

MARIEMONT PLANNING COMMISSION
REGULAR MEETING HELD APRIL 27, 2015

The Mariemont Planning Commission met Monday April 27, 2013. Mayor Policastro called the meeting to order at 6:00 p.m. Present were Mrs. Garber, Ms. Reed, Mr. Miller and Mr. Vianello. Also in attendance was the Building Commissioner, Kirk Hodulik.

Mr. Miller moved, seconded by Mr. Vianello to accept the minutes as written for March 18, 2015. On roll call; three ayes, no nays (Mrs. Garber and Ms. Reed abstained due to absence).

The first request was from Richard A. Paolo, Attorney at Law with Aronoff, Rosen & Hunt, LPA, on behalf of David A. Myers and Diana M. Myers, Trustees (owners) of 15330 Texaco Street, Paramount, CA 90723, for the four family apartment building to a condominium building and therefore apartments units to condominium units. (Ms. Tina Donnelly, Attorney with Aronoff, Rosen & Hunt, LPA was also in attendance on behalf of David A. Myers and Diana M. Myers).

Finding of the Building Commissioner: Per the Mariemont Code of Ordinances, Chapter 152: Condominium Conversions, and specifically §152.06 Planning Commission Approval has certain requirements and timelines in the approval process. (NOTE: For Planning Commission members, attached is the entire Chapter 152 for your reference and use.)

Mrs. Garber said while reviewing the Application, Disclosure Statement for West Street Condominiums and its exhibits, together with the Site Plan submitted, pursuant to the provisions of Chapter 152 of the Village of Mariemont Code, there appeared to be inconsistencies in these documents regarding the above-referenced condominium conversion so that a determination as to compliance with the code provisions of Section 152 could not be made. Additionally the notices required to be given to the Tenants and Purchasers pursuant to Section 152.10 had not been provided so no determination could be made that those requirements have been met.

Planning Commission Members asked that the application be amended to indicate the property under both property addresses of 6801 Wooster Pike, Mariemont, Ohio 45227 (Hamilton County Auditor's address) and what the Village of Mariemont and the U.S. Postal Service recognize as 3750 West Street, Mariemont, Ohio 45227.

After discussions between Planning Commission Members, Building Commissioner Hodulik and representatives of the applicant, it was requested that new documents be submitted by the applicant and the following line items need to be reconciled by the applicant:

1. Is this a conversion of a four unit existing apartment building into four separate condominiums or is the building to be razed and new construction to be completed?
 - a) Exhibit E to Disclosure Statement in Paragraph A states "the subject condominium conversion would convert the existing four unit apartment building into four separate condominiums."
 - b) The site plan, however, shows the existing apartment building facing West Street and Exhibit E, Paragraph A states that "Each unit would have a central access point fronting on Wooster Pike" - indicating a different building. This must be reconciled to comply with 152.08(A) (2) (a).
 - c) Paragraph 3.1 of the Disclosure Statement provides "The Condominium is not yet under construction. It is to be completed in Winter, 2014."

- d) If this is only to be the four unit existing building and no additional property is involved what significance does this following language provide: “As the construction of additional units is completed such rents will be submitted to the Condominium form of ownership.”
- e) In Paragraph 10.1 it provides that the property submitted at this time is owned by David A. Myers, Trustee and Diana M. Myers, Trustee of the Myers Living Trust established December 2, 1998.

It also states that additional property which may be submitted later will be owned by David Myers, Trustee and Diana Myers is not mentioned so it is unclear as to different ownership.

- f) Section 152.08 (A) (2) (b). In describing the condominium units in Paragraph (A) and A (1) of Exhibit E, it should agree with the provisions of 2.1 of the Disclosure Statement to include as part of the common elements, the land, and to set forth the limited common elements including the storage areas, air-conditioning pads. The garages are not mentioned in either, but are set forth on the legend as being part of the limited common element, but are not designated for a particular unit showing exclusivity the way the storage units are. Please assign a designated garage space to each dwelling unit.
2. Pursuant to Section 152.08 (A) (1) (b), is there a mortgage on the property?
 - a) In both Paragraph 2 of Exhibit E and Paragraph 10.1 of the Disclosure Statement it states that the Condominium is “not” encumbered by a mortgage.
 - b) In Paragraph G of Exhibit E it states “Except for the mortgage of record.” If the mortgage is in fact paid off in full, a record of the release from the mortgager must be submitted.
 - c) Also with respect to 152.08 (A) (1) (b) the names, addresses of any mortgagees, attorneys, accountants, architects, engineers and contractors must be listed.
 3. 152.08 (A) (2) (b) - The ownership interest in each unit is not set forth as required. (Par Value in 2.3 of Disclosure Statement is left blank). Please state the percentage interest of ownership in the common elements and land.
 4. 152.08 (A) (2) (c) - The site plan provided in Paragraph 4 of Exhibit E does not include a typical individual unit plan, including dimensions as required by this section. [Also see 3) 152.10 (L) item 5 at the end of this document.]
 5. 152.08 (A) (2) (d) - Paragraph B of Exhibit “E” should reflect that no capital improvements are contemplated. It indicates that no capital improvements have been completed - however, applicant has obtained and completed projects for electrical upgrades and segregation of utilities; new HVAC systems segregated for each dwelling unit; new kitchen cabinets, countertops, etc. for each dwelling unit; new windows, new roof, and new asphalt driveways, aprons and parking area common to the property. **Please note the driveway was never permitted and requires a permit application (form attached) along with an application fee check made payable to the Village of Mariemont in the amount of \$180.00 as part of the Condominium Conversion approval.**
 6. 152.08 (A) (2) (e) - The location, nature and ownership of easements are not set forth, just a generic reference to “utility easements”, etc.
 7. 152.08 (A) (2) (j) - The Capital Needs Assessment Project Summary (part of Exhibit “E”) is a less than ideal document. Please summarize in writing the capital improvements plan for the next five years (2015 – 2019) indicating what the improvements will be for each year and the estimated costs associated with those improvements.

10. 152.08 (A) (3) (a) - a TWO year operating budget must be provided stating the assumptions and basis on which each item in operating budget was formulated. No accounting, legal or management services are provided in Disclosure Statement Exhibit "A" of paperwork submitted.
11. 152.08 (A) (3) (d) - statement of "current" realty taxes for each individual unit and charges estimated on sales price as per Disclosure Statement Exhibit "D" of submittal. The full year tax appears to be very high.
 - a) Please provide how the real estate tax was formulated on Exhibit D. Section 6.4 of the Disclosure Statement states that the monthly amount will be set forth, but it does not.
 - b) The current yearly tax on the entire building of all four apartments is \$12,171.08.

Yet, each unit is listed with a sales price of \$230,000 with full year tax of \$8,770.90 and a half year tax of \$4,385.45. It is unclear how such an amount was obtained.
12. The Planning Commission must also determine that the applicant has complied with the requirements set forth in Section 152.10 for the Notices to be given to Tenants and Purchasers.
 - a) No Notices were provided to the Village prior to our discussion.
 - b) Exhibit E indicates that there were Tenants in the property at the end of summer of 2014. The application did not list any Tenants in the property.
13. Please provide Planning Commission Members with a list of the tenants, the expiration dates of their leases and any and all Notices that were given to them with proof of service.
 - a) Were any of the Tenants over 60 years of age, blind, deaf or needed assistance with walking?
 - b) At the end of our discussion, Ms. Donnelly provided a copy of a form letter she suggested the owner use as the Notice to one of the Tenants.
14. The form letter showed the Owner as David A. Myers, in his individual capacity, however, documents state in several places that the Owner is David A. Myers, Trustee and Diana M. Myers, Trustee of the Myers Living Trust established December 2, 1998.
15. 152.10 (F) requires that the Notice of Conversion contain the following content which was not included in the form letter Ms. Donnelly distributed to Planning Commission at the end of discussion:
 - a) A copy of Chapter 152 must be attached.
 - b) The Notice must state that the Notice shall not be construed to abrogate any rights Tenant may have under valid existing written lease.
 - c) The Notice must state that the Tenant may advise the Village Building Department of any structural or mechanical defects in the building or common areas and of any unhealthful or unsafe conditions which Tenant believes should be corrected.
 - d) Service must be properly made and provided.
16. 152.10 (L) - Non-waiverability of Obligations and Rights. Ms. Donnelly also provided Planning Commission with a Waiver provision as provided for in the Ohio Revised Code, however, The Village of Mariemont code specifically provides any conflict as cumulative.

It is the understanding of the Planning Commission (after discussion) that the applicant is going to submit the following documents needed for review and determination:

1. Copies of the signed and dated notices that were sent to all Tenants in the subject building and proof of service of said notices which corresponds with the filing of the public offering statement with the Village.
2. A copy of the recorded Declaration so that the requirements set forth in the notice provisions can be determined.
3. A revised Disclosure Statement together with the revised Exhibits eliminating the inconsistencies.
4. Affidavit as to the Tenants in the Building and the expiration date of their leases.
5. Revised Site Plan and detail floor plan layouts of each dwelling unit reflecting the above-referenced comments.

The meeting adjourned at 6:45 p.m.

Respectfully Submitted,

Mr. Jerry Vianello, Secretary
Secretary

