

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 06032**, requested by the Director of Planning, to amend Section 27.69.300 of the Lincoln Municipal Code, relating to Special Sign Districts, to allow occupants in areas designated blighted and substandard, which are being redeveloped pursuant to an approved Redevelopment Plan, to petition for the creation of a special sign district; and repealing Section 27.69.300 of the Lincoln Municipal Code as hitherto existing.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 05/24/06
Administrative Action: 05/24/06

RECOMMENDATION: Approval (9-0: Esseks, Cornelius, Carroll, Taylor, Sunderman, Strand, Larson, Krieser and Carlson voting 'yes').

STAFF RECOMMENDATION: Approval.

ASSOCIATED REQUESTS: Change of Zone No. 06031 (06-92).

FINDINGS:

1. This proposed text amendment to Title 27, the Zoning Ordinance, was heard in conjunction with Change of Zone No. 06031 for a special sign district in the 48th & O Street Redevelopment Area.
2. The staff recommendation to approve the text amendment to allow occupants in areas designated blighted and substandard, which are being redeveloped pursuant to an approved Redevelopment Plan, to petition for the creation of a special sign district, is based upon the "Analysis" as set forth on p.2, concluding that there may be circumstances when the creation of a sign district to define an area pursuant to an approved redevelopment plan is desired and appropriate. This amendment provides that opportunity. An application for the creation of a special sign district is processed the same as a change of zone and requires approval by the City Council. The Council could modify the sign rules in a special sign district to be more or less restrictive than the rules for the underlying zoning district.
3. The minutes of the public hearing and action by Planning Commission are found on p.4-9.
4. There was no testimony in opposition.
5. On May 24, 2006, after considerable deliberation, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval of the text amendment (See Minutes, p.7).
6. On May 24, 2006, the majority of the Planning Commission also voted to approve the associated special sign district for the 48th & O Streets Redevelopment Area 8-1 (Carlson dissenting. Carlson did not want electronic changeable copy signs to be allowed in the special sign district).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: May 31, 2006

REVIEWED BY: _____

DATE: May 31, 2006

REFERENCE NUMBER: FS\CC\2006\CZ.06032+

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for May 24, 2006 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone #06032

PROPOSAL: Amend Lincoln Municipal Code Section 27.69.300 to allow occupants in areas designated blighted and substandard which are being redeveloped pursuant to an approved Redevelopment Plan to petition for the creation of a special sign district.

CONCLUSION: There may be circumstances when the creation of a sign district to define an area pursuant to an approved redevelopment plan is desired and appropriate. This amendment provides that opportunity. An application for the creation of a special sign district is processed the same as a change of zone and requires approval by the City Council.

RECOMMENDATION:	Approval
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ANALYSIS:

1. LMC Section 27.69.300 provides the creation of special sign districts under specifically defined circumstances. Those include for the purpose of defining an area of particular historical, ethnic, cultural, or entertainment atmosphere, or for defining an area with a special or unique theme. Additionally, in any nonresidential district designated by the City Council as a landmark district in accordance with Section 27.57.120, the Planning Director may petition the City Council to create a special sign district.
2. This request amends LMC Section 27.69.300(a) to include “an area in which the City has undertaken a program for the redevelopment of blighted and substandard areas pursuant to an approved Redevelopment Plan” as an area eligible for the creation of a special sign district.
3. A sign district is not a use by-right, and the creation of one is not assured. A special sign district is treated the same as a change of zone application, and after a public hearing by the Planning Commission, it is forwarded to the City Council for action.
4. A special sign district can be characterized as an overlay district, and the sign regulations can be made more or less restrictive than those of the underlying zoning district for the area covered. Once approved, all signs within the boundary of the district are subject to its requirements.
5. Examples of existing special sign districts include the Haymarket, the Downtown Theater District, and the Haymarket Park ballfields.
6. The proposed language of the text amendment is attached.

Prepared by:

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May 10, 2006

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**CHANGE OF ZONE NO. 06032
and
CHANGE OF ZONE NO. 06031**

CHANGE OF ZONE NO. 06032

PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 24, 2006

Members present: Esseks, Cornelius, Carroll, Taylor, Sunderman, Strand, Larson, Krieser and Carlson.

Staff recommendation: Approval.

Ex Parte Communications: None

Staff presentation: **Brian Will of Planning staff** explained that this text amendment represents one additional circumstance where a special sign district can be created, i.e., in areas designed blight and substandard, which are being redeveloped pursuant to an approved Redevelopment Plan. A special sign district is like an overlay district. The sign regulations can be written for a given area and can be either modified to be more restrictive or less restrictive than allowed in the underlying zoning district. Special sign districts are treated just like any other change of zone, i.e. public hearing before the Planning Commission with the ultimate decision by the City Council.

Esseks wondered about the public benefits and costs of relaxing the standards. Will suggested that it is not implied that the standards will necessarily be relaxed. The ordinance recognizes that there are unique areas in the city, such as the Downtown Theater District, Haymarket and Haymarket Park – those are sign districts and the sign regulations were specifically amended and tailored for those particular areas based on their unique theme, appearance, cultural values, etc.

Esseks inquired what the public interest would be if we are talking about larger signs both in width and height. Will suggested that it is a subjective judgment. In some cases, the signs may be large but not always.

Marvin Krout, Director of Planning, came forward and began discussing the specific 48th & O Redevelopment Area sign district. The Clerk then read **Change of Zone No. 06031** to create a special sign district at 48th & O Streets into the record. The hearing then continued on both applications.

Krout suggested that there are trade-offs. Number one, the developer at 48th and O Streets did bring in a package of sign improvements and believed that he had the ability to build these signs. Therefore, the application for the special sign district recognizes that some indication of support for the whole package was made earlier in the process. Secondly, when you look at the B-3 District, e.g., there are some trade-offs. While these ground signs are going to be taller than the typical ground signs, they are also not going to be using any pole signs, which they would be allowed to do under the B-3 district regulations. The ground signs are architecturally related to the buildings and he believes it will be an attractive sign package. This gives them

the ability to advertise all of the uses that are going to be in the center which the B-3 zoning would not normally allow. Krout believes it is well designed and a good sign project.

Krout also suggested that at some point in the future when we look at the sign code, there maybe should be a more liberal look at ground signs.

Will then explained the purpose of Change of Zone No. 06031. This proposed special sign district amends the regulations for the B-3 district in three ways: 1) the B-3 District limits ground signs to 8 ft. in height and 100 sq. ft. in area. This special sign district allows three ground signs at 13.5 ft., 13.0 ft. and 12.0 ft. in height, exceeding the allowed height; 2) it allows one of the signs to be 138 sq. ft. and another 118 sq. ft., exceeding the allowed area for the B-3 district; and 3) it allows a sign on an outlot. There was a sign package as part of the 48th and O Streets Redevelopment Plan which initiated this proposed sign district. Staff is recommending conditional approval, with the condition that the note indicating a 40' tall flag pole with 6x9 flag be deleted because it was not shown on the original sign plan.

Cornelius noted that the text in section 27.69.300(a) suggests that the special sign district is formed "...for the purpose of defining an area of particular historical, ethnic, cultural or entertainment atmosphere; or for defining an area with a special or unique theme." He does not believe that a designated blighted or substandard area fits that theme very well. If the area at 48th and O is being developed under some unifying theme, he thinks it already fits under the existing ordinance. What is the purpose of the change? Will acknowledged that the ordinance currently defines a set of circumstances where a special sign district can be created, but this proposed amendment adds another circumstance. And staff is suggesting that some of these areas that have been subject to redevelopment plans may be appropriate for special sign districts.

Carroll referred to the specific 48th and O site and inquired what other signs besides the ones shown would be allowed. Will stated that the signs set forth in the proposed special sign district are the only signs being proposed for this site. However, the way the sign district is written, any signs that are allowed within the B-3 District would be allowed. The purpose of this special sign district is to allow ground signs to exceed the allowed height and area.

Carroll inquired whether this proposal reduces the number of signs that are allowed. Will stated, "no". Carroll asked whether they would have signs on the building in addition to the ground signs. Will stated, "yes". They would be allowed to have signs on the building. Staff did not discuss reducing the number of signs that would be allowed. The sign plan is part of the redevelopment agreement and that is why this request was initiated.

Sunderman suggested that this is more liberal with the monument signs, but that is being offset by the fact that they cannot put in pole signs. Will thinks it is offset by the fact that they are not showing any pole signs, but pole signs would be allowed in the B-3 District. Sunderman sought clarification that they could put the pole signs in without coming before the Planning Commission again. Will confirmed that they would have to meet the requirements for the B-3 district.

Carlson would think that the approved sign district would be specific. Will suggested that it can be written with specific limitations. There is the flexibility to make them less restrictive or more restrictive, and a limitation could be placed on the signs that are allowed.

Proponents

1. Wynn Hjernstad of the Urban Development Department testified in support of both the text amendment and the special sign district. Redevelopment is very difficult. When they do projects in older parts of the city, every single project has new and different issues and challenges. The proposed text amendment provides an additional tool and more flexibility as we try to put these projects together and work with the private sector. She observed that it still involves a public process. Urban Development supports the special sign district because the signs are going to be attractive. We are trying to eliminate blight. We do not want to put in “ugly” signs when the development is in partnership with the city. The proposed signs are well designed and will be an asset to the redevelopment and still improve the blighted area. It is very important to these developers. This is a real key element to their project. Urban Development would much rather see monument signs and have some flexibility with those signs than have pole signs, especially in this very significant part of the city.

Esseks asked for Hjernstad’s opinion about restricting the pole signs. Hjernstad stated that she would need to speak with the developers. Her personal preference, however, would be no pole signs because they do not do much to help the appearance of the area. Hjernstad does not believe the pole signs should be prohibited in the text amendment, but it might be acceptable in the special sign district.

Carlson believes that the application is a little confusing because the sign district allows all other signs in the B-3 district but does not increase the number of signs allowed. Are these extra signs or in lieu of permitted signs? Will clarified that they are not extra signs. B-3 allows ground signs or pole signs. The district being proposed is showing ground signs, which are larger than the zoning district allows. Will suggested that the Planning Commission could restrict pole signs, if they so desired.

Rick Peo, City Law Department, came forward to explain that the purpose of this particular sign district was to allow all underlying signs in the B-3 district, and then allow three or four specific signs that did not comply with the district regulations. This sign district is somewhat more limited than Haymarket Park where they showed every sign. In this case, we have three signs that were too tall for a ground sign, and the location of one of the signs had the characteristic of an off-premise sign. The purpose of the sign district is to approve the developer’s site plan, plus give them the flexibility to have the allowable signs in the underlying district.

Carroll asked what the redevelopment agreement says concerning signs. Peo stated that he has not seen that agreement in detail. There was a sign plan attached, and the question was whether that sign plan was conceptual or binding on the city. In order to avoid people wanting to withdraw from executing that agreement, it appeared that the proper thing to do would be to come up with the sign district and amend the code to allow special sign districts in blighted and substandard areas that are subject to redevelopment. We also felt this was a good idea for future situations in redevelopment areas.

Carlson referred to the shops on 17th Street, noting that they have additional signage but they are theme signs demonstrating a cohesiveness with the district. Hjernstad did not know whether there was a special sign district at that location.

Carlson then pointed out that one of the bigger signs is shown as a changeable message sign, and that has been a topic of discussion in the city recently. He appreciates the comments about how the city should lead by example with nice looking developments. However, the city did lots of good work on N. 27th but he believes that the changeable message sign at 27th & Vine is really distracting in trying to get a feel for the district. Hjermstad understood Carlson's concern. It gets trickier when we are talking about areas like N. 27th or 48th and O. The Haymarket is easy because the theme is already there. She supports the proposed text amendment because it gives some flexibility rather than saying "one size fits all".

Strand inquired whether people were beating down the door to jump in on the location at 48th and O, or did Urban Development have to search for tenants? Hjermstad stated that they had to work very hard. It is important to the tenants to have good signage to bring in the clients to make sure the business is successful.

There was no testimony in opposition.

Will reiterated that the city does have the prerogative to make the regulations more restrictive or less restrictive for each specific case. It is within the Planning Commission's purview to recommend amendments. The intent was to allow what was being shown in the redevelopment plan.

CHANGE OF ZONE NO. 06032

ACTION BY PLANNING COMMISSION:

May 24, 2006

Larson moved approval, seconded by Strand.

Cornelius was still concerned because he believes this changes the scope of the ordinance, which is clearly meant to pull an area together with a theme. This really blows it wide open.

But, Strand pointed out that there is a built-in safeguard with the special sign district having to come before the Planning Commission and City Council for approval.

Carlson believes this relates to creating extra signs to welcome people to a special area. This not being that specific, and he believes it is strange because it does not speak specifically to a theme. It just creates extra signs, which is different than the typical push for a sign district.

Esseks does not believe the signs have to be larger in number but they may be different in placement and size. The Planning Commission will have the capacity to assert the standards, and he believes that the Commission needs to be sensitive to the challenge of redevelopment. Here is a case where it has worked and if we can set a precedent of success on this one, hopefully it will be repeated elsewhere in the city. He agrees that the developers should be given the opportunity to negotiate these variations as long as the Planning Commission takes their job seriously in the final review.

Motion for approval carried 9-0: Esseks, Cornelius, Carroll, Taylor, Sunderman, Strand, Larson, Krieser and Carlson voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 06031

ACTION BY PLANNING COMMISSION:

May 24, 2006

Strand moved to approve the staff recommendation of conditional approval, seconded by Esseks.

Carroll moved to amend to allow only four monument signs as per the site plan, directional signs and signs attached to the buildings which are allowable under the district. No pole signs shall be allowed, seconded by Larson.

Carroll pointed out that this allows the extra large monument signs so he does not believe they need a pole sign.

Strand asked staff to come forward and inquired whether the restriction on pole signs is going to meet the developer's desires or are they going to walk because of the change? Hjermstad was pretty sure it would be okay. However, she wants to be sure that the motion does not eliminate directional signs. Carroll stated that his motion does not eliminate directional signs.

Motion to amend to not allow pole signs carried 9-0: Esseks, Cornelius, Carroll, Taylor, Sunderman, Strand, Larson, Krieser and Carlson voting 'yes'.

Carlson moved to amend to not allow electronic changeable text on the signs, seconded by Esseks.

Carlson suggested that when the city gets involved, yes, everyone does a lot of work to find opportunity for redevelopment, but at the same time he believes the city has an obligation to work hard to create a product that is going to benefit the community. We missed the opportunity at 27th and Vine. He does not believe they need the changeable messages.

Will clarified that electronic changeable copy signs are limited to 80 sq. ft., provided they meet the definition.

Strand stated that she will vote against the motion to amend. As a person who ran a business and had a changeable sign, it was very important. It is very difficult to draw people in when your only sign is a monument sign that does not attract their attention. The sales tax revenue in Lincoln is down. We are almost the only city in the state with this situation and there is probably a good reason for that. It is very important to have signs that attract people to businesses that we have to work so hard to get into these redevelopment areas. She thinks there is a value to those signs.

Carroll agreed with Strand. This is an important redevelopment area with a high volume of traffic. This sign district does not increase the electronic changeable script size. He will oppose the motion to amend.

Taylor agreed. He thinks that overall, the changeable copy signs are good. It becomes a statement for the community. He does not want to limit the variety of ideas and advertising opportunities.

Larson stated that he will also vote against the motion to amend because he believes that this development is such a tremendous improvement for the area. Therefore, he does not believe there should be any undue restrictions.

Cornelius indicated that he would vote against the motion to amend because the purpose of this sign district is to alter the form of the signs allowed in B-3. We're going from high tall pole signs to monument signs with some alterations. He does not believe we necessarily have to impinge on the spirit of the decreased signage so greatly. He believes that if we want to change what we allow in B-3, the place to do it would be in the B-3 ordinance.

Carlson clarified that this is a special sign district. There is city participation so the city has an opportunity to impose the standard that the city would like to see. He disagrees that sales tax is down because we don't have enough signs. And, as far as maximizing their opportunity, we have already limited it by not allowing pole signs.

Strand responded, agreeing that city sales tax may not be down because we don't have flashing signs, but we need to be pro-business and signs make it pro-business.

Motion to amend to not allow electronic changeable copy signs failed 1-8: Carlson voting 'yes'; Esseks, Cornelius, Carroll, Taylor, Sunderman, Strand, Larson, and Krieser voting 'no'.

Main motion, as amended to restrict pole signs, carried 8-1: Esseks, Cornelius, Carroll, Taylor, Sunderman, Strand, Larson, and Krieser voting 'yes'; Carlson voting 'no'. This is a recommendation to the City Council.