NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION
SPECIAL LAND USE PERMIT AMENDMENT

Meeting Date, Time, Location:	Monday, August 25, 2014, 7:30 PM Municipal Building, 151 Martin Birmingham, MI
Location of Request:	Triple Nickel (formerly Crush) 555 South Old Woodward
Nature of Hearing:	To consider an amendment to the Special Land Use Permit and Final Site Plan to allow the change of name to Triple Nickel and to amend the external design of the building.
City Staff Contact:	Jana Ecker 248.530.1841 jecker@bhamgov.org
Notice Requirements:	Mailed to all property owners and occupants within 300 feet of subject address. Publish August 10, 2014
Approved minutes may be reviewed at:	City Clerk's Office

Persons wishing to express their views may do so in person at the hearing or in writing addressed to City Clerk, City of Birmingham, 151 Martin, Birmingham, MI 48009.
Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at 248.530.1880 (voice) or 248.644.5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.

City of Birmingham
A Walkable Community

MEMORANDUM

Community Development

DATE: **August 13, 2014**

TO: **Joe Valentine, City Manager**

FROM: **Jana L. Ecker, Planning Director**

Re: **Public Hearing to consider a Special Land Use Permit Amendment and Revised Final Site Plan for Triple Nickel Restaurant at 555 S. Old Woodward**

The City Commission set a public hearing date for August 25, 2014 to consider an application for a Special Land Use Permit ("SLUP") and Final Site Plan Review for Triple Nickel restaurant at 555 S. Old Woodward. The property is currently zoned B-3, Office-Residential, and D-4 in the Downtown Overlay District. B-3 zone lists restaurant as a commercial permitted use requiring a Special Land Use Permit.

On May 10, 2010, the City Commission adopted ordinance amendments to Chapter 10, Alcoholic Liquors, and Chapter 126, Zoning, to permit the use of Economic Development Licenses in certain areas within the City. The second application for an Economic Development License was approved for Crush restaurant, at the above-captioned address in 2013.

Article 6, Section 6.02, Continuance of Non-Conformity, requires all existing restaurants serving alcoholic beverages for on premises consumption to obtain a SLUP upon change in the ownership or name of establishment, or upon application for site plan review. The current owner, Crush, LLC is now seeking to change the name of the business to Triple Nickel, and to amend the exterior design of the building. In addition, the owner is seeking to extend the date of opening of the restaurant to April 30, 2015. The existing contract with the City requires the restaurant to be open by October 31, 2014.

On July 9, 2014, the applicant obtained a recommendation of approval from the Planning Board on July 9, 2014 on the Revised Final Site Plan and Special Land Use Permit Amendment for a name change for the restaurant, signage and design changes, and now seeks to obtain approval from the City Commission for the Revised Final Site Plan and Special Land Use Permit Amendment. In addition, the applicant is also requesting approval to extend the time from to open the previously approved restaurant from **October 31, 2014** to **April 30, 2015.**

Please find attached a draft SLUP Resolution, as well as the staff report and relevant meeting minutes for your review.

SUGGESTED ACTION:

To approve the Special Land Use Permit Amendment and Revised Final Site Plan for Triple Nickel restaurant at 555 S. Old Woodward

OR

To deny the request for Special Land Use Permit and Revised Final Site Plan for Triple Nickel restaurant at 555 S. Old Woodward.

TRIPLE NICKEL (formerly CRUSH)
555 S. OLD WOODWARD
SPECIAL LAND USE PERMIT AMENDMENT
2014

WHEREAS, The New 555 Commercial LLC filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a food and drink establishment in the B-3 zone district in accordance Article 2, Section 2.37 of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on S. Old Woodward

WHEREAS, The land is zoned B-3, and is located within the Downtown Birmingham Overlay District, which permits the operation of food and drink establishments serving alcoholic beverages with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, The applicant submitted an application for a Special Land Use Permit Amendment and Revised Final Site Plan for 555 S. Old Woodward;

WHEREAS, The Planning Board on July 9, 2014 reviewed the application for a Special Land Use Permit, Final Site Plan and recommended approval of the application with the following conditions:

1) The Planning Board designates the Bowers elevation as the principal building frontage for signage purposes;
2) Applicant provides specification sheets for the external lighting fixtures and the illuminated mechanical screen on the roof as well as samples of all materials proposed;
3) Applicant replace EFIS with the materials presented on July 9, 2014;
4) Applicant replace sliding windows on the building frontage consistent with the comments made on July 9, 2014 of their intent;
5) Applicant execute a revised contract with the City of Birmingham outlining the nature of the proposed operation of Triple Nickel and approving the use of the existing Economic Development Liquor License under the new name Triple Nickel and extending the time frame to open the restaurant;
6) Applicant meets Fire Dept. requirements.

WHEREAS, The applicant has agreed to comply with the conditions of approval recommended by the Planning Board;

WHEREAS, The Birmingham City Commission has reviewed The New 555 Commercial LLC's Special Land Use Permit Amendment application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED, The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that The New 555 Commercial LLC's application for a Special Land Use Permit Amendment and Revised Final Site Plan at 555 S. Old Woodward is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit is granted subject to the following conditions:

1) The Bowers elevation is deemed as the principal building frontage for signage purposes;
2) Applicant provides specification sheets for the external lighting fixtures and the illuminated mechanical screen on the roof as well as samples of all materials proposed;
3) Applicant replace EFIS with the materials presented on July 9, 2014;
4) Applicant replace sliding windows on the building frontage consistent with the comments made on July 9, 2014 of their intent;
5) Applicant execute a revised contract with the City of Birmingham outlining the nature of the proposed operation of Triple Nickel and approving the use of the existing Economic Development Liquor License under the new name Triple Nickel and extending the time frame to open the restaurant;
6) Applicant meets Fire Dept. requirements;
7) The New 555 Commercial LLC shall abide by all provisions of the Birmingham City Code; and
8) The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, The New 555 Commercial LLC and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of

this permit, and as they may be subsequently amended. Failure of The New 555 Commercial LLC to comply with all the ordinances of the City may result in the Commission revoking this Special Land Use Permit.

MAY IT BE FURTHER RESOLVED that The New 555 Commercial LLC is recommended for the operation of a food and drink establishment serving alcoholic beverages on premises, subject to final inspection.

I, Laura M. Pierce, City Clerk of the City of Birmingham, Michigan, do hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Birmingham City Commission at its regular meeting held on August 25, 2014.

_____

Laura M. Pierce, City Clerk

MEMORANDUM

Community Development

DATE: **July 02, 2014**

TO: **Planning Board**

FROM: **Shalaka Puranik, City Planner**

Re: **Special Land Use Permit Amendment and Revised Final Site Plan for former Crush Restaurant at 555 S. Old Woodward to allow the change of name to Triple Nickel, and to amend the external design of the building**

On May 10, 2010, the City Commission adopted ordinance amendments to Chapter 10, Alcoholic Liquors, and Chapter 126, Zoning, to permit the use of Economic Development Licenses in certain areas within the City.

The second application for an Economic Development License was approved for Crush restaurant, at the above-captioned address in 2013. Crush restaurant is now seeking to change the name of the business to Triple Nickel, and to amend the exterior design of the building. **The applicant also requests approval to extend the opening date from October 31, 2014 to April 30, 2015.** No changes are proposed to the interior layout of the restaurant, the interior ambiance or the proposed food offerings.

Accordingly, the applicant will be required to obtain a recommendation from the Planning Board on the Revised Final Site Plan and Special Land Use Permit, and then obtain approval from the City Commission for the Revised Final Site Plan, Special Land Use Permit Amendment.

1.0 Land Use and Zoning

1.1 Existing Land Use –The building is currently being used for commercial, residential and office purposes. Land uses surrounding are retail, residential and commercial.

1.2 Existing Zoning – The property is currently zoned B-3, Office-Residential, and D-4 in the Downtown Overlay District. The existing use and surrounding uses appear to conform to the permitted uses of each Zoning District.

1.3 Summary of Land Use and Zoning - The following chart summarizes existing land use and zoning adjacent to and/or in the vicinity of the subject site.

	North	South	East	West
Existing Land Use	555 Building (Commercial)	555 Building (Residential)	Retail and Commercial	Commercial
Existing Zoning District	B-3,Office-Residential	B-3,Office-Residential	B-2, General Business	B-2B, General Business
Downtown Overlay Zoning District	D-4	D-4	D-4	N/A

All proposed uses within the building are permitted in the Downtown Birmingham Overlay District. The site is within the Red Line Retail District, and thus retail uses must be provided on the first floor along S. Old Woodward Avenue. The applicant was previously approved for a restaurant use on the first floor, which falls under the definition of retail in Article 9, section 9.02 of the Zoning Ordinance.

At this time, the applicant is requesting approval of a SLUP Amendment and Revised Final Site Plan to allow exterior changes to the first floor of the building and a name change for the Economic Development Liquor License previously approved for Crush, to a new restaurant doing business as Triple Nickel. Chapter 126, Article 3, section 3.04(C)(11) Building Use, states that:

> Establishments operating with a liquor license obtained under Chapter 10, Alcoholic Liquors, Article II, Division 3, Licenses for Economic Development, are permitted with a valid Special Land Use Permit only on those parcels on Woodward Avenue identified in Map 3.1.

The proposed location for the use of the Economic Development Liquor License at 555 S. Old Woodward is one of the parcels on Woodward Avenue identified in Map 3.1 (see attached). **Should the name change be approved the applicant will have to execute a revised contract with the City. If approved by the City Commission, the proposed expansion of the time frame to open must also be included in the revised contract.**

2.0 Screening and Landscaping

3.1 Screening – No changes are proposed at this time. All dumpsters and on-site parking will remain within the building. The applicant is proposing an internally

illuminated mechanical screen above the roof which was not included in the previous approval.

3.2 Landscaping – The applicant is not proposing any change to the existing landscaping so it will remain as approved.

3.0 Parking, Loading, Access, and Circulation

4.1 Parking – As the subject site is located within the Parking Assessment District, the applicant is not required to provide on-site parking. No changes are proposed to the parking.

4.2 Loading – No changes are proposed at this time.

4.3 Vehicular Access & Circulation - Vehicular access to the building will not be altered.

4.4 Pedestrian Access & Circulation – At this time, the applicant is not proposing any change that would affect pedestrian access and circulation.

4.5 Streetscape – The applicant is not proposing any change to the approved streetscape.

4.0 Lighting

The applicant is proposing to remove wall mounted up/down lights and add wall mounted flagpoles. Also, the applicant is proposing 16 sign lights with no specific details about the illumination levels. On the 555 Residential driveway (south elevation) the applicant proposes champagne metal valances in niches with down lights but with no details for the illumination levels. **The applicant is required to provide specification sheets for all fixtures and a photometric plan to determine compliance with the lighting standards. No details have been provided for the proposed mechanical screen to be illuminated from within.**

5.0 Departmental Reports

6.1 Engineering Division – No concerns were reported by the Engineering Division.

6.2 Department of Public Services – No concerns were reported from DPS.

6.3 Fire Department – The fire Department has the following suggestions for the plan:

1. A Knox Box is required as per F-506.1
2. The FDC must be moved to the street front F-903.3.7

6.4 Police Department - No concerns were reported from the Police Dept. **The applicant intends to seek approval to valet park customer's cars. All**

valet applications are reviewed by the Police Department as per the City Code.

6.5 Building Division –No concerns reported from the Building Dept.

6.0 Design Review

The applicant is proposing the following changes to the external façade:

1. Change Limestone to Roman brick
2. Change portion of limestone to EFIS along 555 Residential Driveway. **However, no EFIS is permitted in the Downtown Overlay District.**
3. Remove dark granite panels and replace with Roman brick
4. Change dark bronze window sash to champagne bronze
5. Change dark bronze wall panel to nickel metal finish
6. Change dark bronze roof overhang to champagne bronze with stained wood on the underside
7. Remove canvas valence at roof
8. Modify heights of proposed awnings and material selection, and add additional awnings

   As per Article 3.04 (Specific Standards)
   First floor awnings may encroach upon the frontage line and public sidewalk but must avoid street trees; provide at least 8 feet of clearance above the sidewalk; and be set back a minimum of 2 feet from the road curb
   As per Article 3.04 (Architectural Standards)
   Facades may be supplemented by awnings, which shall be straight sheds without side flaps not cubed or curved. Awnings shall be between 8 – 12 feet above sidewalk grade at the lower drip edge. **The proposed awnings meet the required standards.**

9. Add ground concrete sill wall at operable sliding windows on the main level. **As per the Downtown Overlay Zoning District, no sliding windows are allowed on the frontage lines.**
10. Change dark bronze aluminum mechanical screen on roof to back lit illuminated panels. **However, no lighting information or specification sheets have been provided at this time.**
11. Eliminate small windows at second floor on the west

As per article 3.04 (Architectural Standards) The proposed design meets the criteria in terms of compatibility with the surrounding area.

As the building terminates as a view, as designated on the regulating plan, it is required to provide distinct and prominent architectural features of enhanced character and visibility, which reflect the importance of the building's location and create a positive visual landmark. The changes proposed to the building will continue to maintain a distinct and prominent façade for Triple Nickel restaurant so long as the issues noted above are corrected.

Signage Standards:

The applicant is also proposing new signage for Triple Nickel to be located on the Woodward, Bowers and S. Old Woodward elevations in the location of the previously approved Crush signage. Overlay Zoning District Regulations were used to develop the building, and as a result, the signage regulations from the Overlay District Sign Standards were used to review the signage. *In accordance with The City of Birmingham, Article 3, Section 3.04, F, 4, of the Zoning Ordinance, Downtown Birmingham Overlay District, Signage Standards: The sign must fit within the total sign area allowed for the business.* The Birmingham Sign Ordinance allows 1 square foot of signage per linear foot of store front. The street frontage of the building is 33.75' allowing 33.75 sq. ft. of signage. The applicant is proposes four (4) name letter signs and four (4) projecting signs for a total of 45.933 sq. ft. located around the building as indicated by the following chart.

Proposed Signage	**North**	**South**	**East**	**West**
TRIPLE NICKEL (Name letter)	2	0	1	3 (on 3 sides of canopy)
PROJECTING SIGNS	2	0	1	1

The Name letter signs (TRIPLE NICKEL) consist of backlit letters measuring 4' 2.5" (L) and 6" (H) located 13' above graded floor and proposed on the north, east and west side elevations. The letters are pierced in "nickel" metal panels held off of the wall with ivory acrylic backer. Each sign will measure 2.10 sq. ft for a total of 12.6 sq. ft. for all six (6).

The four (4) projecting wall signs are proposed to be 2'-6" (L) 1'-8" (H) and 6.5" wide and consist of a metal sign box with printed nickel images on both sides, and are proposed on the north, east and west side elevations to be illuminated with external lamps. Each projecting sign is proposed to measure 4.166 per side or 8.333 per sign. The total sq. ft. for all four projecting signs is 33.333. *As per Sign Ordinance article 1.05 (I) there has to be minimum 6 inch separation between the projecting sign and wall face and may not project more than 30 inches beyond property line.* The sign meets the above criteria.

The applicant exceeds the total allowable signage permitted on the building. However, the Birmingham Sign Ordinance allows the Planning Board to designate an alternative frontage as the principle building frontage (PBF) for signage purposes. If the Planning Board were to designate the Bowers elevation as the PBF then the applicant would be permitted 110.25. If the

Planning Board does not feel that it is appropriate to designate Bowers as the PBF then the applicant will be required to reduce the overall building signage by 15.183.

The maximum height permitted is 24 inches and the applicant proposes 6 inch letters so that meets the criteria. *The name letter signs that project more than 3 inches from the building façade shall not be attached to the outer wall at a height of less than 8 feet above a public sidewalk or at a height of less than 15 feet above public driveways, alleys and thoroughfares.* However the applicant has not mentioned the amount of projection beyond the wall. The proposal meet this criteria.

Illumination:
The applicant proposes to back light the Name letter signs with LED's. The projecting signs are proposed to be illuminated with external lights, but no details have been provided so far.

The applicant is required to submit specification sheets for all external lighting fixtures and samples of all exterior building materials.

7.0 Downtown Birmingham 2016 Overlay District

The site is located within the D-4 zone of the DB 2016 Regulating Plan, within the Downtown Birmingham Overlay District. The D-4 zone encourages mixed use, and multi story buildings. Restaurant use on the first floor is permitted under the definition of retail contained in Article 9, section 9.02, Definitions, in the Zoning Ordinance.

8.0 Approval Criteria for Final Site Plan

In accordance with Article 7, section 7.27 of the Zoning Ordinance, the proposed plans for development must meet the following conditions:

(1) The location, size and height of the building, walls and fences shall be such that there is adequate landscaped open space so as to provide light, air and access to the persons occupying the structure.

(2) The location, size and height of the building, walls and fences shall be such that there will be no interference with adequate light, air and access to adjacent lands and buildings.

(3) The location, size and height of the building, walls and fences shall be such that they will not hinder the reasonable development of adjoining property not diminish the value thereof.

(4) The site plan, and its relation to streets, driveways and sidewalks, shall be such as to not interfere with or be hazardous to vehicular and pedestrian traffic.

(5) The proposed development will be compatible with other uses and buildings in the neighborhood and will not be contrary to the spirit and purpose of this chapter.

(6) The location, shape and size of required landscaped open space is such as to provide adequate open space for the benefit of the inhabitants of the building and the surrounding neighborhood.

9.0 Approval Criteria for Special Land Use Permits

Article 07, section 7.34 of the Zoning Ordinance specifies the procedures and approval criteria for Special Land Use Permits. Use approval, site plan approval, and design review are the responsibilities of the City Commission. This section reads, in part:

> Prior to its consideration of a special land use application (SLUP) for an initial permit or an amendment to a permit, the **City Commission shall refer the site plan and the design to the Planning Board for its review and recommendation. After receiving the recommendation, the City Commission shall review the site plan and design of the buildings and uses proposed** for the site described in the application of amendment.
>
> The City Commission's approval of any special land use application or amendment pursuant to this section shall constitute approval of the site plan and design.

10.0 Suggested Action

Based on a review of the elevations submitted, the Planning Division recommends that the Planning Board RECOMMEND APPROVAL to the City Commission of the applicant's request for Revised Final Site Plan and a SLUP Amendment to permit the use of an Economic Development License for Triple Nickel restaurant at 555 S. Old Woodward with the following conditions:

(1) The Planning Board designates the Bowers elevation as the principle building frontage or the applicant reduces the overall building signage by 15.183 sq. ft.;
(2) Applicant provide specification sheets for the external lighting fixtures and the illuminated mechanical screen on the roof as well as samples of all materials proposed;
(3) Applicant replace EFIS with another acceptable material;
(4) Applicant replace remove sliding windows from the building frontage; and
(5) Applicant execute a revised contract with the City of Birmingham outlining the nature of the proposed operation of Triple Nickel and approving the use of the existing Economic Development liquor license under the new name Triple Nickel and extending the time frame to open the restaurant.

12.0 Sample Motion Language

Based on a review of the site plans submitted, the Planning Division recommends that the Planning Board RECOMMEND APPROVAL to the City Commission of the applicant's request for Revised Final Site Plan and a SLUP Amendment to permit the use of an

Economic Development License for Triple Nickel restaurant at 555 S. Old Woodward with the following conditions:

(1) The Planning Board designates the Bowers elevation as the principle building frontage or the applicant reduces the overall building signage by 15.183 sq. ft.;
(2) Applicant provide specification sheets for the external lighting fixtures and the illuminated mechanical screen on the roof as well as samples of all materials proposed;
(3) Applicant replace EFIS with another acceptable material;
(4) Applicant replace remove sliding windows from the building frontage; and
(5) Applicant execute a revised contract with the City of Birmingham outlining the nature of the proposed operation of Triple Nickel and approving the use of the existing Economic Development liquor license under the new name Triple Nickel and extending the time frame to open the restaurant.

OR

Motion to recommend DENIAL of the Revised Final Site Plan and SLUP Amendment to the City Commission for Triple Nickel restaurant at 555 S. Old Woodward for the following reasons:

1. _____
2. _____
3. _____
4. _____
5. _____

OR

Motion to recommend POSTPONEMENT of the Revised Final Site Plan and SLUP Amendment to the City Commission for Triple Nickel restaurant at 555 S. Old Woodward, with the following conditions:

Planning Board Minutes
January 23, 2014

01-15-13

SPECIAL LAND USE PERMIT ("SLUP") APPLICATION
555 S. Old Woodward Ave.
Request for Economic Development License for Crush

FINAL SITE PLAN REVIEW
555 S. Old Woodward Ave.
Request for Revised Final Site Plan in conjunction with Economic Development License SLUP application

AND/OR, IN THE ALTERNATIVE:

555 S. Old Woodward Ave.
Request for Revised Final Site Plan in conjunction with Bistro License SLUP application previously reviewed on December 12, 2012

Economic Development License SLUP application

Final Site Plan Review
Mr. Baka summarized the review. The subject site is located at 555 S. Old Woodward Ave., between Haynes and Bowers St. The parcel is zoned B-3, Office-Residential and D-4 in the Downtown Overlay District. The property is also in the Red Line Retail District. The applicant, a new restaurant by the name of Crush, is seeking approval of an Economic Development License under Chapter 10, Alcoholic Liquors, of the City Code. Chapter 10 requires that the applicant obtain a SLUP and approval from the City Commission to operate an establishment with an Economic Development License within the City of Birmingham. **Accordingly, the applicant is required to obtain a recommendation from the Planning Board on both the Preliminary and Final Site Plans and SLUP, and then obtain approval from the City Commission for the Final Site Plan, SLUP, and for the operation of an Economic Development License.**

The proposed restaurant will be located in a new structure on Bowers directly beneath a portion of the existing 555 Building. The applicant received Preliminary Site Plan review approval for the construction of a new restaurant along with a recommendation for approval of the SLUP on December 12, 2012 with several conditions. However, it should be noted that the Preliminary Site Plan review was performed under the Bistro License guidelines. While this does not affect the majority of the site plan review, Economic Development licenses are not restricted in regards to the number of seats that are permitted. Therefore, the concern expressed at that meeting that the vinyl enclosure proposed on the terrace would violate the spirit of the ordinance may not apply here. Accordingly, the enclosure was not eliminated from these plans.

The total parking requirement is 418 spaces. Three hundred sixty-three spaces are provided in the parking deck, along with 36 on-street spots which will require approval from the City Commission. The applicant indicates they intend to re-stripe the parking structure in order to

gain an additional 28 spaces, for a total of 427. The applicant indicates there are thirty additional spaces located under the ramp but they are not shown on the plans. If new plans indicate those spaces are there and they get permission from the City Commission for their on-street parking, then there would be enough spaces to meet the parking requirement. ***The applicant must provide plans indicating that the new striping pattern and additional spaces will comply with the Zoning Ordinance prior to appearing before the City Commission or obtain a variance for 24 parking spaces from the Board of Zoning Appeals.*** Also the applicant must terminate the lease with Fred Lavery in order to make the spaces in the parking deck available for use. Also, 555 Residential has submitted a letter giving the applicant permission to use the parking deck.

Design Review

The applicant is proposing to construct a new building in the area under the existing parking deck on Bowers where there is currently an outdoor concrete plaza with metal sculptures. While it is planned within the building envelope of the existing structure, the proposed bistro will be a distinct building with its own roof structure. The materials used on the building will be primarily a smooth limestone and clear glass with a course of dark granite around the base. Decorative wall sconces and planters are proposed on all sides.

The applicant is proposing outdoor seating along the west side of the building in the public right-of-way. The outdoor café area is proposed to be enclosed with planters. The café area is proposed to contain 28 seats and will encompass an area approximately 35 ft. x 12 ft. and includes an existing street tree. The café area as proposed does maintain the required 5 ft. pedestrian pathway adjacent to the building.

The applicant is also proposing outdoor dining on both of the upper level terraces of the building on private property. The western terrace is proposed to contain 48 seats. The eastern terrace is proposed to contain six four top tables and lounge seating for an additional six people for a total of 32 seats. The total combined number of seats on the upper terraces is proposed to be 80.

Each terrace is also proposed to have an outdoor fireplace. The applicant has also indicated that vinyl enclosures are proposed for both of the upper terraces. The applicant received Preliminary Site Plan approval with the condition that no vinyl enclosures be used. However, as stated above, the seating capacity for an Economic Development license is not limited as with a Bistro.

In total the applicant is proposing 30.4 sq. ft. of signage. This complies with the Sign Ordinance which permits a total of 33.7 sq. ft. of signage, based on the linear frontage of the building.

Mr. Williams observed this is akin to a lot split within the confines of Woodward Ave. It creates a new designated area to be assessed. This is an issue that he thinks needs to be addressed by the City Commission.

Mr. Rick Rattner, Attorney, 380 N. Old Woodward Ave., spoke to represent Crush. With him were his co-counsel, Ms. Kelly Allen; Mr. Jack Reinhart, one of the owners; Ms. Michelle Russo and Mr. Mark Blanke, owners and operators of Crush; Mr. Ron Rea, Interior Designer; and Mr. Michael Yeager, Architect. Mr. Rattner went through the 19 conditions for economic development called out by Mr. Baka. He noted Crush meets or exceeds each of them.

Mr. Ron Rea, Ron & Roman Architects, responded to a question from the chairman about whether the number of restrooms is sufficient. If the applicant receives an Economic Development License, the plan will have to be altered to add two more bathrooms. The dining decks will be open for seasonal use from April 1 through November 15. If in the future they want to enclose the decks they would seek approval for a glass system that can be opened when the weather permits.

Chairman Boyle opened up discussion to members of the public at 9:37 p.m.

Mr. Salverio Bitonti, 709 Ann St., said this development will be an asset to the whole area. He doesn't foresee any problems with parking.

Ms. Lynn Groth spoke to represent the property across the street that contains CVS. The proposed development is great, but there is a parking problem in this area. The 555 Building has lots of parking but they charge for it and that is why people don't want to use their parking. Mr. Rattner said that parking won't be free, however it will be validated. Ms. Groth encouraged them to offer free parking to their patrons as incentive for them to use the structure.

Mr. Joe Murphy, 751 Ann St., fully supported the proposal and said the food will be great because the operators have been doing food for 50 years.

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Mr. Baka noted the Planning Dept. received an e-mail in full support of the project from Tiffany's Florist.

Motion by Mr. DeWeese
Seconded by Mr. Williams to recommend approval of the applicant's request for Final Site Plan and SLUP to the City Commission to permit an Economic Development License for Crush at 555 S. Old Woodward Ave. with the following conditions:

1) **The applicant provide a signed copy of the contract with the City;**
2) **Obtain an outdoor dining license;**
3) **Applicant submit an economic impact statement to the Planning Dept. for review prior to appearing before the City Commission;**
4) **Applicant obtain approval of the City Commission to include the 36 on-street parking spaces into the required parking;**
5) **Applicant provide documentation terminating the parking agreement with Fred Lavery in order to make those spaces available for the parking requirement;**
6) **Applicant provide documentation granting permission from the 555 Residential LLC and/or 555 Commercial LLC to use the available parking;**

7) **Applicant provide floor plans for all levels of the parking deck to allow verification of proposed re-striping and submit for Administrative Approval;**
8) **Applicant install signage indicating that exiting the residential drive directly onto Woodward Ave. is prohibited;**
9) **Applicant indicate the intended kitchen hours will be from 11 a.m. to 12 midnight;**
10) **The location of a grease trap at the corner of Woodward Ave. and Bowers is eliminated from that location; the applicant provide details regarding the trash disposal for the operation and that an acceptable location for the grease trap be identified with screening details;**
11) **Applicant submit revised plans that indicate whether umbrellas are proposed for the street level outdoor dining area;**
12) **Applicant correct the landscape plan on page 25 to reflect the proper location of the planters;**
13) **Applicant provide specification sheets for the proposed outdoor dining tables;**
14) **The trash receptacle on the street level must be located within the outdoor dining area as required;**
15) **The applicant indicate which planters will remain out year-round and how those planters will be treated once the annuals are no longer in bloom;**
16) **The applicant identifies the planting on the edge of the west terrace;**
17) **Applicant reconstruct all streetscape elements in accordance with current standards as recommended by the Engineering Dept.;**
18) **The Planning Board approves these non cut-off fixtures as permitted by Article 04 section 4.21 LY-01 (D);**
19) **The applicant verify that all four signs are the same size and whether the signs on the north and south elevation are backlit;**
20) **The applicant add a Knox Box and make other changes required by the Fire Dept.;**
21) **Upper decks may only be used on or between April 1 to November 15;**
22) **Add a rail by the outdoor dining area on the first floor subject to the approval of the Planning Dept.;**
23) **Place disabled parking close to the second-floor entrance subject to the approval of the Planning Dept.;**

Ms. Whipple-Boyce added:

24) **No clear zip-down windows as indicated on the plan;**
25) **All health and sanitary facilities must meet Michigan Code; and**
26) **Seventy percent clear glazing from 1 ft. to 8 ft. above grade on all facades that front a street (the north, east and west), subject to Planning Dept. approval.**

There was no further discussion from the public at 9:50 p.m.

Motion carried, 7-0.

ROLLCALL VOTE
Yeas: DeWeese, Williams, Boyle, Clein, Koseck, Lazar, Whipple-Boyce

Nays: None
Absent: None

Bistro License application

Final Site Plan Review
Mr. Baka summarized the review. The main difference between the Economic Development application and this is the terrace. Almost all references to the vinyl enclosures on the roof have been eliminated. Also, seating on the eastern terrace has been eliminated along with the canopy and it is basically a rooftop garden. The western terrace will contain 48 seats, plus 28 at grade and 65 inside, for at total of 141 seats.

Mr. Rattner summarized the conditions that are not similar to the Economic Development application:

- Eliminate reference to the vinyl enclosures;
- Eliminate the note requesting flexibility of seating capacity; and
- Authorization to open up the deck to seat those people who can be easily accommodated.

He went on to explain that Crush, LLC owns the property and they are leasing it to the operating company, Crush Bistro, LLC.

Mr. Ron Rea explained even without seating the east terrace it is an iconic visual that may be utilized by the residents. He clarified that screening on the S. Old Woodward Ave. side will be an awning overhead, a glass rail, and a PVC shade for sun and wind.

Motion by Mr. DeWeese
Seconded by Mr. Williams to recommend approval of the applicant's request for Final Site Plan to the City Commission to permit a Bistro License for Crush Bistro at 555 S. Old Woodward Ave. with all of the previous motion's conditions plus addition of the following:

- **The second-floor east area may not be used by patrons of the bistro and changes in the rooftop garden are subject to administrative approval.**

Mr. Clein did not think it is appropriate to recommend approval of two different site plan packages for the same property.

Motion carried, 5-2.

ROLLCALL VOTE
Yeas: DeWeese, Williams, Boyle, Koseck, Whipple-Boyce
Nays: Clein, Lazar
Absent: None

Motion by Ms. Whipple-Boyce
Seconded by Mr. Clein to recommend to the City Commission acceptance of the applicant's request for an Economic Development License over a Bistro License for Crush at 555 S. Old Woodward Ave.

Ms. Whipple-Boyce explained she is not uncomfortable with the amount of activity this will promote. Ms. Lazar thought Crush could be extremely effective as a commanding anchor to the southern end of town and it should be encouraged to realize its full potential which obviously it can't do as a bistro. Therefore, she fully supports the idea of an Economic Development License. Mr. Williams concurred with those comments. Further, he thought utilization of the upper deck during the summer months is a positive. Mr. DeWeese said that an Economic Development License will encourage the applicant to expand into a destination restaurant above and beyond what they could ever do as a bistro. Chairman Boyle was confident this area has the ability to handle the capacity. Mr. Koseck disagreed with the prior comments. He did not want to lose the engagement with life at the street level.

It was noted that the capacity for Crush is 171 seats and as a bistro it is 141.

Motion carried, 6-1.

ROLLCALL VOTE
Yeas: Whipple-Boyce, Clein, Boyle, DeWeese, Lazar, Williams
Nays: Koseck
Absent: None

The board took a brief recess at 10:35 p.m.

SPECIAL LAND USE PERMIT ("SLUP") AMENDMENT
555 S. Old Woodward Ave.
Crush
Design and site plan changes to previously approved restaurant

Site Plan Review
Mr. Baka noted the subject site is located at 555 S. Old Woodward Ave., between Haynes and Bowers St. The parcel is zoned B-3, Office-Residential and D-4 in the Downtown Overlay District. The property is also in the Red Line Retail District. The applicant, Manorwood Properties LLC, is seeking approval of an amendment to their Economic Development License for Crush Restaurant, which was approved by the City Commission on February 25, 2013 under Chapter 10, Alcoholic Liquors, of the City Code. The applicant is requesting several changes to the approved Final Site Plan and SLUP, including enclosing the eastern second story deck with windows, re-aligning the driveway leading to the rear of the building in accordance with MDOT revisions, and minor modifications to the footprint of the building. The proposed changes will result in an increase in the interior square footage and seats. Based on the plans submitted, the new layout would provide 99 seats inside the lower level, 11 seats at the bar, and 69 seats in the upper level terraces, with 6 seats at the bar. The additional square footage requires that the parking requirement be recalculated.

Mr. Baka advised that the applicant also wishes to change the name of the applicant, property owner and to change the status of the property from a "unit" to a "Lot". The applicant has submitted a lot split request that will be considered by the City Commission at the same meeting as the SLUP Amendment.

With respect to parking, the building still has 98 additional spaces available after their current parking requirement is met. Chairman Boyle said this is a multi-use building that includes residential and during the day a proportion of the residents will drive their cars to work, freeing up space that could be used for the lunch patrons at Crush.

Design Review
The applicant was approved to construct a new building in the area under the existing parking deck where there is currently an outdoor concrete plaza with metal sculptures. The materials approved for use on the building are primarily a smooth limestone and clear glass windows and a course of dark granite around the base. Decorative wall sconces and planters were approved for all sides. The applicant is proposing two significant changes at this time. First, they are proposing to enclose the eastern terrace. Second, they are expanding the footprint of the building along the north elevation by eliminating one of the previously approved planting beds.

Mr. Koseck commented that the kitchen area never seems to change in size but the patron area keeps growing. Ms. Ecker responded there are not specified standards for restaurants like there are for bistros. Nothing dictates the number of seats they can have at the bar or the size of their kitchen, or if they even have a kitchen, other than the level of control that the City has through the SLUP process. The chairman observed that the other thing that never seems to change is the State's requirements for restrooms.

Rick Rattner, Attorney, 380 N. Old Woodward Ave., represented the applicant. He answered questions that board members had put forth:

- *The difference between a lot and a unit*

The counsel representing 555 decided it would be easier to split it off and have cross easements. The function of these structures will operate the exact same as if it were a unit.

- *The shared parking issue*

Shared parking is desired because they don't want seas of asphalt and a lot of parking not used. In this case when the residents are gone the restaurant is open for lunch. The agreement with Fred Lavery for 40 spaces is a month-to-month arrangement and may be terminated.

- *Location of the dumpster*

Will be moved to a location in back of the 555 Building and enclosed.

- *Deliveries*

Will go back in that same place.

- *The kitchen*

The kitchen is large and designed by a great restaurateur to service this number of patrons. The restaurant is 3,500 sq. ft. and about 1,000 sq. ft. is the kitchen.

Cory Campbell, Architect, C-Arc Design Group, 283 E. Frank St., described the structural element at the top of the second-floor terrace and the operable glass units that provide protection from the wind. By keeping the parapet low with the glass at the top, there will be a nice visual looking out and patrons will be seen from the street.

There was no public present to comment at 10:05 p.m.

Board members agreed that although they comply with State regulations, the restroom facilities are very limited for that amount of customers.

Motion by Mr. DeWeese
Seconded by Mr. Williams that the Planning Board recommends approval of the applicant's request for Revised Final Site Plan approval and SLUP Amendment to the City Commission for Crush Restaurant at 555 S. Old Woodward Ave. with the following conditions:

1) **The applicant provide a signed copy of the contract with the City;**
2) **Obtain an Outdoor Dining License;**
3) **Applicant complies with any unresolved conditions of previous approvals;**
4) **Applicant reconstruct all streetscape elements in accordance with current standards as recommended by the Engineering Dept.; and**
5) **Dumpster is relocated and properly enclosed.**

Motion carried, 7-0.

VOICE VOTE
Yeas: DeWeese, Williams, Boyle, Clein, Koseck, Lazar, Whipple-Boyce
Nays: None
Absent: None

10-285-13 PUBLIC HEARING, REVISED FINAL SITE PLAN AND SPECIAL LAND USE PERMIT, CRUSH, 555 S. OLD WOODWARD

Mayor Dilgard opened the Public Hearing to consider approval of the Revised Final Site Plan and Special Land Use Permit for Crush, 555 S. Old Woodward at 8:51 pm.

Commissioner Hoff expressed concern with parking. Planner Baka stated that the plan complies with the parking requirements and has additional spaces due to a shared parking agreement.

Samir Eid expressed concern about the parking situation. He advised that in a 24 month period, 2200 parking tickets were written from his parking lot. Commissioner Hoff added that the owner of CVS also expressed concerns about the use of their parking lot.

Rick Rattner, Attorney, stated that they are cognizant of the concerns over parking, and with over 100 spaces available in the garage, there should not be an issue. Mr. Rattner said that it was their understanding that the city did not want valet parking at that location, but will offer valet if necessary. Suggestions were made that the applicant offer free parking for the restaurant parking or validated parking.

Mayor Dilgard closed the Public Hearing at 9:16 pm.

MOTION: Motion by Rinschler, seconded by McDaniel:
To approve the applicant's request for Revised Final Site Plan approval and SLUP Amendment for Crush Restaurant at 555 S. Old Woodward Ave:

WHEREAS, CRUSH filed an application pursuant to Article 7, section 7.34 of Chapter 126, Zoning, of the City Code to operate a new restaurant with an Economic Development License in accordance with Article 3, Section 3.04(c) of Chapter 126, Zoning, of the City Code;

WHEREAS, The land for which the Special Land Use Permit Amendment is sought is located on the east side of S. Old Woodward between Bowers and Haynes;

WHEREAS, The land is zoned B-3, and is located within the Downtown Birmingham Overlay District, in the area identified on Map 3.1 of Chapter 126, Zoning, which permits the use of Economic Development Licenses with a Special Land Use Permit;

WHEREAS, Article 7, section 7.34 of Chapter 126, Zoning requires a Special Land Use Permit Amendment to be considered and acted upon by the Birmingham City Commission, after receiving recommendations on the site plan and design from the Planning Board for the proposed Special Land Use;

WHEREAS, The applicant submitted an application for a Special Land Use Permit Amendment and Revised Final Site Plan to operate Crush Bistro as a Restaurant using an Economic Development License;

WHEREAS, The Planning Board on September 25th, 2013 reviewed the application for a Special Land Use Permit and recommended approval of the SLUP amendment and Final Site Plan review with the following conditions;

1) The applicant provide a signed copy of the contract with the City;
2) Obtain an Outdoor Dining License;
3) Applicant complies with any unresolved conditions of previous approvals;
4) Applicant reconstruct all streetscape elements in accordance with current standards as recommended by the Engineering Dept.; and
5) Dumpster is relocated and properly enclosed.

WHEREAS, The applicant has agreed to comply with the Planning Board conditions of approval ;

WHEREAS, The Birmingham City Commission has reviewed Crush's Special Land Use Permit application and the standards for such review as set forth in Article 7, section 7.36 of Chapter 126, Zoning, of the City Code;

NOW, THEREFORE, BE IT RESOLVED,The Birmingham City Commission finds the standards imposed under the City Code have been met, subject to the conditions below, and that the Crush application for a Special Land Use Permit Amendment authorizing the operation of a restaurant with an Economic Development license at 555 S. Old Woodward in accordance with Chapter 10, Alcoholic Liquors, is hereby approved;

BE IT FURTHER RESOLVED, That the City Commission determines that to assure continued compliance with Code standards and to protect public health, safety, and welfare, this Special Land Use Permit Amendment is granted subject to the following conditions:

1. Crush shall abide by all provisions of the Birmingham City Code;
2. The Special Land Use Permit may be canceled by the City Commission upon finding that the continued use is not in the public interest;
3. Crush shall provide for the removal of disposable materials resulting from the operation and maintain the area in a clean and orderly condition by providing
   the necessary employees to guarantee this condition, and by the placement of a trash receptacle in the outdoor seating area;
4. Crush shall enter into a contract with the City outlining the details of the proposed economic development option.
5.

BE IT FURTHER RESOLVED, That failure to comply with any of the above conditions shall result in termination of the Special Land Use Permit.

BE IT FURTHER RESOLVED, Except as herein specifically provided, Crush and its heirs, successors, and assigns shall be bound by all ordinances of the City of Birmingham in effect at the time of the issuance of this permit, and as they may be subsequently amended. Failure of Crush to comply with all the ordinances of the city may result in the Commission revoking this Special Land Use Permit.

MAY IT BE FURTHER RESOLVED, That Crush, which will do business at 555 S. Old Woodward, Birmingham, Michigan, 48009, is located in the Principal Shopping District which was designated as a Redevelopment Project Area, pursuant to Section 521a (1)(b) of the Michigan Liquor Control Code of 1988, being MCL 36.1521a(1)(b), by Birmingham City Commission Resolution adopted September 24, 2007; and

MAY IT BE FURTHER RESOLVED, That Crush is recommended for the operation of a restaurant, with a Class C Liquor License, at 555 S. Old Woodward, Birmingham, Michigan, 48009, above all others, pursuant to Chapter 10, Alcoholic Liquors, of the Birmingham City Code, subject to final inspection.

Saverio Bitonti, owner of a hair salon in the area, stated that he and his new neighbor, Bo Concept, are happy to offer their parking lots to customers of Crush for free.

VOTE: Yeas, 6
Nays, None
Absent, 1 (Moore)

SPECIAL LAND USE PERMIT AMENDMENT ("SLUP")
REVISED FINAL SITE PLAN REVIEW
555 S. Old Woodward Ave.
Former Crush Restaurant
To allow the change of name to Triple Nickel and to amend the external design of the building

Ms. Ecker advised that on May 10, 2010, the City Commission adopted ordinance amendments to Chapter 10, Alcoholic Liquors, and Chapter 126, Zoning, to permit the use of Economic Development Licenses in certain areas within the City.

The second application for an Economic Development License was approved for Crush restaurant, at the above-captioned address in 2013. Crush restaurant is now seeking to change the name of the business to Triple Nickel, and to amend the exterior design of the building. The applicant also requests approval to extend the opening date from October 31, 2014 to April 30, 2015. No changes are proposed to the interior layout of the restaurant, the interior ambiance, or the proposed food offerings.

Should the name change be approved the applicant will have to execute a revised contract with the City. If approved by the City Commission, the proposed expansion of the time frame to open must also be included in the revised contract.

Accordingly, the applicant will be required to obtain a recommendation from the Planning Board and the City Commission on the Revised Final Site Plan and SLUP Amendment.

Design Review
The applicant is proposing a number of changes to the external facade which include the use of EFIS and sliding windows along frontage lines. However, these materials are not permitted in the Downtown Overlay District. The applicant proposes to remove wall mounted up/down lights and add wall mounted flagpoles. Also they propose 16 sign lights. The applicant proposes champagne metal valances in niches with down lights. The changes planned for the building will continue to maintain a distinct and prominent facade for Triple Nickel restaurant as long as the noted issues are corrected.

Signage
The applicant is proposing new signage for Triple Nickel to be located on the Woodward Ave., Bowers and S. Old Woodward Ave. elevations in the location of the previously approved Crush signage.

The applicant exceeds the total allowable signage permitted on the building. However, the Birmingham Sign Ordinance allows the Planning Board to designate an alternative frontage as the principal building frontage ("PBF") for signage purposes. If the Planning Board were to designate the Bowers elevation as the PBF then the applicant would be permitted 110.25 sq. ft. of signage. If the Planning Board does not feel that it is appropriate to designate Bowers as the PBF then the applicant will be required to reduce the overall building signage by 15.183 sq. ft.

Ms. Ecker pointed out that the applicant is requesting valet parking. The Police Dept. will determine whether they meet the criteria of the Valet Parking Ordinance.

The board viewed a materials board.

Mr. Roman Bonislawski and Mr. Ron Rea, Ron and Roman, LLC, were present with Mr. Jack Reinhart, the building owner and Mr. Mark Blanke, restaurant manager. Mr. Bonislawski explained they were engaged to design the interior of the restaurant but that grew into re-doing the exterior also. With the roman brick there is a friendliness to the building now that wasn't being expressed previously in its limestone format. The intent is for the rooftop mechanical screen to project a gentle glow like a beacon at the south end of town. The sliding windows on the S. Old Woodward Ave. (west) elevation have been changed to operable doors. Also, they have replaced the EFIS with wood clapboard siding. Mr. Reinhart said they intend to apply to the Police Dept. for valet parking, and customers will be allowed to park in the 555 Parking Deck. He added they would have been in the ground in November, but couldn't get the building permits. Currently they hope to open by December 1st.

Thee were no comments from the public at 8:50 p.m.

Motion by Mr. DeWeese
Seconded by Mr. Williams that the Planning Board recommends approval to the City Commission of the applicant's request for Revised Final Site Plan and a SLUP Amendment to permit the use of an Economic Development License for Triple Nickel restaurant at 555 S. Old Woodward Ave. with the following conditions:
1) The Planning Board designates the Bowers elevation as the principal building frontage for signage purposes;
2) Applicant provide specification sheets for the external lighting fixtures and the illuminated mechanical screen on the roof as well as samples of all materials proposed;
3) Applicant replace EFIS with the materials presented tonight;
4) Applicant replace sliding windows on the building frontage consistent with the comments made tonight of their intent;
5) Applicant execute a revised contract with the City of Birmingham outlining the nature of the proposed operation of Triple Nickel and approving the use of the existing Economic Development Liquor License under the new name Triple Nickel and extending the time frame to open the restaurant;
6) Applicant meet Fire Dept. requirements.

There were no comments on the motion from the public at 8:50 p.m.

Mr. Koseck commented that he thought this was a great building before, and it is even better now.

Motion carried, 7-0.

ROLLCALL VOTE
Yeas: DeWeese, Williams, Boyle, Clein, Koseck, Lazar, Whipple-Boyce

Nays: None
Absent: None

The board took a short recess at 8:53 p.m.