

RESOLUTION 2023 – 50

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT, WITH CONDITIONS,
PURSUANT TO CHAPTER 1135 OF THE CODIFIED ORDINANCES OF THE CITY
OF PARMA HEIGHTS TO PERMIT THE BUSINESS KNOWN AS MOTELY 7 BREW,
LLC TO ALLOW A DRIVE THROUGH FACILITY**

WHEREAS, at its meeting on July 24, 2023, the Planning Commission conducted a public hearing regarding the approval of the Conditional Use Permit for the business known as Motely 7 Brew, LLC to allow a drive through facility, with certain conditions; and

WHEREAS, at its meeting on August 7, 2023, the Planning Commission recommended to the City Council that the Conditional Use Permit for the business known as Motely 7 Brew, LLC to allow a drive through facility, with certain conditions be approved; and

WHEREAS, pursuant to Section 1135.06 (c) of the Codified Ordinances of the City of Parma Heights, a Conditional Use Permit shall be subject to the approval of the Council of the City of Parma Heights; and

WHEREAS, the Conditional Use Permit is approved, subject to the conditions that are set forth in “Council Resolution Exhibit A”, attached hereto and incorporated as if fully rewritten.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Parma Heights, State of Ohio:

Section 1: The Council adopts the recommendation of the Planning Commission and grants a Conditional Use Permit to Motely 7 Brew, LLC to allow a drive through facility at 6675 Pearl Road, Parma Heights, Ohio in the West 130th Mixed-Use District.

Section 2: The Conditional Use recommended by the Planning Commission is approved subject to the General Criteria set forth in Section 1135.07 of the Codified Ordinances of the City of Parma Heights.

Section 3: The Conditional Use recommended by the Planning Commission is also subject to the additional conditions recommended by the Planning Commission which are set forth in “Council Resolution Exhibit A” which is attached hereto and incorporated as if fully rewritten.

Section 4: The approval of this Conditional Use Permit shall be valid only for the use and the operation of the use specified and the breach of any condition, safeguard, or requirement shall constitute a violation of the Planning and Zoning Code, and the conditional use permit may be revoked if the established conditions for approval are violated.

Section 5: This Council finds and determines that all formal action of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of the Council and of any of its committees comprised of a

majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 6: This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of this Municipality, and for the further reason it is necessary to facilitate Motely 7 Brew, LLC's investment in the community expeditiously; wherefore, this Resolution shall be in full force and effect from and immediately after its passage by Council and approval by the Mayor.

PASSED: Aug. 21, 2023 Thomas Rounds
PRESIDENT OF COUNCIL

ATTEST: Barbara Allen Aug. 21, 2023
CLERK OF COUNCIL APPROVED

FILED WITH
THE MAYOR: Aug. 21, 2023 Marie Gallo
MAYOR MARIE GALLO

COUNCIL RESOLUTION
EXHIBIT A



6281 Pearl Road

Parma Heights, Ohio 44130

440-884-9607

IN THE MATTER OF:

APPLICATION OF MOTELY 7 BREW, LLC. FOR A CONDITIONAL USE PERMIT TO INCLUDE A DRIVE THROUGH FACILITY AT 6675 PEARL ROAD, PARCEL NUMBER 473-25-033, PARMA HEIGHTS, OHIO IN **WEST 130TH MIXED USE DISTRICT**

ACKNOWLEDGEMENT AND UNCONDITIONAL ACCEPTANCE AND AGREEMENT TO CONDITIONS AS SET FORTH IN EXHIBIT 1

On xxxx xx, 2023 the Council of the City of Parma Heights approved the recommendation of the Planning Commission to grant the Conditional Use Permit of Motely 7 Brew, LLC. [EX. 1].

Pursuant to Section 1135.07 of the Codified Ordinances of the City of Parma Heights when a permit for a conditional use is granted by the Council subject to conditions, **the grantee shall, in writing within ten days following such Council action, acknowledge such approval and unconditionally accept and agree to such conditions.**

I understand that pursuant to Section 1135.08 of the Codified Ordinances of the City of Parma Heights that;

- (a) Conditional use approval shall authorize a particular conditional use on the specific parcel for which it was approved. Approval of a conditional use, pursuant to this chapter, shall be valid only for the use and the operation of such use as specified when granted by the Planning Commission. The breach of any condition, safeguard, or requirement shall constitute a violation of this Planning and Zoning Code.
- (b) A conditional use permit issued pursuant to this chapter shall be valid only to the applicant to whom the permit is issued, unless the new owner agrees to all conditions, safeguards and requirements in the conditional use permit and a transfer of such permit is approved by the Chief Building Official.
- (c) The conditional use approval shall expire six months from the date of enactment, unless:
 - (1) In the case of new construction, work upon the structure shall have begun above the foundation walls;

- (2) In the case of occupancy of land, the use has commenced;
- (3) As otherwise specifically approved by the Planning Commission at the time the conditional use approval is granted; or
- (4) The Chief Building Official grants an extension for good cause shown, upon the request of the applicant.

(d) A conditional use permit may be considered abandoned and void if, for any reason, the conditional use is not conducted for more than six months.

Further, we understand that pursuant to Section 1135.09 of the Codified Ordinances of the City of Parma Heights that a conditional use permit may be revoked if the established conditions for approval are violated. The Chief Building Official is responsible for advising the Planning Commission of any violations, and the Planning Commission may then recommend to City Council that it revoke the conditional use permit.

Based on the foregoing we acknowledge the approval of the conditional use permit and unconditionally accept and agree to such conditions.

Date: _____

Date: _____

EXHIBIT 1

RECOMMENDATIONS FOR AUGUST 7, 2023

MEETING OF THE PLANNING COMMISSION

IN THE MATTER OF:

APPLICATION MOTELY 7 BREW, LLC FOR A CONDITIONAL USE PERMIT TO ALLOW DRIVE THROUGH FACILITY BY CONDITIONAL USE AT 6675 PEARL ROAD, PARCEL NUMBER 473-25-033 PARMA HEIGHTS, OHIO IN THE WEST 130TH STREET MIXED USE DISTRICT.

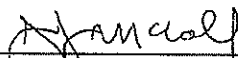
1. Motely 7 Brew, LLC is authorized to conduct business in the State of Ohio with its principal place of business located at 6675 Pearl Road, parcel number 473-25-033, Parma Heights, Ohio.
2. The City of Parma Heights Planning Commission (the "Planning Commission") is the duly organized Planning Commission for the City of Parma Heights (the "City") operating pursuant to its Charter and the laws of the State of Ohio.
3. The aforementioned property is located within the West 130th Mixed-Use District.
4. On June 19th, 2023, Motely 7 Brew, LLC submitted an Application for a Conditional Use Permit to the Planning Commission requesting approval for a Conditional Use Permit to allow a drive through facility at 6675 Pearl Road, parcel number 473-25-033, Parma Heights, Ohio in the West 130th Mixed-Use District.
5. At its July 5th, 2023 Regular Meeting, the Planning Commission heard presentations from both the Applicant and city representatives regarding the application for a conditional use permit for Motely 7 Brew, LLC to allow a drive through facility. As a result of that meeting a public hearing was scheduled on the Applicant's Conditional Use Permit for July 24th, 2023.
6. Notice of the Public Hearing was published on Cleveland.com, the Parma Sun News on July 6, 2023 and also posted on the city website and at city hall.
7. A public hearing was held on July 24th, 2023 and the Planning Commission heard from the Applicant and from city representatives regarding the application for a conditional use permit Motely 7 Brew, LLC to allow a drive through facility.
8. Based upon the presentations of both parties at the public hearing the Planning Commission recommends approval of the Conditional Use Permit for the business known as Motely 7 Brew, LLC to allow a drive through facility.
9. The Conditional Use requested is recommended subject to compliance with the General Criteria set forth in Section 1135.07 of the Codified Ordinance of the City of Parma Heights. [Ex. A].
10. The Conditional Use requested is recommended subject to compliance with the General Criteria set forth in Section 1195.05 of the Codified Ordinance of the City of Parma Heights. [Ex. B].

11. The Conditional Use requested is also subject to the additional conditions recommended by the Director of Public Service which are set forth in Exhibit C which is attached to this recommendation and which is incorporated herein, as if fully rewritten.

12. This recommended approval shall be valid only for the use and the operation of the use specified and the breach of any condition, safeguard or requirement shall constitute a violation of the Planning and Zoning Code and the conditional use permit may be revoked if the established conditions for approval are violated.

13. This recommended approval is not final and is subject to the confirmation of the city council and if approved all conditions shall be set forth expressly in a resolution of the Council granting the conditional use permit.

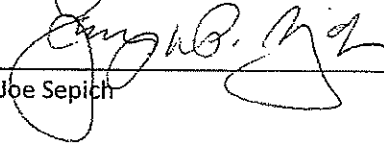
14. In the event that a permit for a conditional use is granted by the Council subject to conditions, the grantee shall, in writing within ten days following such Council action, acknowledge such approval and unconditionally accept and agree to such conditions.




Jim McCah, Chairman



Bill Litten



Joe Sepich



Rick Haase, Council Representative



Zachary Humphrey

EXHIBIT A

1135.07 GENERAL CRITERIA FOR CONDITIONAL USES.

A conditional use, and uses accessory to such conditional use, shall be permitted in a district only when specified as a conditional use in such district, and only if such use conforms to the following criteria. Furthermore, the Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence that:

- (a) The conditional use in the proposed location will be harmonious and in accordance with the purpose, intent and basic planning objectives of this Planning and Zoning Code and with the objectives for the district in which located;
- (b) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare;
- (c) The conditional use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area;
- (d) The proposed building or use will not result in the destruction, loss, or damage of any feature determined by the Planning Commission to be of significant natural, scenic, or historic importance;
- (e) The hours of operation of the proposed use are similar to a use permitted in the district;
- (f) The conditional use will not be hazardous or disturbing to the existing and future use and enjoyment of property in the immediate vicinity for the uses permitted, nor substantially diminish or impair property values within the neighborhood;
- (g) The establishment of the conditional use in the proposed location will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (h) Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
- (i) Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets;
- (j) The establishment of the conditional use should not be detrimental to the economic welfare of the community by creating excessive additional requirements at public cost for public facilities such as police, fire and schools;
- (k) There is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible;
- (l) The design and arrangement of circulation aisles, parking areas, and access drives shall be in compliance with the regulations set forth in Chapter 1191

EXHIBIT B

1195.05 COMMERCIAL USE-SPECIFIC REGULATIONS.

[b] Drive-Thru and Drive-In Facilities, in Association with a Permitted Principal or Conditional Use.

- (1) Such facilities shall be located on a major street in an area least disruptive to pedestrian and vehicular traffic.
- (2) Loud speaker systems shall be approved as part of the site plan and shall not create a nuisance for adjacent properties.
- (3) On a corner lot, the location of access drives to the street shall be placed as far from the intersection as possible and shall be limited to no more than one access drive per street frontage.
- (4) Interconnecting circulation aisles between parcels shall be provided when practicable.
- (5) The Planning Commission may impose restrictions on the hours of operation.

EXHIBIT C

In addition to the requirements of Chapter 1135.07 these additional conditions shall be required for compliance with the conditional use permit. The goal of these requirements is to prevent any misunderstanding regarding the city's intent to ensure that the high standards required of all Parma Heights businesses continue to be maintained.

These requirements are as follows:

1. Noise control; No loud speakers; the use of amplification devices
2. Hours of operation (5:30 a.m.- 10:00 p.m. 7 days a week)
3. The submission of a landscape plan that adequately buffers the site and prevents the light obstruction from headlights onto neighboring properties