

# Memorandum

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**To:** Plan & Zoning Commission  
**From:** Stephen Troskey – City Planner  
**Date:** November 14, 2008  
**Re:** November 20<sup>th</sup>, 2008 meeting

## **Public Hearing – Creation of new Zoning District – TN Traditional Neighborhood**

This action would create a new zoning district. Property setbacks would be reduced, required lot sizes would be reduced, and businesses would not be required to have off-street parking.

## **Public Hearing - 13<sup>th</sup> Street neighborhood rezoning**

As interest grows in development/business in the 13<sup>th</sup> Street neighborhood, it is appropriate to have that land zoned in a district that makes existing buildings usable. Currently only four of the twelve commercial lots comply with NC Neighborhood Commercial Zoning requirements, two of which are too small for commercial businesses. Frequently our office gets inquiries about renting the upper floors of structures which currently not be done. In addition, businesses can not move into the vacant buildings because the lots do not meet the parking and size requirements. It would be appropriate to rezone this area to TN Traditional Neighborhood (if that district is approved) to allow for the development of the neighborhood. I have sent a copy of the plan to Andrea Maxwell asking if she would share my thoughts with that Association and see what their reaction would be to a change.

**Both of the previous topics will be opened for a Public Hearing and then immediately tabled to a subsequent meeting so that interested parties can attend the RDG 13<sup>th</sup> Street Presentation.**

## **Discussion of Special Use Permit for living quarters in industrial or commercially zoned property**

Bob Olson asked if the Commission would consider creating a way for business owners to have on-site care takers live on the property. You saw this issue last year and approved creating a Special Use Permit process to approve these. When the proposed ordinance went to the Council, several issues arose and the Council denied any ordinance changes. Since the previous discussion, staff has discussed this issue and would recommend that no changes be made at this time. The city can not allow this for just one type of business, but rather would have to make it open to all businesses. Does the city want a possible apartment on every commercial property in town? While an applicant may say they will follow whatever regulations are required, we must look at all future applications. In addition, how will the fire department know what commercial properties have a tenant present? Our department does not want to keep a record of what properties do and do not have tenants. There is liability if someone rents their space and does not go through the proper process and then a fire occurs and the fire department does not know if there is a tenant present. We do not want to be held liable for record-keeping. In

addition, a business can hire a 24 watch service. Whether that service is expensive or not is not something the Commission should look at.

### **Recommendation on US Cellular cell phone tower application – Marshalltown HS**

An application has been turned in by US cellular to place a cell phone tower at the Marshalltown high School football field. They would replace an existing light pole with the tower. The information packet includes more specifics about the tower and site. This has been a publicized event in the past, but each application that US Cellular has filed out is a separate and independent action. Any previous applications have no bearing on this application. With that, I would like to address a few concerns that have been raised.

First, the FCC Telecommunications Act of 1996 prohibits cities or city board to make any judgment based on potential health effects. Because of that, it is unnecessary to hear complaints or concerns about those issues. While emotional, by law you can not approve or deny a request based on that information. Secondly, this is the third application the company has made. While the other two have no bearing on this application, the previous special use permit that was approved was behind the Meadow Lane Mall, across the street from residential property. The one that was denied, at the Best Vacuum store, was directly next to a house. This application will be the farthest of the three from any houses. Tall structures already exist on the site, so no completely new tower will be erected. Thirdly, US Cellular has shown a clear need for better coverage in this area. It is our thought that a majority of users come directly from the high school, so the location seems appropriate. Finally, the Marshalltown School District has approved the tower for their property. It is the city's recommendation that you approve this application as presented.