

**AGENDA**  
**BOARD OF ADJUSTMENT**  
**REGULAR SCHEDULED MEETING**  
**July 10, 2017**

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

1. Call to order - Roll Call
2. Consider Approval of:
  - a. Agenda
  - b. Minutes from June 12 , 2017
3. Business

PUBLIC HEARING – Consider a Conditional Use request for Dog Boarding submitted by Brain Engineering, Inc. for Dr. Brad Petersen located at 1031 Kacena Rd., Hiawatha, Iowa.

Adjourn

**HIAWATHA BOARD OF ADJUSTMENT MINUTES  
REGULAR SCHEDULED MEETING  
June 12, 2017**

The Hiawatha Board of Adjustment met in regular session on June 12, 2017. Chair, Dick Whitmore called the meeting to order at 6:00 p.m. Members present: Don Earl, Steve Dodson and David Mathews. Members Absent: Christina Goodman. Staff present: Community Development Director, Pat Parsley, Assistant Building Official, Jim Fisher, City Engineer, John Bender and Mayor Bill Bennett and City Administrator, Kim Downs.

Board Member Dave Matthews moved to approve the agenda, second by Steve Dodson. Motion carried.

Board Member Dave Matthews moved to approve the August 8, 2016 minutes, second by Dick Whitmore. Motion carried.

**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.**

**Public Hearing Opened At 6:02 p.m.**

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

Stephanie from Lucky Penny addressed the Board. She explained the request and gave background information about the restaurant. She added that the requested patio would not get any bigger and they want to offer limited outdoor seating.

Dick Whitmore confirmed that she was looking for an approval without restrictions. She replied that the noise ordinance would dictate the noise. She also stated that they want to pipe out music to the patio and would like to have it open until midnight.

Susan Forinash from Hall and Hall Engineering address the Board. She explained that the City Comprehensive Plan encourages this use and Council approved the rezoning to C-3.

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

Board of Adjustment Clerk, Jennifer Goerg read aloud a petition and emails against the Conditional use.

Resident, Tom Zenisek address the Board. He explained that he was there to answer questions and to ask that the Board consider all seven requested conditions. He was especially concerned about noise from music and closing the patio by 10pm.

A resident addressed the Board. He stated that he is concerned about the beer garden being so close and all the noise that goes with it. He asked that they add the condition that they close it down by 10pm.

A resident addressed the Board. She explained that when she bought the home back in 2010, she visited City Hall and asked about the zoning. She stated she was told there would be no issues. She added that now that it's been rezoned, there could be even more noise, which is her biggest concern. She asked the Board to consider the amount of noise when making the decision. She added that there are families to consider and the hours are important.

Susan Forinash added that they would have music through speakers and would follow the ordinance. She added that it's not a beer garden, its outside seating with alcohol.

Steve Dodson added that there would not be an outside band, the patio is not big enough to support one.

Joe Ahmann addressed the Board. He reminded the Board that this meeting was about alcohol, not music.

Tom Zenisek asked the Board to consider the noise. That is their biggest concern.

**Public Hearing Closed At 6:39 p.m.**

Steve Dodson asked if anyone knew how much noise the trees prevent. Susan Forinash responded no.

Dick Whitmore asked if the C-3 Zoning changed the whole property Pat Parsley stated that it changed the whole property and showed an aerial picture on the overhead.

Board Member, Steve Dodson moved to approve the 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. Second by Dave Matthews.

**Roll call vote:**

**AYES:** Steve Dodson and Dave Matthews

**NAYS:** Dick Whitmore and Don Earll

**ABSENT:** Christina Goodman

Since it was a split vote, another vote will be needed.

Pat Parsley explained each of the 7 recommendations of the Planning and Zoning Board. He also went through the Ordinances and how they apply.

Board Member, Dick Whitmore moved to approve the 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 with the following condition:

1. The beer garden closes by 10pm.

Second by Don Earll.

**Roll call vote:**

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

**ABSENT:** Christina Goodman

**Approved**

**Appoint a new chair to the Board of Adjustment**

Dave Matthews moved to appoint Dick Whitmore. Second by Don Earll.

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

**NAYS:** None

**ABSENT:** Christina Goodman

**Approved**

Dave Matthews moved to adjourn the meeting at 7:07 p.m., second by Don Earll. Motion carried.

\_\_\_\_\_  
Dick Whitmore, Chair

\_\_\_\_\_  
Date Signed

ATTEST:

\_\_\_\_\_  
Jennifer Goerg, Community Development Clerk

3A

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

**RESOLUTION APPROVING THE CONDITIONAL USE  
REQUEST TO THE BOARD OF ADJUSTMENT FOR  
1031 KACENA RD., HIAWATHA, IOWA.**

CONSIDER RESOLUTION FOR RECOMMENDATION TO BOARD OF ADJUSTMENT TO APPROVE THE CONDITIONAL USE FOR DOG BOARDING SUBMITTED BY BRAIN ENGINEERING FOR PETERSEN PET HOSPITAL LOCATED AT 1031 KACENA RD., HIAWATHA, IOWA.

Roll call vote:

AYES: TOM WILLE, RETA SAYLOR, MARK ROSS AND MARK POWERS

NAYS: NONE.

ABSENT: TERRY TRIMPE, KENNY JONES AND DARRYL CHENEY

APPROVED THIS 26<sup>TH</sup> DAY OF JUNE, 2017.

\_\_\_\_\_  
Mark Powers, Chairperson

ATTEST:

\_\_\_\_\_  
Jennifer Goerg, Community Development Clerk

**City of Hiawatha**  
**Engineering Department**  
101 Emmons St., Hiawatha Iowa, 52233-1697  
PHONE (319) 393-1515 ext. 511 FAX (319) 393-1516

**To: Planning and Zoning Commission**

**Date: June 21, 2017**

**From: John C. Bender PE, City Engineer**

**Re: Petersen Pet Hospital**

**Description: Approval of Conditional Use, 1031 Kacena Road**

**Report:**

Engineering as reviewed the proposed site plan for the new building at 1031 Kacena Road. The site plan is in order and the storm water calculations have been submitted and approved. No additional public utilities are required.

Engineering recommends approval of the site plan subject to a conditional use approval from the Board of Adjustment.

If you have any questions please let me know.



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

**Purpose:** Conditional Use Request **Date:** 6/16/ 2017  
**To:** Board of Adjustment  
**Name of Plan:** Petersen Pet Hospital  
**Address:** 1031 Kacena Road **Zone:** C-4  
**Number of Lots:** 1  
**Reviewed by:** Patrick Parsley, Community Development Director

**Description:** The applicant desires to provide indoor kenneling of animals not associated with the hospital use. This does not qualify as accessory and requires a conditional use in this zone. The following standards must be met.

*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.*
- 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.*
- 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.*
- 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.*
- 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.*
- 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.*
- 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 additional standards below are applicable to animal boarding uses. These must also be addressed in the conditions of approval.

*11. Amendment to Conditional Use. Amendment to conditional use of animal boarding shall have the additional requirements of:*

- A. Such establishments shall also satisfy all applicable State and local agency provisions.*
- B. Outdoor exercise area shall be sectioned off to make different sizes of outdoor play areas with no one area exceeding fifty percent (50%) of the total exercise area.*
- C. Dogs shall be supervised at all times in outdoor area to control barking.*
- D. Outdoor exercise or play areas shall be approximately 1/3 of indoor gross building square footage.*
- E. Conditional use shall be inspected yearly to insure cleanliness and noise compliance.*
- F. Waste disposal shall be scheduled twice per week and more frequently if odor becomes a problem.*

**Report:** We agree standards *A through G* of the first section have been met as described by the applicant. However the applicant is proposing alternate design and use to meet the intent of *Section 11*. He is stating in his application the area outside is not a “play area” but is only a “relief area” and the dogs will remain on a leash when outside. In addition the dogs will be supervised at all times.

A site plan has been submitted and approved.

This site is remote from residential areas and is next to an open pond area which is part of the storm water detention system in the development. Existing landscaping will remain in place as much as possible. The trees on the east will provide some buffer to the next lot. The building will provide the buffer to the west. The buffer to the south is the detention pond system for the area storm water management. This site configuration is an alternate to the play area technical requirement in UDC section 165.83:

*\*The boarding is totally enclosed within a building with exercise or play areas outdoors enclosed by privacy fencing and year round vegetative barrier.*

**Recommendation:** Community Development supports the recommendation to approve this conditional use with these conditions. *(These conditions are only recommendations: The Board must approve conditions that are to be included in the approval of the conditional use)*

1. The outdoor “relief area” is used as detailed in the request.
2. The “relief area” is not expanded in area or use without application for a revision of a conditional use required by UDC section 165.83 (10)

May 30, 2017

City Hall  
Planning and Zoning Commission  
101 Emmons Street  
Hiawatha, Iowa 52233

RE: Conditional Use for dog boarding – 1031 Kacena Road, Lot 1 Sherman Square  
8<sup>th</sup> Addition.

Dear Planning and Zoning Commission:

On behalf of Dr. Brad Petersen, applicant, and BDP Management L.L.C., owner, I respectfully request a conditional use for dog boarding at the proposed Petersen Pet Hospital. Lot 1, Sherman Square 8<sup>th</sup> Addition is currently zoned C-4 Central Service District. The veterinary clinic is a permitted use in the C-4 zoning, but kennels (boarding) are only allow through a conditional use.

The proposed site will be designed to the City of Hiawatha Standards and Codes. The proposed site has existing utilities to connect services. The veterinarian office and boarding will have similar traffic to the surrounding commercial properties. Animals will not be outside for extended periods of time and only to enter/leave the office and for the dog relief area. The proposed parking for the site is 44 spots and the required is 43 spots.

The site will have a detention basin located in the rear of the lot that will collect storm water from all the hard surfacing. The proposed basin will provide water quality before the storm water leaves the site into the existing retention ponds south of the site. The proposed fenced-in area for the dog relief area will located at the southeast corner of the building. Grading will be minimized on the east side of the site to preserve as many trees as possible. The trees on the east side of the site will provide a buffer between the fenced in area and the neighbors to the east.

Petersen Pet Hospital is currently state licensed for the proposed boarding. The proposed boarding will have a fenced-in area for dogs to relieve themselves. The dogs will remain on a leash while outside, and the fence is a safety precaution if a dog escapes the leash. The dogs will be supervised while outside to minimize any barking. The fenced-in area is not a play area and will only be used for the dogs to relieve themselves. The fenced-in area will have approximately 1,000 square feet. The dog waste will be picked up and disposed daily.

Your consideration in this matter is greatly appreciated. Please contact me with any comments or concerns regarding this request.

Sincerely,  
**BRAIN ENGINEERING, INC.**

A handwritten signature in cursive script that reads "Douglas F. Brain".

Douglas F. Brain, P.E.