

**AGENDA
BOARD OF ADJUSTMENT
REGULAR SCHEDULED MEETING
June 12, 2017**

**HIAWATHA CITY HALL
6:00 P.M.**

1. Call to order - Roll Call
2. Consider Approval of:
 - a. Agenda
 - b. Minutes from May 8th, 2017
3. Business
 - a. PUBLIC HEARING – Consider a Conditional Use request for Lucky Penny Outdoor Service and Beer Garden submitted by Graig Cone for Lucky Penny located at 1705 Boyson Rd., Hiawatha, Iowa.

Adjourn

**HIAWATHA BOARD OF ADJUSTMENT MINUTES
REGULAR SCHEDULED MEETING
May 8, 2017**

2B

The Hiawatha Board of Adjustment met in regular session on May 8, 2017. Board of Adjustment Clerk, Jennifer Goerg called the meeting to order at 6:00 p.m. Members present: Don Earll, Dick Whitmore, David Matthews and Steve Dodson. Members Absent: Christina Goodman. Staff present: Pat Parsley, Building Official and Jim Fisher, Assistant Building Official.

Board of Adjustment Clerk asked for a volunteer to Chair the meeting. Dick Whitmore volunteered.

AYES: Don Earll, Dick Whitmore, Steve Dodson and David Matthews

NAYS: None

ABSENT: Christina Goodman

Approved

Board Member Don Earl moved to approve the August 8, 2016 minutes, second by Steve Dodson. Motion carried.

PUBLIC HEARING - to consider a Variance request to the City of Hiawatha, Unified Development Code, Chapter 166.27.6:B, a variance to allow a 161 sq.ft. sign where code allows 100 sq.ft. CR Signs is requesting the variance for 1195 Boyson Rd.

Public Hearing Opened At 6:03 p.m.

Dick Whitmore asked if there were anyone that wanted to speak for the variance.

At that time, Pat Parsley explained that it was discovered a variance had already been issued for a sign. He stated that the sign that is being proposed is less non-conforming then the sign that was giving the original variance in 2008. He went on to explain that since the sign will be compliant, he asks the Board for a reaffirmation of the original variance.

Dick Whitmore asked if there were any questions.

A representative from CR Signs addressed the Board. He stated that he was there to answer any questions the Board may have. There were none.

Dick Whitmore then asked if there were any written correspondence. Board of Adjustment Clerk, Jennifer Goerg said there were and read them aloud to the Board.

Board Member Don Earll asked if they had any choice but to reaffirm. Pat Parsley stated that they did not because it falls within the original variance.

Board Member, Steve Dodson moved to approve a reaffirmation to the original sign variance. Second by Dave Matthews.

Roll call vote:

AYES: Steve Dodson, Dave Matthews, Dick Whitmore and Don Earll.

NAYS: None

ABSENT: Christina Goodman

Approved

Public Hearing Closed At 6:07 p.m.

Approve the 2017 Meeting Calendar.

Board Member, Dave Matthews moved to approve the 2017 Meeting Agenda. Second by Don Earll.

AYES: Steve Dodson, Dave Matthews, Dick Whitmore and Don Earll.

NAYS: None

Approved

Dick Whitmore moved to adjourn the meeting at 6:09 p.m., second by Steve Dodson. Motion carried.

Dick Whitmore, Board Member

Date Signed

ATTEST:

Jennifer Goerg, Community Development Clerk

3A-1

City of Hiawatha
Community Development Department
Building, Zoning, Code Enforcement & Development
101 Emmons St., Hiawatha Iowa, 52233-1697

Purpose: Conditional Use Request **Date:** June 7th, 2017
To: Board of Adjustment
Name of Plan: Lucky Penny
Address: 1705 Boyson Road **Zone:** C-3
Number of Lots: 1
Reviewed by: Patrick Parsley, Community Development Director

Description: The applicant desires to include alcohol sales in an established outdoor seating area. By definition this is a “beer garden” and it requires a conditional use permit.

Report:

Standards for Conditional Uses: Approval for any conditional use shall be granted only if evidence is presented which establishes:

A. That the conditional use applied for is permitted in the district within which the property is located.

This restaurant is in a C-3 zoning district along Boyson Road. It was recently rezoned by City Council to accommodate the conditional use. The former zoning was also C-3 but included restrictions because of the proximity to residential zones. However the adjacent commercial areas have been developed making the zoning restrictions unnecessary. The possible issues of noise and outdoor storage have been greatly reduced by the development of the C-ORS district and a berm with screening in the transition yard next to the residential zone.

B. That the proposed use and development will be in accordance with the intent and purpose of this Code and with the goals and objectives of the Land Use portion of the Comprehensive Site Plan.

The Hiawatha Comprehensive Plan designates the area along Boyson Road as a commercial zone because Boyson Road is an arterial street. The area has consistently been developed for commercial uses. This C-3 zone is located adjacent to other commercial zones as our zoning map shows:

- North: C-4. The uses in this zone are slightly more intense commercial uses.
- East: C-3. The same zone extending past 12th Avenue and includes the Mercy Urgent Care project.
- South and West: C-ORS. This commercial zone is considered a transition zone from residential uses to more intense commercial uses. It is similar to C-2 neighborhood zones which limit the uses to office, research and limited retail.

C. That the proposed use and development will not have a substantial adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility and service facilities, and other factors affecting the public health, safety, and welfare.

The site development as an outdoor serving area allows for access to necessary utilities, and has the adequate area for the required parking, landscaping, open space, and other accessory uses for the proper functioning of the development. This area was originally designated as an outdoor patio in the approved site plan in 2011.

The restaurant patio is located within a C-3 zone which has a C-ORS buffer zone between this use and the closest residential use. The distance from the outdoor dining to the residential property is over 250 feet. The C-ORS zone has been developed with two story commercial buildings, a 6’ berm and matured trees and vegetation for screening between the commercial and residential uses.

D. That the proposed development or use will be located, designed, constructed and operated in such a manner that it will be compatible with the immediate neighborhood and will not interfere with the orderly use, development and improvement of surrounding property.

This type of use requires a conditional use because of the potential conflicts which can be created by the activity next to a residential zone. The applicant is willing to make accommodations which will lessen the potential conflicts as requested by the Planning and Zoning Commission. The limits include restricted patio area, restricted hours for serving alcohol on the patio and restrictions on noise from outdoor activities and speakers.

E. That adequate measures have been or will be taken to assure adequate access designed to minimize traffic congestion and to assure adequate service by essential public services and facilities including utilities, storm water drainage, and similar facilities.

There are no changes to the site associated with this conditional use request.

F. That the proposed building, development, or use will comply with any additional standards imposed on it by provisions of this Code for the district in which the property is located.

There are no changes to the site associated with this conditional use request.

G. Whether, and to what extent, all reasonable steps possible have been, or will be taken, to minimize any potential adverse effects on the surrounding property through building design, site design, landscaping, and screening.

There are no changes to the site associated with this conditional use request. However the development already includes the recommended buffer zones and transition yards described in the development code. (See above)

We agree the standards have been met as described by the applicant. This site is remote from residential areas and is part of a "condo" type development of shared parking in which this occupancy is most heavily used during off hours to the business uses in the area. We will require any associated lighting to comply with the Hiawatha exterior lighting code and the applicant will be required to note the outdoor area in their State licensure.

Recommendation: Community Development and the Planning and Zoning Commission support the recommendation to approve this conditional use with conditions. *(These conditions are only recommendations from the P&Z Commission: The Board must approve each or all conditions if they are to be included in the Conditional Use Permit)*

1. This property is rezoned to C-3 as requested.
2. The liquor license is updated to include the outdoor area.
3. The area of the conditional use is limited to the present patio area of 20' X 28'.
4. Any additional lighting will comply with Hiawatha exterior lighting ordinances.
5. The beer garden shall be open only during the restaurant hours and no later than 10:00PM.
6. No outdoor uses which include music or entertainment or which overflow the area of the described patio are permitted.
7. No speakers will be used to serve the outdoor seating area.

3A-2

**RESOLUTION NO. 17-016
Planning & Zoning Commission**

**RESOLUTION APPROVING THE CONDITIONAL USE
REQUEST TO THE BOARD OF ADJUSTMENT FOR
1705 BOYSON RD., HIAWATHA, IOWA.**

BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF HIAWATHA, IOWA, TO APPROVE THE RECOMMENDATION TO THE BOARD OF ADJUSTMENT FOR THE APPROVAL OF THE CONDITIONAL USE REQUEST FOR GRAIG CONE AND LUCKY PENNY LOCATED AT 1705 BOYSON RD., HIAWATHA, IOWA. WITH THE FOLLOWING CONDITIONS:

- THE PROPERTY BE REZONED TO C-3 AS REQUESTED
- THE LIQUOR LICENCE IS UPDATED TO INCLUDE THE OUTDOOR AREA
- THE AREA OF THE CONDITIONAL USE IS LIMITED TO THE PRESENT PATIO AREA OF 20' X 28'
- ANY ADDITIONAL LIGHTING WILL COMPLY WITH THE HIAWATHA EXTERIOR LIGHTING ORDINANCE
- THE BEER GARDEN WILL ONLY BE OPEN DURING THE RESTAURANT HOURS AND NO LATER THAN 10PM.
- NO OUTDOOR EVENTS WHICH INCLUDE MUSIC OR ENTERTAINMENT OR WHICH OVERFLOW THE AREA OF THE DESCRIBED PATIO ARE PERMITTED
- NO SPEAKERS SERVING THE OUTDOOR AREA.

Roll call vote:

AYES: TERRY TRIMPE, KENNY JONES, DARRYL CHENEY, MARK POWERS, RETA SAYLOR, MARK ROSS

NAYS: NONE.

ABSENT: TOM WILLIE

APPROVED THIS 5TH DAY OF JUNE, 2017.

Mark Powers, Chairperson

ATTEST:

Jennifer Goerg, Community Development Clerk

June 2, 2017

City of Hiawatha
 Honorable Mayor and City Council
 Community Development Department
 Zoning and Planning Commission

We the undersigned citizens of Hiawatha and neighbors of Boyson Square Development would like to voice our opposition to the change of zoning requested by Craig and Joe Cone to the property (housing the Lucky Penny Bar) behind our residential properties. We feel that the zoning request will be detrimental to our neighborhood and to the Boyson Square properties. In their petition to the city for this request they forgot to list that there is also a residential area to the south. Having an outdoor beer garden will be offensive to us. We can at this time hear people talking that are setting outside now in that area. Even though they will say the commercial buildings behind us are a buffer for this request, we can still hear them. We would like to request that the outside seating area they are using now close by 10PM. Also there is a big gap between the buffer buildings where there is a retention basin that is wide open and in line where the beer garden is proposed. Even now the buildings behind us resonates noise and in fact we can hear as far away as the day care at the end of the block during the day. We would also like to point out that this would set a precedent for other future zoning changes in our neighborhood. Having more bars we are sure was not the intent or the vision when Boyson Square was originally proposed. Even though the city might feel this way, we feel this is a type of spot zoning. If passed it will let other bars open in this area. When Boyson Square was proposed and the buildings behind us were constructed, the neighbors were told there would not be any bars and even restaurants in that area. We hope and pray that you will listen to our concerns and vote to reject this proposal.

Name	Address
Connie & Tom Zerisek	1610 Litchfield Dr
Rob Krouse	1640 Litchfield Dr
Ted Mercan	1700 Litchfield Dr
Art Wray	1710 Litchfield Dr
David Scott	1720 Litchfield Dr.
Bob Messick	1530 Litchfield Dr.
Terinda Owens	1520 Litchfield Dr.
Jason Reep	1510 Litchfield Dr.
BGD	1500 Litchfield Dr.

Richard + Angie Pfeil 1600 Litchfield Dr.

Bonnie S. Berg 1620 Litchfield Dr.

3A-4

Conveyor Eng. & Mfg. Co
1345 76th Avenue SW
Cedar Rapids IA 52404

May 17, 2017

City of Hiawatha
Honorable Mayor and City Council
101 Emmons Street
Hiawatha IA 52233

CONDITIONAL USE PETITION

Please accept this letter as our petition to move the conditional process forward for the proposed outdoor service and beer garden to be located at the Lucky Penny, 1705 Boyson Road.

Required Information:

Applicant's Name - Craig Cone
Conveyor Eng. & Mfg. Co
1345 76th Avenue SW
Cedar Rapids, Iowa

Titleholder's Name - Craig Cone
Conveyor Eng. & Mfg. Co
1345 76th Avenue SW
Cedar Rapids, Iowa

Law Building Co, LLC
2345 John F. Kennedy Road
Dubuque IA 52002

Joe Ahmann
Westwind Properties, LLC
1641 Boyson Square Drive, Suite 100
Hiawatha IA 52233

Zoning - Current Zoning is Modified C-3
Proposed Zoning is C-3
The site is currently developed as the Lucky Penny Bar and Restaurant within the Boyson Square Development

Conditional Use - We are proposing an outdoor service area and beer garden adjoining the Lucky Penny as shown on the attached site plan.

Section 165.83:7 -

- A. **That the conditional use applied for is permitted in the district within which the property is located.**
The conditional use as requested is permitted within the C-3 zoning district.
- B. **That the proposed use and development will be in accordance with the intent and purpose of this Code and with the goals and objectives of the Land Use portion of the Comprehensive Site Plan.**
The conditional use request for an outdoor service area and beer garden has little potential to be disruptive to the adjoining neighborhood due to hours of operation or noise generated from the outdoor activities at the site.
- C. **That the proposed use and development will not have a substantial adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility and service facilities, and other factors affecting the public health, safety, and welfare.**
The effects of the proposed conditional use are expected to be compatible with the existing conditions in the surrounding area.
- D. **That the proposed development or use will be located, designed, constructed and operated in such a manner that it will be compatible with the immediate neighborhood and will not interfere with the orderly use, development and improvement of surrounding property.**
The proposed outdoor service area and beer garden will be compatible with the immediate commercial neighborhood.
- E. **That adequate measures have been or will be taken to assure adequate access designed to minimize traffic congestion and to assure adequate service by essential public services and facilities including utilities, storm water drainage, and similar facilities.**
There are no anticipated changes to traffic patterns or required public services and facilities necessary to serve the site.
- F. **That the proposed building, development, or use will comply with any additional standards imposed on it by provisions of this Code for the district in which the property is located.**
The building and site are required to comply with all provisions of the Unified Development Code and the C-3 Zoning District, City Staff recommended conditions and all other applicable codes and regulations.
- G. **Whether, and to what extent, all reasonable steps possible have been, or will be taken, to minimize any potential adverse effects on the surrounding property through building design, site design, landscaping and screening.**
The outdoor service area and beer garden must comply with all applicable requirements of the City's for staffing and fencing.

Please let me know if you require any additional information about our proposed project. Thank you for your time and consideration.

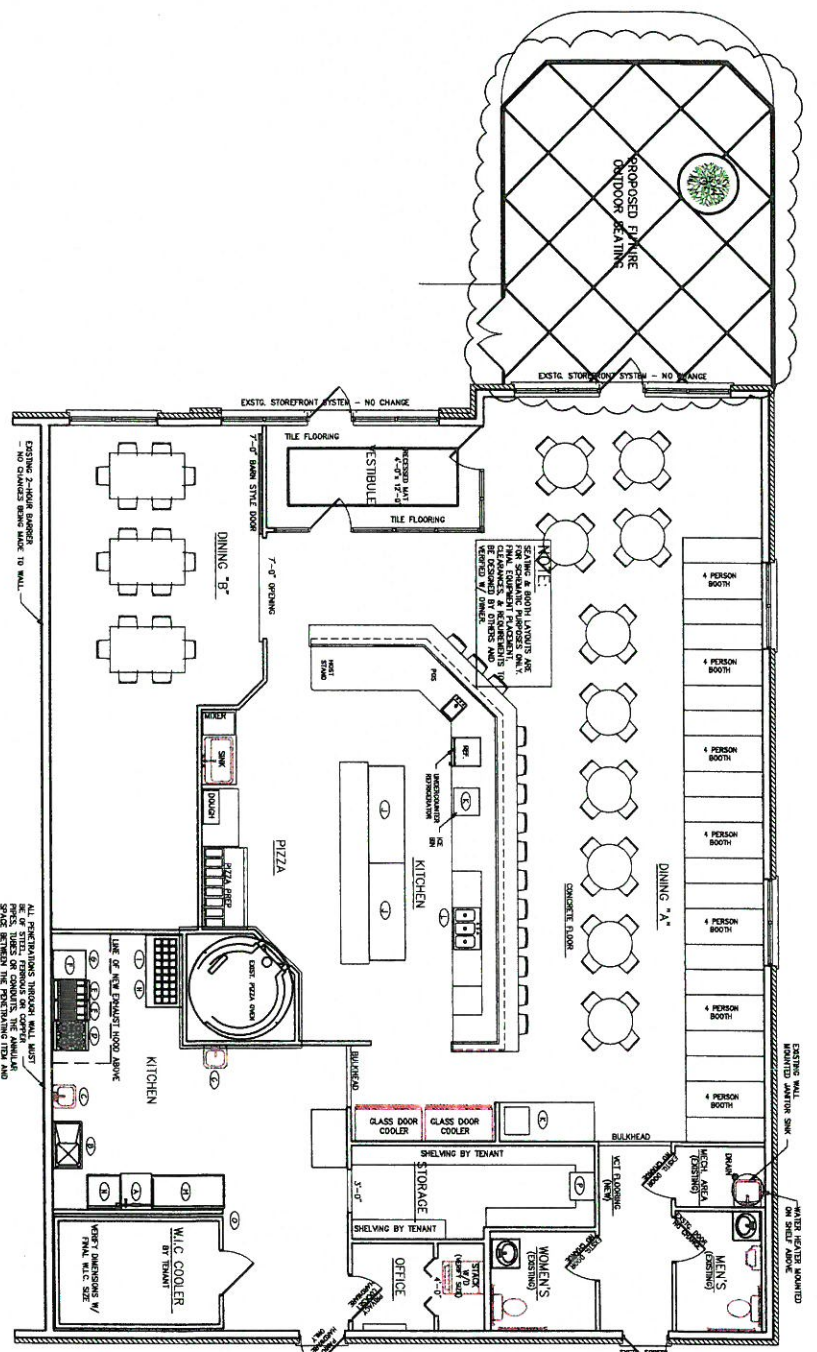
Respectfully Submitted,

Conveyor Eng & Mfg Co



Graig Cone

3A-5



FLOOR PLAN

SCALE: 1/4" = 1'-0"

EXISTG. RESTROOM NOTES:
 CONSTRUCTION TO VERIFY THAT ALL EXISTING RESTROOMS, MEN'S, WOMEN'S, AND W.C. COOLERS ARE IN COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS.
 RECOMMENDATIONS:

ALL PERMISSIBLE THROUGH WALLS MUST BE AT STEEL FRAMES ON CONCRETE GRADE. ALL THROUGH WALLS MUST BE SEaled WITH APPROVED FIRE RATED WALL PENETRATIONS. THE SHED WALLING BE SEaled WITH APPROVED FIRE RATED WALLING.

NOTE:
 SIGNING & BOOTH LAYOUTS ARE PROPOSED. FINAL EQUIPMENT PLACEMENT, COUNTERTOP PLACEMENT, AND BOOTH LAYOUTS WILL BE DETERMINED BY OWNER.

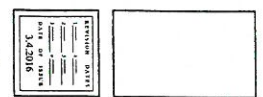
- EQUIPMENT LIST:**
- A. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - B. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - C. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - D. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - E. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - F. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - G. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - H. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - I. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - J. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - K. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - L. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - M. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - N. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - O. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - P. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - Q. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - R. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - S. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - T. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - U. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - V. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - W. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - X. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - Y. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00
 - Z. 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.00

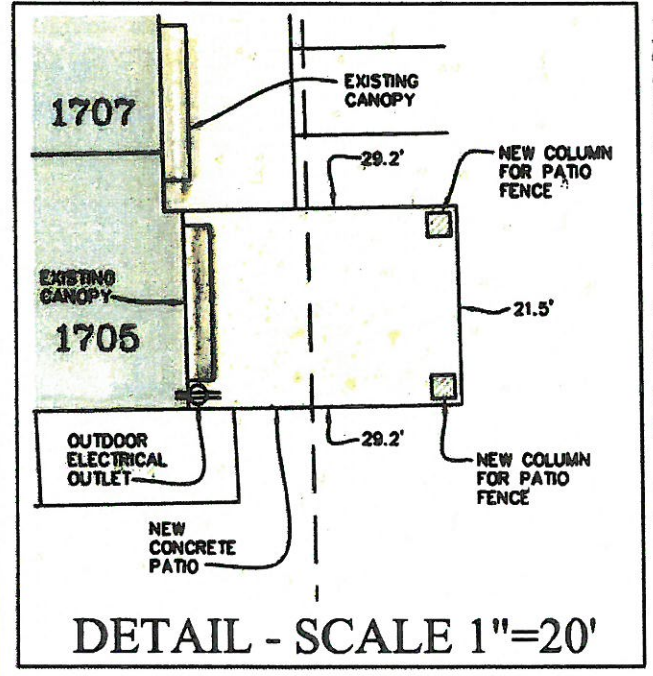
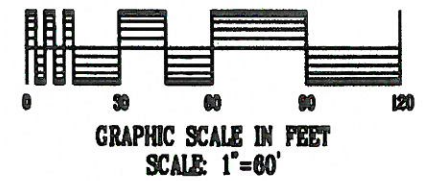
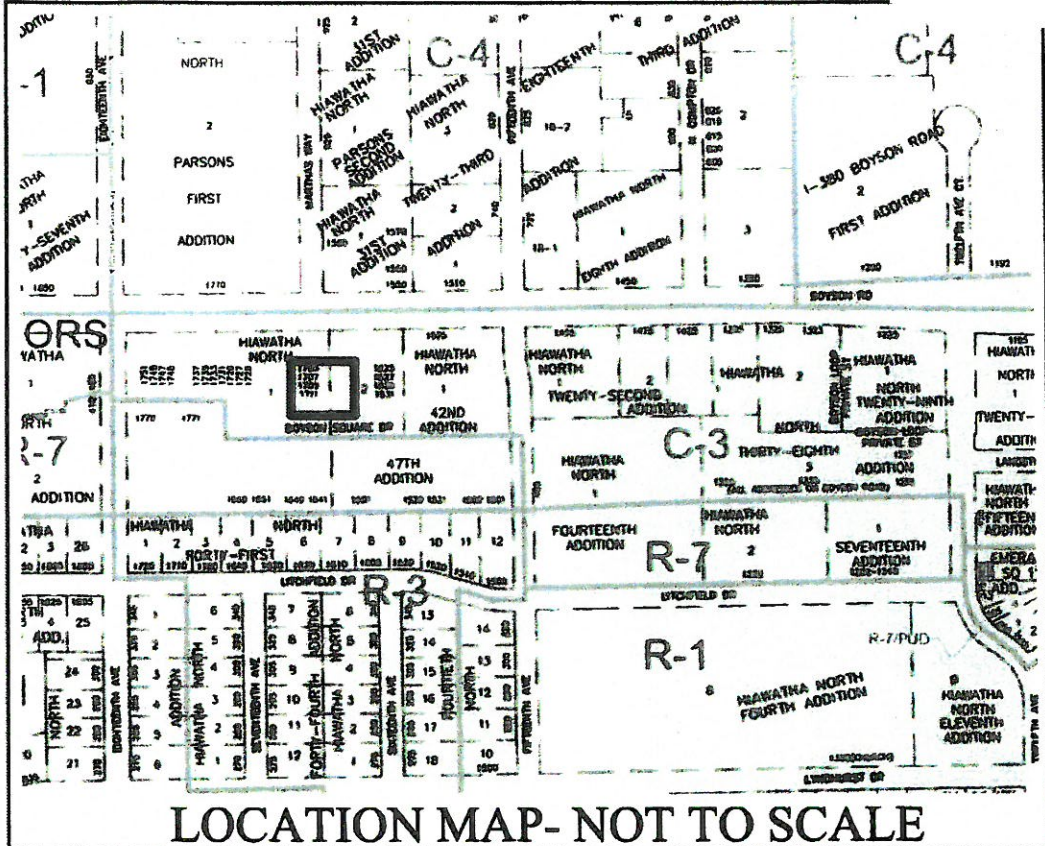
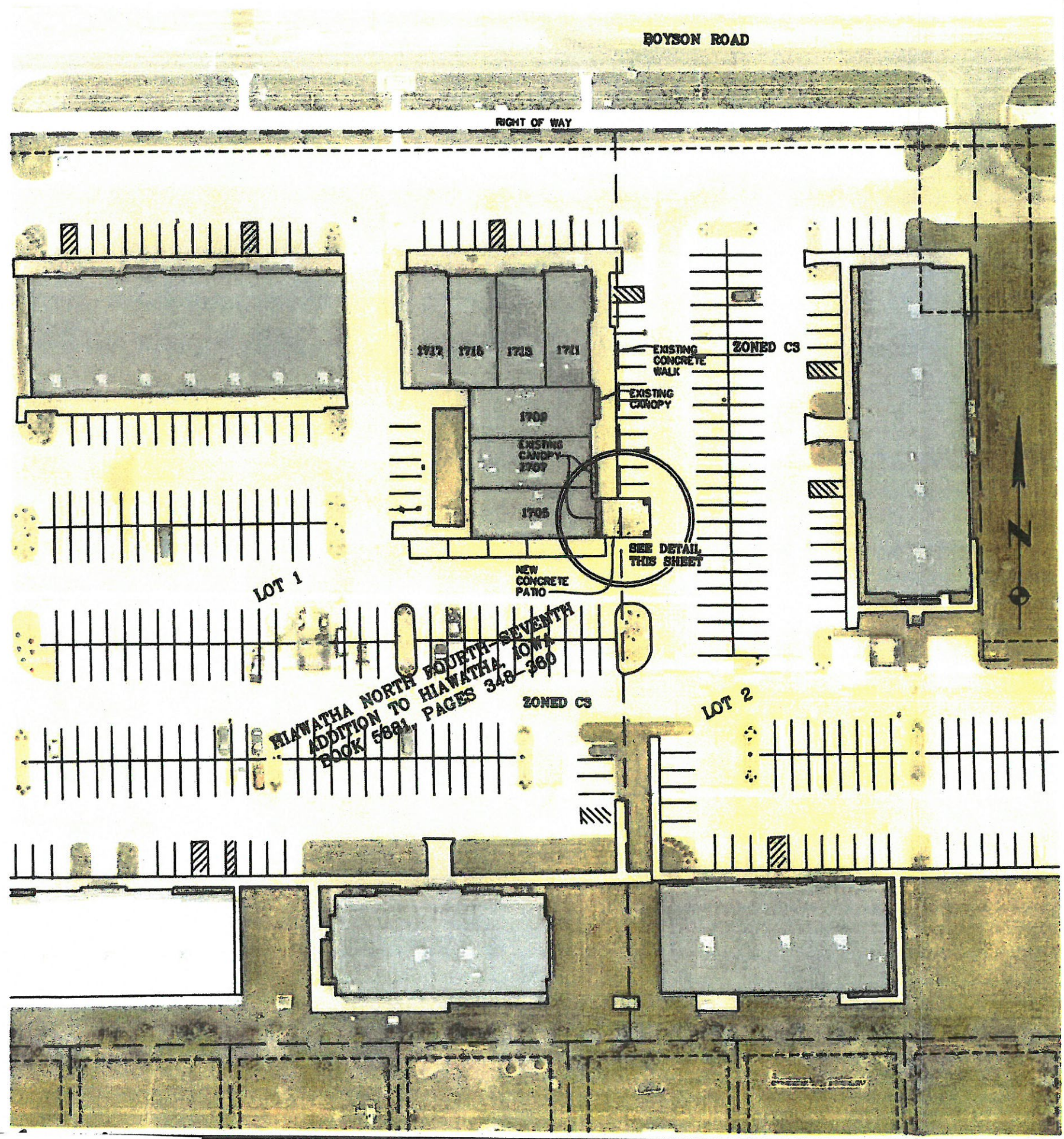


Design Dynamics, Inc.
 8000 2nd Ave. SE, Suite 212
 Cedar Rapids, Iowa 52403-2771
 Tel: 319-276-0400
 Fax: 319-242-6758
 E-mail: DDH@DesignDynamics.biz

The Lucky Penny

Hibokwa, Iowa





CONDITIONAL USE REQUEST:
 APPLICANT IS PROPOSING AN
 OUTDOOR SERVICE AREA AND
 BEER GARDEN ADJOINING THE
 LUCKY PENNY RESTAURANT.

APPLICANT'S NAME:
 CONVEYOR ENG. & MFG. CO
 %GRAIG CONE
 1645 76TH AVENUE SW
 CEDAR RAPIDS IA 52404

TITLEHOLDER'S NAME:
 CONVEYOR ENG. & MFG. CO
 %GRAIG CONE
 1645 76TH AVENUE SW
 CEDAR RAPIDS IA 52404

LAW BUILDING CO, LLC
 2345 JOHN F KENNEDY ROAD
 DUBUQUE IA 52002

WESTWIND PROPERTIES, LLC
 %JOE AHMANN
 1641 BOYSON SQUARE DRIVE,
 SUITE 100
 HIAWATHA IA 52233

CONTACT'S NAME:
 HALL & HALL ENGINEERS, INC.
 %SUSAN FORINASH
 1860 BOYSON ROAD
 HIAWATHA IA 52233
 (319) 362-9548
 SUSAN@HALLENG.COM

HALL & HALL ENGINEERS, INC.
 1860 BOYSON ROAD, HIAWATHA, IOWA 52233
 PHONE: (319) 362-9548 FAX: (319) 362-7995
 CIVIL ENGINEERING & LANDSCAPE ARCHITECTURE
 LAND SURVEYING & LAND DEVELOPMENT PLANNING
 www.halleng.com

Designed by: _____
 Drawn by: _____
 Checked by: _____

CONDITIONAL USE SITE PLAN
1705 BOYSON ROAD
 PART OF LOT 1 AND PART OF LOT 2, HIAWATHA NORTH FOURTH SEVENTH
 ADDITION TO HIAWATHA, LINN COUNTY, IOWA

Sheet Title:	
Date:	5/17/17
Field Book No:	FBK
Scale:	1"=60'
Sheet:	1 of 1
Project Number:	10293-17-9