

**STAFF REPORT**

**CASE NUMBER:** P.D. 10-309

**L.U.C.B. MEETING:** July 8, 2010

**DEVELOPMENT NAME:** Union Avenue and Cooper Street Planned Development

**LOCATION:** Southwest corner of Union Avenue and South Cooper Street

**COUNCIL DISTRICT:** 5

**SUPER DISTRICT:** 9

**APPLICANT:** Hart-Redd, LLC

**REPRESENTATIVE:** SR Consulting, LLC (Cindy Reaves)

**REQUEST:** A planned development to permit retail use (CVS Pharmacy)

**AREA:** 1.448 Acres

**EXISTING LAND USE & ZONING:** Union Avenue Methodist Church Highway Commercial (C-H) and Duplex Residential (R-D) Districts

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION  
REJECTION**

*Staff Planner: Sheila Pounder*

*E-mail Address: [sheila.pounder@memphistn.gov](mailto:sheila.pounder@memphistn.gov)*

## **CONCLUSIONS:**

- 1. A planned development application has been filed on the subject site because the proposed site plan lies within two different zoning districts C-H which permits the use by right and R-D which does not.**
- 2. The proposal is to redevelop this commercial site with a CVS Pharmacy based on a site plan that reflects a typical suburban retail development form that places the building setback approximately 100 feet from the primary street to permit parking to be located in front of the structure.**
- 3. The proposed site lies in an area that is within the boundaries of the proposed Midtown District Overlay which is currently in draft form and has not been adopted by the governing bodies. However, given its stated purpose and the community participation and support of the document, it must be taken into consideration for the review of this proposed site plan.**
- 4. The proposed site plan failed to meet a number of highly significant design elements of the Overlay District, such as building placement at the street, building transparency and entrance location, parking located behind or at side of building, and streetscape requirements.**
- 5. The site plan also failed to comply with a number of current development standards required for uses in a commercial zone that may be permitted by right such as location of curb cuts on South Cooper Street, queuing requirements, and landscaping adjacent to residentially used or zoned property. Some zoning variations would have to be granted for the approval of the currently proposed site plan.**
- 6. Given that the purpose of a planned development is to “encourage innovative site design and facilitate the use of flexible techniques of land development and site design” there was an effort to find a compromise focused on two main elements of the site plan, building placement and transparency between the site plan submitted and what the draft District Overlay proposes. No agreement could be reached with the applicant.**
- 7. Additionally, comments from the City Engineering Office indicate that there are a number of items that must be addressed on the site plan such as right-of-way dedication, curb cut location, queuing for the drive thru window, and drainage which will impact the current site plan and require some changes to be made to the layout.**
- 8. The applicant has chosen not to hold the case to revise the plat to comply with the engineering changes.**
- 9. The proposed site plan cannot be supported as submitted and is recommended for rejection.**

### LAND USE AND ZONING MAP

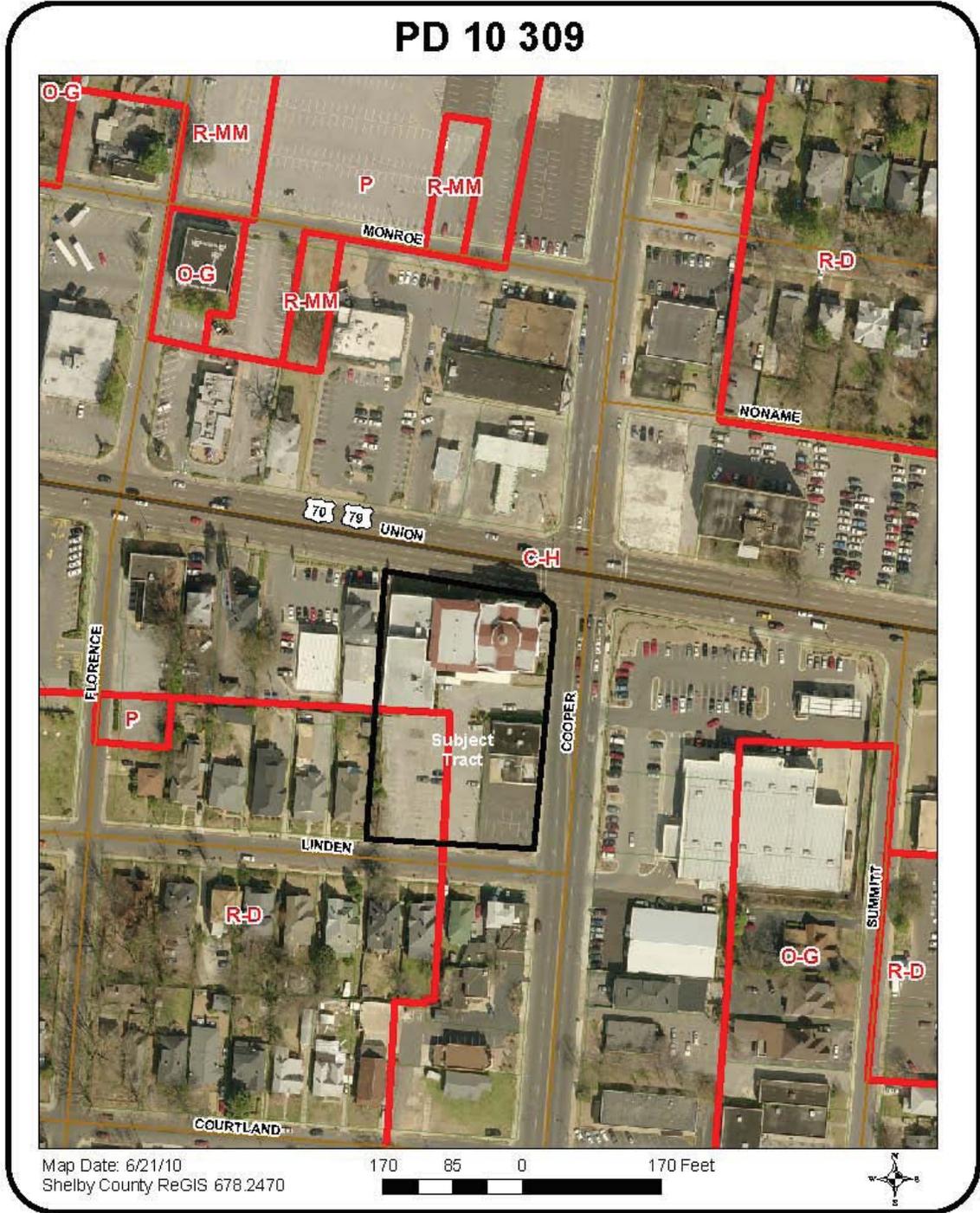


#### SURROUNDING LAND USES AND ZONING:

- North:** Vacant BP service station and Playhouse on the Square in the Highway Commercial (C-H) District
- East:** Ikes in the Highway Commercial (C-H) District
- South:** Single family and duplex homes in the R-D District and various commercial businesses in the Highway Commercial (C-H) District
- West:** Various commercial businesses in the Highway Commercial (C-H) District

### AERIAL MAP

## PD 10 309



Map Date: 6/21/10  
Shelby County ReGIS 678.2470

170 85 0 170 Feet



**SUBJECT SITE**  
**(Union Avenue Methodist Church)**



**Side view of church along South Cooper Avenue**



**Rear of Church and parking lot along Linden Avenue**



**Existing commercial building on S. Cooper Street to be removed for redevelopment of site**



**Existing commercial parking lot S. Cooper St. & Linden Ave. to be removed for redevelopment of site**



Vacant BP Station at the northwest corner of Union Avenue and S. Cooper Street

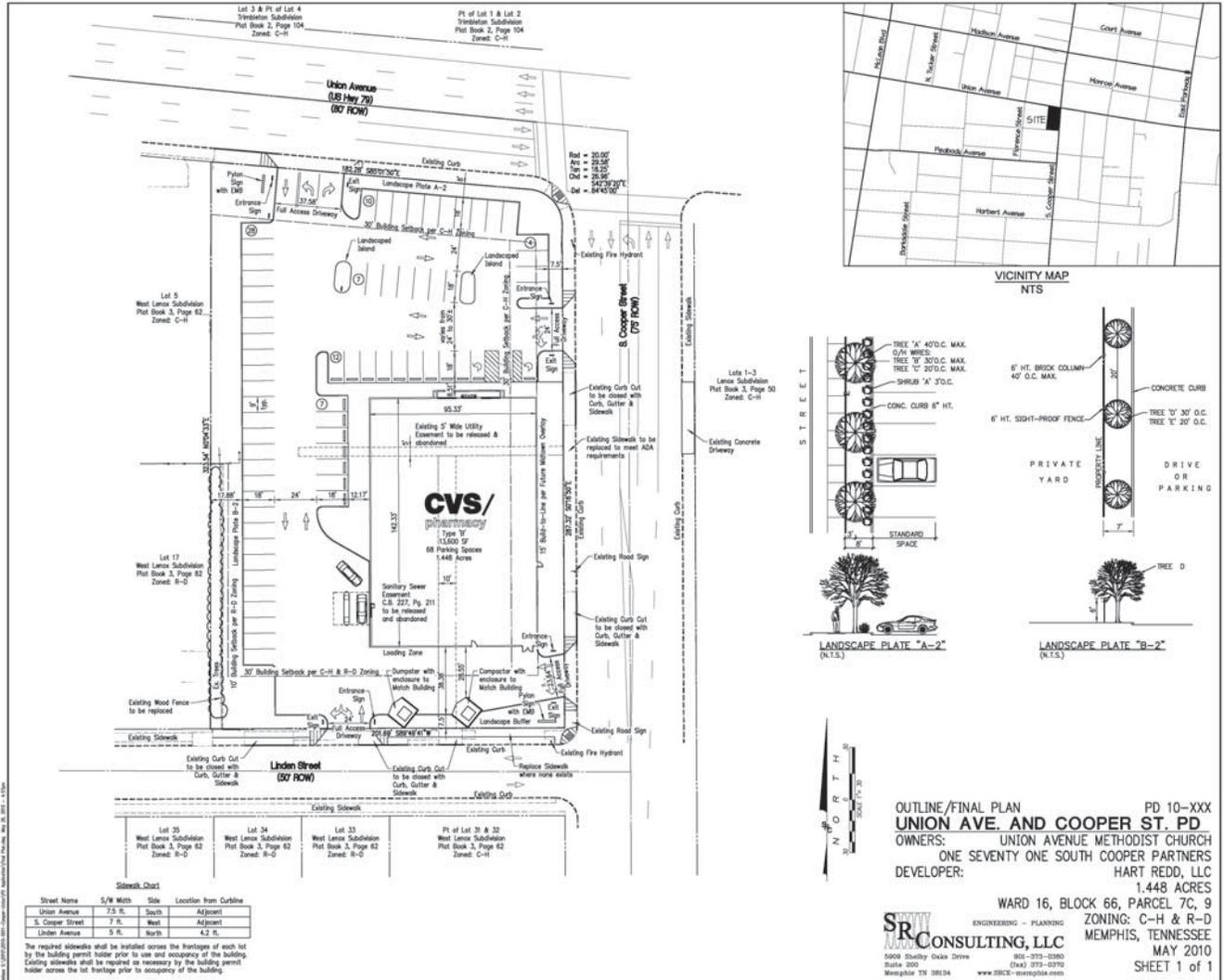


Playhouse on the Square at the northeast corner of Union Avenue and S. Cooper Street

Ikes at the southwest corner of Union Avenue and S. Cooper Street



# PROPOSED SITE PLAN



### PROPOSED BUILDING ELEVATIONS



EAST ELEVATION - S. COOPER ST.



NORTH ELEVATION - UNION AVENUE



WEST ELEVATION



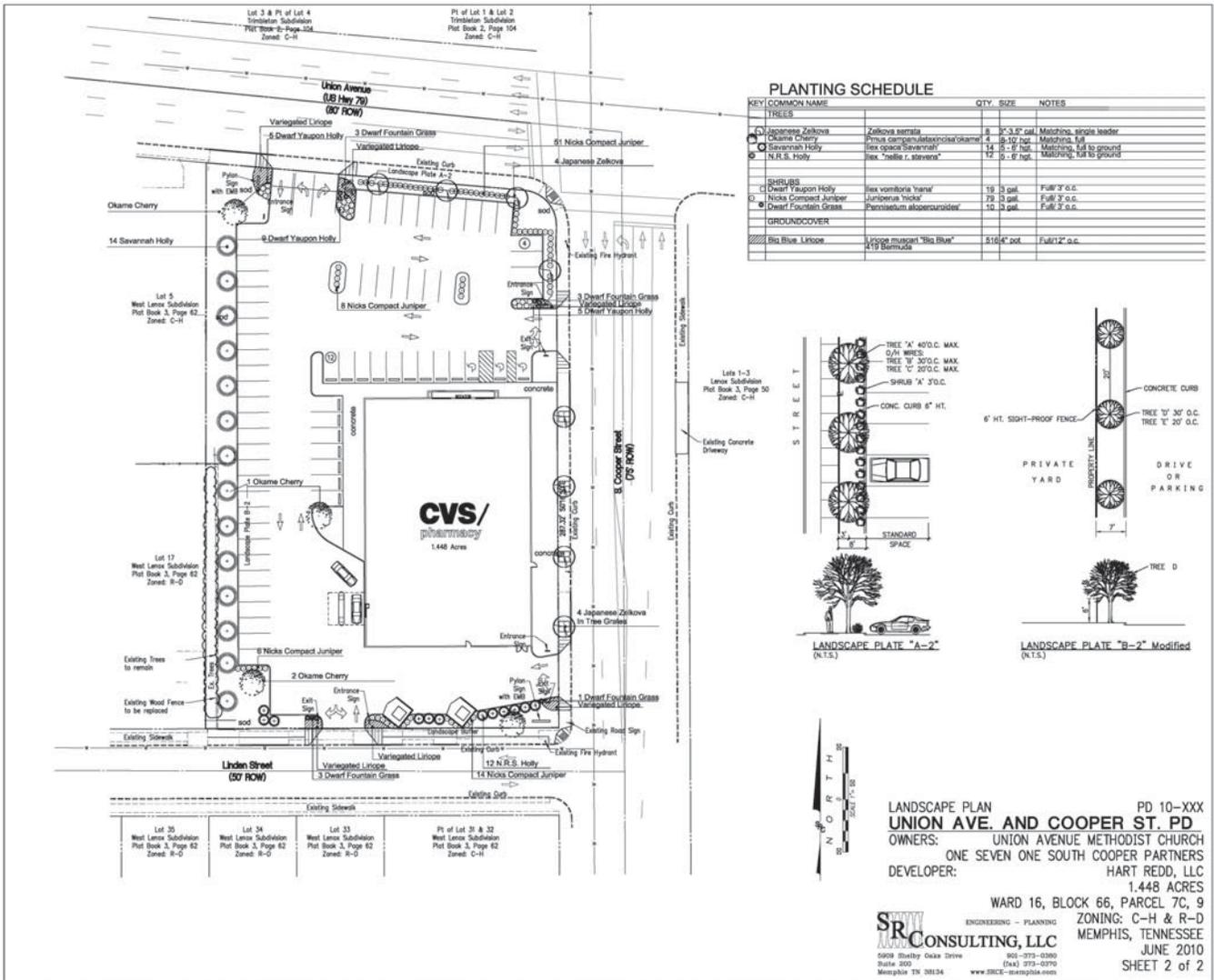
SOUTH ELEVATION - LINDEN ST.

**NORR**  
ARCHITECTS ENGINEERS PLANNERS  
719 Griswold Street  
Suite 1200  
Detroit, MI 48226  
www.norr.com

CVS 4992 MEMPHIS, TN  
**CVS/pharmacy**

JUNE 16, 2010

# PROPOSED LANDSCAPE PLAN



## **STAFF ANALYSIS:**

### Site Location and Description

The subject site is that of the Historic Union Avenue Methodist Church located at the southwest corner of Union Avenue and South Cooper Street within the Midtown Memphis community. It is bounded by a vacant BP station at the northwest corner, the newly constructed Playhouse on the Square at the northeast corner, and Ikes at the southeast corner. The site lies within the boundaries of two zoning districts, Highway Commercial (C-H) and Duplex Residential (R-D) District.

### Applicant's Request

The proposal is to redevelop this commercial site with a CVS Pharmacy based on a site plan that reflects a typical suburban retail development form that places the building setback approximately 100 feet from the primary street to permit parking to be located in front of the structure. The applicant has indicated the placement of the building is due to a sufficient grade change in elevation that occurs from Union Avenue and southeasterly to Cooper and Linden Avenue. However, grading and drainage plans were not submitted with the application for review. The site plan does reflect that the building has a 15 foot setback from South Cooper Street in an attempt to make it more pedestrian friendly. The building is a 13,600 square foot, split face, concrete block building with no articulation in the façade or windows except near the entrance on Union Avenue. The plan also reflects a total of four proposed curb cuts, one each on Union Avenue and Linden Avenue and two on South Cooper Street along with standard Highway Commercial landscaping as seen on most strip commercial centers. The plan proposes to retain the existing mature landscaping screen along the western property line adjacent to an existing residential home.

### Review of Request

The proposed site lies in an area that is within the boundaries of the proposed Midtown District Overlay. "The purpose of the Midtown District Overlay is to provide carefully tailored zoning categories that will preserve and reinforce the Midtown District by encouraging rehabilitation and new construction that is sensitive to the existing urban form and reflects appropriate uses, scale and character of the neighborhood." This District Overlay is still in draft form and has not been adopted by the governing bodies. It is tentatively scheduled to be presented to the Memphis City Council for action in early September. However, given its stated purpose and the community participation and support of the document, it must be taken into consideration for the review of this proposed site plan. This is especially true since the redevelopment of this site will be replacing an historic structure, Union Avenue Methodist Church, which has defined the corner of Union Avenue and South Cooper for over a hundred years.

The proposed Midtown District Overlay will include detailed requirements regarding building placement on a site, building setbacks, parking location and setbacks, streetscape standards, etc. The Overlay has designated frontages for some primary streets within its boundaries, i.e. shopfront, urban, pedestrian, and transitional frontages which dictates specific design elements that will create the type of urban form in development that is desired by the community.

In the review of the proposed site plan, a checklist for the design standards proposed by the draft District Overlay was used to evaluate the development. The Overlay shows that both Union Avenue and South Cooper Street are designated frontages, urban and shopfront respectively, requiring special attention to the site and building design. The proposed site plan failed to meet a number of highly significant elements that would be required in Overlay District. Such as building placement at the street, building façade, transparency, entrance location, parking located behind or at side of building, and streetscape requirements.

The plan was also reviewed based on the current development requirements for retail uses in a commercial zone that are permitted by right, which is how Ikes located on the southeast corner across from the subject site was developed. Although, a portion of the site lies within a commercially zoned district, the proposed site plan fails to comply with a number of current development standards such as location of curb cuts on South Cooper Street, queuing requirements, and landscaping adjacent to residentially used or zoned property. Some zoning variations would have to be granted for the approval of the currently proposed site plan.

The purpose of a planned development as stated in the Zoning Ordinance is to “encourage innovative site design and development and facilitate the use of flexible techniques of land development and site design”. As with all planned development, layout design is based on a combination of standard and new design requirements and techniques that will make it compatible with its surrounding area as well as an enhancement to its environment. A planned development is expected to provide a more creative site design than would be possible based solely on compliance with the bulk requirements of the underlying zoning. To this end, there was an effort to find a compromise in the design of the proposed site plan between what was submitted and what the draft Midtown District Overlay proposes. The compromise focused on two main elements of the site plan, building placement and transparency. It was recommended that instead meeting the requirement for an urban frontage along Union Avenue that the plan be redesigned to provide a transitional frontage so as to minimize the impact to the character of this corner of Midtown. It was also recommended that building façade along both primary streets provide 50 percent transparency to permit to make it more pedestrians and neighborhood friendly which is an important element in the urban development. The applicant has decided to not make any of the pre-offered suggestions.

Additionally, comments from the City Engineering Office indicate that there are a number of items that must be addressed on the site plan such as right-of-way dedication, curb cut location, queuing for the drive thru window, and drainage. Compliance with some of the engineering comments will impact the current site plan and require some changes to be made to the layout. It is possible that the changes made could move the site plan closer to meeting staff’s recommendations. The applicant has chosen not to hold the case to revise the site plan to comply with the engineering changes but to go forward with a recommendation on the current site plan. Consequently, the proposed site plan cannot be supported as submitted.

**RECOMMENDATION:            REJECTION**

## **OUTLINE PLAN CONDITIONS:**

### **I. Uses Permitted:** CVS Pharmacy

### **II. Bulk Regulations:** As regulated by the recorded site plan.

### **III. Access and Circulation:**

- A. Dedicate additional right of way on all streets to accommodate an 8 foot wide planting strip, and a 5 foot wide sidewalk (against the edge of the right-of-way), and improve in accordance with Subdivision Regulations.
- B. Dedicate a ten foot property line radius at the intersection of Cooper Street and Linden Ave.
- C. Clear Sight Areas shall be provided on the final plat and engineering plans at the intersections in accordance with the Subdivision Regulations. The required note regarding Clear Sight Areas shall be placed on the final plat.
- D. The City Engineer shall approve the design, number and location of curb cuts.
- E. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
- F. One full movement curb cut along the Union Avenue frontage shall be granted. The proposed curb cut shall be relocated to a point not less than 10 feet from the western property line.
- G. Any curb cut along the Cooper Street frontage beginning closer than 300 feet from the centerline of Union Avenue shall be limited to right in/right access only.
- H. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.
- I. The drive thru window shall provide adequate queuing in accordance with the Subdivision Regulations.

### **IV. Landscaping and Screening:**

- A. A Plate A-2 or an equivalent that is acceptable to the Office of Planning and Development shall be installed along the Union Avenue frontage.
- B. A Plate A-1 or an equivalent that is acceptable to the Office of Planning and Development shall be installed along the South Cooper Street frontage.

- C. A Plate B-1 modified (6' sight proof wooden fence) or an equivalent that is acceptable to the Office of Planning and Development shall be required along the western property line
  - 1. This landscape treatment shall be designed to preserve the existing mature trees.
  - 2. The site plan shall reflect the location of both new trees and preserved trees within the planning screen and provide information concerning the tree type and caliper of the existing trees.

**V. Building and Other**

- A. The building shall be composed of brick or stone except for windows and doors.
- B. The applicant shall provide an elevation of the proposed wall and doors that are intended to screen the refuse dumpster and the compactor. The final location for these units is subject to the review and approval of the Office of Planning and Development.
- C. The Final Plan shall indicate the location for the HVAC equipment and the intended screening for that unit, subject to the review and approval of the Office of Planning and Development.
- D. The Final Plan shall indicate the location and height of all detached lighting. Along with the Final Plan the applicant shall include photometric analysis that demonstrates a foot candle level of 1 or less is achieved at the boundary lines.
- E. Signs shall be regulated by the Planned Commercial District. A detail of the sign shall be shown on the Final Plan.

**VI. Drainage:**

- A. Onsite detention shall be provided for this site.
- B. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Subdivision Regulations and the City of Memphis Drainage Design Manual.
- C. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.
- D. The width of all existing off-street sewer easements shall be widened to meet current city standards.
- E. Required landscaping shall not be placed on sewer or drainage easements.

**VII. Final Plan:** Any final plan shall include the following:

- A. The Outline Plan Conditions,
- B. A Standard Subdivision Contract as defined by the Subdivision Regulations for any needed public improvements,
- C. The exact location and dimensions, including height of buildings, parking areas, utility easements, drives, trash receptacles, loading facilities and required landscaping and screening areas,
- D. The content of all landscaping and screening to be provided,
- E. The number of parking spaces
- F. The location and ownership, whether public or private of any easement,
- G. If applicable, a statement conveying all common facilities and areas to a property owners' association or other entity, for ownership and maintenance purposes,
- H. Building and sign illustrations
- I. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City or County Engineer, as applicable. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City/County Engineer's Office. Such maintenance shall include, but not be limited to: removal of sedimentation, fallen objects, debris and trash; mowing; outlet cleaning; and repair of drainage structures.

**GENERAL INFORMATION:**

**Street Frontage:** 182.28 feet along Union Avenue  
287.32 feet along South Cooper Street  
201.69 feet along Linden Street

**Planning District:** Midtown

**Census Tract:** 32

**Zoning Atlas Page:** 2035

**Parcel ID:** 016066 00007C and 016006 00009

**Zoning History:** The current Highway Commercial (C-H or R-1 equivalent) and Duplex Residential (R-D or R-3 equivalent) zonings on this site dates back to the adoption of Ordinance #374 in 1955 by the governing bodies.

**DEPARTMENTAL COMMENTS:**

The following comments were provided by agencies to which this application was referred:

**City Engineer:**

1. Standard Subdivision Contract as required in Section 500 of Subdivision Regulations.

**Sewers:**

2. City sanitary sewers are available at developer's expense.

**Roads:**

3. Dedicate additional right of way on all streets to accommodate an 8 foot wide planting strip, and a 5 foot wide sidewalk (against the edge of the right-of-way), and improve in accordance with Subdivision Regulations.
4. Dedicate a ten foot property line radius at the intersection of Cooper Street and Linden Ave.
5. Clear Sight Areas shall be provided on the final plat and engineering plans at the intersections in accordance with the Subdivision Regulations. The required note regarding Clear Sight Areas shall be placed on the final plat.

**City Engineer Comments Continued:**

**Curb Cuts/Access:**

6. The locations of the proposed curb cuts onto Cooper Street are unacceptable at the proposed locations. The northern most curb opening is too close to the intersection of Union Avenue, is located within the queue of the signalized intersection, and is in conflict with the opposing curb cut on the site across the street. The southern most curb opening is located too close to the end of radius of the intersection of Linden Street. This curb cut shall be located no closer than 20 feet from the end of the radius, in accordance with the Subdivision Regulations.
7. The building needs to be shifted to the north considerably in order to provide a safe access point onto Cooper Street.
8. The City Engineer shall approve the design, number and location of curb cuts.
9. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
10. One full movement curb cut along the Union Avenue frontage will be granted. The proposed curb cut shall be relocated to a point not less than 10 feet from the western property line.
11. Any curb cut along the Cooper Street frontage beginning closer than 300 feet from the centerline of Union Avenue will be limited to right in/right access only.
12. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.

**Site Plan Notes:**

13. The drive thru window on the proposed site plan does not provide adequate queuing in accordance with the Subdivision Regulations. In addition, the automobiles at the drive-thru will shine their headlights directly into the house across the street. This does not appear to be a good location for the pickup window, as it is currently shown.

**Drainage:**

14. This site is located within the Lick Creek Drainage Basin, which is currently the most sensitive in the city. Onsite detention shall be provided.
15. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Subdivision Regulations and the City of Memphis Drainage Design Manual.
16. Drainage data for assessment of on-site detention requirements shall be submitted to and approved by the City Engineer.

**City Engineer Comments Continued:**

General Notes:

17. The width of all existing off-street sewer easements shall be widened to meet current city standards.
18. Required landscaping shall not be placed on sewer or drainage easements.

**City Fire Division:** No comment.

**City Real Estate:** None.

**City/County Health Department:**

1. If any monitoring wells were installed as part of an environmental site assessment they must be filled as outlined in Section 6 of the Shelby County Well Construction Code.
2. If any abandoned water wells are present on this site they must be properly filled and abandoned as outlined in Section 9 of the Shelby County Well Construction Code.
3. Since this is a Planned Development that could require the demolition of a structure or structures at this site before starting any demolition the developer will need to fill out the attached questionnaire.
4. If a Demolition Permit will be required after filling out the questionnaire then the owner, developer, or contractor must contact the Asbestos Branch in the Air Pollution Control Section at (901) 544-7349 in order to secure the appropriate permit.
5. Please complete the attached form/questionnaire on the second page.

**City Board of Education:** No comment.

**Construction Code Enforcement:** No comments received.

**Center City Commission:** No comments received.

**Memphis Light, Gas and Water:**

MLGW has reviewed the referenced application, and has no objection, subject to the following conditions:

- **It is the responsibility of the owner/applicant** to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- **It is the responsibility of the owner/applicant** to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- **It is the responsibility of the owner/applicant** to comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.

### **Memphis Light, Gas and Water Comments Continued:**

- **Landscaping is prohibited** within any MLGW utility easement without prior MLGW approval. It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.
- **It is the responsibility of the owner/applicant** to contact **TN-1-CALL @ 1.800.351.1111**, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc
- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.
  - All residential developers must contact MLGW's Residential Engineer at 901-528-4855 for application of utility services.
  - All commercial developers must contact MLGW's Builder Services at 901-367-3343 to initiate the utility installation process.
- **It is the responsibility of the owner/applicant** to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

**AT&T/Bell South:** No comments.

**Memphis Area Transit Authority (MATA):** No comments received.

**OPD-Regional Services:** No comments received.

**OPD-Plans Development:** No comments received.

**Memphis Park Commission:** No comments received.

### **Landmarks Commission:**

The structure currently on the subject lot – Union Avenue Methodist Church – is listed on the National Register of Historic Places as a contributing structure to the development of the residential areas surrounding it and for its architectural character. The demolition of the historic brick structure is a waste of materials and energy (each brick in the church structure amounts to 1 gallon of gas in the use of energy to make the brick and construct the structure), to say nothing of the loss of good architecture which has defined this corner for almost 100 years. CVS signed an agreement with the National Trust of Historic Preservation stating that they will not demolish National Register listed properties to construct new drugstores.

As to the site plan for the proposed structure location the structure should be pulled up to the corner to maintain the street presents established by the Historic Church structure. The parking should be to the inside of the block and screened by landscaping with trees. The dumpster enclosures should be placed away from a street. There should be no left turns exits allowed on Union or Cooper.

**Neighborhood Association:**

***31<sup>st</sup> Ward Civic Club:***

No comments received

***Idlewild Community Neighborhood Assoc.:***

No comments received

***East Midtown Community Association:***

No comments received

***Tucker-Jefferson Neighborhood Association:***

No comments received

***Central Gardens Area Association:***

Central Gardens neighbors met with CVS Pharmacy representatives on June 29<sup>th</sup>, 2010 to hear their plans to build a new building after razing the present Union Avenue Methodist Church. They informed us that they do not intend to follow the guidelines of the proposed Midtown Overlay since it cannot be adopted by City Council until September. We as neighbors found this stance to be detrimental to the character of Midtown and ask that you delay hearing the CVS request for rezoning the two lots in the parcel now zoned R-D until after City Council has the opportunity to adopt this overlay. Good planning for the future of Midtown Memphis in our opinion should not be subject to calendar jockeying.

We respectfully request that you inform members of the Land Use Control Board of our desire to have the hearing of the CVS pharmacy request for rezoning be postponed until after City Council votes on the Midtown Overlay in order that Midtown Memphis can enjoy the benefits of careful planning.

Thank you for your attention to this matter.

***Belleair Woods Neighborhood Association:***

Here are the comments of several members of the Belleair Woods Association regarding the CVS plans for the property on Union Avenue:

1. The two-way entrances on Union and Cooper are going to present traffic challenges and are potential accident generators. Left turns both into and out of either of these curb cuts will be hazardous. Both of these curb cuts should be right in and right out only for safety.
2. The 24' wide two way drive aisles are bare minimum; this is not very customer-friendly.
3. The building is just plain unimaginative with its two colors of concrete masonry units and its plain boxy look. The lack of glass area and the ability to see into the store and thus some activity is just not neighborhood friendly.
4. The Linden Street elevation which will be prominent to north bound traffic on Cooper looks like it belongs to a different building and certainly must be corrected.
5. From the elevations presented there appears to be no attempt to conceal the roof top equipment that will obviously be employed.
6. The landscape plan is equally unimaginative in that there are no trees within the parking area, just continuous rows of parking spaces. For example there should be a landscape island between every 5 or 6 spaces, and the islands should contain a tree and other plant material as well.(see Office Depot lot on Union Ave. near Forrest Park for a good example, with crepe myrtles in islands between parking spaces)
7. There is no discussion of irrigation for the landscaping. If there isn't any the material will not last the first year.

***Belleair Woods Neighborhood Association Comments Continued:***

8. There is no mention of storm water detention and since the site appears to be 80 percent impervious runoff is an issue. Memphis engineering has advised the group working on the Lick Creek solution that the current system will not support anything greater than 1 CFS.
9. Dumpsters fronting Linden Avenue will certainly be attractive.

Please keep our neighborhood posted on developments. Thank you very much Ann Kendall Ray, president, Belleair Woods Association