

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 11040**, requested by the Director of Planning, to amend Title 27 of the Lincoln Municipal Code, to delete special parking requirements for rooming and boarding houses, and to revise the parking requirements for fraternities and sororities.

STAFF RECOMMENDATION: Approval (with Motion to Amend)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 12/14/11
Administrative Action: 12/14/11

RECOMMENDATION: Approval (8-1: Francis, Lust, Butcher, Gaylor Baird, Weber, Hove, Sunderman and Cornelius voting 'yes'; Esseks voting 'no').

FINDINGS OF FACT:

1. The purpose of this text amendment is to revise the parking requirement under § 27.67.040 to delete special parking requirements for rooming and boarding houses, and to revise the parking requirements for fraternities and sororities.
2. The Planning Department initiated a review of parking standards for greek housing (university-sanctioned fraternities and sororities) at the request of an alumnus of a local fraternity because the code was outdated and discriminatory where it assumes that fraternity brothers have need for more parking than sorority sisters. Staff reviewed the existing greek housing in Lincoln and the parking provided on each site, as well as the standards adopted in other campus communities. The staff attempted to contact the greek organizations for their input, and met twice with the Mayor's Neighborhood Roundtable.
3. The initial staff recommendation submitted to the Planning Commission is based upon the "Analysis" as set forth on p.3-4, and recommends a new general standard of 0.75 parking spaces per resident, for both fraternities and sororities, regardless of the zoning district, with the exception that if a fraternity or sorority is located within 600 feet of a university campus, the standard could be reduced to 0.50 spaces per resident. The proposed reduction was to encourage any new facilities to locate closer to campus, and also to recognize that there was more likelihood that parking needs might be met by the university and that some students living that close to campus might be able to live without a car. The staff concluded that this proposed text amendment is in conformance with the Comprehensive Plan and treats parking the same for fraternities and sororities. It also provides clarity on number of stalls required by eliminating the term "livable floor area". The staff presentation is found on p.6-7.
4. The testimony of Ann Bleed, on behalf of the East Campus Community Organization, with concerns about the exception reducing the parking to 0.50 spaces per resident, is found on p.7-8, suggesting that the neighborhood across from UNL's East Campus has had a continuing problem with commuting students and employees of the university, as well as with the fraternities which dot the neighborhood, filling the local residential streets with parked cars. She expressed a concern that the proposed reduction in the parking standard for greek housing might worsen the problem.
5. The Planning Commission discussion with staff is found on p.8-11. On 12/14/11, the Planning Commission agreed with the staff recommendation and voted 8-1 to recommend approval (Commissioner Esseks dissenting).

6. Subsequent to the Planning Commission action and prior to scheduling on the City Council agenda, the Planning Department did additional research, which suggested that the situation is unique at each of the three campuses which have nearby greek housing. The Planning staff met with the ECCO neighborhood representatives and UNL officials and developed a better understanding of the longstanding issues between that neighborhood and the university. It was also concluded that much of the existing greek housing on the other two campuses, which does not conform to the current standards, would remain nonconforming even with the proposed parking reduction, and those houses would need to deal with any future expansion issues on a case-by-case basis. Given those considerations, the Planning Department is amending the proposal by motion to amend to eliminate the exception of reduced parking for greek housing within 600 feet of campus.
7. On 2/22/12, the Planning Commission was briefed on the Planning Director's proposed amendment. Although the Commission did not formally vote on the amended language, there was no issue or concern raised about this change.
8. A letter in support of the revised recommendation from the East Campus Community Organization is found on p.13.
9. For information purposes, a map showing the areas where fraternities and sororities are allowed in the R-6, R-7 and R-8 zoning districts is found on p.14.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: February 27, 2012

REVIEWED BY: _____

DATE: February 27, 2012

REFERENCE NUMBER: FS\CC\2012\CZ11040 Text

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for December 14, 2011 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No.11040

PROPOSAL: A text change to revise the parking requirement under section 27.67.040 Parking Requirements; Special Conditions: (a) Fraternity, sorority, and rooming and boarding houses

CONCLUSION: The proposed changes to the parking requirements for fraternities and sororities is in conformance with the Comprehensive Plan. The change will treat parking the same for fraternities and sororities and provide clarity on number of stalls required by eliminating the term “livable floor area”.

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

HISTORY: The current parking requirements for fraternities and sororities were adopted by City Council with the 1979 zoning update which was approved in May of 1979.

ANALYSIS:

1. In June of 2011 the City was contacted by a local attorney who noted the gender discrepancy in the City zoning ordinance regarding parking requirements for fraternities and sororities. The existing ordinance requires less parking for a sorority than a fraternity. The question arose if it is proper to continue this discrepancy solely on the basis of gender.
2. Today, the code specifies that fraternity, sorority, and rooming and boarding houses in the R-6 zoning district shall meet the following requirements: Fraternities - One space/400 sq. ft. livable floor area, within 600 feet of the building; Sorority, rooming or boarding house: One space/700 sq. ft. livable floor area within 600 feet of the building.
In the R-7 and R-8 Districts: Fraternities - One space/700 sq. ft. livable floor area, within 1,200 feet of the building. Sorority, rooming or boarding house: One space/1,100 sq. ft. livable floor area within 1,200 feet of the building.
3. These parking requirements were developed and incorporated into the Zoning Ordinance during the 1979 zoning change. Prior to 1979 fraternities and sororities were not a regulated use and didn't have a specific parking requirements. These standards were reflective of a time when there were more college age men driving cars than women.
4. After reviewing the current parking requirements for fraternities and sororities Planning staff recognized two issues that needed to be addressed. First, there is a discrepancy between the way men and women are treated. Second, the current requirements based on “livable floor area” are too vague.

5. Staff was advised by the City Attorney that there is no likely legal basis for discriminating between male and female students and the parking requirements should be the same for both sexes.
6. Staff researched what other college communities were doing with regards to parking standards for fraternities and sororities, reviewing zoning codes in California, New York, Texas, Illinois, Georgia and Kansas. Staff found an array of standards including but not limited to: 1 space per 2 residents, 1 space per bed, 1 space for every 80 square feet of sleeping area, 1 space for 200 square feet of gross floor area and 1 parking space per 2 Sleeping Units in addition to the parking requirements for a primary dwelling.
7. Calculating parking based on the number of residents is not as easy to calculate or enforce as a "per floor area" requirement, but floor area per resident ratios appear to vary widely. Calculating parking per resident is not uncommon. Lawrence Kansas, home to 40,000 University of Kansas students, recently adopted a 0.75 stalls per resident requirement for fraternities and sororities.
8. The proposed amendment would address parking requirements based on the proximity of the fraternity or sorority to the associated college or university campus. The proximity to campus measure is more appropriate than differentiating by zoning district. This proposal assumes that the closer a fraternity or sorority is to the campus the more opportunities exist for off street parking whether that is in a university parking facility or other private parking garage. It is also based on the assumption that students that live closer to campus (within walking distance) would have less need for cars and therefore parking requirements should be less.
9. This text change would require fraternity and sorority parking to be 0.75 spaces per resident or 0.50 spaces per resident when within 600 feet of a university. Parking shall be provided either onsite or within 600 feet of the premises. This is a lesser standard than what is currently required for dwelling units for unrelated persons, which is 1 space per resident, but it is more than the requirement for dwellings in the R-6, R-7 and R-8 districts, which only requires 1 space per dwelling unit and those dwelling units may have 3 unrelated persons living in them, each with their own car.
10. In most cases the new standard will require fraternities and sororities to have more stalls than they are required to have today. Existing fraternities and sororities will be grandfathered and will only be required to add new stalls for the additional residents if they expand an existing or build a new building. There are avenues to seek reductions to these parking requirements on a case-by-case basis, such as the Board of Zoning Appeals, City Council waiver and Historic Preservation Special Permit, if the property is a local landmark.
11. Boarding houses were removed from this section and are no longer mentioned in the parking chapter because boarding houses are only allowed in the B-4 zoning district which does not have a parking requirement in most of the downtown.

Prepared by:

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DATE: December 1, 2011

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CHANGE OF ZONE NO. 11040

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 14, 2011

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

There were no ex parte communications disclosed.

Staff recommendation: Approval.

Staff presentation as applicant: **Christy Eichorn of Planning staff** explained this proposal to remove the gender distinction on parking requirements for fraternities and sororities. These parking requirements have not been updated since 1979. The staff spent some time researching other communities in regard to the parking requirements, particularly college towns. It was found that there is a wide variety of parking standards. Some were based on per resident; some like ours today based on livable square footage (which is hard to define); some based on the number of beds; some based on 1:1 ratio, and most commonly a 2:1 ratio. In addition, staff researched the Lincoln community and the universities and colleges that we have in terms of location in proximity to the colleges that they service and in what zoning districts they are allowed. Today, fraternities and sororities are only allowed in R-6, R-7 and R-8 by right. And generally, those zoning districts are in proximity to the location of the universities.

The staff is suggesting that the parking requirements would be easier to understand based on a per resident ratio rather than a livable square footage ratio. For both fraternities and sororities, it appeared that the closer they are to the university, potentially the less parking they might need. The legislation is drafted such that if the fraternity or sorority is more than 600' away from a university campus, the facility would be required to have .75 parking stalls per resident, and if closer than 600', then it would be reduced to .5 stalls per resident.

Eichorn pointed out that currently, many of the fraternities and sororities in Lincoln are located on UNL main campus, which is B-4 zoning. B-4 zoning does not have any parking requirements. A lot of those fraternities are pre-1979, which means they were built without parking requirements and they would not be required to meet the parking requirements after this text change unless they wanted to add to their building and have more residents.

Eichorn also pointed out that rooming and boarding houses are currently part of the zoning ordinance and are only allowed in the B-4 District basically because they are not mentioned anywhere else. Again, there are no parking requirements in B-4. Therefore, this text change removes the parking requirements for rooming and boarding houses, taking away that reference in the code.

Esseks was curious about where the .75 and .50 ratios came from. Eichorn stated that they are similar to those being used at KU.

If a fraternity or sorority were to expand, Butcher wanted to know how they would have to comply with the parking standards. Eichorn suggested that it is going to depend on how they do the expansion. Internal renovations that would cause more beds would not affect their parking. If they were to add a building and connect together, it would trigger more than a 50% improvement and they would be required to meet the parking standards. However, if they are in a historic building, there is the option to apply for a historic preservation permit to have some leniency on the parking. There is also the potential to apply to the Board of Zoning Appeals for parking adjustments. In addition, if they are currently a nonconforming use, there is the possibility to apply for expansion of a nonconforming use, which would be reviewed on a case-by-case basis regarding adequate parking.

Butcher confirmed that this amendment will affect all new fraternities and sororities built. Eichorn agreed.

Butcher then inquired whether the new fraternity proposed on Holdrege Street across from East Campus meets this proposed requirement. Eichorn believes that facility will meet the requirement. This text change, however, is not retroactive.

Hove wondered how many of the existing facilities will conform to this guideline or be grandfathered. Eichorn stated that the staff has not made that determination and does not know how many would become nonconforming with this text amendment. Hove imagines that most of them would be nonconforming. Eichorn agreed.

Opposition

1. Ann Bleed, 1315 N. 37th Street, appeared on behalf of the **East Campus Community Organization (ECCO)**. She stated that the Organization is not opposed to the need for the basics of this text change. They understand the need for parking for fraternities and sororities. In fact, not long ago, ECCO testified in support of the AGR Fraternity change of zone to allow a new building on Holdrege Street in the neighborhood. ECCO recognizes that fraternities are an important part of the unique fabric of their neighborhood and want to work with them to make sure they are functioning in the neighborhood. However, wherever you have land use issues that are different, there is always a potential for conflict, and parking is definitely a conflict between the neighbors and the university fraternities.

ECCO has some questions about the assumption used in this text amendment. According to statistics developed by UNL, over 90% of the students have cars when they come to campus, and a good number have two vehicles. The students who do not have cars are primarily foreign students or people financially challenged. Therefore, it is very likely that over 90% of these students

in fraternities and sororities will have at least one vehicle. Furthermore, based on ECCO's conversations with fraternities, most of the students do have cars; they do use these cars, especially near East Campus, to go downtown, to a movie, to a restaurant or to a party. A lot of times these cars are not used to go to campus. So they do have cars and two of these fraternities are also within 600' of the university.

ECCO has questions about the assumption that just because you are close to the university, you are going to have less cars or you will have other parking spaces. The fraternity members do not park their cars on East Campus. They park in the parking lot by the fraternity or on the street. The ECCO neighborhood already has parking problems on the street because of the proximity to the university. For these reasons, Bleed indicated that ECCO questions the 600' assumption.

Another more minor question relates to the fraternities and sororities in R-6 zoning. Bleed assumes that this particular requirement for parking takes precedence over the general requirement for parking in R-6.

Bleed reiterated that ECCO is very interested in working with fraternities in their neighborhood, but until there is a better understanding of the basis of the 600' assumption, ECCO questions that assumption to require .5 parking spaces per resident as opposed to .75.

Lust wondered whether Bleed was saying ECCO would rather have the fraternities be required to have a 1:1 ratio for parking so that they are not parking on the street. Bleed stated that she is concerned about the .5 simply because they are within 600' of the university. Based on ECCO's understanding in talking with students, just because you are within 600' does not mean you are not going to have as many cars. That assumption is what we would like to have more information upon because it does not appear to be correct. We understand that the existing fraternities are grandfathered; however, it is possible that in the future the fraternities will grow and will want to construct a larger facility.

Lust asked whether Bleed is suggesting that there not be the .5, but rather .75 across the board. Bleed stated that her first question is whether we can substantiate the assumption that you don't need as many parking places. If that assumption is correct, ECCO might agree, but they question that assumption. Unless there is a real push to have this text amendment proceed soon, ECCO would like to have more information and more opportunity to work out some of the issues.

Esseks asked staff to address Bleed's comments. Eichorn stated that one of the reasons staff considered the proximity was in relation to thinking about other dwelling type units currently located on university campuses, specifically dorms. There are no parking requirements or ratios for the dorms at UNL or Wesleyan. They just build parking lots and give out parking stickers on a first come-first serve basis. The fraternities and sororities, especially those close to campus, function in a similar way. Staff had the expectation that the students might have a car just like a dorm resident would. All of the parking facilities on campus could potentially be used by fraternities and

sororities as well. We thought that it would be fair to assume that there would be a portion of those students who would park their cars on campus in the student parking lot (especially if 90% really do have cars) and keep them there because there is no parking on their fraternity or sorority lot today. It was based on the assumption that they would leave their cars there and everything would be in walking distance if within 600'. Eichorn acknowledged that there is no kind of scientific fact to prove that assumption – just a general observation of how staff thought students might move on and off campus and facilities. It would then be the expectation that those students living in facilities further away from the university would get in a car or at least car pool. Staff believes that it would be better to have a higher parking standard for that situation.

With regard to the AGR Fraternity on East Campus, Eichorn explained that the parking requirement agreed upon for that new facility was .5, so it would fall within what is being proposed in this text amendment. When that discussion took place, one of the things that the community did not want to see was high parking requirements that would require the fraternity to tear down houses to put in more parking stalls where the parking needs might not be necessary.

Cornelius observed that this seems to be changing the entire approach to allotting parking for fraternities and sororities – going from the livable space model to the resident model. Is there value to deferring this? Eichorn stated that staff did look at the livable square footage ratio but there is no definition for “livable square footage”. Student housing that is generally further away from campus and in a community unit plan is based on a 1:1 ratio as opposed to livable square footage. We don’t have very many parking codes today based on livable square footage, but rather based on dwelling units or 1:1. We were trying to find a better solution.

Cornelius expressed his concern about making this change. He does not believe there is any dispute that 90% of the students have a vehicle, in which case, we are forcing half of those residents to park on the street or somewhere else. His experience is that there is a lot of parking on the street as opposed to buying a parking permit. Since we are making the change, doesn’t it make some sense to try to resolve this conflict? He stated that he is totally sympathetic to the fact that we do not want acres of parking surrounding these fraternity and sorority houses, but because this seems to be a complicated issue, maybe a deferral is in order. Eichorn suggested that to determine whether there is going to be a value to deferring, we need to focus on the question. Should there be one flat standard, and should that be .5 or .75? Maybe there is a third question as to something other than that. Staff has worked for several months in coming up with the .5 and .75. She does not know that she will be able to come back with any other research or scientific facts beyond what we have now. The other challenge is trying to figure out where to draw the line. The reason we used 600' is because in our code today, you are allowed to have parking off your premises within 600' in order to meet your parking requirements. If we want to go with one number, then we have to determine whether we are comfortable with those students who live within 600' meeting the same parking requirement and same needs as those folks who just bought an old house that they are going to use down at 27th & Old Cheney. Do they need to have the same

parking standard as those who live across the street from the university? Eichorn did not know whether staff would be able to come up with any better solution with a deferral.

Esseks confirmed that the lower ratio of .5 for fraternities and sororities located within 600' is based upon the assumption that there are student parking spaces available 24 hours a day, seven days a week. Eichorn stated that it is the assumption that a student who lives in a fraternity would have opportunity to go to the university to get a year long parking pass to park on campus. Esseks asked whether we know from the parking manager at UNL or Wesleyan that they are allowed to park there 24 hours 7 days a week. Eichorn did not know and did not ask that question, but she assumes it would be 24 hours.

Eichorn pointed out that the parking requirement in R-6, R-7 and R-8 is 1:400 sq. ft. in R-6 and R-7, and 1:700 sq. ft. in R-8, which is much lower than .5 and .75. Today, if you are in one of the higher density districts it would be very common to find three unrelated people living in an apartment, with all three of them having cars. Today the code only requires 1 parking stall for each of those apartment units. We are requiring more for fraternities and sororities than what we are requiring for apartments in the same district.

Butcher suggested that perhaps the ratio should be based on proximity to downtown as opposed to the university. Maybe the needs are different at the different campuses. Eichorn believes this is a good point and staff might consider how we might do that. Staff ended up with this language because we were trying to keep it simple.

Butcher thinks the division is the 24-hour residential leak. He does not believe that the downtown fraternities and sororities have the residential leak out into the community like you do at the other campuses. Eichorn suggested that consideration could be given to .5 if within 600' of the main campus (UNL), with .75 at all other campuses. Butcher agreed that is the idea but he does not know whether that is feasible.

Gaylor Baird suggested that the decision should be based on what problem we are trying to solve. The gender equity issue is clear. Are there other problems that have compelled staff to bring up this amendment about the ratio of parking to number of residents? Eichorn indicated that she contacted the Lincoln Police Department, UNL Police, UNL Parking Division, Nebraska Wesleyan and Union College. None of these entities indicated that they have ever had any problems with parking and fraternities and sororities. They are allowed to park in the public right-of-way. They don't get very many complaints. By adopting these numbers, Gaylor Baird wondered whether we are changing anything in practical terms or is this roughly what the parking ratios are today in these facilities? Eichorn reiterated that it is hard to define "livable square footage". If we assume that in one fraternity you have a bedroom that is 400 sq. ft. and four people in that bedroom and another one with two people, etc., etc., there are no rules or regulations to say how many people you can fit into a particular area. From a zoning perspective, there was no way to draw that table and to give

an accurate representation. Gaylor Baird then clarified that the intent of the text amendment is not to change parking – just to clarify. Eichorn agreed.

Cornelius wondered whether the staff would want to have a workshop if they voted to defer this application. **Marvin Krout, Director of Planning**, suggested that the Commission could defer for six weeks with a workshop in four weeks. This has become more complicated than he expected. Eichorn suggested that if the Commission votes to defer, a workshop would be helpful. She believes that staff did put their best foot forward with this amendment and did spend a lot of time on it. Staff would need guidance.

Francis knows that East Campus is a very unique situation and it's hard to know who is parking where, whether it be a resident of the fraternity or sorority or just a general student. She does not know that parking issues are ever going to be resolved.

Butcher believes that the problem is the 24-hour parkers. People come to East Campus, park there and go to class for their day or hour – they don't stay for 24 hours, but the residents of these facilities park there as residents. They are the ones parking overnight and for long periods of time rather than other students attending the school.

Gaylor Baird suggested that we are not here today to talk about those problems because we have not had those complaints. We are trying to amend for gender equity purposes and to just try to enumerate in real numbers what the existing situation is today, not based on livable square footage but in terms of a resident ratio. She is comfortable with trying this and seeing how it works. We don't have any data to try to do differently.

Lust asked how long the staff has been working on this proposal. Eichorn advised that the original question came in about a year ago and it was researched over the summer. Staff took this proposal to the Mayor's Neighborhood Roundtable. It has probably been in process for six months. Lust wondered whether anything would be done differently if this is deferred. Eichorn suggested that if the Commission chooses to defer, the staff would need a workshop for the Planning Commission to give additional direction.

Esseks wondered whether students within 600' can find 24 hour parking over several days a week. If they can, the distinction between .5 and .75 becomes meaningful. Eichorn responded that she would like to say that every student on the university could pay a parking fee and get a parking permit. But not every single student at the university is able to get one of those parking passes.

Sunderman inquired whether the .5 is on par with the zoning districts within which the fraternities and sororities would be located. Eichorn stated that today, multi-family dwelling units would require 1 parking stall per dwelling unit. It is very likely that you could have three cars per dwelling unit.

ACTION BY PLANNING COMMISSION:

December 14, 2011

Lust moved approval, seconded by Francis.

Lust believes the staff has worked on this for a very long time and researched as much as possible. They have answered the questions that can be answered. She is concerned that there will be no more information if this is deferred. She is comfortable with the work that has gone into this proposed change. The goal was to correct the gender equity in the ordinance and to have the ordinance make sense. This makes a lot of sense. She is worried that if we defer we are trying to solve a problem that does not exist.

Gaylor Baird commented that she is also comfortable voting on this proposal today. If there are some unintended and unforeseen consequences, we can deal with them as they arise.

Cornelius agreed that we need to keep in mind the reason for this change. He is sympathetic to the idea that livable space doesn't make a lot of sense, but changing the entire way we measure the parking average for fraternities and sororities does nothing to resolve gender bias in the ordinance. This would have been simple to vote upon had the change been to strike the sorority language and roll them together, and then if we need to make a change to how we measure the parking spaces, we could do that and have that debate at that time. All that being said, he stated that he will vote in favor of this change. He believes it is already the case that people who attend the university have trouble finding parking and they sometimes park on the street.

Motion for approval carried 8-1: Francis, Lust, Butcher, Gaylor Baird, Weber, Hove, Sunderman and Cornelius voting 'yes'; Esseks voting 'no'. This is a recommendation to the City Council.

February 20, 2012

To: City Council Members

From: Ann Bleed, President of the East Campus Community Organization

Re: Change in Zone Regarding Parking Requirements for Fraternities and Sororities

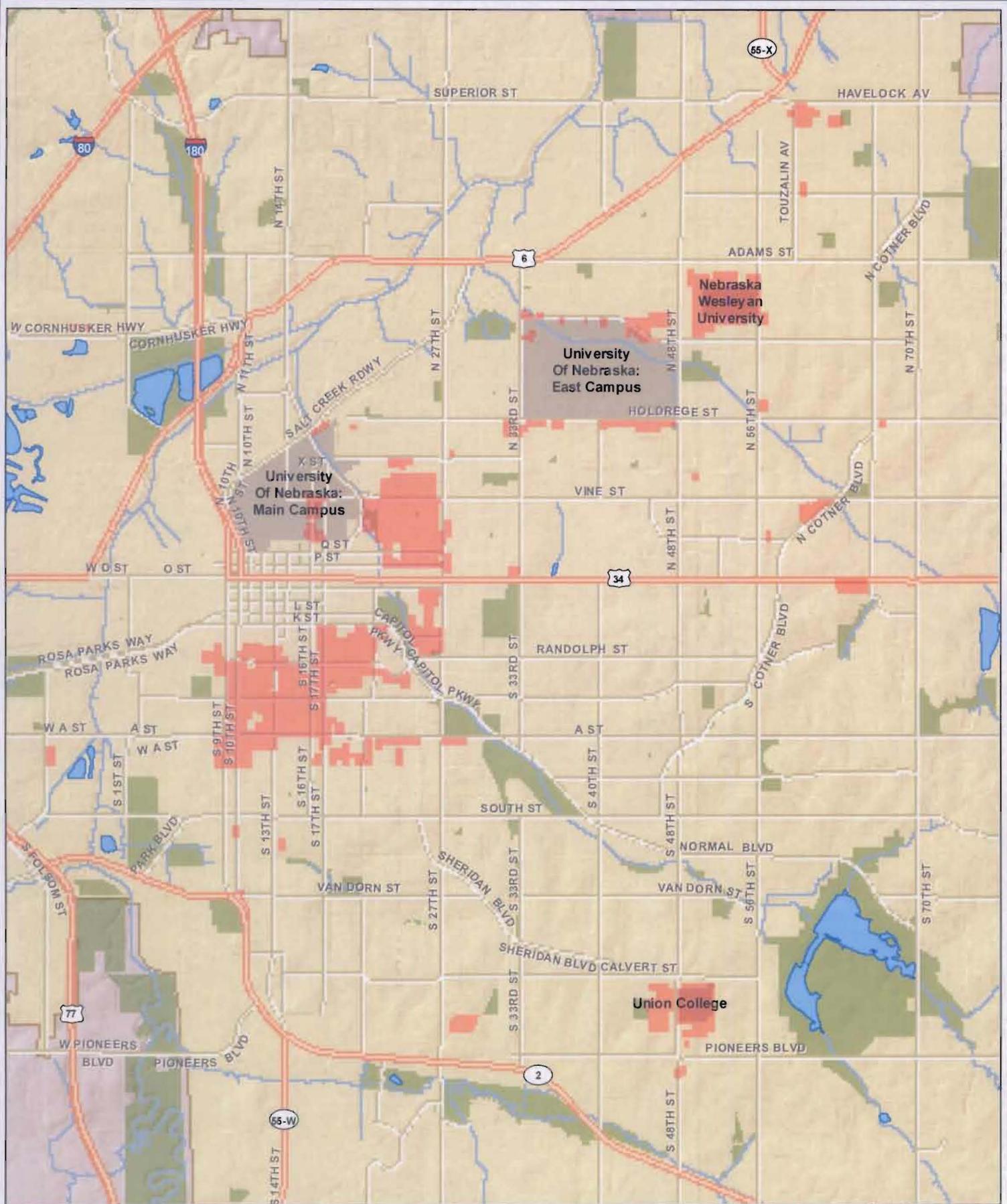
The East Campus Community Organization would like you to know that we support the change in the zoning code regarding parking requirements at fraternities and sororities as revised by the Planning Department.

We also want you to know how much we appreciate the willingness of Marvin Kraut to work with the East Campus Community Organization to revise the language on the change of zone to more closely meet the needs of neighborhoods outside of downtown Lincoln. Even though the language had already been approved by the Planning Commission, Marvin and Christy Eichorn were willing to revisit the issue. Though e-mails and a meeting with members of the ECCO board, they went the extra mile to make sure the change in wording would work for all who might be impacted. They both are to be commended for their diligence.

Sincerely,

Ann Bleed

President of the East Campus Community Organization



ZONING DISTRICTS R6, R7 AND R8

- Zoning Districts R6, R7 and R8
- Waterbodies
- Colleges
- Parks

