NOTICE OF PUBLIC HEARING

BIRMINGHAM CITY COMMISSION
SPECIAL LAND USE PERMIT AMENDMENT

Meeting Date, Time, Location:	Monday, February 23, 2015, 7:30 PM Municipal Building, 151 Martin Birmingham, MI
Location of Request:	Shell Gas Station (formerly Citgo) 33588 Woodward
Nature of Hearing:	To consider an amendment to the Special Land Use Permit (SLUP) and Final Site Plan to add environmental cleanup provisions to the SLUP resolution.
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 February 1, 2015
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.

MEMORANDUM

Community Development Department

DATE: **February 12, 2015**

TO: **Joseph A. Valentine, City Manager**

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

SUBJECT: **Public Hearing for Final Site Plan & Special Land Use Permit Amendment at 33588 Woodward – Shell Gas Station (Former Citgo)**

On August 27, 2014, the Planning Board conducted a public hearing to discuss a request by the applicant to renovate the existing vacant Citgo gasoline station at 33588 Woodward by installing new pumps and canopy, expanding the existing convenience store and adding a Dunkin Donuts franchise inside, and reconfiguring the layout of the site. The Planning Board voted unanimously to recommend approval of the Final Site Plan and Design and the Special Land Use Permit to the City Commission with the following conditions:

1. The applicant must reduce the max/min foot candle levels in the parking/drive area to 20/1 or obtain a variance from the BZA;
2. The applicant address all department concerns as outlined in the report subject to administrative approval;
3. All mechanical equipment must be fully screened;
4. The Planning Board approves the use of non-cutoff fixtures to up light the facade as proposed tonight;
5. Full brick is allowed and permitted as indicated tonight.

On November 24, 2014, the City Commission voted to terminate the original SLUP on the former Citgo property, and to approve a new SLUP for the proposed Shell Gas Station and Dunkin Donuts.

However, in December 2014, the owner of the Shell property submitted a draft Brownfield Plan to the City outlining numerous environmental concerns on the site. After several meetings, it was determined by City staff that the proposed cleanup may not be sufficient to remove all public health and safety concerns on and surrounding the site. Accordingly, the City and the applicant's environmental consultants set up a meeting with the Michigan Department of Environmental Quality ("MDEQ") to determine what other cleanup and funding options may be available.

On February 12, 2015, City staff met with environmental consultants for the current owners of the Shell Gas Station property at 33588 Woodward and officials from the MDEQ to discuss the

cleanup of the existing contamination on the site. MDEQ officials indicated that they had recently flagged this site for follow up by the MDEQ given the contamination present. The MDEQ advised that they have thus commenced the process of investigating the identity and location of the responsible party, and will then determine if said party is viable to collect from for environmental cleanup activities on site. While this investigation is under way, the MDEQ offered to provide funds under their Triage Contract to conduct up to 10 soil samples and up to 5 groundwater samples in addition to those already conducted on site to better vertically and horizontally delineate the nature and extent of onsite contamination and possible migration. These sample locations were selected both on the subject property itself, and in the City alley to the east of the property to determine any off site migration. In addition, the property owner committed to funding soil gas testing to further identify the extent of contamination on site and potentially off site to assist in determining the appropriate presumptive remedies needed when the site is redeveloped. It was also agreed that the property owner would revise the draft Brownfield Plan to include the additional costs to remediate the subject property in order to meet all appropriate due care responsibilities. Finally, the MDEQ advised that they may have additional clean up funds available through their Refined Petroleum Fund to assist in site cleanup if a liable and viable party is not identified or is unable to meet the costs of clean up.

Given the nature and extent of the contamination found on site, the City's legal counsel has advised that the SLUP resolution should be amended to address health and safety concerns by requiring remediation of the property prior to any construction taking place at the site. Thus, the City Commission set a public hearing date to consider an Amendment to the SLUP to add environmental cleanup provisions to the SLUP resolution for 33588 Woodward – Shell Gas Station.

Please find attached the proposed revisions (in blue type) to the existing SLUP resolution for this property, along with the previous staff report presented to the Planning Board, and relevant meeting minutes for your review.

SUGGESTED ACTION:

To approve an Amendment to the Special Land Use Permit to add environmental cleanup provisions to the SLUP resolution for 33588 Woodward – Shell Gas Station.

33588 WOODWARD – SHELL GASOLINE SERVICE STATION/DUNKIN DONUTS
SPECIAL LAND USE PERMIT AMENDMENT
FEBRUARY 23, 2015

WHEREAS, a Citgo gasoline station with a convenience store was previously in operation on the site until January 2014, operated under a valid Special Land Use Permit,

WHEREAS, B5 Investment LLC has now applied for a Special Land Use Permit, to operate a gasoline service station with 24 hour operation, along with a convenience store **operating with an SDM liquor license** and a Dunkin Donuts store on site at 33588 Woodward,

WHEREAS, The land for which the Special Land Use Permit is sought is located at the southeast corner of Woodward Ave. and Chapin Ave.,

WHEREAS, The land is zoned B-2B General Business, which permits a gasoline service station with a convenience store 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 now requests a Special Land Use Permit to allow for the redevelopment of the site, including the construction of a new gas pump canopy with LED lighting, expansion and repair of the existing building, signage changes, as well as pedestrian improvements on the site, such application having been filed pursuant to Article 7, section 7.34 of Chapter 126, Zoning of the City Code,

WHEREAS, The Planning Board reviewed the proposed Special Land Use Permit on August 27, 2014 at which time the Planning Board voted to recommend approval of the Final Site Plan and SLUP to the City Commission with the following conditions:

1. The applicant must reduce the max/min foot candle levels in the parking/drive area to 20/1 or obtain a variance from the BZA;
2. The applicant addresses all department concerns as outlined in the report subject to administrative approval;
3. All mechanical equipment must be fully screened;
4. The Planning Board approves the use of non-cutoff fixtures to up light the facade as proposed tonight;
5. Full brick is allowed and permitted as indicated tonight.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on August 27, 2014,

WHEREAS, The Birmingham City Commission has reviewed the B5 Investments LLC Special Land Use Permit application as well as the standards for such review as set forth in Article 7, section 7.34 of Chapter 126, Zoning of the City Code,

NOW, THEREFORE, BE IT RESOLVED, That the previous Special Land Use Permit in effect for the operation of the former Citgo gasoline station at 33588 Woodward is hereby terminated.

BE IT FURTHER RESOLVED, The Birmingham City Commission finds the standards imposed on B5 Investments LLC under the City Code have been met, subject to the conditions below and B5 Investments LLC's application for a Special Land Use Permit to operate a gasoline service station with 24 hour operation, along with a convenience store **operating with an SDM liquor license** and a Dunkin Donuts store on site at 33588 Woodward, is hereby approved, subject to the attached site plan, and subject to the following conditions:

1. The applicant must reduce the max/min foot candle levels in the parking/drive area to 20/1 or obtain a variance from the BZA;
2. The applicant addresses all department concerns as outlined in the report subject to administrative approval;
3. All mechanical equipment must be fully screened;
4. The Planning Board approves the use of non-cutoff fixtures to up light the facade as proposed tonight;
5. Full brick is allowed and permitted as indicated tonight.

The City requires (1) removal of all soil containing contaminant constituent concentrations exceeding the Part 201/Part 213 Csat criteria "soil saturation concentration screening levels" from Table 2. Soil Residential Part 201 General Cleanup Criteria and Screening Levels/Part 213 Risk-based Screening Levels, dated December 30, 2013, as amended, identified in the Baseline Environmental Assessment dated December 23, 2013, prepared by PM Environmental, or in subsequent investigations or reports (a) at the site, and (b) at properties adjacent to or near the site, verified by an environmental consultant acceptable to the City, and (2) implementation of other presumptive remedies, if necessary, including, but not limited to, vapor intrusion remedies, as approved by Michigan Department of Environmental Quality (MDEQ), that are protective of applicable indoor air inhalation concentrations, both concurrent with proposed construction at the site.

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 B5 Investments LLC Company 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 B5 Investments LLC to comply with all the ordinances of the City, may result in the Commission revoking this Special Land Use Permit.

I, Laura 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 November 24, 2014.

_____

Laura Pierce, City Clerk

City of Birmingham
A Walkable Community

MEMORANDUM

Community Development

DATE: **August 21, 2014**

TO: **Planning Board Members**

FROM: **Matthew Baka – Senior Planner**

SUBJECT: **Special Land Use Permit and Final Site Plan Review - 33588 Woodward – Shell Gas Station (formerly Citgo)**

Executive Summary

The subject site is located at 33588 Woodward, on the northeast corner of Woodward and Chapin and was most recently a Citgo gasoline station. The parcel is zoned B-2B General Business. At this time, the applicant is applying to convert the property from Citgo to Shell/Dunkin Donuts. The proposal includes expanding the existing building, installing new gas pumps and canopy, lighting, new signage, screening and landscaping.

The existing Citgo gas station was operating under a valid Special Land Use Permit originally issued on January 12, 1987. In accordance with the terms of this approval, the gas station was permitted to operate a mini-mart, and was also required to provide a 6' screen wall adjacent to the alley. On May 24, 1999 the applicant was approved for a SLUP amendment with several conditions. The property is now under new ownership. Due to the extensive building and site plan changes the applicant will be required to bring the entire site into compliance with the current Zoning Ordinance standards with the exception of the setback for the existing building, which will be retained.

The Planning Board conducted a review of the Preliminary Site Review and SLUP Amendment on June 25, 2014. At that time, the Planning Board requested additional information from the applicant regarding the interior floor plan, hours of operation, and the nature of the Dunkin Donuts use. In addition, the Planning Board expressed concern about the choice of materials proposed for the building and the lack of design details on the new addition, and the side and rear elevations. Board members indicated that they would not support encroachment into the rear setback, and did not approve of the proposed coolers being added to the rear of the building rather than being incorporated into the building. The Planning Board postponed the matter until the July 9, 2014 meeting.

At the July 9th 2014 meeting the applicant presented a revised plan with numerous design changes to the building and the site elements proposed. The applicant still maintained the scored CMU on the lower portion of the side and rear of the building and added splitface CMU to the lower portion of the front of the building. The applicant proposed Azak composite wood paneling on the upper portion of the entire building.

The Azak composite wood paneling was also proposed to be used on the underside of the gas canopy, and on the upper portion of the proposed screenwalls on the site. The applicant added a new addition to the rear of the building to house the proposed coolers as requested by the Planning Board. The applicant added three large storefront windows on the west elevation as requested by the Planning Board, but has not added any architectural details to the north, south or east elevations of the building; however proposed to plant Boston Ivy to grow up the building and soften the blank walls. The Planning Board granted Preliminary Site plan review based on the changes that were presented. Meeting minutes from both reviews are attached for you convenience.

1.0 Land Use and Zoning

1.1 Existing Land Use - The existing site was used for a Citgo gas station up until recently. Land uses surrounding the site include residential and commercial uses.

1.2 Existing Zoning - Currently zoned B-2B General Business, 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	Woodward Avenue, Commercial use	Woodward Avenue, Commercial use	Chapin, Single family residential	Woodward Avenue, Commercial use
Existing Zoning District	B-2B General Business	B-2B General Business	R-4 Two-family residential	B-2B General Business

2.0 Proposed Use

The existing vacant gas service station is a permitted use with a Special Land Use Permit. The current use was established with a Special Land Use Permit ("SLUP") in 1987. The previous use of the property for a gasoline service station will remain the same with the addition of a Dunkin Donuts.

3.0 Setback and Height Requirements

The project meets the required bulk, height, area, and placement regulations for the B-2B, as noted on the attached Zoning Compliance Summary Sheet. The rear setback of the building has been increased 1' so that it complies with the requirement that it be 10' from the center line of the alley.

4.0 Screening and Landscaping

4.1 Dumpster Screening – The applicant is proposing to construct a 6' dumpster enclosure with gates at the south east corner of the parcel as required. The plans now show that the proposed 6' high enclosure will be constructed of splitface CMU painted in Martin-Senour Burdick's Ordinary Black, and the gates will be constructed of Azak siding to match the building, fence and screen wall proposed.

4.2 Parking Facility Screening – The applicant is proposing a 4' screen wall between the two rows of parking spaces south of the building. Based on the provisions of Article 04 Section 4.53 SC-01 screening is not required on this site. However, the Planning Division feels that the proposed screenwall is appropriate for the site and will be an enhancement. The applicant has submitted elevation drawings for the proposed screen wall. The existing wood fence is proposed to be replaced with a 6' high screen wall constructed with a 2' splitface CMU base painted in Martin-Senour Burdick's Ordinary Black, with 4' high Azak fencing installed on top of the CMU base.

4.3 Mechanical Screening - Rooftop mechanical equipment must be limited, positioned and screened to minimize views from adjacent properties and public rights-of-way in accordance with Article 5, section 4.53 of the Zoning Ordinance. Article 04, 4.53 (C)(8) of the Zoning Ordinance requires that all rooftop mechanical equipment must be obscured by a screen wall constructed of materials compatible with the materials used on the building, that provides an effective permanent visual barrier that minimizes the visual impact of the equipment from other points of observation and that:

(a) The screen walls must be less than 10 feet in height; and
(b) The screen walls shall, to the best extent possible, not extend above the top edge of an imaginary plane extending upward no more than 45 degrees from the eave line.

The plans as submitted indicate a parapet wall that is approximately 5' 9" in height. **All roof top mechanical must be screened by the parapet or additional screening will be required.**

4.4 Landscaping – The applicant is proposing to expand the lawn area in the right of way and replace the existing bushes with five (5) Cleveland Pear trees. The reconfiguration of the curb cuts onto Woodward will create two new grass areas at the north and south end of the right of way. The applicant is also proposing to add a 6" planting pocket around the north, south and east elevations of the building, including a portion of the west elevation where no windows are

proposed. Boston Ivy plants are proposed all along the building which will climb the splitface block and soften the blank walls.

5.0 Parking, Loading, Access, and Circulation

5.1 Parking – The applicant is proposing to expand the building to 2,596 square feet. Accordingly, the applicant is required to provide nine (9) parking spaces. The plan as submitted provides seventeen (17) spaces. **Accordingly, the proposal meets the parking requirement.**

5.2 Loading – Per Article 04 Section 4.24 LD-01, no loading space is required for this building. However, the applicant has indicated an area designated for 1 loading space.

5.3 Vehicular Access & Circulation – Currently, the site has four access drives, two on Woodward and two on Chapin. The applicant is proposing to maintain two curb cuts along Woodward while consolidating the two curb cuts on Chapin from two to one.

5.4 Pedestrian Circulation and Access –City sidewalks line the site along Woodward and Chapin. The applicant proposes to add a new concrete sidewalk along the east side of the parking screen wall that joins the existing walk along the front of the building. In addition, the walk along the building will be extended in front of the new building addition and the barrier free ramp to the front entrance will be reworked.

5.5 Streetscape – No streetscape improvements are proposed for this site.

6.0 Lighting

The applicant has provided specifications on all lighting and a photometric plan for the site.

Site lighting
The plan indicates compliance with the lighting standards of section 4.21 LT-01 of the Zoning Ordinance in regards to the light trespass levels, cut-off fixtures, and Illuminance levels under the Canopy. However, the max/min foot-candle ratio of 48.5/1 exceeds the levels permitted in the ordinance. **The applicant must reduce the max/min foot-candle levels in the parking/drive area to 20/1 or obtain a variance from the Board of Zoning Appeals.**

Architectural lighting
In addition to the canopy and pole mounted lights, the applicant is proposing to install LED wall washing lights that will illuminate the façade of the station by allowing light through the ½" gaps designed in the AZEK synthetic decking at selected locations. The lights are proposed to be positioned so that they will be up lighting the façade and are therefore non-cutoff fixtures. **Non-cutoff fixtures are permitted with the specific**

approval of the Planning Board provided that they meet any of the following condition listed on the Zoning Ordinance;

a) The distribution of upward light is controlled by means of refractors or shielding to the effect that it be used solely for the purpose of decorative enhancement of the luminaire itself and does not expel undue ambient light into the nighttime environment.

b) The luminaire is neither obtrusive nor distracting, nor will it create a traffic hazard or otherwise adversely impact public safety, with appropriate methods used to eliminate undesirable glare and/or reflections.

c) The luminaire is consistent with the intent of the Master Plan, Urban Design Plan(s), Triangle district plan, Rail district plan and/or Downtown Birmingham 2016 Report, as applicable.

d) The scale, color, design or material of the luminaire will enhance the site on which it is located, as well as be compatible with the surrounding buildings or neighborhood.

e) Lighting designed for architectural enhancement of building features. Appropriate methods shall be used to minimize reflection and glare.

f) The site lighting meets all requirements set forth in this ordinance including, but not limited to, light trespass and nuisance violations.

The Planning Board may wish to consider eliminating the up lighting on the back of the building which faces the single-family residential zone.

7.0 Departmental Reports

7.1 Engineering Division: The Engineering Department comments on the plans for the above noted site, dated June 6, 2014, are as follows:

1. The plan proposes relocation of the drive approach on to Chapin Ave. All work relative to replacing sidewalks and curbs at the existing drive locations, as well as modifying the sidewalk for the new location, shall be required to be included in the final plans approved for construction.

2. On the Woodward Ave. side, the existing pavement in the area of the drive approaches is in poor condition. It is expected that the new approaches shown will be completely new pavement, up to and including what is needed to make a new transition with the right-of-way parking lot to the south.

3. The large existing shrubs located in the Woodward Ave. right-of-way are a sight distance hazard, and need to be removed as a part of this renovation.

7.2 Department of Public Services - No concerns were reported from the Department of Public Services.

7.3 Fire Department –

1. It appears that the "Racing Fuel Pump" may be located to close to the building and the overhang. All Pumps shall comply with section 2203 of the International Fire Code.

2. Dispensing devices shall be in clear view of the attendant at all times. Due to the location of the pumps and the check-out area at the back of the store, some pumps may be blocked from attendants view. View of pumps shall comply with section 2204 of the International Fire Code.

3. A Knox Box is required at this location. Install prior to C of 0. Comply with section 506 of the International Fire Code.

4. An Underwriters' Laboratories approved fixed-pipe dry chemical fire extinguishing system shall be installed at each pump island where self-service is utilized in accordance with Birmingham City Ordinance Article II, section 54-31.

7.4 Police Department - No concerns were reported from the Police Department.

7.5 Building Department – In addition to their standard comments the Building Department had the following comments;

1. The proposed barrier free parking space must be van accessible.
2. The proposed one exit space must comply with table 1021.2

8.0 Design Review

The applicant made design changes to the building and the site elements proposed at preliminary site plan review, and has provided color elevations and material samples. The applicant intends to construct the building of CMU clad in thin brick on the lower portions of the building and proposes to paint the thin brick in Martin_Senour Burdick's Ordinary Black. The applicant proposes to use Azak composite wood paneling on the upper portion of the entire building which will act as the mechanical screening. The AZEK paneling will be constructed with ½" gaps between boards to allow for the LED up lighting wall wash to be visible. The Azak composite wood paneling is also proposed to be used on the underside of the gas canopy, and on the upper portion of the proposed screen wall on the site. The applicant proposes seven (7) large storefront windows on the west elevation that will have an aluminum bronze sash and clear insulated glass.

The applicant is also proposing to plant Boston Ivy to grow up the building and soften the blank walls.

9.0 Sign Review

As the gas station operates under a SLUP, the Planning Board and the City Commission must review and approve all signage. In accordance with Article 1, Table B of the Sign Ordinance, properties located on Woodward Avenue are permitted to have 1.5 times the linear footage of the principal building frontage in total signage. The principal building frontage of the station on Woodward is 93' 4 ½" in length, and thus **the applicant is permitted to have 140 sq. ft. of total signage on the property.**

The signs as indicated on the plans include four signs, a ground mounted monument sign, two internally illuminated name letter signs mounted to the building and one illuminated Shell Pecten wall sign mounted to the canopy.

In accordance with the Birmingham Sign Ordinance Table B the maximum height permitted for the proposed signs are as follow;

<u>Name Letter signs</u>
Name Letter signs on Woodward are permitted to be up to 36" in height. The name letter sign reading **"Food Mart"** is proposed to be 1' 6" tall by 10' 1" wide. The total sign area for this sign is **15.125 sq. ft.** The name letter sign reading **"Dunkin Donuts"** is proposed to be 3' tall by 10' 11 ½" wide. The total sign area for this sign is **32.875 sq. ft.**

<u>Wall sign</u>
Wall signs on Woodward are permitted to be up to 48" in height. The **Shell Pecten** wall sign is proposed to be 4' tall by 4' 3 ½" wide. The total sign area for this sign is **17.166.**

<u>Ground Sign</u>
Ground signs are permitted to be 30 sq. ft. per side, 60 sq. ft. total and no more than 8' above grade. The ground sign is proposed to be 6' tall by 5' wide for a total area of 30 sq. ft. per side, **60 sq. ft. total.**

The total sign area of the four proposed signs is 125.166 sq. ft., which is within the allowable signage for the site.

10.0 Site Plan Approval Criteria

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 and will 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.

11.0 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.

Thus, upon receiving a recommendation on the site plan from the Planning Board, the City Commission will conduct another public hearing and make a final decision on the proposed SLUP amendment.

12.0 Recommendation

Based on a review of the Preliminary Site Plan and Special Land Use Permit Amendment, the Planning Division recommends that the Planning Board APPROVE the Preliminary Site Plan and SLUP Amendment for 33588 Woodward Avenue with the following conditions:

(1) The applicant provide all required details in regards to lighting, mechanical equipment and signage for consideration at Final Site Plan Review;

(2) The applicant addresses all department concerns as outlined in the report.

13.0 Sample Motion Language

Motion to recommend APPROVAL of the Final Site Plan and Special Land Use Permit Amendment for 33588 Woodward with the following conditions:

(1) The applicant must reduce the max/min foot-candle levels in the parking/drive area to 20/1 or obtain a variance from the Board of Zoning Appeals;

(2) The applicant addresses all department concerns as outlined in the report;

(3) All mechanical equipment must be fully screened;

(4) The Planning Board approves the use of non-cutoff fixtures to up light the façade.

OR

Motion to recommend DENIAL the Final Site Plan and Special Land Use Permit Approval for 33588 Woodward Avenue to the City Commission with the following conditions:

_____
_____
_____
_____

OR

Motion to POSTPONE the Final Site Plan and Special Land Use Permit Amendment for 33588 Woodward Avenue.

SPECIAL LAND USE PERMIT ("SLUP")
PRELIMINARY SITE PLAN
33588 Woodward Ave.
New construction of Shell Gas Station (formerly Citgo) with Dunkin Donuts
(continued from the meeting of June 25, 2014)

Ms. Ecker recalled the Planning Board conducted a review of the Preliminary Site Plan and SLUP Amendment on June 25, 2014. At that time, the Planning Board requested additional information from the applicant regarding the interior floor plan, hours of operation, and the nature of the Dunkin Donuts use. In addition, the Planning Board expressed concern about the choice of materials proposed for the building and the lack of design details on the new addition and the side and rear elevations. Board members indicated that they would not support encroachment into the rear setback, and did not approve of the proposed coolers being added to the rear of the building rather than being incorporated into the building. The Planning Board postponed the matter until the July 9, 2014 meeting.

Ms. Ecker advised that based on the comments of the Planning Board on June 25, 2014, the applicant has now submitted a survey of the existing property, a revised site plan, a floor plan, revised elevation drawings, an aerial photo of the area, and a conceptual rendering of the site as visible from Woodward Ave. The applicant has made numerous design changes to the building and the site elements proposed, and has provided color elevations and material samples. The applicant still intends to maintain the scored CMU on the lower portion of the side and rear of the building and to add splitface CMU to the lower portion of the front of the building. The applicant proposes to use Azak composite wood paneling on the upper portion of the entire building.

The Azak composite wood paneling is also proposed to be used on the underside of the gas canopy, and on the upper portion of the proposed screenwalls on the site. The applicant has added a new addition to the rear of the building to house the proposed coolers as requested by the Planning Board. The applicant has added three large storefront windows on the west elevation as requested by the Planning Board, but has not added any architectural details to the north, south or east elevations of the building; however is proposing to plant Boston Ivy to grow up the building and soften the blank walls. The proposal meets the parking requirement.

Design Review

Design review will be performed at the time of Final Site Plan Review. The applicant will be required to provide all material and color samples proposed for the building and site at that time.

Sign Review
The principal building frontage of the station on Woodward Ave. is 93 ft. 4 ½ in. in length, and thus the applicant is permitted to have 140 sq. ft. of total signage on the property. The signs as indicated on the plans as submitted include a ground mounted monument sign, two internally

illuminated name letter signs mounted to the building and one illuminated Shell Pecten mounted to the canopy.

The applicant will be required to provide details on the proposed signs prior to Final Site Plan Review in order to determine compliance with the Sign Ordinance.

Upon receiving a recommendation on the site plan from the Planning Board, the City Commission will conduct another public hearing and make a final decision on the proposed SLUP amendment.

Mr. Roman Bonislawski and Mr. Ron Rea, Ron and Roman, LLC, were present with Mr. Duane Barbat, and Mr. Scott Barbat, Barbat Properties. Mr. Bonislawski specified that everything on the project will be brand new. They propose to replace the existing tanks and rooftop units, install completely new technology and fire protection and repave the entire lot. He described the parapet screenwall that will go all the way around the building. The rooftop screenwall will have gaps so that light will show behind it. In the evening the gaps will be backlit and will provide a pleasant, gentle lighting around the entire building. They propose to take down existing fencing and incorporate a fencing detail that utilizes the two primary materials on the building.

It was confirmed for Mr. Williams that no parking places are proposed at the front entrance. Further, with regard to the M-Dot area, they want to clean it up and make it easy to maintain. Irrigation is proposed. There will be no outside storage around the building.

Chairman Boyle arrived at this time; however, Vice-Chairperson Lazar remained as chair.

Mr. DeWeese specified that the location of the air pump needs to be addressed at Final Site Plan Review.

Motion by Mr. Williams
Seconded by Mr. DeWeese to approve the Preliminary Site Plan for 33588 Woodward Ave. with the following conditions:
1) The applicant provide all required details in regards to lighting, mechanical equipment and signage for consideration at Final Site Plan Review;
2) The applicant addresses all department concerns as outlined in the report.

There were no comments from the public at 8:07 p.m.

Mr. Koseck observed this is an incredible improvement to what has been an eyesore for a long time. However, he would prefer the outside of the building to be a singular material that is not painted. He thinks there are better products that achieve the same aesthetic they are looking for. If the ivy dies, the building has to stand on its own and look good. Therefore, he will not support the proposal at Final Site Plan Review unless it is a singular material.

Mr. Rea said it is not about the material; it is about the color and what is growing on it. They will replace the small amount of brick with CMU.

Motion carried, 6-0.

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

SPECIAL LAND USE PERMIT ("SLUP")
PRELIMINARY SITE PLAN
33588 Woodward Ave.
New construction of Shell Gas Station (formerly Citgo) with Dunkin Donuts

Ms. Ecker advised the subject site is located at 33588 Woodward Ave., on the northeast corner of Woodward Ave. and Chapin. The parcel is zoned B-2B General Business. At this time, the applicant is applying to convert the property from Citgo to Shell/Dunkin Donuts. The proposal includes expanding the existing building, installing new gas pumps and canopy, lighting, new signage, screening and landscaping.

Ms. Ecker advised that the existing Citgo gas station was operating under a valid SLUP originally issued on January 12, 1987. In accordance with the terms of this approval, the gas station was permitted to operate a mini-mart, and was also required to provide a 6 ft. screenwall adjacent to the alley. On May 24, 1999 the applicant was approved for a SLUP amendment with several conditions. The property is now under new ownership.
Due to the extensive building and site plan changes the applicant will be required to bring the entire site into compliance with the current Zoning Ordinance standards with the exception of the setback for the existing building.

Thus, he applicant must provide a 10 ft. setback from the center line of the alley or obtain a variance from the Board of Zoning Appeals.

Upon receiving a recommendation on the site plan from the Planning Board, the City Commission will conduct another public hearing and make a final decision on the proposed SLUP amendment.

Design Review
Design review will be performed at the time of Final Site Plan Review. The applicant will be required to provide all material and color samples proposed for the building and site at that time. The applicant is proposing all new canopies, pumps, facade improvements, as well as a whole re-do of the inside of the building.

Sign Review
The principal building frontage of the station on Woodward Ave. is 93 ft. 4 ½ in. in length, and thus the applicant is permitted to have 140 sq. ft. of total signage on the property. The signs as indicated on the plans as submitted include a ground mounted monument sign, two internally illuminated name letter signs mounted to the building and one illuminated Shell Pecten mounted to the canopy.

Ms. Ecker noted the applicant is only required to have eight parking spaces on-site and they are proposing 17, including the spaces at the pumps.

Discussion brought out there are no glazing requirements in that area. The new addition is not proposed to have much glazing and the other sides are blank.

Mr. Koseck observed that 40% of the building walls are coming down and being replaced.

Mr. Duane Barbat, Barbat Properties, and Mr. Ron Roman, Architect, explained how the majority of the property will be changed with the improvements they propose. The coolers in back will be painted to match the building. They will have 11 parking spaces plus those at the pumps.

Mr. Williams had concerns for the neighborhood and wanted to see in and out traffic flow in relationship to the parking places. This is a very tight space and It will become congested in the mornings. The worst-case scenario is overflow traffic into the neighborhood.

Ms. Whipple-Boyce wanted justification on some of the material selections and asked for an expanded plan because she didn't know how close the neighbors are. Mr. Koseck requested that the proposed coolers in the rear be contained within the boundaries of the building so it would comply with the setbacks of the Ordinance. Further, he did not see that the proposed materials have lasting value or will stand the test of time.

Mr. Rea noted they are using utilitarian materials for a utilitarian service. The simpler the better, to cut down on maintenance. Mr. Clein indicated he doesn't have nearly enough information about the operation to approve a SLUP tonight. Too many use issues have not been addressed. Mr. Barbat said they will propose limited seating inside. Ms. Ecker clarified the board could deal with the SLUP component at Final Site Plan Review. Mr. Williams added the group needs to hear from the neighbors who won't be able to comment until they understand what the uses will be, how many seats, what the likely traffic pattern will be, and what the traffic flow will look like.

Mr. Koseck thought the applicant needs to come in with a business plan, defend it, and show what they are going to do. He will not support extending the coolers out into the alley. Mr. Williams suggested they come to the next meeting and flush out some of the concerns that have been heard this evening. At that time only the Preliminary Site Plan approval would be considered and the SLUP could be discussed at Final.

The vice-chairperson called for comments from the audience at 8:25 p.m.

Mr. Kevin Morrison, 1377 Chapin, said he supports the project and is speaking on behalf of his neighbors. He voiced concerns about where the parking spaces are coming from as well as the lighting. Mr. Williams assured him that his lighting concerns would be addressed by the City Commission. Ms. Ecker added the lighting standards will be assessed at Final Site Plan Review. Mr. Rea described the lighting that is proposed and noted it is cut off and not at all bright.

Kelly, the owner of Arizona Saddlery, described the existing traffic situation which includes restaurant traffic pulling in and out; and KLM deliveries coming in on semis, plus cars picking up bikes. She had a lot of questions, but wanted to see a more defined plan.

Motion by Mr. Williams
Seconded by Mr. Clein to postpone the Preliminary Site Plan Review and/or SLUP for 33588 Woodward Ave. to July 9.

Mr. Jordan Jonna spoke to say he thinks the proposal will be a great improvement with a unique design. They have the right team to put it together and do a fabulous job for the City.

Motion carried, 5-0.

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

SPECIAL LAND USE PERMIT (SLUP)
FINAL SITE PLAN REVIEW
33588 Woodward Ave.
Shell Gas Station and Dunkin Donuts
New construction of gas station with Dunkin Donuts

Mr. Baka advised the subject site is located on the northeast corner of Woodward Ave. and Chapin and was most recently a Citgo gasoline station. The parcel is zoned B-2B General Business. At this time, the applicant is applying to convert the property from Citgo to Shell/Dunkin Donuts. The proposal includes expanding the existing building, installing new gas pumps and canopy, lighting, new signage, screening and landscaping.

Due to the extensive building and site plan changes the applicant will be required to bring the entire site into compliance with the current Zoning Ordinance standards with the exception of the setback for the existing building, which will be retained.

Mr. Baka advised that the Planning Board conducted a review of the Preliminary Site Review and SLUP Amendment on June 25, 2014. At that time, the board requested additional information from the applicant regarding the interior floor plan, hours of operation, and the nature of the Dunkin Donuts use. In addition, the Planning Board expressed concern about the choice of materials proposed for the building and the lack of design details on the new addition, and the side and rear elevations. Board members indicated that they would not support encroachment into the rear setback, and did not approve of the proposed coolers being added to the rear of the building rather than being incorporated into the building. The Planning Board postponed the matter until the July 9, 2014 meeting.

At the July 9, 2014 meeting the applicant presented a revised plan with numerous design changes to the building and the site elements proposed. The applicant still maintained the scored CMU on the lower portion of the side and rear of the building and added splitface CMU to the lower portion of the front of the building. The applicant proposed Azak composite wood paneling on the upper portion of the entire building. The Azak composite wood paneling was also proposed to be used on the underside of the gas canopy, and on the upper portion of the proposed screenwalls on the site. The applicant added a new addition to the rear of the building to house the proposed coolers as requested by the Planning Board. The applicant added three large storefront windows on the west elevation as requested by the Planning Board, but has not added any architectural details to the north, south or east elevations of the building; however they proposed to plant Boston Ivy to grow up the building and soften the blank walls. The Planning Board granted Preliminary Site Plan Review based on the changes that were presented.

The City Engineer is concerned about the angle with which cars have to pull in as it might require coming to almost a complete stop. It would have to be reviewed by M-DOT and they might request changes.

The max/min foot candle ratio of 48l5/1 exceeds the levels permitted in the ordinance. **The applicant must reduce the max/min foot candle levels in the parking/drive area to 10/1 or obtain a variance from the Board of Zoning Appeals ("BZA").**

It may be best not to have uplighting on the back of the building, considering that faces single-family residential.

Design Review
The applicant made design changes to the building and the site elements proposed at Preliminary Site Plan Review, and has provided color elevations and material samples. The applicant intends to construct the building of CMU clad in thin brick on the lower portions of the building and proposes to paint the thin brick in Martin_Senour Burdick's Ordinary Black. The applicant proposes to use Azak composite wood paneling on the upper portion of the entire building which will act as the mechanical screening. The AZEK paneling will be constructed with ½ in. gaps between boards to allow the LED up lighting wall wash to be visible. The Azak composite wood paneling is also proposed to be used on the underside of the gas canopy, and on the upper portion of the proposed screenwall on the site. The applicant proposes seven (7) large storefront windows on the west elevation that will have an aluminum bronze sash and clear insulated glass.

Sign Review
The principal building frontage of the station on Woodward Ave. is 93 ft. 4 1/2 in. in length, and thus the applicant is permitted to have 140 sq. ft. of total signage on the property. All of the signs meet the ordinance requirements in regards to size and depth. The total sign area of the four proposed signs is 125.166 sq. ft., which is within the allowable signage for the site.

Upon receiving a recommendation on the site plan from the Planning Board, the City Commission will conduct another public hearing and make a final decision on the proposed SLUP amendment.

Mr. Roman Bonislawski, Ron and Roman Architects, responded to an inquiry from Ms. Lazar. The planting pocket around the alley is 12 in. and it is 6 in. around the rest of the building. He then discussed the lighting. They designed the canopy lighting system so that it is recessed into the construction of the canopy and is not overly bright. The balance of the lighting as it relates to the site and the property was then considered. Two corners of the site skew the lighting ratio. Mr. Baka advised that the ordinance allows him to take out 5 ft. from the property line provided it is lower than what the light trespass levels are. Anything below .6 can be subtracted from the photometric and recalculated.

With respect to uplighting they are proposing on the building facade that faces residential, Mr. Bonislawski described that it will be a subtle glow that comes out from between the 1/2 in. gaps in the Azak material that clads the building. The lighting is designed to become gentler as it raises towards the top of the wall. There would not be any objectionable light for a neighbor or light traveling into the night sky. They feel strongly that this lighting effect should continue all the way around the building. There are no other lights in that alleyway in the back.

They propose the use of thin brick onto the solid substrate where two different types of block currently exist. They cannot find actual brick that is dark enough. Mr. Koseck said he likes the

idea of full brick versus thin brick. He has seen issues with thin brick even with a solid substrate. Mr. Bonislawski said all the areas of new construction would then be full brick. Mr. Koseck was supportive.

Mr. Duane Barbat, the property owner, spoke to the hours of operation. They would love to be open 24 hours because of their competition. He doesn't believe the neighbors have concerns. Dunkin Donuts will only do minor baking. Ninety percent of their product is baked off-site at a central kitchen. There will be inside seating for six. Gas deliveries will occur overnight. Mr. Scott Barbat, the station manager, pointed out the circulation pattern for tanker truck deliveries.

It was considered that ingress and egress signage would help. Ms. Whipple-Boyce did not want to see ingress and egress signage or the air pump placed in the front corner - don't pollute the front of the site with clutter. Mr. Barbat thought they may be able to place the air pump behind the dumpster. Employees will park by the dumpster.

Ms. Lazar recommended that the City Commission hearing notice include that a 24-hour operation is being proposed.

There were no comments from members of the public at 8:25 p.m.

Motion by Mr. DeWeese
Seconded by Mr. Koseck to recommend approval of the Final Site Plan and SLUP for 33588 Woodward Ave., Shell Gas Station and Dunkin Donuts, with the following conditions:

1. **The applicant must reduce the max/min foot candle levels in the parking/drive area to 20/1 or obtain a variance from the BZA;**
2. **The applicant address all department concerns as outlined in the report subject to administrative approval;**
3. **All mechanical equipment must be fully screened;**
4. **The Planning Board approves the use of non-cutoff fixtures to up light the facade as proposed tonight;**
5. **Full brick is allowed and permitted as indicated tonight.**

Mr. Koseck was glad the applicant listened to the comments of the board and he thinks this will be a nice building.

There were no final comments on the proposal from the audience at 8:27 p.m.

Motion carried, 6-0.

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

11-275-14 PUBLIC HEARING TO CONSIDER A SPECIAL LAND USE PERMIT
SHELL GAS STATION, 33588 WOODWARD AVE

Mayor Sherman opened the Public Hearing to consider a Final Site Plan and Special Land Use Permit for Shell Gas Station (formerly Citgo), 33588 Woodward Ave at 8:17 PM.
Ms. Ecker explained that the Public Hearing was re-noticed as a new Special Land Use Permit (SLUP) with 24-hour operation. She explained the revisions to the previous resolution include language that the previous SLUP would be terminated and this would be considered a new SLUP. She noted that the photometric issue has been corrected and is now in compliance.

Ms. Ecker confirmed for Commissioner Nickita that there have been no design changes from the previous submission.

Scott Barbat, owner, confirmed for Mayor Pro Tem Hoff that no baking will occur on site. He explained that there will be four pumps which will allow for eight cars.

Commissioner Nickita suggested Mr. Barbat look at the property as immediate clean up is necessary.

The Mayor closed the Public Hearing at 8:30 PM.

MOTION: Motion by Rinschler, seconded by Nickita:
To approve the Final Site Plan & Design and a Special Land Use Permit at 33588 Woodward to allow the 24 hour operation of a Shell gasoline station with a convenience store and a Dunkin Donuts store on site:

WHEREAS, a Citgo gasoline station with a convenience store was previously in operation on the site until January 2014, operated under a valid Special Land Use Permit,

WHEREAS, B5 Investment LLC has now applied for a Special Land Use Permit, to operate a gasoline service station with 24 hour operation, along with a convenience store and a Dunkin Donuts store on site at 33588 Woodward,

WHEREAS, The land for which the Special Land Use Permit is sought is located at the southeast corner of Woodward Ave. and Chapin Ave.,

WHEREAS, The land is zoned B-2B General Business, which permits a gasoline service station with a convenience store 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 now requests a Special Land Use Permit to allow for the redevelopment of the site, including the construction of a new gas pump canopy with LED lighting, expansion and repair of the existing building, signage changes, as well as pedestrian improvements on the site, such application having been filed pursuant to Article 7, section 7.34 of Chapter 126, Zoning of the City Code,

WHEREAS, The Planning Board reviewed the proposed Special Land Use Permit on August 27, 2014 at which time the Planning Board voted to recommend approval of the Final Site Plan and SLUP to the City Commission with the following conditions:

1. The applicant must reduce the max/min foot candle levels in the parking/drive area to 20/1 or obtain a variance from the BZA;
2. The applicant addresses all department concerns as outlined in the report subject to administrative approval;
3. All mechanical equipment must be fully screened;
4. The Planning Board approves the use of non-cutoff fixtures to up light the facade as proposed tonight;
5. Full brick is allowed and permitted as indicated tonight.

WHEREAS, The applicant has agreed to comply with all conditions for approval as recommended by the Planning Board on August 27, 2014,

WHEREAS, The Birmingham City Commission has reviewed the B5 Investments LLC Special Land Use Permit application as well as the standards for such review as set forth in Article 7, section 7.34 of Chapter 126, Zoning of the City Code,

NOW, THEREFORE, BE IT RESOLVED, That the previous Special Land Use Permit in effect for the operation of the former Citgo gasoline station at 33588 Woodward is hereby terminated.

BE IT FURTHER RESOLVED, The Birmingham City Commission finds the standards imposed on B5 Investments LLC under the City Code have been met, subject to the conditions below and B5 Investments LLC's application for a Special Land Use Permit to operate a gasoline service station with 24 hour operation, along with a convenience store and a Dunkin Donuts store on site at 33588 Woodward, is hereby approved, subject to the attached site plan, and subject to the following conditions:

1. The applicant must reduce the max/min foot candle levels in the parking/drive area to
20/1 or obtain a variance from the BZA;
2. The applicant addresses all department concerns as outlined in the report subject to administrative approval;
3. All mechanical equipment must be fully screened;
4. The Planning Board approves the use of non-cutoff fixtures to up light the facade as proposed tonight;
5. Full brick is allowed and permitted as indicated tonight.

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 B5 Investments LLC Company 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 B5 Investments LLC to comply with all the ordinances of the City, may result in the Commission revoking this Special Land Use Permit.

Commissioner Dilgard commented on the improvements to the lighting, landscaping and facade.

VOTE: Yeas, 7
Nays, None
Absent, None

STATE OF MICHIGAN

RICK SNYDER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN LIQUOR CONTROL COMMISSION
ANDREW J. DELONEY
CHAIRMAN

MIKE ZIMMER
ACTING DIRECTOR

RECEIVED BY
FEB 9 2015
CITY CLERK'S OFFICE
CITY OF BIRMINGHAM

February 3, 2015

City Clerk
City of Birmingham
151 Martin Street
P.O. Box 3001
Birmingham, Michigan 48012

The purpose of this letter is to notify this local legislative body that the Michigan Liquor Control Commission has received an application for a license, as follows:

Request ID#: 774070

New: SDM license

Name of applicant(s): Bham Shell, Inc

Business address and phone: 33588 Woodward, Birmingham, Michigan 48009. 248-255-3568

Under administrative rule R 436.1105, the Commission shall consider the opinions of the local residents, local legislative body, or local law enforcement agency with regard to the proposed business when determining whether an applicant may be issued a license or permit. The Michigan Liquor Control Code does not require the approval of this request by the local unit of government.

Under administrative rule R 436.1003, the licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcements officials who have jurisdiction over the licensee. The licensee must obtain all other required state and local licenses, permits, and approvals before using this license for the sale of alcoholic liquor.

Approval of this license by the Michigan Liquor Control Commission does not waive any of these requirements.

MICHIGAN LIQUOR CONTROL COMMISSION
Retail Licensing Division
(866) 813-0011