

**MAYWOOD PLANNING BOARD
MINUTES
September 7, 2017 Closed Session #2017-11**

Mayor Adrian Febre made a motion to go into Closed Session. Vice Chairman Paul Kuhn seconded the motion. All eligible members present voted in favor of the motion.

**BOROUGH OF MAYWOOD PLANNING BOARD
Closed Session Resolution # 2017-11**

BE IT RESOLVED by the Planning Board of the Borough of Maywood, pursuant to the provisions of the Open Public Meetings Act, that the Maywood Planning Board met in closed session to discuss the following subject matter(s): Litigation settlement agreement

which subject matter(s) is (are) permitted to be discussed in closed session pursuant to the following designated sub-section(s) of Section 7 of the Open Public Meetings Act:

- Sub-section 1 dealing with material rendered confidential by express provision of Federal or State law
- Sub-section 2 covering a matter in which release of information would impair a right to receive federal funds
- Sub-section 3 involving disclosure of material that would constitute an unwarranted invasion of privacy, including material related to an individual's personal and family circumstances, without the express written consent of the individual involved
- Sub-section 4 pertaining to collective bargaining agreements and the terms, conditions and negotiations thereof
- Sub-section 5 dealing with the acquisition of real property, the setting of bank rates, or the investment of public funds where discussion thereof would adversely affect the public interest
- Sub-section 6 dealing with tactics and techniques used in protecting the safety and property of the public where disclosure could impair such protection or investigation of violation of the law
- Sub-section 7 dealing with pending or anticipated litigation, contract negotiations, or matters falling within the attorney-client privilege
- Sub-section 8 concerning personnel matters dealing with employment, appointment, termination, or terms and conditions of employment of any person or persons, or the evaluation, promotion or disciplining of employees unless all employees involved consent to disclosure thereof

() Sub-section 9 involving deliberations after public hearing on a matter which may result in the imposition of a civil penalty or the suspension or loss of a license

AND BE IT FURTHER RESOLVED that, as precisely as can be determined at this time, the discussion conducted in the said closed session can be disclosed to the public upon taking final action thereon, provided disclosure shall not violate the attorney-client privilege or constitute an undue invasion of privacy; and

BE IT FURTHER RESOLVED that the Planning Board of the Borough of Maywood
(X) Will return to open session after this meeting.

() Do not envision that they will return to open session after this meeting but reserves the right to do so.

Date of Passage: 9/7/17 Time: 8:37pm

Board Attorney Kara Kaczynski summarized the latest information about the litigation filed by Maywood Joint Venture against the Borough of Maywood and Maywood Planning Board (Docket #BER-L-2792-17). She and the Borough Attorney met with the Maywood Joint Venture counsel for a case management conference with the Judge. The Judge provided input on each of the contested conditions of the resolution. Overall, the Judge felt that many of the conditions fell outside Maywood Planning Board jurisdiction with the exception of Knox Box System installation. She advised the parties to craft a settlement agreement prior to the next case management conference on 9/11/17. Board Attorney Kaczynski noted that the tenant has not yet applied for a Certificate of Continued Occupancy (CCO). She further added that the settlement agreement requires the applicant to return to the Board for site plan approval which is something that the Board desires.

The counsel for the parties proposed a settlement agreement which rescinds the resolution conditions of approval. However, the applicant must comply with the UCC code and any fence changes must go before the Board. Also, the CCO occupancy is based on approvals. If the Board approves the settlement agreement, the applicant will have the minor site plan hearing directly after closed session ends without notice or publication based on Borough Ordinance §209.60. When asked, Board Attorney Kaczynski recommends approving the settlement agreement. She further explained that if the Board chooses to approve the settlement agreement, the Mayor and Council would vote to either approve or deny it.

Mayor Febre stated that approving the settlement agreement brings the applicant in for the site plan application which the Board feels is necessary. Zoning Officer James Mazzer agrees with settlement agreement but asked why the Board would waive notice and publication. Chairman Frank Lichtenberger explained that the Board hasn't applied the minor site plan waiver of notice and publication before and feels that they may want to recommend removing the ordinance in the future. Discussion ensued amongst the Board members. Many felt that the settlement agreement was acceptable but were not comfortable with viewing it as a minor site plan and waiving notice and publication for the hearing. Ultimately, it was agreed to accept the settlement agreement but require the applicant to notice and publish for the site plan hearing at the 9/28/17 meeting.

Chairman Frank Lichtenberger made a motion to return to the regular order of business. Councilman Rick DeHeer seconded the motion. All eligible members present voted in favor of the motion.

Respectfully submitted,

Tara Grunstra
Planning Board Recording Secretary