

City Council Introduction: **Monday**, March 19, 2012  
Public Hearing: **Monday**, March 26, at **5:30 p.m.**

Bill No. 12-27

## **FACTSHEET**

**TITLE: CHANGE OF ZONE NO. 11044**, requested by the Director of Planning, from P Public Use District to R-7 Residential District; from R-7 Residential District to P Public Use District; and from P Public Use District and I-1 Industrial District to B-1 Local Business District, on property generally located in the area of North 17<sup>th</sup> Street and Vine Street.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 01/25/12, 02/08/12, 02/22/12 and 3/07/12  
Administrative Action: 03/07/12

**STAFF RECOMMENDATION:** Approval, as revised.

**RECOMMENDATION:** Approval of revised staff recommendation (6-0: Butcher, Sunderman, Esseks, Gaylor Baird, Weber and Francis voting 'yes'; Hove abstained; Cornelius and Lust absent).

### **FINDINGS OF FACT:**

1. This is a proposal initiated by the Director of Planning to update the zoning on various properties generally located at North 16<sup>th</sup> Street between R Street and Vine Street. There are a few sororities and fraternities in this area which are zoned P Public Use, which is not appropriate under the requirements of that zoning district.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on 3-4, concluding that the proposed change to correct the zoning to match existing condition on property primarily owned by the University of Nebraska-Lincoln and various sororities and fraternities, is in conformance with the 2040 Comprehensive Plan and should have no impact on the surrounding neighborhood.
3. This application was deferred at Planning Commission at the request of Delta Tau Fraternity due to a concern about the exact location of the boundary line between Delta Tau Fraternity and vacant UNL land (See p.10-11). The UNL property is vacant at the present time and the Delta Tau Fraternity and the UNL Board are working with a surveyor to clarify boundary issues.
4. At the continued public hearing on March 7, 2012, the Planning staff submitted a revised recommendation as follows:

That the UNL property legally described as: the south 7' of Lot 3, and all of Lots 4, 9, 12 and vacated alley to the west of said lots in Fairfield's Subdivision of Lot 11 of S.W. Little's Subdivision of W1/2 of the SW1/4 of Section 24-10-6, Lincoln, Lancaster County, Nebraska, proposed to be rezoned from R-7 Residential to P Public, be excluded from the City Council action, if there is not agreement between the property owners as to the boundary line on this property."

The staff presentation is found on p.6 (Also See Memo, p.9).

5. There was no testimony in opposition.
6. On March 7, 2012, the Planning Commission agreed with the revised staff recommendation and voted 6-0 to recommend approval, as revised (Hove abstained; Cornelius and Lust absent).
7. If the boundary issue is not resolved by the time of action by the City Council, a motion to amend the legal description for the boundaries of this change of zone will be submitted, removing the parcel at issue.

**FACTSHEET PREPARED BY:** Jean L. Preister  
**REVIEWED BY:** \_\_\_\_\_  
**REFERENCE NUMBER:** FS\CC\2011\CZ11044

**DATE:** March 13, 2012  
**DATE:** March 13, 2012

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**for January 25, 2012 PLANNING COMMISSION MEETING**

- PROJECT #:** Change of Zone No. 11044
- PROPOSAL:** From P, Public to R-7, Residential; from R-7, Residential to P, Public; from P, Public to B-1, Local Business District; and I-1, Industrial to B-1, Local Business District.
- LOCATION:** Various lots along N. 16<sup>th</sup> Street between R Street and Vine Street and one property at N. 17<sup>th</sup> Street and Vine Street
- EXISTING ZONING:** P, Public, R-7, Residential and I-1, Industrial
- CONCLUSION:** The proposed change to correct the zoning to match existing condition on property primarily owned by the University of Nebraska Lincoln and various sororities and fraternities, is in conformance with the Comprehensive Plan and should have no impact on the surrounding neighborhood.

<b><u>RECOMMENDATION:</u></b>	Approval
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**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:**

From P to R-7:

1. Lots 9-11, Rathbones University Terrace in SW 1/4 of Section 24-10-6, Lincoln, Lancaster County, Nebraska.
2. W 200' of Lot 8, S.W. Little's Subdivision of W1/2 of SW 1/4 of Section 24-10-6, Lincoln, Lancaster County, Nebraska.
3. E 120' of S 2/3 of E 7/12 of Lot 21, S.W. Little's Subdivision of W1/2 of SW 1/4 of Section 24-10-6, Lincoln, Lancaster County, Nebraska.
4. N 20' of E 120' of Lot 21, S.W. Little's Subdivision of W1/2 of SW 1/4 of Section 24-10-6, Lincoln, Lancaster County, Nebraska.

From R-7 to P:

1. That remaining portion of Lot 4, S.W. Little's Subdivision of W1/2 of SW 1/4 of Section 24-10-6, Lincoln, Lancaster County, Nebraska that is zoned R-7.
2. S7' of Lot 3, Lots 4, 9, 12 and vacated alley between Lot 12 and Lot 11 of Fairfield's Subdivision of Lot 11 of S.W. Little's Subdivision of W1/2 of SW 1/4 of Section 24-10-6, Lincoln, Lancaster County, Nebraska.

From P and I-1 to B-1:

1. Lots 16, 17, S1/2 of W1/2 of Lot 18 and vacated adjacent alley of J.G. Miller's Subdivision of part of the SE 1/4 of NW 1/4 of Section 24-10-6, located in SW 1/4 of Section 24-10-6, Lincoln, Lancaster County, Nebraska.

**EXISTING LAND USE:** The area is primarily occupied by the University of Nebraska, Lincoln student housing, dormitories and various sororities and fraternities associated with the University.. The property at 17<sup>th</sup> and Vine zoned I-1 is an existing gas station/convenience store.

**SURROUNDING LAND USE AND ZONING:** University of Nebraska, Lincoln surrounds the area of proposed change.

**HISTORY:**

- |               |  |
|---------------|--|
| May, 1979     | City wide change of zone changed this area from E, Multi Family and F, Restricted Commercial to R-7, Residential, P, Public Use and I-1, Industrial. |
| June 27, 1979 | Change of Zone#1699 from O-2 to R-7 on Lots 1, 2, 3 and 12 of Rathbone's University Terrace Addition that includes Kappa Delta Pi Sorority.          |

**COMPREHENSIVE PLAN SPECIFICATIONS:**

The area is identified as Public and Residential land use in the Future Land Use map (P 12.3, Map 12.2)

The community continues its commitment to a strong Downtown. A strong, vital Downtown provides a common center for all of Lincoln and Lancaster County and will be a catalyst for future growth. (P 1.2)

At the same time, Downtown Lincoln belongs to all residents of Nebraska because "downtown" is synonymous with the University of Nebraska, state government, and the State Capitol building. This state-wide ownership has strong economic implications. (P 1.3)

Downtown Lincoln is promoted as a vibrant mixed use neighborhood, offering choices for residential lifestyles and daily needs commerce in a walkable and bicycle-friendly environment (P 1.3)

Continue policies such as landmark districts and down-zonings that maintain a mix of single family and multi-family housing and support home ownership and the preservation and enhancement of historic properties. (P 7.2)

**TRAFFIC ANALYSIS:** N 16<sup>th</sup> Street and N. 17<sup>th</sup> Streets are complementary one-way minor arterial streets and dead end at X Street to the north.

**ANALYSIS:**

1. This Change of Zone application is initiated by the Planning Department. This application proposes to update the zoning on various properties generally located at N. 16<sup>th</sup> Street between R Street and Vine Street.
2. Recently it was noted that a few sororities and fraternities in the area 4around N. 16th Street between R Street and Vine Street are zoned 'P,' which is not appropriate under the requirements for P zoning.

The intention of the P zoning is to "*provide a district essentially for mapping purposes which will identify real property presently owned and used by any governmental entity, including local, state, or federal governmental units, and put to some form of public use. This district is not intended to be applied to land that is used by governmental entities on an easement or leased basis if title to the land is in private ownership.*"

3. The existing zoning is of no benefit to the sororities and the fraternities and the proposed R-7 zoning is more appropriate. Privately owned properties cannot get building permits with a P zoning.
4. There are certain parcels owned by the Board of Regents UNL that are zoned R-7. This application proposes to zone them P in accordance with their use and the surrounding zoning.
5. The property at 800 N. 17th Street that is zoned party I-1 and partly P will be rezoned to B-1. The property is used as a service station/convenience store and the proposed B-1 zoning will allow it to continue.
6. The following properties, or a portion of, are proposed for R-7 zoning:
  - A. Chi Omega - 480 N. 16th Street
  - B. Kappa Delta Pi - 1640 R Street
  - C. A portion of Sigma Phi Epsilon - 601 N. 16th Street
  - D. NE Lutheran Ministry - 535 N. 16th Street
7. The following properties, or a portion of, are proposed for P zoning:
  - A. 540 N. 16th Street
  - B. 733 N. 16th Street
8. This application in an attempt to correct these discrepancies and update the zoning map.
9. All affected property owners/administrators have been contacted and apprised of the proposed change of zone.

Prepared by:

Rashi Jain  
Planner  
402-441-6372  
Email: [rjain@lincoln.ne.gov](mailto:rjain@lincoln.ne.gov)

**DATE:** August 10, 2011

## CHANGE OF ZONE NO. 11044

### **PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 25, 2012

Members present: Esseks, Sunderman, Lust, Hove, Gaylor Baird, Butcher and Cornelius; Francis and Weber absent.

Staff recommendation: Approval.

There were no ex parte communications disclosed.

This application was removed from the Consent Agenda due to a request for a two-week deferral submitted by the Planning staff in response to a letter in opposition.

Lust moved to defer, with continued public hearing and action scheduled for Wednesday, February 8, 2012, seconded by Esseks and carried 7-0: Esseks, Sunderman, Lust, Hove, Gaylor Baird, Butcher and Cornelius voting yes; Francis and Weber absent.

### **CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 8, 2012

Members present: Hove, Sunderman, Butcher, Esseks, Gaylor Baird, Lust and Cornelius; Francis and Weber absent.

Staff recommendation: Approval.

The Clerk announced that the applicant has submitted a request for an additional two-week deferral.

Lust moved deferral, with continued public hearing and action scheduled for Wednesday, February 22, 2012, seconded by Esseks and carried 7-0: Hove, Sunderman, Butcher, Esseks, Gaylor Baird, Lust and Cornelius; Francis and Weber absent.

There was no public testimony.

### **CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 22, 2012

Members present: Gaylor Baird, Lust, Weber, Esseks, Hove, Sunderman and Cornelius; Butcher and Francis absent.

The Clerk announced that the Planning staff, as the applicant, is requesting an additional two-week deferral.

Lust moved deferral, with continued public hearing and action scheduled for Wednesday, March 7, 2012, seconded by Hove and carried 7-0: Gaylor Baird, Lust, Weber, Esseks, Hove, Sunderman and Cornelius voting 'yes'; Butcher and Francis absent.

There was no public testimony.

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 12, 2012

Members present: Hove, Butcher, Sunderman, Esseks, Gaylor Baird, Weber and Francis; Cornelius and Lust absent.

There were no ex parte communications disclosed.

Staff recommendation: Approval, as revised.

Staff presentation: **Steve Henrichsen of Planning staff** explained that this change of zone had been delayed previously because there is a fraternity located south of 16<sup>th</sup> & Vine that has a minor boundary dispute with UNL and they do not want their property zoned to P Public. Currently, they have not yet had the survey done to clarify the boundary dispute.

Henrichsen submitted a revised staff recommendation requesting that the Planning Commission recommend to the City Council that if this boundary dispute is not concluded by the time the City Council takes action, that portion of the property be removed from the change of zone proposal and remain R-7 Residential. We could come back and do the rezoning to P at some point in the future.

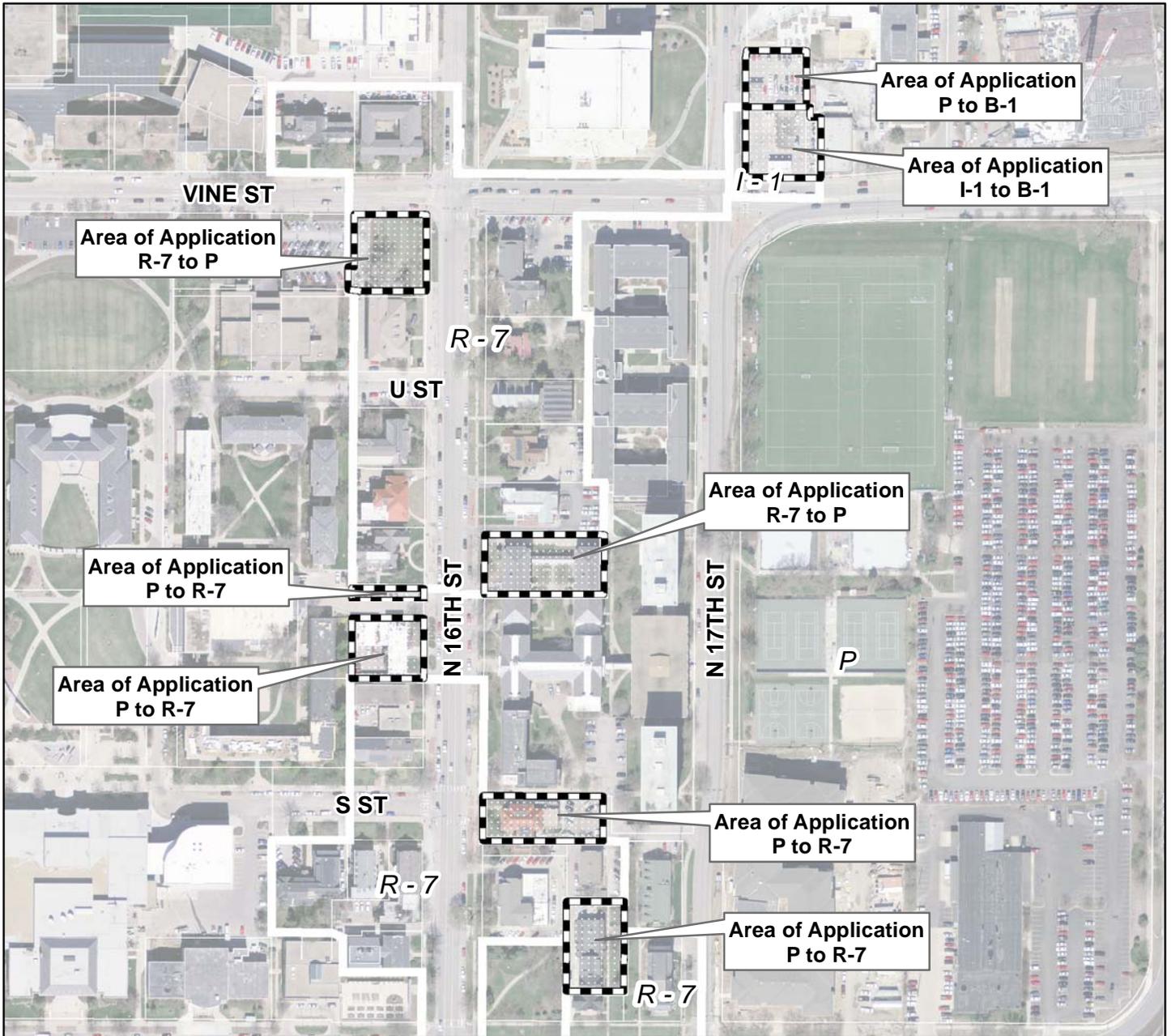
There are other properties that started this application that are zoned part R-7 Residential and part P Public needing to obtain a building permit. They would like to move this application forward to the City Council and hopefully the property in question will be cleaned up by then. If not, it will be removed from the boundaries of this application.

There was no testimony in opposition.

**ACTION BY PLANNING COMMISSION:**

March 7, 2012

Gaylor Baird moved to approve the staff recommendation, as revised, seconded by Esseks and carried 6-0: Butcher, Sunderman, Esseks, Gaylor Baird, Weber and Francis voting 'yes'; Hove abstained; Cornelius and Lust absent. This is a recommendation to the City Council.



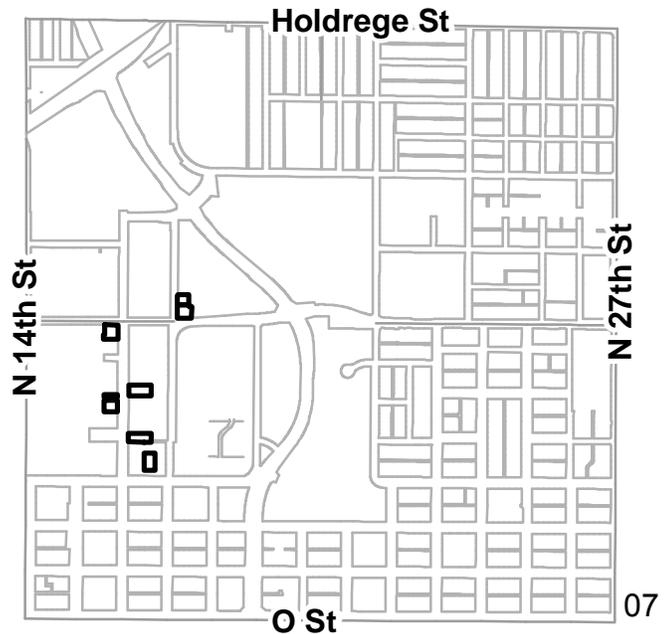
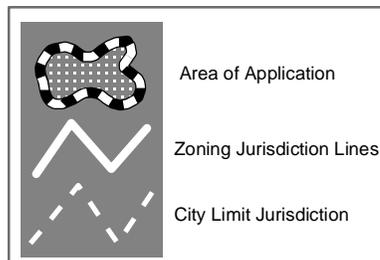
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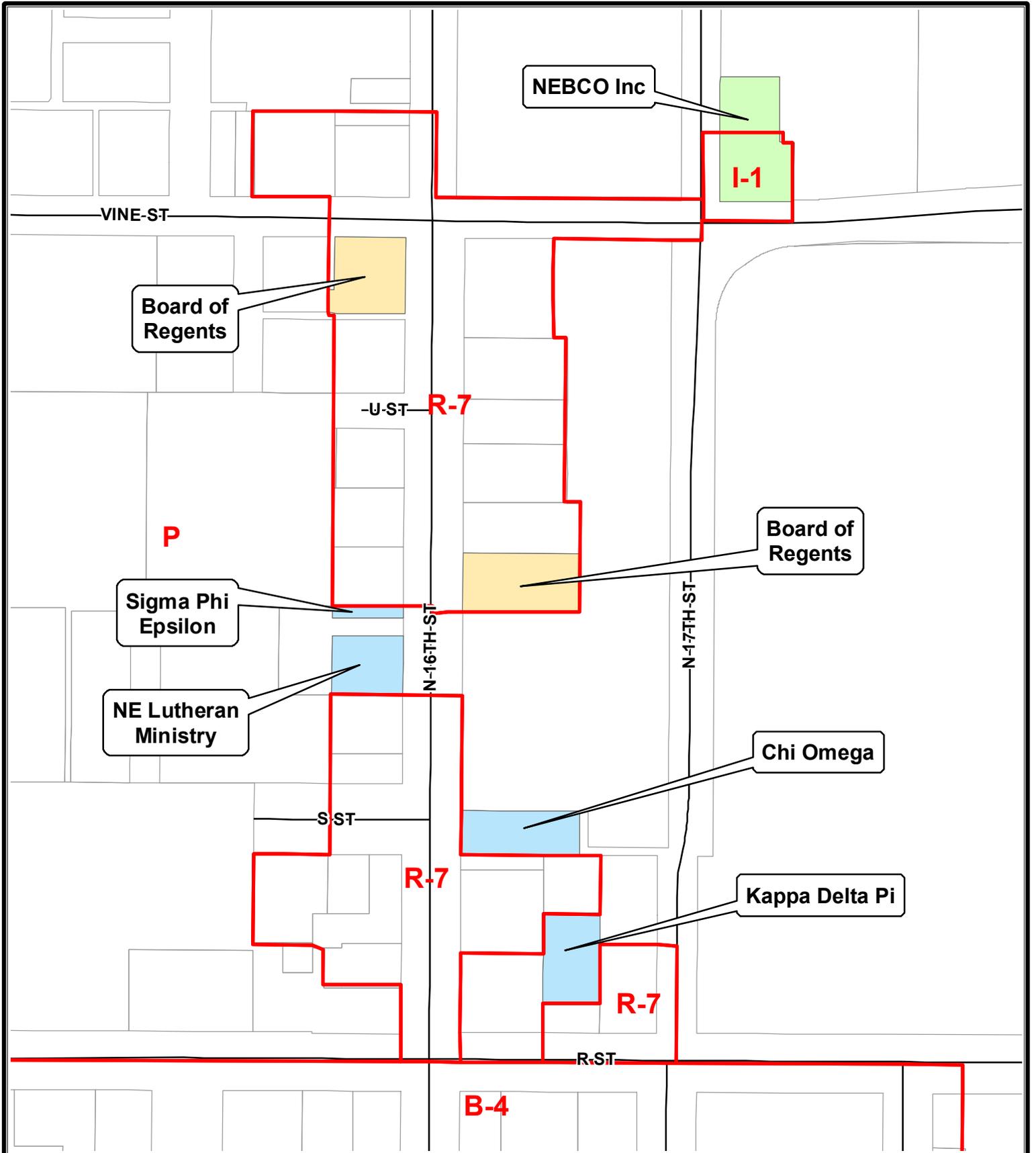
## Change of Zone #11044 N 17th & R St

### Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
Sec. 24 T10N R06E





### CHANGE OF ZONE

- From 'P' to 'R-7'
- From 'R-7' to 'P'
- From 'P' and 'I-1' to 'B-1'
- Existing Zoning



LINCOLN - LANCASTER COUNTY  
**PLANNING DEPARTMENT**  
 100 South 14th Street  
 Lincoln, NE 68502  
 Phone: 402-441-5400 Fax: 402-441-5277

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## MEMORANDUM

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**TO:** Planning Commission

**FROM:** Stephen Henrichsen, Planning 

**SUBJECT:** Change of Zone No. 11044, N. 17<sup>th</sup> & R Streets

**DATE:** March 7, 2012

**cc:** Jason L. Scott, Scott Law Firm  
Jennifer Dam, UNL Campus Planning & Space Management  
Rashi Jain, Planning

Previously Change of Zone 11044 was delayed to the March 7, 2012 agenda at the request of Delta Tau Fraternity due to a concern about the exact location of the boundary line between them and vacant UNL land. This boundary line had not yet been resolved and may take another month or more to conclude. The UNL property is vacant at present and Delta Tau Fraternity and the UNL board are working with a surveyor to clarify boundary issues.

Since the change of zone will aid a different property owner currently in split zoning, the change of zone needs to proceed forward to City Council.

Thus, the staff recommendation is hereby amended as follows:

"that the UNL property legally described as: the south 7' of Lot 3, and all of Lots 4, 9, 12 and vacated alley to the west of said lots in Fairfield's Subdivision of Lot 11 of S.W. Little's Subdivision of W1/2 of the SW1/4 of Section 24-10-6, Lincoln, Lancaster County, Nebraska, proposed to be rezoned from R-7 Residential to P Public, be excluded from the City Council action, if there is not agreement between the property owners as to the boundary line on this property."

If Delta Tau Fraternity and UNL can resolve the issue prior to City Council, the property would remain in the change of zone. If not, it will be removed from the change of zone and could be rezoned at a future date.

q:\pc\cz\11000\CZ11044 Memo to PC

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## MEMORANDUM

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**TO:** Planning Commission,  
**FROM:** Rashi Jain  
**SUBJECT:** Change of Zone 11044  
**DATE:** January 23, 2012  
**CC:** Jean Preister

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The Planning Department would like to request a 2-week deferral for the Change of Zone#11044 application. We have received an email (see attached) from a concerned neighbor and they would like some time to resolve the issue.

## Rashi R. Jain

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**From:** Jason L. Scott [jscott@scottlaw-ne.com]  
**Sent:** Monday, January 23, 2012 9:05 AM  
**To:** Rashi R. Jain  
**Subject:** Change of Zone No. 11044

Rashi:

My name is Jason Scott and I am a member of the House Corporation which owns the property where the Delta Tau Delta fraternity is located (715 N 16<sup>th</sup> Street – Fairfield's Sub Lots 13-15)

We recently obtained a survey which noted some inconsistencies along the northern border of our property which is shared with property that you are proposing be rezoned to P. We believe that property that we have an interest in could be affected by the change of zone and we are objecting to this change at this time.

We have contacted the University, who currently owns the property, and are attempting to discuss the discrepancies disclosed in the survey with them. Until we are able to resolve this issue with the University, we would ask that the Planning Commission take no action in relation to the change of zone on this property (generally Fairfields Sub Lots 3, 4, 9, 12 and vacated alley).

Thank you.

Jason L. Scott  
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