



## CITY OF PATASKALA BOARD OF ZONING APPEALS

City Hall, Council Chambers  
621 West Broad Street  
Pataskala, Ohio 43062

### STAFF REPORT

February 8, 2022

#### Conditional Use Application CU-22-002

<b>Applicant:</b>	Jeff & Caitlyn Heimerl
<b>Owner:</b>	Jeff & Caitlyn Heimerl (Rolling Creek Enterprises, LLC.)
<b>Location:</b>	42 S. Main Street, Pataskala, OH 43062 (PID: 064-308454-00.000)
<b>Acreage:</b>	+/- 0.42-acres
<b>Zoning:</b>	GB – General Business
<b>Request:</b>	Requesting approval of a Conditional Use pursuant to Section 1215.08 of the Pataskala Code to allow for a restaurant with a drive-through.

#### Description of the Request:

The Applicant is seeking approval of a Conditional Use to allow for the continued operation of a drive-thru for the existing restaurant use located at 42 S Main Street.

#### Staff Summary:

The 0.42-acre property located at 42 S. Main Street is currently occupied by “The Dairy Hut”, a commercial restaurant use. The lot itself is a corner lot, with its main frontage along S. Main Street, and a small portion at W. Broad Street. The South Fork Licking River runs partially through the property, behind the main structures on the lot. Within the lot itself, there is the 160-square foot main commercial building that was built in 1978, a 144-square foot shelter house, and two (2) sheds of unknown size.

As proposed, the Applicant’s intention is to re-establish a drive-thru for the existing restaurant located on the 0.42-acre parcel, with a portion of the drive-thru also being located on the adjacent parcel to the south, a 1.03-acre parcel (PID: 064-309302-00.000). A letter from the property owner granting the Applicant permission to do so has been included with this Application.

Previously, the primary method of business was walk-up ordering. However, as stated by the Applicant, during the ongoing pandemic a drive-thru system was implemented in 2020 to minimize contact with patrons. Because of the uncertainty around current conditions, the Applicant would like to establish the drive-thru as a permanent part of the business. Pursuant to Section 1249.04(18) of the Pataskala Code, restaurants with drive-thru facilities are a Conditional Use in the GB – General Business zoning district. As such, the Applicant has submitted the Conditional Use request for the Boards’ consideration.

The drive-thru will be a ten (10) foot wide lane and will have a length of 420-feet. Customers will enter the property and drive-thru at the south end of the adjacent 1.03-acre parcel, at the intersection of 3<sup>rd</sup> Street and S Main Street and continue north through the lane up to the existing commercial structure, “The Dairy Hut” on the 0.42-acre parcel. They may then exit the property onto S Main Street, or, if additional time is needed to receive their order there are designated waiting spaces to the north of building. Parking for employees is located at the extreme south end of the 1.03-acre parcel.

According to the Narrative Statement that has been submitted the Applicant, the current facility does not have a traditional drive-thru, but a system was implemented in 2020 due to the ongoing pandemic. They have also implemented a new point-of-sale (e.g., “check-out”) that will allow them to be more efficient in processing customers than in previous years to get them through quickly and safely. The drive-thru lane will be marked with three (3) foot tall pylons, with rope strung between them, and will be set-back from Main Street. The Applicant believes that this will result in no interference with traffic. Further stated, they believe that the proposed use will not be hazardous or disturbing to surrounding properties, will not be detrimental to the economic welfare of the community, and will not create any excessive additional requirements at public cost.

**Staff Review:** *The following summary does not constitute recommendations but merely conclusions and suggestions from the Staff Review, the full text of which follows the summary.*

Planning and Zoning Staff:

In 2020, the administration relaxed some regulations to accommodate issues related to COVID-19. For example, temporary signs advertising a business was open or hiring were allowed to remain, Mobile Food Vendors (food trucks) were allowed to operate within residential neighborhoods and, as in this case, temporary drive-thru facilities without conditional use approval. This action was temporary and now that things have returned to some level of “normalcy”, the Planning and Zoning Department is enforcing the regulations as written.

The Future Land Use map recommends this property as “Neighborhood Commercial” which the Comprehensive Plan (2021) describes as “small-scale retail and office uses. Drive-throughs, big box stores, gas stations and other auto-related uses are discouraged”. As the proposed use is for the addition of a drive-through, it would *not* fall in line with the Comprehensive Plan. However, Staff would note that the property is currently zoned GB – General Business which allows for restaurants with a drive-thru a Conditional Use.

Section 1291.16 of the Pataskala Code requires that “Restaurants with drive through facilities” shall provide one (1) parking space for each 85-square feet of gross floor area, plus additional stacking spaces in the drive-through lane. The Pataskala Code does not specify the amount of stacking spaces required, however, with a 420-foot-long drive-thru lane, Staff believes ample space would be provided. For the 160-square foot commercial structure, a minimum of two (2) parking spaces shall be provided. Again, Staff believes that with the designated employee parking area, there should be plenty of space available, however, such employee parking spots shall be clearly designated.

Pursuant to Section 1215.09 of the Pataskala Code a Conditional Use Approval shall become null and void is such use is not carried out within six (6) months after the date of approval. The Board of Zoning Appeals may grant one extension of a Conditional use for an additional six (6) months.

Other Departments and Agencies

No other comments were received.

**Surrounding Area:**

Direction	Zoning	Land Use
North	GB – General Business	Broadview Golf Course

East	GB – General Business	Used Vehicle Sales
South	GB – General Business	Vacant
West	GB – General Business	Hardware Store

**Conditional Use Requirements:**

According to Section 1215.04 of the Pataskala Code, the Board of Zoning appeals shall consider whether the conditional use at the proposed location:

- 1. Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on the application.*
- 2. Will be harmonious with and in accordance with the general objectives or with any specific objective of the City comprehensive plan and/or this Code.*
- 3. Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
- 4. Will not be hazardous or disturbing to existing or future neighboring uses.*
- 5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
- 6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.*
- 7. Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but limited to excessive production of traffic, noise, smoke, fumes, glare, odor, potential for explosion, and air or water pollution.*
- 8. Will have vehicular approaches to the property which shall be so designed as to not create an interference with traffic on surrounding public thoroughfares.*
- 9. Will not result in destruction, loss or damage of a natural, scenic, or historic feature of major importance.*

Furthermore, Section 1215.05 allows other factors to be considered, when determining if a conditional use is appropriate. In Staff's opinion the following factors from Section 1215.05 are applicable to Conditional Use Application CU-22-002:

- None

**Department and Agency Review**

- Zoning Inspector – No comments.
- Public Service – No comments.

- City Engineer – No comments.
- Pataskala Utilities – No comments.
- Police Department – No comments.
- West Licking Joint Fire District – No comments.
- Southwest Licking School District – No comments.

**Conditions:**

Should the Board choose to approve the applicant's request, the following conditions may be considered:

1. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department within six (6) months of the date of approval.

**Resolution:**

For your convenience, the following resolution may be considered by the Board of Zoning Appeals when making a motion:

"I move to approve a Conditional Use pursuant to Section 1215.08 of the Pataskala Code for application CU-22-002 ("with the following conditions" if conditions are to be placed on the approval)."



# CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

621 West Broad Street, Suite 2A  
Pataskala, Ohio 43062

## CONDITIONAL USE APPLICATION

(Pataskala Codified Ordinances Chapter 1215)

Property Information	
Address: 42 S. Main Street	
Parcel Number: 064-308454-00	
Zoning: GB	Acres: 0.42 ac
Water Supply:	
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input type="checkbox"/> On Site
Wastewater Treatment:	
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking <input type="checkbox"/> On Site

Staff Use
Application Number: CU-22-002
Fee: \$300.00
Filing Date: 1/14/2022
Hearing Date: 2/8/2022
Receipt Number:

Applicant Information		
Name: Caitlyn Heimerl		
Address: 10574 Miller Road		
City: Johnstown	State: OH	Zip: 43031
Phone: 740-361-2990	Email: dairyhustpataskala@gmail.com	

Documents
<input checked="" type="checkbox"/> Application
<input type="checkbox"/> Fee
<input type="checkbox"/> Narrative
<input checked="" type="checkbox"/> Site Plan + letter
<input checked="" type="checkbox"/> Deed
<input checked="" type="checkbox"/> Area Map

Property Owner Information		
Name: Jeff + Caitlyn Heimerl (Rolling Creek Enterprises)		
Address: 10574 Miller Road		
City: Johnstown	State: OH	Zip: 43031
Phone: 740-361-2990	Email: dairyhustpataskala@gmail.com	

Conditional Use Information
Request (Include Section of Code): 1249.04 (18)
Describe the Project: See attached

## Documents to Submit

**Conditional Use Application:** Submit 1 copy of the conditional use application.

**Narrative Statement:** Submit 1 copy of a narrative statement explaining the following:

- The reason the conditional use has been requested.
- The specific reasons why the conditional use is appropriate as it pertains to Section 1215.04 of the Pataskala Code:
  1. *Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on this application.*
  2. *Will be harmonious with and in accordance with the general objectives, or with any specific objective of the City comprehensive plan and/or this Code.*
  3. *Will be designed, constructed, operated and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
  4. *Will not be hazardous or disturbing to existing or future neighboring uses.*
  5. *Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
  6. *Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.*
  7. *Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but not limited to excessive production of traffic, noise, smoke, fumes, glare, odor, potential for explosion, and air or water pollution.*
  8. *Will have vehicular approaches to the property which shall be so designed as to not create interference with traffic on surrounding public thoroughfares.*
  9. *Will not result in destruction, loss, or damage of a natural, scenic, or historical feature of major importance.*
- Specific standards for conditional uses can be found in Section 1215.05 of the Pataskala Code.
- Wireless Telecommunication Facilities must also meet the requirements outlined in Section 1293.06(B) of the Pataskala Code.

**Site Plan:** Submit 1 copy (unless otherwise directed by staff) of a site plan to scale of the subject property indicating the following:

- All property lines and dimensions
- Location and dimensions of all existing and proposed buildings and structures.
- Setbacks from property lines for all existing and proposed buildings, structures and additions
- Easements and rights-of-way
- Driveways
- Floodplain areas
- Location of existing wells and septic/aerator systems.
- Any other information deemed necessary for the conditional use request


**Deed:** Provide a copy of the deed for the property with any deed restrictions. Deeds can be obtained from the Licking County Recorder's website here: <https://apps.lcounty.com/recorder/paxworld/>

**Area Map:** Submit 1 copy of an area map showing the property and the surrounding area. Area maps can be obtained from the Licking County Auditor's website here: <https://www.lickingcountyohio.us/>

## Signatures

I certify the facts, statements and information provided on and attached to this application are true and correct to the best of my knowledge. Also, I authorize City of Pataskala staff to conduct site visits and photograph the property as necessary as it pertains to this conditional use request.

Applicant (Required):



Date:

11/14/22

Property Owner: (Required):

 + Howard Emswiler (see attached)

Date:

11/14/22

HOWARD & ROSEMARY EMSWILER  
13167 MORSE RD. SW  
PATASKALA, OH 43062

1-14-2022

TO-PATASKALA-CONCIL-OR-ZONTNG  
HOWARD-AND-ROSEMARY-EMSWILER-GIVES  
DAIRY-HUT PREMISSEON-TO-USE-OUR-PROPERTY  
SOUTH-OF-DAIRY-HUT ON-MAIN-ST-IN-PATASKALA  
FOR-THE-2022-YR-IT-CAN-BE-USED-FOR-PARKING  
OR-DAIVE-THROUGH-ANY-QUESTIONS-CALL  
HOWARD-OR-ROSEMARY-EMSWILER-740-927-4211  
THANK-YOU-THE-DAIRY-HUT IS-OWNED-BY-THE  
NIMERAL-FAMILY-740-361-2990  
PARCEL-NO-664-309 312-00-000

PROPERTY-OWNERS

Howard Emswiler - 1-14-2022

Rosemary Emswiler - 1-14-2022



Conditional Use  
The Dairy Hut Drive-Thru

**Describe the Project:**

Since the inception of The Dairy Hut in 1973, walk up service was the primary method for conducting business. In light of the Covid pandemic, a drive thru system was implemented in 2020 to minimize contact with patrons. Understanding the challenges that we faced and continue to navigate through with the pandemic, we would like to continue forward with a conditional use for the drive thru system at The Dairy Hut.

*The Drive Thru Process:*

The drive thru system begins on the south end of the adjacent lot. Upon arriving at the drive thru entrance, customers follow drive thru signage leading them to one of our team members prepared to take their order car side. After the customer has placed their order, they will proceed to pull into one of three lanes and then make their way to the front of the building to receive their order. Once the customer returns to their vehicle, they then exit the drive thru system on Main Street. The drive thru spans approximately 420 feet from entrance to exit.

**Narrative Statement:**

The drive-thru at The Dairy Hut would be considered a conditional use as it pertains to the Section 1215.04 of the Pataskala Code. The current location and facility does not have a traditional drive thru window, but a system was implemented in 2020 due to the pandemic. The system would be harmonious with and in accordance with the general objectives of the city. As we have implemented a new POS system that allows us to be more efficient and process customers through the system safely. No changes will be made to the drive through area as it currently resides. Currently, we have 3ft tall pylons that map out the drive through system with rope that connects each pylon together. The drive through is not hazardous or disturbing as it allows for a safe experience for customers, neighbors and the traffic on main street. No additional cost will be incurred by the public and the drive thru will not be detrimental to the economic welfare of the community. The Dairy Hut strives to make sure we can accommodate and service every customer with safety and efficiency in mind. The drive thru system will not have an effect on essential public facilities or services. Our main goal is to continue the legacy of The Dairy Hut, by continuing to offer the drive thru that so many have come to love and appreciate. We have been able to enhance the drive thru to make a safe and pleasurable experience for customers and by standards. The drive thru is designed in a fashion to keep plenty of right away from Main Street, so that there is no interference with daily traffic. The drive thru system allows employees to park adjacent to the drive thru lane.



