

City of NAPOLEON, OHIO

255 WEST RIVERVIEW AVENUE, P.O. BOX 151
NAPOLEON, OHIO 43545-0151
(419) 592-4010
FAX (419) 599-8393
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July 30, 2002

Mayor
J. Andrew Small

Mr. Donald R. Browning Jr.
Browning Investments, Ltd.
4304 County Road U4
Liberty Center, Ohio 43532

Members of Council
Michael J. DeWit, President
Terri A. Williams
James Hershberger
Travis B. Sheaffer
John A. Helberg
Steven C. Small
Glenn A. Miller

Re. Town Tap restoration and rehabilitation, 814 N. Perry St. Napoleon, Ohio

Dear Mr. Browning

Congratulations on your new business venture and welcome to Napoleon. The purpose of this correspondence is to inform you of the requirements of the City Zoning Code as it relates to the current and future use of the property. Mr. Sanholtz may have already informed you of what is contained in this correspondence but in case he had not, I have attached a copy of a letter which was sent to him regarding the restoration of the subject property after the fire damage. You will note there are certain city code requirements for the re-establishment of the use of the second floor areas of the subject building.

City Manager
Dr. Jon A. Bisher

If you would have questions regarding this information please call me @ (419) 592-4010.

Finance Director
Gregory J. Heath

Sincerely

Law Director
David M. Grahn

Brent N Damman
Zoning Administrator

City Engineer
Joseph R. Kleiner, P.E.

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April 08, 2002

Mayor
J. Andrew Small

Mr. Michael Sanholtz
135 Northcrest Circle
Napoleon, Ohio 43545

Re. Town Tap restoration and rehabilitation, 814 N. Perry St. Napoleon, Ohio

Members of Council
Michael J. DeWit, President
Terri A. Williams
James Hershberger
Travis B. Sheaffer
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City Manager
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Dear Mr. Sanholtz

The purpose of this correspondence is to inform you of the requirements of the City Zoning Code as it relates to the restoration of the subject property. According to City Code section 1129.05 (copy attached) where a nonconforming situation exists (apartments above business) is damaged to an extent that the cost of repair or replacement would exceed fifty percent (50%) of the appraised valuation of the damaged structure, then the structure may only be rebuilt in accordance with the current Zoning Code. The current City code section 1131.06(i)(attached) requires that for a two family unit, each dwelling must have a minimum of eight hundred (800) square feet of gross floor area. Also according to City Code section 1139.02 (attached) in order to reestablish residential apartments on the second floor you will need to provide one parking space (50% of the normal requirement). The fact that there are no parking spaces available on your property would make this impossible. There is another option however and that is City Council has allowed others in your situation to contribute to a parking fund when parking is not practically available. The last time this was done the amount was determined to be \$2500.00 per parking space in deficit. This issue would need to go to City Council for their review and final determination. If Council would decide that this option was available to you and payment is made, the Board of Zoning Appeals would hear the issue and grant variance to the parking requirements. If you would decide to reestablish only one apartment on the second floor, then there would be no parking requirements.

The reconstruction and rehabilitation would need to comply with Ohio Building Code and permits would be obtained through Wood County Building Inspection Bowling Green. If you would have questions regarding this letter please call.

Sincerely

Brent N Damman
Zoning Administrator

(e) Notwithstanding subsection (a) of this section, any structure used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with similar structures of a larger size, so long as the enlargement or replacement does not create new nonconformity(s) or increase the extent of existing nonconformity's with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 1129.07 (abandonment and discontinuance of nonconforming situations).

- (f) Notwithstanding subsection (a) of this section, whenever:
- (1) There exists a lot with one (1) or more structures on it; and
 - (2) A change in use that does not involve any enlargement of a structure is proposed for such lot; and
 - (3) The parking or loading requirements of Chapter 1139 that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking and loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land; and applicant shall also be required to obtain satellite parking in accordance with Section 1139.09 if:
 - A. Parking requirements cannot be satisfied on the lot with respect to which the permit is required; and
 - B. Such satellite parking is reasonably available.

If such satellite parking is not available at the time the zoning or special or conditional - use permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be continuing conditions of the permit.

1129.05 REPAIR, MAINTENANCE AND RECONSTRUCTION.

Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, (i.e., work estimated to cost more than 50 percent of the appraised valuation of the structure to be renovated) may be done only in accordance with a zoning permit issued pursuant to this Zoning Code. When a zoning permit is required, then applicant must meet all current zoning requirements.

If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed fifty (50%) percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a zoning permit issued pursuant to this Zoning Code. When a zoning permit is required, then applicant must meet all current zoning requirements. This subsection does not apply to structures used for single-family residential purposes which structures may be reconstructed pursuant to a zoning permit just as they may be enlarged or replaced as provided in Section 1129.04.

For purposes of the above:

- (a) The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.
- (b) The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of the above by doing such work incrementally.

- (c) The "appraised valuation" shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation determined by a professionally recognized property appraiser.

The Zoning Administrator shall issue a permit authorized by this section if he finds that, in completing the renovation, repair, or replacement work:

- (a) No violation of Section 1129.04 will occur; and
 (b) The permittee will comply to the extent reasonably possible with all provisions of this Zoning Code applicable to the existing use except that the permittee shall not lose his right to continue a nonconforming use.

Compliance with a requirement of this Zoning Code is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or without moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

1129.06 CHANGE IN USE OF PROPERTY WHERE A NONCONFORMING SITUATION EXISTS.

(a) A change in use of property (where a nonconforming situation exists) that is sufficiently substantial to require a new zoning, special-use, or conditional-use permit in accordance with Chapter 1141 may not be made except in accordance with subsections (b) through (d) of this section. However, this requirement shall not apply if only a sign permit is needed.

(b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this Zoning Code applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this Zoning Code is achieved, the property may not revert to its nonconforming status.

(c) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this Zoning Code applicable to that use cannot reasonably be complied with, then the change is permissible if the entity authorized by this Zoning Code to issue a permit for that particular use (the Administrator, Board of Zoning Appeals, or City Council) finds, in addition to any other findings that may be required by this Zoning Code, that:

- (1) The intended change will not result in a violation of Section 1129.04; and
- (2) All of the applicable requirements of this Zoning Code that can reasonably be complied with will be mandated compliance (compliance with a requirement of this Zoning Code is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or without moving a substantial structure that is on a permanent foundation). Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. Further, in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformity's would thereby be created.

- (f) Maximum Lot Coverage.
 (1) For a single-family or two-family dwelling, lot coverage shall not exceed 45% of the lot area.
 (2) For a multi-family dwelling, lot coverage shall not exceed 60% of the lot area.
- (g) Off-Street Parking Space (see Chapter 1139).
- (h) Signs (see Chapter 1335 of the Building Code).
- (i) Floor Area Minimum. The below table reflects the minimum permissible floor area:

Permissible Use	One Story	Two Story or More
Single Family Dwelling	960 sq. ft.	1st Story - 720 sq. ft. 2nd Story - 400 sq. ft.
Two-Family Dwelling	800 sq. ft.	1st Story - 500 sq. ft. 2nd Story - 300 sq. ft.
Multi-Family Dwelling	800 sq. ft.	1st Story - 500 sq. ft. 2nd Story - 300 sq. ft.
Planned Apartment Development	To be determined by Planning Commission	To be determined by Planning Commission

1139.02 NUMBER OF PARKING SPACES REQUIRED.

(a) All developments in all zoning districts other than the C-1 Zoning District shall provide a sufficient number of parking spaces, (according to the parking tables in this chapter) to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.

(b) Note that in the C-1 Zoning District, parking requirements for use of second and third floor areas, shall be reduced by 50% from those figures stated in the parking tables in this chapter. This exception is provided because the C-1 Zoning District is the central business district of the City and land in this district may be developed, or the City may wish to have it developed, so intensively that parking can only be accommodated in off-site parking areas. The presumptions established by this chapter are that:

- (1) A development must comply with the parking standards set forth in this chapter to satisfy the requirement stated in subsection (a) of this section; and
- (2) Any development that meets these standards is in compliance. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered, as provided in Section 1139.03.

(c) Uses in the Table of Parking Requirements (subsection (e) of this section, as indicated by a numerical reference and description keyed to the Table of Permissible Uses, City Code Section 1145.01 et seq. When determination of the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

(d) The Council recognizes the Table of Parking Requirements set forth in subsection (e) of this section cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Zoning Administrator is authorized to determine the parking requirements using this table as a guide.

(e) Table of Parking Requirements (see Table of Parking Requirements in this chapter).

1139.03 FLEXIBILITY IN ADMINISTRATION REQUIRED.

(a) The Council recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in the Table of Parking Requirements may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as authorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in the Parking Requirement Section, the permitting authority may permit deviations from the presumptive requirements of the Table of Parking Requirements and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in the Parking Requirement Section.

(b) Without limiting the generality of the foregoing, the Zoning Administrator may allow deviations from the parking requirements set forth in the Table of Parking Requirements when it finds that: