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HIAWATHA PLANNING AND ZONING COMMISSION
SPECIAL MEETING
June 5, 2017

The Hiawatha Planning and Zoning Commission met on June 5, 2017. Chairperson, Mark Powers called the meeting to order at 5:30 P.M. Members present: Mark Ross, Terry Trimpe, Reta Saylor, Kenny Jones and Darryl Cheney. Members Absent: Tom Wille. Staff present: Community Development Director, Pat Parsley, Assistant Building Official, Jim Fisher, City Engineer, John Bender and Mayor Bill Bennett, City Administrator, Kim Downs and City Attorney, Mark Parmenter. Guests in Attendance: Dennis Norton, Tom and Connie Zenisek.

Board Member, Reta Saylor moved to approve the Agenda. Second by Kenny Jones. Motion carried.

Board Member, Terry Trimpe moved to approve the meeting minutes of April 24, 2017. Second by Reta Saylor. Motion carried.

Consider Resolution for recommendation to City Council to approve the Rezoning submitted by Graig Cone for Lucky Penny located at 1705 -1737 Boyson Road & 1625 Boyson Square, Hiawatha, IA.

Public Hearing Opened: 5:34 pm

Mark Powers asked if there were anyone that was against the rezoning.

Tom Zenisek of 1610 Litchfield Dr. addressed the Board. He explained that he had a signed petition from neighbors on Litchfield Dr. against the rezoning. He explained that even with trees and a 4ft. berm, he can still see and hear the Lucky Penny from their outside deck. He stated that they believed that serving alcohol outside, on the patio would be detrimental to the neighborhood because it will lead to more bars and outside entertainment. He also stated that considering that it affects the neighborhood, a 10pm limit should be established.

Mark Powers asked if there were anyone that was for the rezoning.

Susan Forinash from Hall and Hall engineers addressed the Board. She stated that this is not spot zoning and that it does follow with the City's design guidelines.

Mark Ross asked for an explanation of the surrounding buildings. Pat Parsley pointed to the picture on the overhead and explained that in the C-3 Zoning, all beer gardens are a Conditional Use.

Mark Ross asked why the patio was built before the meeting. Pat Parsley explained that they wanted to offer outside seating and didn't need a Conditional use or rezoning to have it, it was already allowed.

Kenny asked if they had to enter from the inside of the building. Pat Parsley stated that they do, they cannot enter the patio from the outside.

Terry Trimpe asked if there was anything in place to screen the residents. Pat Parsley explained that there is a berm and trees.

Kenny Jones asked if there would be music out there. Pat Parsley explained that would be better to discuss when discussing the Conditional Use.

Tom Zenisek addressed the Board. He stated that the berm is not that high and he can see the Lucky Penny while sitting on his deck.

Stephanie Mehmen addressed the Board. She explained that she was representing the Lucky Penny. She stated that they are a family restaurant and are aware that at this time, they can only serve food. She explained that they want to offer patrons the option of sitting outside to eat a meal and have a drink. The intention is just to have a patio.

There were no more comments.

Mark Powers closed the public hearing at 5:56pm.

Darryl Chenney stated that they can have music at will and it will be very hard to enforce. He went on to say that he believes that the area will be overrun with bars and beer gardens if allowed.

Terry Trimpe agreed and wondered what the % was between alcohol and food.

Susan Forinash stated that they are also willing to just change the Lucky Penny to C-3 and leave the rest Modified.

Kenny Jones asked if the 12:00pm limit can be changed. Pat Parsley stated that it could.

Kenny Jones then asked Pat if they denied the rezoning, would they still have to vote on the Conditional Use. Pat Parsley stated that they would because they didn't know how council was going to vote on the rezoning. If they approved it, the Board would want their opinions heard at Board of Adjustment.

Kim Downs stated that the 12:00pm is already in place.

Mark Powers asked if they can still serve food if they deny the rezoning. Pat Parsley stated that they would be able to serve food.

Reta Saylor moved to recommend to City Council to approve the Rezoning submitted by Graig Cone for Lucky Penny located at 1705 -1737 Boyson Road & 1625 Boyson Square, Hiawatha, IA. Second by Mark Ross.

AYES: MARK ROSS
NAYS: MARK POWERS, TERRY TRIMPE, KENNY JONES, DARRYL CHENEY, AND RETA SAYLOR
ABSENT: TOM WILLE
Motion Carried
Resolution #17-015 Denied

Mark Powers added that it is his belief, eliminating the modified C-3 zoning would not be in the best interest of the residence.

Consider Resolution for recommendation to Board of Adjustment to approve the Conditional Use for Lucky Penny Outdoor Service and Beer Garden submitted by Graig Cone for Lucky Penny located at 1705 Boyson Rd., Hiawatha, Iowa.

Public Hearing Opened: 6:09 pm

Mark Powers asked if there were anyone that was against the rezoning.

Tom Zenisek of 1610 Litchfield Dr. addressed the Board. He asked that if approved, they limit the time out on the patio to 10:00pm. He went on to say that people that are drinking tend to get louder and louder and anything after 10:00pm would be a disturbance.
Bonnie Berg addressed the board. She stated that the thought of live music worries her because there are children trying to sleep and the noise would be very disruptive.

Cory Ramler 1510 Litchfield. He stated that music seven days a week would be too much. He said he likes Lucky Penny, but this will open up for more bars. He added that enforcement would be difficult and would require notifying the police every time.

Mark Powers asked if there were anyone that was for the rezoning.

Stephanie Mehmen addressed the Board. She reiterated that the Lucky Penny is a family friendly restaurant. She stated they had no intention of have live music at the location.

Mark Powers then went through all seven standards.

Mark Powers then asked what would prevent them to get bigger if the request was approved. Pat Parsley stated that they would have to come back to Planning and Zoning for approval.

Public Hearing Closed: 6:15 pm

There was some discussion on what should be amended.

Kenny Jones moved to amend #5. The beer garden shall be open only during the restaurant hours and no later than 12 midnight to no later then 10pm. Second by Reta Saylor.

Kenny Jones moved to amend #6. No outdoor events which include music or entertainment or which overflow the area of the described patio are permitted. Second by Terry Trimpe.

Kenny Jones moved to add the following #7. No speakers serving the outdoor area. Second by Mark Ross.

Reta Saylor moved to recommend to Board of Adjustment to approve the Conditional Use Request submitted by Graig Cone for Lucky Penny located at 1705 -1737 Boyson Road & 1625 Boyson Square, Hiawatha, IA. with the following condition(s):

- 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 10pm.
- 6. No outdoor events which include music or entertainment or which overflow the area of the described patio are permitted.
- 7. No speakers serving the outdoor area.

Second by Darryl Cheney.

AYES: TERRY TRIMPE, KENNY JONES, MARK ROSS, MARK POWERS, DARRYL CHENEY AND RETA SAYLOR.
NAYS: NONE
ABSENT: TOM WILLE
Motion Carried
Resolution #17-016 Approved

Kenny Jones motioned to adjourn the meeting at 6:32p.m. Second by Darryl Cheney. Motion carried.

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Mark Powers, Chairperson

ATTEST:

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Jennifer Goerg, Community Development Clerk