

STAFF REPORT

CASE NUMBER: S.U.P. 08-221 L.U.C.B. MEETING: July 10, 2008

LOCATION: East side of Cooper Street; +45 feet north of Walker Avenue

OWNER OF RECORD: First Congregational Church

APPLICANT: Kristina Ryan

REPRESENTATIVE: Charles Ryan

REQUEST: Use of a portion of a Church parking lot (1006 S. Cooper St.) in the C-L District to meet the required parking for a restaurant with alcohol sales (937 S. Cooper St.) in the C-H District

AREA: 0.304 Acre

EXISTING LAND USE & ZONING: Church parking lot in the Local Commercial (C-L) District

SURROUNDING USES AND ZONING:

North: The balance of the church property in the Local Commercial (C-L) District and commercial uses in the Highway Commercial (C-H) District

East: The remainder of the Church Parking Lot in the Single Family (R-S6) District

South: Commercial uses in the Local Commercial (C-L) District

West: An office and a Church in the Local Commercial (C-L) District

**OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION
APPROVAL WITH CONDITIONS**

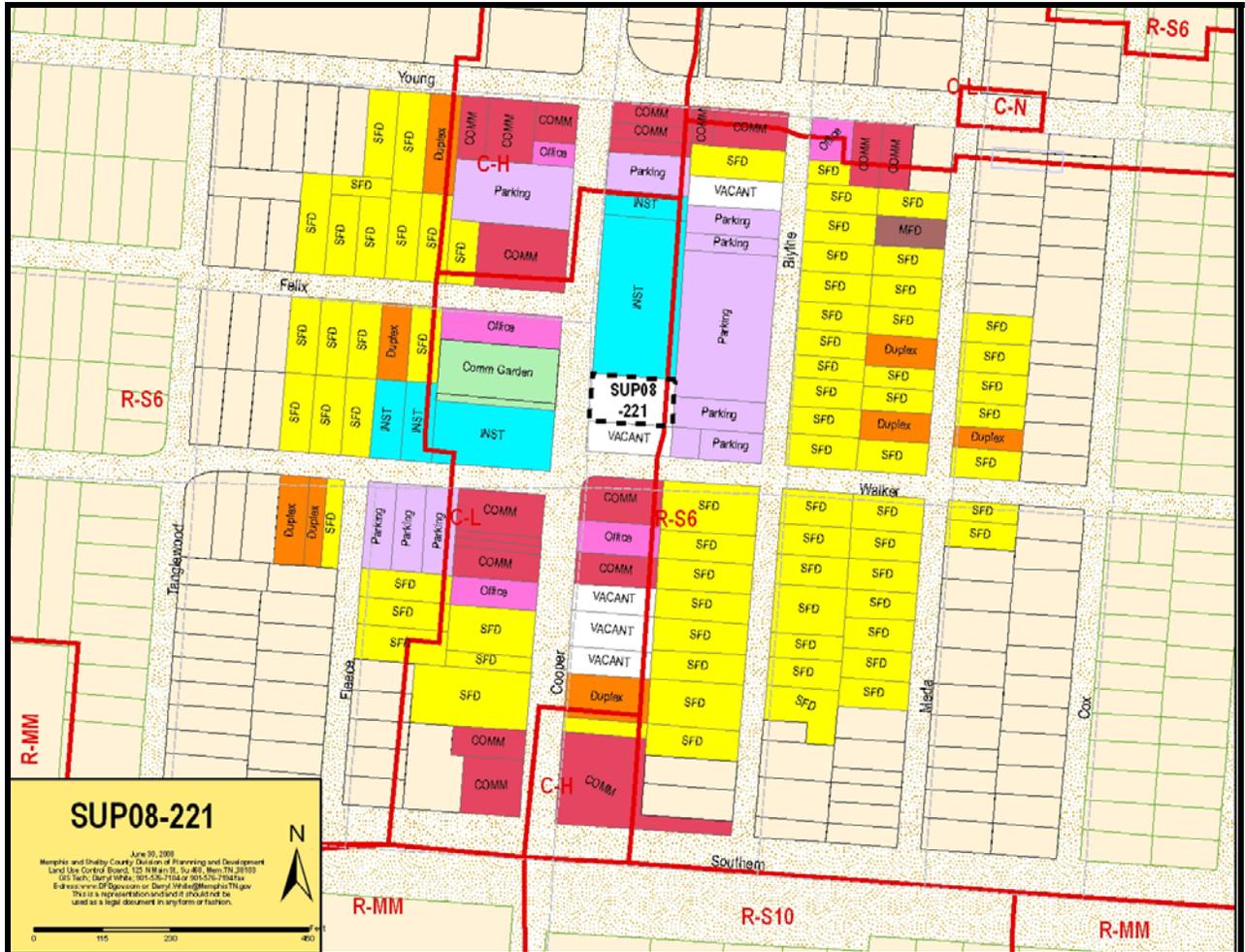
Staff Planner: Sheila Pounder

E-mail Address: sheila.pounder@memphistn.gov

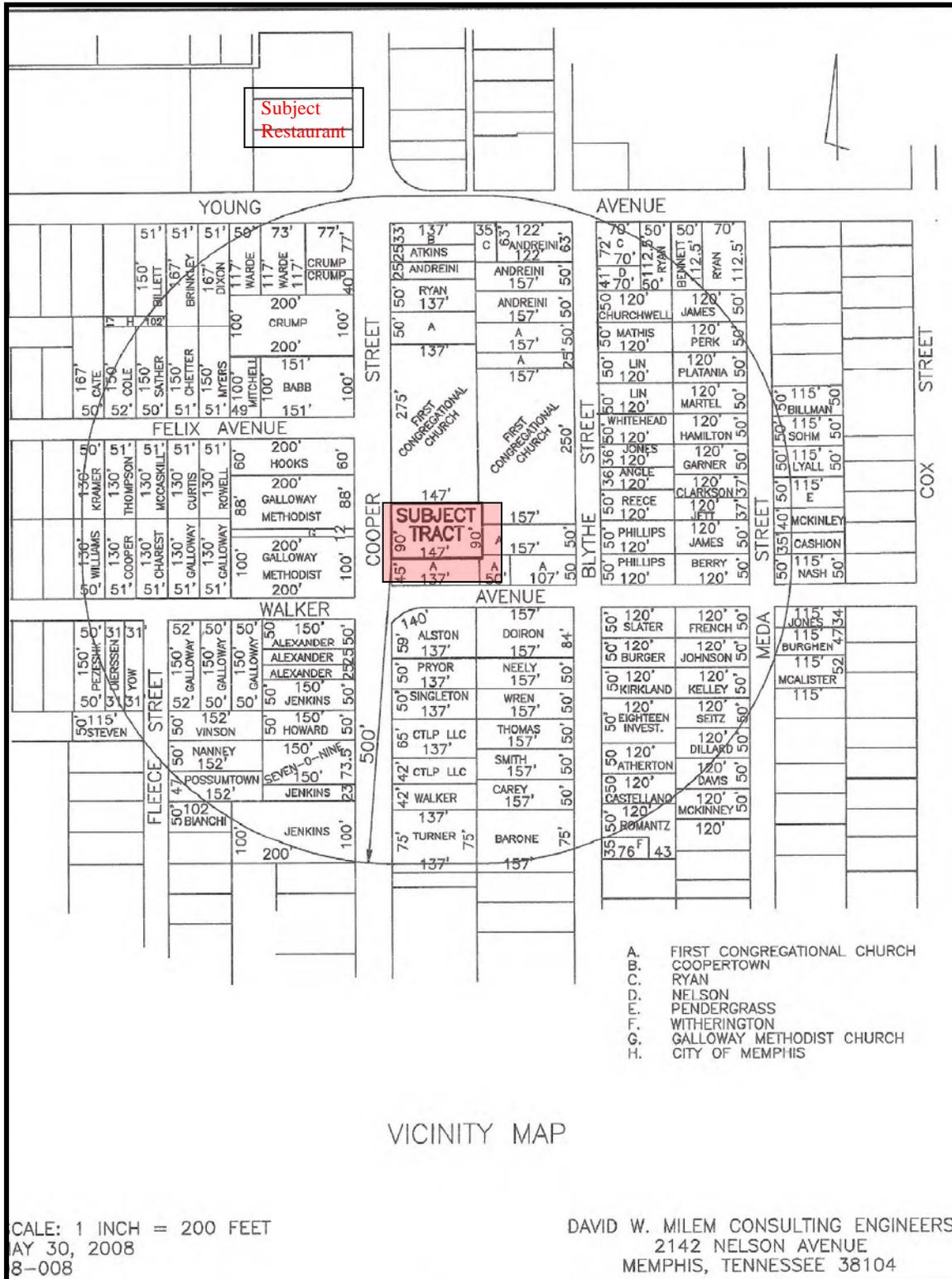
CONCLUSIONS:

- 1. The request is for approval to permit a new restaurant at 937 S. Cooper Street to share the subject church parking lot at 1000 S. Cooper Street with the existing Church and a previously approved restaurant at 966 S. South Cooper Street.**
- 2. The current application addresses the issue of a Special Use Permit for a restaurant with alcohol sales in the C-L District as it pertains to a proposed off-site parking lot in the C-H District. The subject church parking lot was approved for the same use in 2002 for the Beauty Shop Lounge, SUP 02-219, which is also located within the C-L District approximately 375 feet north of the site.**
- 3. Cooper-Young is a pedestrian oriented neighborhood where off-street parking is limited within the surrounding area. The owner of the subject church parking lot, First Congregational Church, has a large amount of parking spaces (approximately 225 spaces) available along three street frontages; Cooper Street, Walker Avenue, and Blythe Street. Consequently, they have already agreed to lease some of their parking spaces to other businesses in need of additional spaces to meet the required parking regulations.**
- 4. The request is not for a newly constructed building in the commercial area but to allow the reuse of an existing commercial building in a mixed use neighborhood. Consequently, the continued use of this parking lot to aid in helping the restaurants along S. Cooper Street is acceptable to satisfy the parking requirements of the Zoning Ordinance for this new business at 937 S. Cooper Street.**
- 5. The applicant has been instructed to file and receive approval of a companion Board of Adjustment application seeking approval of the necessary zoning variations needed to address the issues of the more than 300 foot distance separating the new restaurant from the subject parking lot, the use of shared parking spaces with an existing church and restaurant (The Beauty Shop Lounge, SUP 02-219), and a reduction in the number of required spaces for each restaurant. The approval of this SUP application must be contingent upon the applicant receiving approval of the needed zoning variations for his new restaurant.**

ZONING AND LAND USE MAP



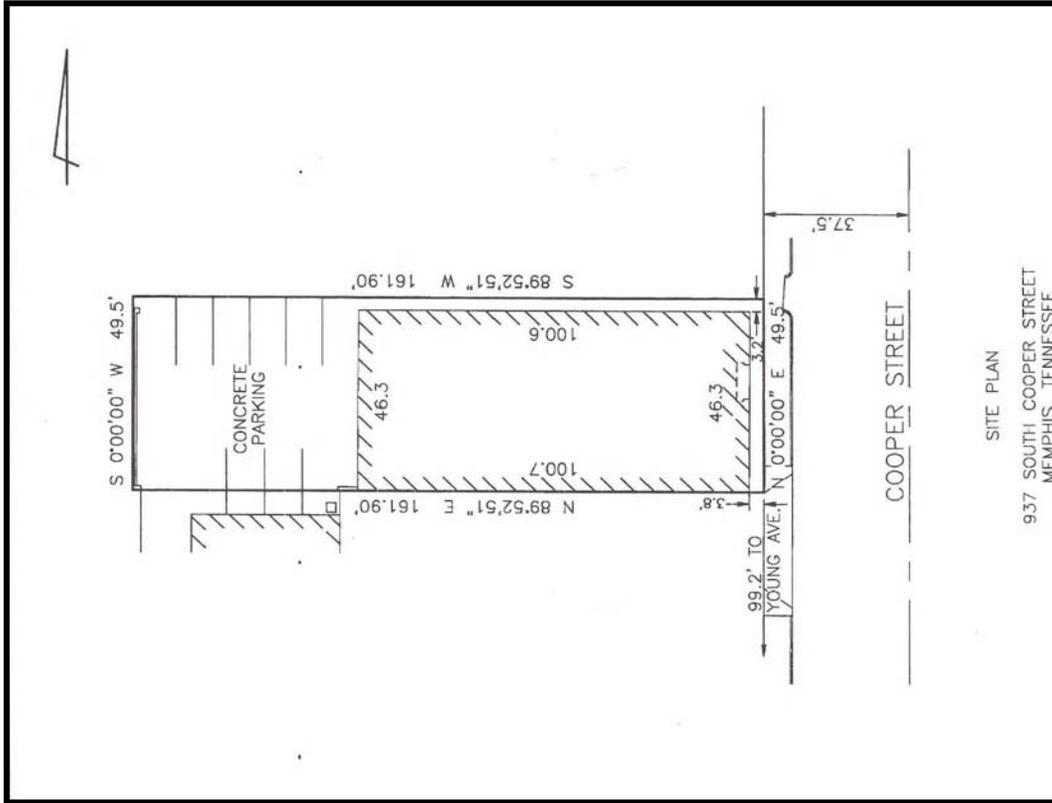
VICINITY MAP OF SUBJECT RESTAURANT AND PROPOSED CHURCH PARKING LOT



SCALE: 1 INCH = 200 FEET
JULY 30, 2008
8-008

DAVID W. MILEM CONSULTING ENGINEERS
2142 NELSON AVENUE
MEMPHIS, TENNESSEE 38104

SUBJECT RESTAURANT SITE (937 S. COOPER ST)



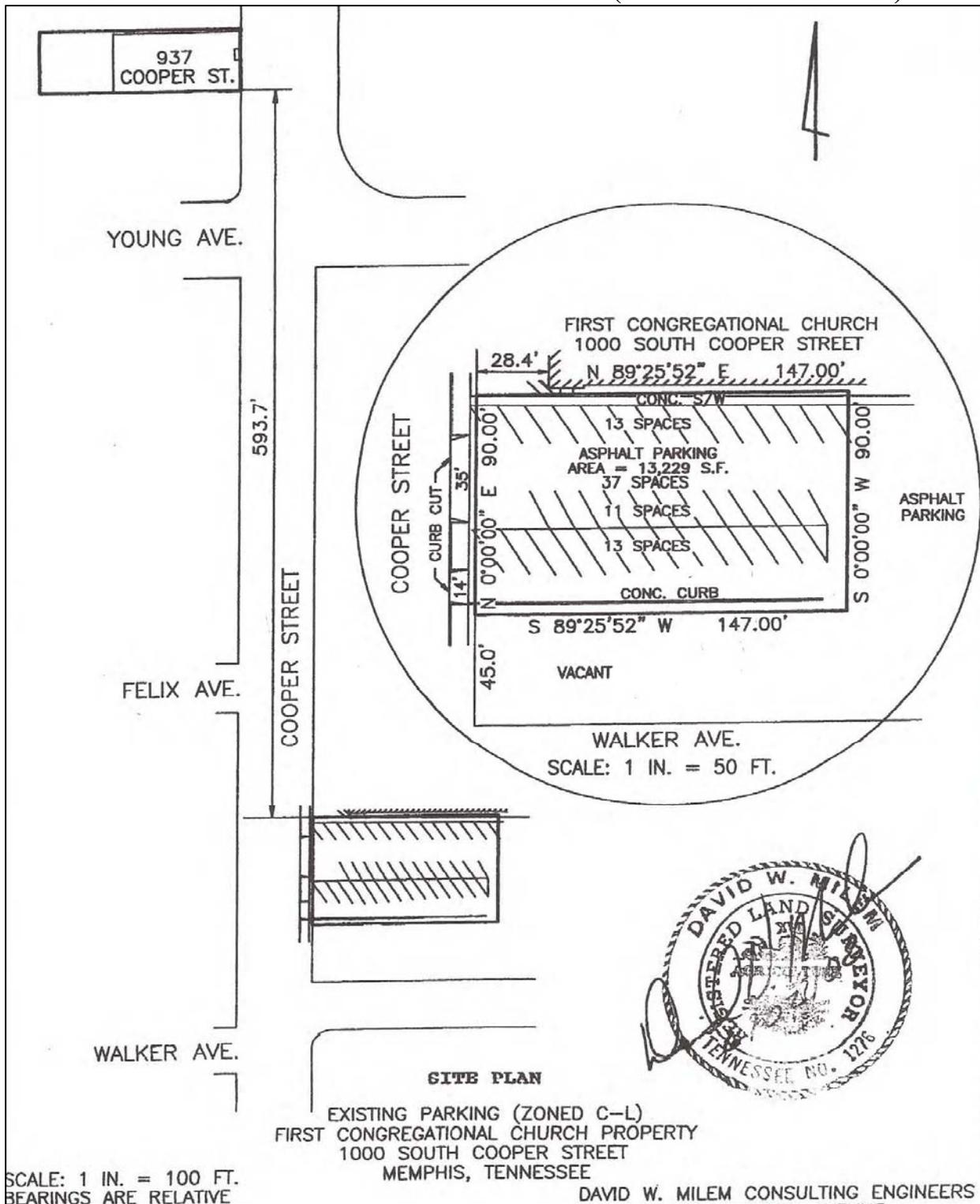
RESTAURANT FRONTAGE



REAR OF RESTAURANT SITE



PROPOSED CHURCH PARKING LOT (1000 S. COOPER ST.)



PROPOSED CHURCH PARKING LOT SITE



STAFF ANALYSIS:

General Location and Site Characteristics:

The subject property is the parking lot of the First Congregational Church located on the east side of S. Cooper Street at Walker Avenue in the Cooper-Young Area of Memphis.

This property includes the Church Building and a large paved parking lot. In the very southwest corner of the site is an area that includes some shrubbery and provides a visual break to this expansive parking area for the church.

Request:

The applicant is a new restaurant with alcohol sales that is located at 937 S. Cooper Street, approximately 600 feet north of the subject church parking lot at 1000 S. Cooper Street. The applicant is requesting a Special Use Permit (SUP) to allow the use of a portion of the parking spaces located on the First Congregational Church site to meet the parking requirement specified by the Zoning Ordinance. The new restaurant will be located within the Highway Commercial (C-H) District which permits such use with alcohol sales by right. The proposed off-site parking spaces will be located within the Local Commercial (C-L) District which does not permit a restaurant with alcohol sales except by Special Use Permit approval.

The applicant has indicated that the new restaurant will have 75 seats which requires approximately 37 parking spaces (1 space for every 2 seats). The restaurant has 9 spaces available to it on the lot at the rear of the building and has an arrangement with the next door bank to use up to 14 of the its spaces to meet their required parking. Consequently, the restaurant is seeking use of approximately 14 additional spaces to satisfy the requirement of the Zoning Ordinance. The applicant is seeking approval to permit the new restaurant to share parking spaces with the existing Church at 1000 S. Cooper and a previously approved restaurant at 966 S. S. Cooper Street.

Review of Request:

The current application addresses the issue of a Special Use Permit for a restaurant with alcohol sales in the C-L District as it pertains to the proposed off-site parking lot in the C-H District. The subject church parking lot was approved for the same use in 2002 for a different restaurant. The Beauty Shop Lounge, SUP 02-219, located within the C-H District sought approval of a SUP to utilized the subject church parking lot, approximately 375 feet south of the restaurant, for off-site parking. The Beauty Shop Lounge, 966 S. Cooper Street, still utilizes a portion of the parking lot to satisfy the conditions of their approved SUP.

Cooper-Young is a pedestrian oriented neighborhood where off-street parking is limited within the surrounding area. The owner of the subject church parking lot, First Congregational Church, has a large amount of parking spaces (approximately 225 spaces) available along three street frontages, Cooper Street, Walker Avenue, and Blythe Street. They have indicated that the church uses less than 100 of these spaces on Sunday morning and even less during the week. Consequently, they have already agreed to lease some of their parking spaces to other businesses in need of additional spaces to meet the required parking regulations.

The request is not for a newly constructed building in the commercial area but to allow the reuse of an existing commercial building in a mixed use neighborhood. The continued use of this parking lot to aid in helping the restaurants along S. Cooper Street is acceptable to satisfy the parking requirements of the Zoning Ordinance for this new business at 937 S. Cooper Street.

The Off-Street Parking Section of the Zoning Ordinance, Section 28, makes a provision for the shared use of parking spaces subject to certain conditions. These conditions include that the parking be located within 300 feet of the building being served; the parking spaces are located within a zoning district which permits the use to which the parking is accessory, and the parking is in the same ownership as the use requesting the parking or that there is a parking agreement between the parties. If these conditions are met, this information can be submitted to the Building Official and the necessary permits issued. The applicant has been instructed to file a Board of Adjustment application to seek approval of the necessary zoning variations needed to address the issues of the 300 foot distance separating the restaurant from the parking lot, shared parking spaces with an existing restaurant (The Beauty Shop Lounge, SUP 02-219) and a reduction in the number of required spaces. The approval of this SUP application must be contingent upon the applicant receiving approval of the needed zoning variations for his new restaurant.

In addition to the conditions requiring the approval of several zoning variations the following conditions should also be met:

Provide data on the total number of parking spaces located on the First Congregational Church Parking Lot, and an estimate of parking demand by the restaurant for these spaces on days other than Sunday. If there are conflicts it may be necessary for the Restaurant to alter its hours of operation.

Any change in ownership by the restaurant, will require a new agreement to be signed between the parties and may at the discretion of the Building Official or the Office of Planning and Development require that a new Special Use Permit be obtained for the property.

There is one additional housekeeping item that should be resolved prior to this application being forwarded to the Memphis City Council for final action. A Land Use Ownership Disclosure form for the Church should be submitted to OPD as soon as possible.

RECOMMENDATION: APPROVAL WITH CONDITIONS

SITE PLAN CONDITIONS:

A Special Use Permit is hereby authorized to allow the use of the First Congregational Church parking lot at 1000 S. Cooper Street (specifically located on the east side of Cooper Street; +45 feet north of Walker Avenue) by the restaurant located at 937 S. Cooper Street in accordance with an approved parking lot site plan and the following supplemental conditions:

1. A Board of Adjustment zoning variance to Section 28.C.1.b. of the Zoning Ordinance must be approved for this site pertaining to the location of required parking spaces within 300 feet of the building, structure or use served by the off-site parking.
2. A Board of Adjustment zoning variance to Chart 2 of the Zoning Ordinance must be approved for this site pertaining to the reduction in the number of required parking spaces to permit sharing of the subject parking lot with the Beauty Shop Restaurant
3. Provide data on the total number of parking spaces located on the First Congregational Church Parking Lot, and an estimate of parking demand by the restaurant for these spaces on days other than Sunday. If there are conflicts it may be necessary for the Restaurant to alter its hours of operation.
4. Any change in ownership by the restaurant, will require a new agreement to be signed between the parties and may at the discretion of the Building Official or the Office of Planning and Development require that a new Special Use Permit be obtained for the property.
5. A Land Use Ownership Disclosure form for the Church should be submitted to OPD prior to this application being forwarded to the Memphis City Council for final action.

GENERAL INFORMATION:

Street Frontage: 90 feet along S. Cooper Street

Planning District: Midtown

Census Tract: 66

Zoning Atlas Page: Atlas Page 2135

Zoning History: The current Local Commercial (C-L) Zoning on the church parking lot dates back to 1965 when the property was approved by the City Council for rezoning from R-3 to C-1.

DEPARTMENTAL COMMENTS:

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

City Engineer: No comment.

City Fire Division: None.

City Real Estate: None.

City/County Health Department: The Water Quality Branch has no comments for OPD Case Number SUP 08-221 Cooper Street.

City Board of Education:

The Capital Planning staff of Memphis City Schools believes that SUP 08-221 Cooper will not have an impact on the Memphis City School district. However, MCS students in this area would be zoned to attend the following schools:

Elementary: Peabody - 98.3% capacity
Middle: Fairview - 76.2% capacity
High: Central - 117.2% capacity

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water:

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

- **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 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 comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- **Landscaping is prohibited** within any MLGW utility easement. No trees, shrubs or permanent structures will be allowed within any MLGW utility easements.
- **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).
- **It is the responsibility of the owner/applicant** to contact the appropriate MLGW engineering area to determine if system improvements may be required and any related cost:
 - MLGW Engineering - **Residential Development:** 528-4858
 - MLGW Engineering - **Commercial Development:** 367-3343
- **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.

Bell South: No comments received.

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

OPD-Regional Services:

This application was reviewed by the MPO staff/Department of Regional Services on June 24, 2008. The MPO staff has determined that Cooper Street is an existing major road consisting of 56 feet of right of way, 40 feet of pavement, and no proposed improvements.

OPD-Plans Development:

No comments.

Memphis Park Commission:

No comments received.

31st Ward Civic Club:

No comments received.

Cooper-Young:

No comments received.

Orange Md. Concerned:

No comments received.