's check made payable to the "City of Lincoln" in the amount of \$500.00, in order to cover the filing fees for the enclosed Applications.

Please note that the enclosed Applications are designed to amend the relevant portions of the text of the Lincoln Municipal Code for purposes of allowing the current sign that is located on the Anderson Ford Property at 2500 Wildcat Drive, Lincoln, Nebraska, to remain in place. Please also note that on December 8, 2000, the City's Building & Safety Department issued Permit #S0000733 for the sign that is currently located on the Anderson Ford Property (see Exhibit "1" to the enclosed Applications; and that it was not until February 26, 2004 that the City advised Anderson Ford that the current sign failed to comply with the provisions of 27.69.270 of the Lincoln Municipal Code (see Exhibit "2" to the enclosed Applications). Finally, please also note that simultaneously herewith copies of the enclosed Applications have been forwarded to the Mayor's Neighborhood Round Table (see attachment 3 to the enclosed Applications).

007

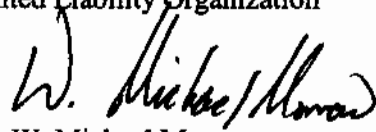
June 25, 2004  
Page 2

Please direct all correspondence to the undersigned as the contact person for the Property Owner and the Applicant. If you have any questions regarding this matter please do not hesitate to contact me.

Very truly yours,

MORROW, POPPE, OTTE,  
WATERMEIER & PHILLIPS, P.C.  
A Limited Liability Organization

By:



W. Michael Morrow

E-mail: [wmm@morrowpoppelaw.com](mailto:wmm@morrowpoppelaw.com)

WMM/pg

Enclosures

c: Mike Anderson  
Mayor's Neighborhood Round Table

JUN 25 2004

008



**REQUESTED AMENDMENT TO  
27.69.049(d)**

Applicant hereby requests that the following italicized language be added to 27.69.049(d) of the Lincoln Municipal Code, so that said Section 27.69.049(d) will read as follows:

(d) In addition to the foregoing, within 660 feet of the designated interstate, the on-premises pole sign may be eighty feet in height and 360 square feet in area is permitted when such sign is within fifty feet radius of main buildings. *In addition to the foregoing, the specific provisions of Section 27.69.270 shall not apply to a sign constructed in accordance with the provisions of this Section 27.69.049(d); provided, however, that the changing sign area shall not exceed 240 square feet of such sign area.*

**REQUESTED AMENDMENT TO  
27.69.270**

Applicant hereby requests that the following italicized language be added to 27.69.270 of the Lincoln Municipal Code, so that said Section 27.69.270 will read as follows:

**27.69.270 Other Permitted Signs; Nonresidential; Public Service Information.**

In any nonresidential district, electronic changeable copy signs displaying the time, temperature, weather, or similar public service information shall be permitted. The sign area displaying such information may change, blink, flash, or have the appearance of movement; provided, *that except as provided in 27.69.049(d)*, that the changing sign area shall not exceed eighty square feet of sign area. Such area shall be included as a part of the permitted signage for the premises on which it is located.

JUN 25 2004

009

**PURPOSE STATEMENT FOR  
APPLICATION FOR CHANGE OF ZONE  
TO 27.69.049(d)**

This Application is being submitted simultaneously with an Application to amend the provisions of 27.69.270 (this Application, and the Application to amend the text of 27.69.270 being hereinafter collectively referred to as the "Applications").

The purpose of the Applications is to amend the provisions of 27.69.049(d) and 27.69.270 of the Lincoln Municipal Code, so as to allow the changing sign area of a sign that is otherwise constructed in accordance with the provisions of 27.69.049(d) of the Lincoln Municipal Code to be increased from 80 square feet of sign area to 240 square feet of sign area.

**REASONS:**

1. 27.69.049(d) of the Lincoln Municipal Code governs the construction of on-premises pole signs located within an H-3 zoning district and within 660 feet of the interstate.
2. Applicant's existing pole sign meets all of the requirements of 27.69.049(d).
3. Applicant applied for a sign permit to construct the existing pole sign on Applicant's property. On December 8, 2000, the City issued to Applicant Sign Permit #S0000733 for purposes of allowing Applicant to construct the existing pole sign on Applicant's property (see attached Exhibit "1").
4. The existing pole sign was constructed on Applicant's property in the spring of 2000.
5. On February 26, 2004, the City forwarded to Applicant a Notice advising Applicant that the changing board area of Applicant's existing sign exceeded the 80 square feet of sign area allowed under 27.69.270 of the Lincoln Municipal Code (see attached Exhibit "2").
6. The limited nature of the Applications will only allow on-premises pole signs that otherwise meet all of the conditions of 27.69.049(d) of the Lincoln Municipal Code, to have an increased changing sign area on such sign.
7. The reason for the changes requested by the Applications is to bring the sign already constructed by Applicant in accordance with the Permit issued by the City (see Exhibit "1") into compliance with the City's zoning code.

Applicant has forwarded copies of the two Applications to the Mayor's Neighborhood Round Table (see attachment 3).

03/05/2004 02:34 3883848483

1 CAPITOL SIGN COMPANY

PHN NO. : 1 402 466 2157

Jan 15 2001 10:54AM P2

Hi-Kisa Sign

Building & Safety Department  
City of Lincoln - Lancaster County  
Room 208, 655 S 10TH ST., Lincoln, NE 68508-3906  
SIGN PERMIT  
Inspection Line 441-8213  
For Technical Questions,  
Call Plan Reviewers at 441-7882 - 8:00 a.m. to 4:00 p.m.  
Call Building Inspectors at 441-7081

OWNER ANDERSON FORD 12/5/2000  
APPLICANT CAPITOL SIGN COMPANY 12/5/2000 Phone: 402-466-7446  
1421 N 35TH CIR  
LINCOLN NE  
68504  
SIGN CAPITOL SIGN COMPANY 12/5/2000 Phone: 402-466-7446  
1421 N 35TH CIR  
LINCOLN NE  
68504  
License #: E0930

Permission is hereby granted to construct the following stationary sign as described per application and listed herein:

PERMIT #: S0000730 APPLIED: 12/5/2000  
STATUS: ISSUED APPROVED: 12/8/2000  
ISSUED: 12/8/2000  
FINALED:  
TO EXPIRE:

**JOB ADDRESS: 2500 WILDCAT DR L**

LEGAL DESC: HIGH POINTE NORTH COMMERCIAL PARK ADD BLOCK 1 LOT 1  
OWNER: ANDERSON FORD

WORK DESCRIPTION: IN-SITU POLE SIGN BLUE ANDERSON FORD 360 SQ FT 20' HGT  
12' W X 12' H

Zoning: M-3 Setback: 30'  
Sign Size: 12' X 36'  
Sign Height: 20' HGT  
Total Area(SQ FT): 360 SQ FT

TOTAL FEE: \$50.00

Type	Method	Description	Amount
		CURRENT PAYMENT:	.00
		TOTAL PAYMENT:	\$50.00
		BALANCE DUE:	\$0.00

ISSUED BY: DC

PRINT DATE: 12-08-2000

Exhibit "1"



Building and Safety Department  
 Mike Merwick, Director  
 555 South 10th Street  
 Room 203  
 Lincoln, Nebraska 68508

402-441-7521  
 fax: 402-441-8214  
 bldgsafe@cl.lincoln.ne.us



MAYOR COLEEN J. SENG

www.ci.lincoln.ne.us

February 26, 2004

Mike Anderson  
 Anderson Ford  
 2500 Wildcat Drive  
 Lincoln, NE 68521

Re: Electronic Changeable Copy Sign

Mr. Anderson

This Department has received numerous complaints regarding the electronic changeable copy sign located on your property. This pole sign was permitted under sign permit S0000735.

Section 27.69.270 of the Lincoln Municipal Code states as follows:

**27.69.270 Other Permitted Signs; Nonresidential; Public Service Information.**

In any nonresidential district, electronic changeable copy signs displaying the time, temperature, weather, or similar public service information shall be permitted. The sign area displaying such information may change, blink, flash, or have the appearance of movement; provided that the changing sign area shall not exceed eighty square feet of sign area. Such area shall be included as a part of the permitted signage for the premises on which it is located. (Ord. 16735 §31; February 13, 1995; prior Ord. 14613 §34; March 9, 1987).

A pole sign such as this is allowed 360 square feet of area. However, the electronic changeable copy area is only allowed to be 80 square feet. We are requesting you to reduce the electronic changeable copy area to allowed limits or remove the sign. Please contact me within 30 days with your written response on your intended course of action to comply with this ordinance. If you have any questions, you may call me at 441-6452.

Respectfully,


Charles A. Zimmerman, Manager

cc: Mike Merwick, Director, Building & Safety  
 Ann Harrell, Mayor's Office  
 Mike Petersen, Building & Safety  
 File

Exhibit "2"

**INTER-DEPARTMENT COMMUNICATION**

**TO** Mike DeKalb  
**DEPARTMENT** Planning  
**ATTENTION**  
**COPIES TO**

**DATE** July 19, 2004  
**FROM** Rick Peo   
**DEPARTMENT** City Law  
**SUBJECT** CZ04042 – text amendment  
27.69.049

If the text amendment goes through, I suggest that §27.69.049(d) be revised to read as follows:

(d) In addition to the foregoing, Notwithstanding the height and area restrictions in (a) and (c) above, an on-premises pole sign located within 660 feet of the designated interstate, the on-premises pole sign may be eighty feet in height and 360 square feet in area is permitted when such sign is within fifty feet radius of main buildings. If the on-premises pole sign includes electronic changeable copy, the changing sign area shall not exceed 240 square feet of such sign area.

Specifically, I believe the existing language "In addition to the foregoing" is ambiguous as to whether the pole sign is in addition to the pole signs authorized in (a) and (c) above or is only a height and area adjustment. My change is to ensure that (d) is only a height and area adjustment.

ERP/ce

**ANDERSON FORD SIGN – TIMELINE**  
**Re Change of Zone No. 04042**

<u>Date</u>	<u>Description</u>
6-1-98	Purchase of 47 Acre undeveloped tract at Southwest corner of I-80 & No. 27 <sup>th</sup>
11-00	Anderson Ford Facility at I-80 & No. 27 <sup>th</sup> Street opens for business
11-21-00	Anderson Ford Signs Contract w/Capital Sign to put up existing sign for \$79,560.00, plus Permit Fee plus electrical conduit and final hookup (see attached Contract)
12-1-00	Application for Sign Permit filed with City's Building & Safety Dept. (see attached Application) Application clearly shows an illuminated pole sign, containing an electronic changeable copy board (of approximately 240 square feet)
12-8-00	City issues sign permit S0000735 approving the Application to construct the sign as described in the Application for fee of \$90.00 (see attached Permit)
2-26-04	Anderson notified by City that changeable copy portion of the sign is in excess of 80 s. f. and therefore violates 27.69.270 (see attached letter)
4-04	Anderson Ford Representatives meet with Building & Safety Dept., who advise Anderson Ford that they have no real objection to the sign and that Anderson Ford should file Application to Amend the Zoning Ordinance
6-25-04	Current Application to Amend Zoning Ordinance filed with Planning Department
9-8-04	Marvin Krout contacted about creating special sign district for the sign, with amber alert and other public service messages appearing on the sign
9-10-04	Marvin Krout informs applicant's attorney that no special sign district will be allowed

**Relevant Ordinances**

27.69.047 (e) on premises pole signs in H-1 to H-4 Zoning Districts that are within 660 ft. of a designated Interstate and within 50 feet of the main building, may be 80 ft. in height, contain 300 sq. ft. in area, and may be illuminated.

27.69.020 contains the definition of a Pole Sign as mounted on a free standing support so that the bottom edge of the sign is 10 ft. above grade and contains the definition of an Electric Changeable Copy Sign.

27.69.270 limits electronic changing area of a sign to 80 s. f. of sign area.



MANUFACTURING AGREEMENT

ROGER ANDERSON

IN AGREEMENT WITH <b>ANDERSON FORD</b>	PHONE	DATE <b>NOVEMBER 21, 2000</b>
STREET <b>120 N. DIERS AVE.</b>	JOB NAME <b>ANDERSON FORD</b>	<b>27th &amp; I-80</b>
CITY, STATE AND ZIP CODE <b>GRAND ISLAND, NE. 68803</b>	JOB LOCATION <b>LINCOLN, NE.</b>	<b>Message Unit</b>
ARCHITECT	DATE OF PLANS	JOB PHONE

TRICITY SIGN COMPANY will furnish buyer with one or more hereinafter described signs according to drawing. No. \_\_\_\_\_ and according to the Terms and Conditions hereunder, and page 2.

MANUFACTURE AND INSTALL ONE (1) 3'9"X30' DOUBLE FACE ANDERSON FORD ID SIGN. SIGN IS ILLUMINATED WITH FLUCRESCENT LAMPS. SIGN IS MOUNTED ON A 8'X30' DOUBLE FACE ELECTRONIC MESSAGE UNIT WITH TWO (2) ROWS OF 36" CHARACTERS. SEE ATTACHED SPECIFICATION SHEET PROJECT 16027. SIGN IS TO BE INSTALLED AT 80' OVERALL HEIGHT FROM GRADE. CONTRACT IS CONTINGENT UPON CITY OF LINCOLN, NE. APPROVAL. ALL COLORS AND GRAPHICS PER DESIGN 13-09 DATED 11-20-00, ANDERSON FORD. ELECTRICAL, CONDUIT AND FINAL ELECATRICAL BOCK-UP BY OTHERS. TRI CITY TO DROP WIRE HARNESS AND FIBER OPTIC CABLE TO BASE OF SIGN. DO NOT SPLICE OR CUT FIBER OPTIC CABLE.

EXCAVATION OF FOOTINGS IS BASED ON NORMAL DIGGING CONDITIONS. IF ROCK, WATER, ETC. ARE HIT DURING EXCAVATION THERE MAY BE AN ADDITIONAL CHARGE.

TOTAL.....\$79,560.00 PLUS PERMIT FEE.

TERMS: 50% DOWN BALANCE DUE UPON COMPLETION.

All signs are custom built products and, at the option of seller, require payment in advance with order. Installation price is due upon installation.

It is the responsibility of the purchaser to provide electrical power to the sign and to provide the final hookup.

This contract with all conditions as noted, is herewith accepted by both parties. Note: This proposal may be withdrawn by us if not accepted within \_\_\_\_\_ days

GUS PATSIOS

SALES REPRESENTATIVE

TRICITY SIGN COMPANY

By \_\_\_\_\_

Title \_\_\_\_\_

PURCHASER

By *Roger Anderson*

Title \_\_\_\_\_

Guaranteed By \_\_\_\_\_

Acceptance Date \_\_\_\_\_

015

(A) **PERMITS.** TriCity Sign Company shall obtain all necessary installation permits or variance from public authorities. Any legal fees associated in obtaining the required permit, variances or surveys above any permit allowance shall be paid by the purchaser. Purchaser shall obtain any other permission for the installation and maintenance of the Display System.

(B) **ELECTRICAL CONNECTION.** Unless otherwise specified in writing, electrical power is brought to the sign by the Purchaser. This includes the final hookup and data cable run to controls.

(C) **INSTALLATION.** Purchaser will provide and maintain for TriCity Sign Company and its agents, right of accessibility to install the Display System on the premises for which it was ordered without delays. In the event a delay occurs, through no fault of TriCity Sign Company or their agents, extra costs by TriCity Sign Company resulting from that delay will be borne by the Purchaser.

Unless specifically provided herein to the contrary, Purchaser shall provide all necessary reinforcements to the building on which the Display System is installed.

The price herein was agreed to on the premise that overhead and sub-surface conditions to be encountered on installation will be normal and sub-surface soil readily workable. In the event of abnormal digging conditions, sub-surface water, caliche, hard-pan, or other substances are encountered in the course of the excavation incident to installation of the Display System, all cost expenses of or incident to excavation which are in excess of the cost of handling normal sub-surface conditions and readily workable soil shall be paid by Purchaser.

(D) **PERFORMANCE.** Upon acceptance of the Agreement, TriCity Sign Company shall commence construction of the Display System and prosecute the work thereon with due diligence until completion. As a condition of this Agreement, performance of this and all other acts required to be performed by TriCity Sign Company under the terms and conditions of this agreement shall be subject to delay by strikes, breakage, fires, unforeseen commercial delays, governmental restrictions, acts of God or other casualty beyond control of TriCity Sign Company.

During any applicable warranty period, the Purchaser shall not permit any repairs, replacements or work to be done on the Display System without consent of TriCity Sign Company. Charges for any repairs or replacements caused by or resulting from any act of negligence of the Purchaser, its agents or employees will be borne by the Purchaser. In the event repairs are made without the consent of TriCity Sign Company all warranties become null and void.

(E) **RISK OF LOSS.** The Display System, after delivery, shall be at the risk of the Purchaser, and the Purchaser shall be liable for all loss or damage not in the care, custody and control of TriCity Sign Company and its agents. Until display system is paid in full, Purchaser shall carry fire, lightning, and general casualty insurance and at the request of TriCity Sign Company shall provide a Certificate of Insurance reflecting coverage as required herein. TriCity Sign Company agrees to carry liability and Workmen's Compensation insurance covering the acts of its employees and agents.

(F) **WARRANTY.** TriCity Sign Company warrants each new Display System against defective workmanship and materials for a period of 90 days from the date of substantial completion of the installation unless specified differently herein. Any parts provided by TriCity Sign Company which are defective due to faulty workmanship or materials, if returned prepaid within the warranty period, will be repaired or replaced F.O.B. point of production. TriCity Sign Company shall not be liable for any damages or losses other than the replacement of such defective work or material. In addition TriCity Sign Company warrants certain components with extended coverage according to manufacturer's warranties.

(G) **SECURITY INTEREST.** Purchaser grants TriCity Sign Company a purchase money security interest in the display system being purchased under this agreement until total price is paid in full and will execute U.C.C. Financing Statement upon request of TriCity Sign Company. If Purchaser shall breach any of the terms contained herein, or if Purchaser fails to make timely payments when due or if Purchaser shall commence bankruptcy proceedings or if Purchaser makes an assignment for the benefit of creditors or if a receiver is appointed the possession of Purchaser's business, then TriCity Sign Company shall have the right with or without due process of law to enter the premises and take possession and remove the Display System with the Purchaser paying the entire cost of such removal and the expense of shipping the Display System to Omaha, Nebraska.

(H) **VENUE.** This contract shall be governed by the laws of the state of Nebraska.

If for any reason TriCity Sign Company shall institute any suit or action for the enforcement of any of the obligations of the Purchaser hereunder including the payment of damages, Purchaser agrees to pay in addition to all amounts found due from Purchaser a reasonable attorney's fee and court costs.

(I) **GENERAL.** The sales representative of TriCity Sign Company is acting as a special agent, and representatives or agreements not contained herein shall not be a part of this agreement. All contracts shall be subject to the approval of an authorized representative of TriCity Sign Company in the corporate headquarters.

All the terms and conditions hereon shall be binding upon and inure to the benefit of the successors, assignees and legal representatives of the respective parties but the interest of the Purchaser herein shall be transferable through operation of law or otherwise only with the prior written consent of TriCity Sign Company.

(J) **DISCLAIMER OF WARRANTIES.** All warranties are set forth and no other warranties, expressed or implied shall apply to the products or services provided to Purchaser under the terms of this contract.



APPLICATION FOR SIGN PERMIT  
City of Lincoln, NE

City Sign Permit # 50000735 Job Address 2500 Wildcat Dr.

Hist. Pres. Appl. # \_\_\_\_\_ Suite \_\_\_\_\_  
Phone: 441-7521 Fax: 441-8214  
24-Hr Inspection Line: 441-8213

Fee: \$ 90.00

PERMANENT SIGNS

The undersigned Sign Contractor hereby applies for a permit to:  
 Construct  Alter  Paint  
 Relocate  Face Change  Enlarge

a sign for (Business Name) Anderson Ford  
Said sign is a:  Pole Sign  Wall Sign  Roof Sign  Projecting Sign  
 Ground Sign  Painted Wall Sign  Off-premise Sign  Marquee Sign  
 Other (please specify): \_\_\_\_\_  Illuminated  Non-Illuminated

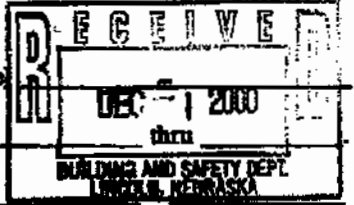
Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Addition: \_\_\_\_\_

Sign Description: Size of Sign 12' x 30' Total Area 360 Height 80'

Location on Building:  North Wall  South Wall  East Wall  West Wall  
Location on Lot: Submit separate site plan for pole or ground signs.

MOBILE SIGNS / TEMPORARY SIGNS

The undersigned Sign Contractor hereby applies for a sign permit for (Business Name) \_\_\_\_\_  
for (# of) \_\_\_\_\_ days from \_\_\_\_\_ thru \_\_\_\_\_



Zoning \_\_\_\_\_ Setback \_\_\_\_\_ Size of Sign \_\_\_\_\_

- OFFICE USE ONLY -

Zoning H-3  
Front Yard Setback 30'  
In Front Yard \_\_\_\_\_  
Out Front Yard   
Max. Size 360 sq ft  
Max. Height 80'  
Spacing \_\_\_\_\_  
Bldg. Line Dist. \_\_\_\_\_  
Street Use Permit # \_\_\_\_\_  
Electrical Permit # \_\_\_\_\_  
Footings \_\_\_\_\_  
Final \_\_\_\_\_  
Placement \_\_\_\_\_  
Removal \_\_\_\_\_

Owner of Property / Building: \_\_\_\_\_

Owner's Address: \_\_\_\_\_

NOTICE

The undersigned hereby agrees to comply in all respects with the provisions of the Outdoor Sign Code and Zoning Ordinance of the City of Lincoln and agrees to hold and save the City of Lincoln harmless from any damages arising from defective construction or disrepair of sign or damages from any source arising from its erection, use of maintenance, and further agrees to assume all liability for damages from any cause as stated above.

Sign Contractor Name (please print) Capital Sign Co.

Signature X [Signature]

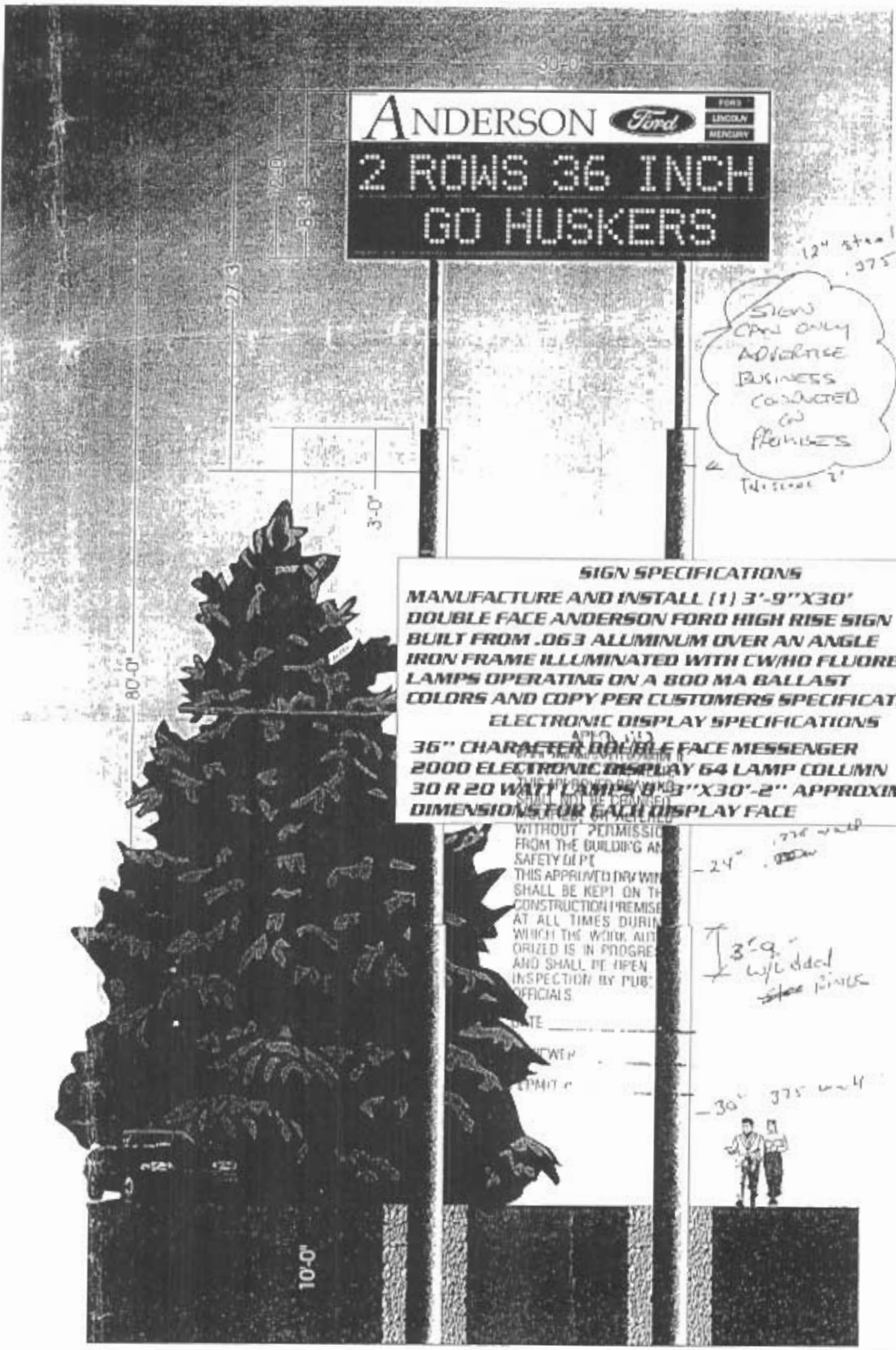
Date 12-1-00 Sign Contractor Phone 404-466-7446

- OFFICE USE ONLY -

Date 12-8-00 Sign Application Approved [Signature]

017





ANDERSON  FORD  
LINCOLN  
MERCURY

2 ROWS 36 INCH  
GO HUSKERS

12" steel .375

SIGN CAN ONLY ADVERTISE BUSINESS CONDUCTED ON PREMISES

Telescope 2'

**SIGN SPECIFICATIONS**  
 MANUFACTURE AND INSTALL (1) 3'-9" X 30' DOUBLE FACE ANDERSON FORD HIGH RISE SIGN BUILT FROM .063 ALUMINUM OVER AN ANGLE IRON FRAME ILLUMINATED WITH CW/HD FLUORESCENT LAMPS OPERATING ON A 800 MA BALLAST COLORS AND COPY PER CUSTOMERS SPECIFICATIONS

**ELECTRONIC DISPLAY SPECIFICATIONS**  
 36" CHARACTER DOUBLE FACE MESSENGER  
 2000 ELECTRONIC DISPLAY 64 LAMP COLUMN  
 30 R 20 WATT LAMP 3" X 30" 2" APPROXIMATE DIMENSIONS FOR EACH DISPLAY FACE

WITHOUT PERMISSION FROM THE BUILDING AND SAFETY DEPT THIS APPROVED DRAWING SHALL BE KEPT ON THE CONSTRUCTION PREMISES AT ALL TIMES DURING WHICH THE WORK AUTHORIZED IS IN PROGRESS AND SHALL BE OPEN TO INSPECTION BY PUBLIC OFFICIALS.

24" .375 wall

3'-9" w/ added steel plates

30" .375 wall




019

JOB TITLE:	ANDERSON FORD
LOCATION:	LINCOLN NE
DESIGN #	13-09
DISK #	21
REVISION #	
OPTION #	
SALES:	GUS PATSIOS
DESIGNER:	BILL PATSIOS
DATE:	1-20-00

03/05/2004 02:34 3083B48483

TRICITY SIGN

FORM 00

CAPITOL SIGN COMPANY

PKX NO. : 1 402 466 2157

Jan 15 2001 10:54AM P2

Hi-Kise sign

Building & Safety Department  
City of Lincoln - Lancaster County  
Room 209, 555 S 10TH ST, Lincoln, NE 68508-2905  
SIGN PERMIT  
Inspection Line 441-8213  
For Technical Questions,  
Call Plan Reviewers at 441-7882 - 8:00 a.m. to 4:00 p.m.  
Call Building Inspectors at 441-7081

OWNER ANDERSON FORD 12/5/2000  
APPLICANT CAPITOL SIGN COMPANY 12/5/2000 Phone: 402-466-7446  
1421 N 35TH CIR  
LINCOLN NE  
68504  
SIGN CAPITOL SIGN COMPANY 12/5/2000 Phone: 402-466-7446  
1421 N 35TH CIR  
LINCOLN NE  
68504  
License: 80030

Permission is hereby granted to construct the following stationary sign as described per applicant and listed herein:

PERMIT #: 80000738 APPLIED: 12/5/2000  
STATUS: ISSUED APPROVED: 12/8/2000  
ISSUED: 12/8/2000  
FINALED:  
TO EXPIRE:

**JOB ADDRESS: 2500 WILDCAT DR L**

LEGAL DESC: HIGH POINTE NORTH COMMERCIAL PARK ADD BLOCK 1 LOT 1  
OWNER: ANDERSON FORD

WORK DESCRIPTION: 14-PANEL POLE SIGN BUS; ANDERSON FORD 360 SQ FT 10'HGT  
12'X30' SIGN

Zoning:	M-3	Setback: 30'
Sign Size:	12' X 30'	
Sign Height:	20'HGT	
Total Area(SQ FT):	360 SQ FT	

TOTAL FEES: \$90.00

Type	Method	Description	Amount
		CURRENT PAYMENT:	.00
		TOTAL PAYMENT:	\$90.00
		BALANCE DUE:	\$0.00

ISSUED BY: DC

PRINT DATE: 11-08-2000



Building and Safety Department  
 Mike Merwick, Director  
 555 South 10th Street  
 Room 203  
 Lincoln, Nebraska 68508

402-441-7521  
 fax: 402-441-8214  
 bldgsafe@ci.lincoln.ne.us



MAYOR COLEEN J. SENG

www.ci.lincoln.ne.us

February 26, 2004

Mike Anderson  
 Anderson Ford  
 2500 Wildcat Drive  
 Lincoln, NE 68521

Re: Electronic Changeable Copy Sign

Mr. Anderson

This Department has received numerous complaints regarding the electronic changeable copy sign located on your property. This pole sign was permitted under sign permit S0000735.

Section 27.69.270 of the Lincoln Municipal Code states as follows:

**27.69.270 Other Permitted Signs; Nonresidential; Public Service Information.**

In any nonresidential district, electronic changeable copy signs displaying the time, temperature, weather, or similar public service information shall be permitted. The sign area displaying such information may change, blink, flash, or have the appearance of movement; provided that the changing sign area shall not exceed eighty square feet of sign area. Such area shall be included as a part of the permitted signage for the premises on which it is located. (Ord. 16735 §31; February 13, 1995; prior Ord. 14613 §34; March 9, 1987).

A pole sign such as this is allowed 360 square feet of area. However, the electronic changeable copy area is only allowed to be 80 square feet. We are requesting you to reduce the electronic changeable copy area to allowed limits or remove the sign. Please contact me within 30 days with your written response on your intended course of action to comply with this ordinance. If you have any questions, you may call me at 441-6452.

Respectfully,

Charles A. Zimmerman, Manager

cc: Mike Merwick, Director, Building & Safety  
 Ann Harrell, Mayor's Office  
 Mike Petersen, Building & Safety  
 File



"Carol B"  
<carolserv@hotmail.com>  
m>

To: JWalker@ci.lincoln.ne.us, MKrout@ci.lincoln.ne.us  
cc:  
Subject: Anderson sign proposed amendment

09/07/2004 05:22 PM

Jean would you please pass along this message to the Planning Commissioners for the Lincoln Neighborhood Alliance?  
Thank You,  
Carol

The Lincoln Neighborhood Alliance board has voted unanimously to support the Planning Department's position of denial on the text change Amendment to the H-3 Zoning District to allow larger message center/electronic chargeable signs in the H-3 district within 660 feet of the interstate. LNA believes an allowance for this kind of change would open the floodgates for others wanting to position this type of signage in these districts. We also believe it is a safety hazard to have such a large message sign at this exit of the interstate.

Carol Brown  
representing the Lincoln Neighborhood Alliance Board  
2201 Elba Circle  
Lincoln, Nebraska  
68521  
435-8932

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Express yourself instantly with MSN Messenger! Download today - it's FREE!  
ht<http://messenger.msn.click-url.com/go/onm00200471ave/direct/01/>