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## **SPECIAL LAND USE PERMIT**

**ZONING CASE #:** Z2009-09

**LANDOWNERS:** Union Chapel United Methodist Church  
264 Fowler Circle  
Marietta, GA 30060

**APPLICANT:** Same as above

**AGENT:** J. Kevin Moore, Esq.  
Moore Ingram Johnson & Steele  
Emerson Overlook  
326 Roswell Street  
Marietta, GA 30060

**PROPERTY ADDRESS:** 264 and 268 Fowler Circle

**PARCEL DESCRIPTION:** Land Lot 11450, 16<sup>th</sup> District, Parcel 216 & 217

**AREA:** 0.7                      **COUNCIL WARD:** 5

**EXISTING ZONING:** R-4 (Single Family Residential 4 units/acre)

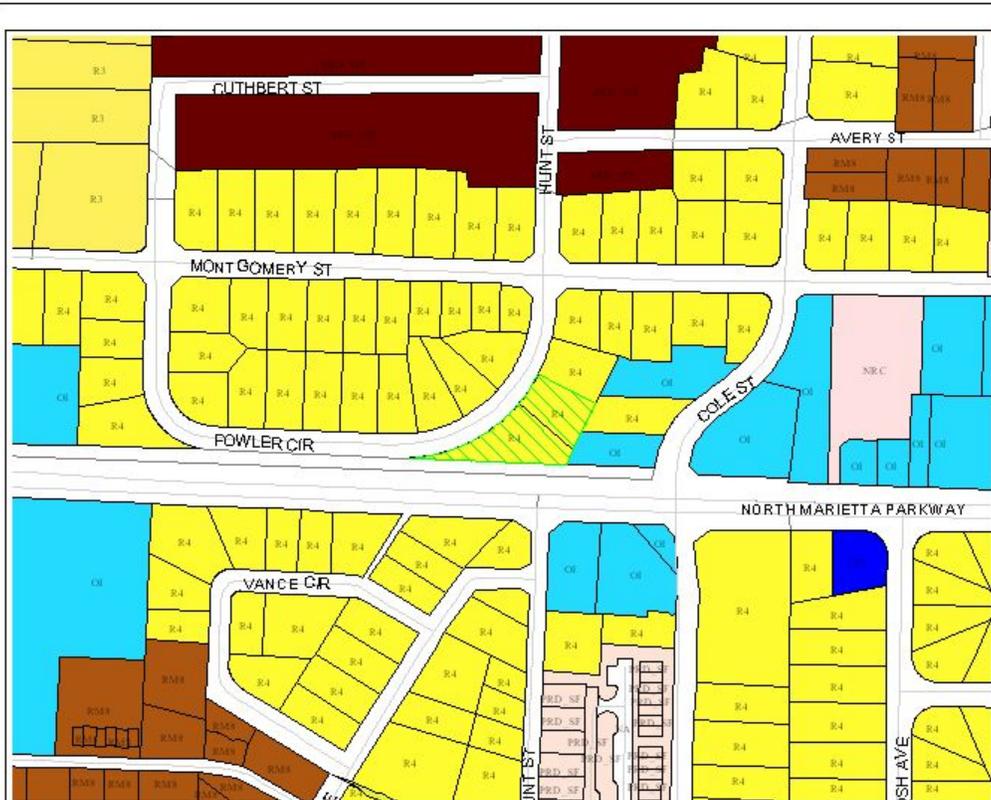
**REASON FOR REQUEST:** Union Chapel United Methodist Church is requesting a Special Land Use Permit for 264 and 268 Fowler Circle in order to expand its current operation as a place of assembly.

**PLANNING COMMISSION HEARING:** Tuesday, May 5, 2009 – 6:00 p.m.

**CITY COUNCIL HEARING:** Wednesday, May 13, 2009 – 7:00 p.m.

# MAP

## City of Marietta Area Zoning Map



Zoning	COMMERCIAL	District	Land Lot	Parcel	Zoning
<b>SINGLE FAMILY RESIDENTIAL</b> R-1: One Unit/Acre R-2: Two Unit/Acre R-3: Three Unit/Acre R-4: Four Unit/Acre  <b>ATTACHED FAMILY RESIDENTIAL</b> RA-4: Four Unit/Acre RA-6: Six Unit/Acre RA-8: Eight Unit/Acre  <b>MULTI FAMILY RESIDENTIAL</b> RM-8: Eight Unit/Acre RM-10: Ten Unit/Acre RM-12: Twelve Unit/Acre RHR: Residential High Rise FRD(MF): Planned Residential Dev.	<b>COMMERCIAL</b> NRC: Neighborhood Retail CRC: Community Retail RRC: Regional Retail CBD: Central Business District PCD: Planned Commercial Dev. MND: Mixed-Use Dev. OIT: Office Institutional Trans. LRO: Low-Rise Office OI: Office Institutional OS: Office Services OHR: Office High-Rise  <b>INDUSTRIAL</b> LI: Light Industrial HI: Heavy Industrial PID: Planned Industrial Dev.	16 16	11450 11450	2160 2170	R4 R4

**Comments:**  
 264 & 268 Fowler Circle

**Date:**  
 04/02/2009

**Planning and Zoning Department**




1" = 200'

**PICTURES OF PROPERTY**



**264 Fowler Circle**





**Department of Development Services**  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, Director

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**268 Fowler Circle**

## STAFF ANALYSIS

### *Location Compatibility*

Union Chapel United Methodist Church is requesting a Special Land Use Permit (SLUP) for the properties located at 264 and 268 Fowler Circle in order to construct a 3,184 s.f. addition to the current building. Properties to the north and west, across Fowler Circle, are currently zoned R-4 and are used as residences. To the east is the future location of First Landmark Bank, currently under construction. The subject property has frontage along North Marietta Parkway, along the southern property line.

Under current regulations, places of assembly are only permitted on residentially-zoned properties with a SLUP approved by City Council. Utility records indicate service for the church dating back to 1974. Union Chapel United Methodist Church is therefore considered legally nonconforming under the current zoning regulations. Although these “grandfathered” uses are allowed to continue, without a Special Land Use Permit no improvements or modifications could be done that could be construed as an expansion of the use.

### *Use Potential and Impacts*

According to the submitted application, the church wishes to expand onto the adjacent property, which is currently a vacant lot. The Special Land Use plan submitted with the application proposes a 3,184 s.f. addition to the 2,400 s.f. church building. The addition would occupy the lot at 268 Fowler Circle and extend northward from the existing facility. A new sidewalk linking the church with the proposed west parking lot for First Landmark Bank is also shown. There are some variances that would be required, not only to allow the proposed improvements, but also to make the existing conditions comply with the Zoning Code. The required setback for places of assembly is 75 feet from any property line. As a result, variances would be required for the existing structure as well as the addition:

- Variance to reduce the front setback from 75 feet to 21 feet. [Section 708.04.E.1.b]
- Variance to reduce the major side setback from 75 feet to 27 feet. [Section 708.04.E.1.b]
- Variance to reduce the rear setback from 75 feet to 46 feet. [Section 708.04.E.1.b]
- Variance to reduce the side setback from 75 feet to 16 feet. [Section 708.04.E.1.b]

It should be noted that Special Land Use Permits do not require specific buffer requirements for adjacent residential uses. Although this property only abuts one residentially used property, the proposed improvements are occurring on the area of the site that will impact it most, as the proposed addition lies within 16 feet of this property line. During the rezoning for the First Landmark Bank property, a stipulation was approved to require a 5 foot planted buffer with a 6 foot fence for the parking area west of Cole Street. Should this SLUP be approved, a similar stipulation to require extending this 5 foot planted buffer and fence along the northern portion of 268 Fowler Circle should be considered to protect the resident.

The Future Land Use (FLU) of the City's Comprehensive Plan designates these parcels as Medium Density Residential (MDR), which is suitable for medium-density housing with densities of ranging from three (3) to six (6) dwelling units per acre. However, it is noted that certain low-impact uses - such as park and recreational facilities, elementary schools, libraries and community centers - may also be an appropriate transition between non-residential developments and residential neighborhoods.

### *Environmental Impacts*

There are no streams or possible wetlands located in the vicinity of the site, nor is the property located in a floodplain. It is unlikely that any endangered species currently exist on the property.

Single family residential property is generally exempt from the Tree Protection and Landscaping section of the Zoning Ordinance, and the church has been considered legally nonconforming in a residential zoning classification. However, with the proposed addition, the church's property would have to come into compliance with the tree requirements or receive variances from those regulations. At this time, Staff has not been provided with sufficient information to identify all required variances. However, with the information that has been provided, it is clear that at least one variance would be required in order to allow the existing parking lot remain within the landscape strip:

- Variance to reduce the 10 foot landscape strip to 0 feet to allow existing parking lot to remain. [Section 712.08.G.2 and Section 712.08.G Table G]

### *Economic Functionality*

Although this property is zoned residential, it has historically been used as a church. Its location adjacent to North Marietta Parkway makes it an appealing site for a commercial venture or mixed use development. For this reason it is unlikely that it would ever be developed for single family use. As a result, United Chapel Methodist Church serves as an appropriate transition between the residential neighborhood and the North Marietta Parkway corridor, as long as the neighborhood is protected from any further encroachment.

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## STAFF ANALYSIS CONTINUED

### *Infrastructure*

Currently, the church is operating with 17 paved parking spaces, many of which are not striped according to the city's area requirements for parking spaces. Two spaces are actually shown within the right of way. City code requires approximately 60 parking spaces for existing conditions (2,400 s.f./40 s.f.); if the church expands according to the submitted plan, that number would increase to 80 spaces. Although staff is unsure how the church currently handles overflow parking, it is reasonable to assume it is accommodated on-street or in the grass. The application has not stated intentions for providing additional parking; however, a reciprocal parking agreement with the bank has been mentioned and would be encouraged. The Zoning Ordinance allows parking for two separate uses to use the same spaces if their use is occurring at distinctly different times, as with a church and a bank. However, a variance would still be required:

- Variance to allow required parking to occur on an adjacent property to the east. [Section 716.07.A]

If off-site parking was not approved, then the following variance would be necessary:

- Variance to reduce the required number of parking spaces from 80 spaces to 15 spaces. [Section 716.07 TABLE I.]

The following are comments from Marietta Public Works which may impact the design of the project:

- An easement is required to connect the proposed sidewalk from Fowler Circle to the Bank property which has acquired the parcel.
- The existing parking spaces in the existing parking lot off Fowler Circle are partially within the R.O.W. of the Circle. These must be removed from the R.O.W.
- A portion of the existing parking lot is shown within the R.O.W. of North Marietta Parkway (SR 120), a State Highway. These could be removed by the State if construction occurs on the Parkway (planned).

### *History of Property*

In November 2004 per V2004-33, the Marietta Board of Zoning Appeals approved a variance for the property at 264 Fowler Circle. The approved variance allowed an increase in copy area for a ground-based monument sign for a place of assembly from 32 square feet to 40 square feet.

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## STAFF ANALYSIS CONTINUED

### *Other Issues*

The following are the criteria for determining a site's eligibility for a Special Land Use Permit, as specified in Section 712.01 (E):

1. Whether or not there will be a significant adverse effect on the neighborhood or area in which the proposed use will be located.
2. Whether or not the use is compatible with the neighborhood.
3. Whether or not the proposed use will constitute a nuisance as defined by state law.
4. Whether or not property values of surrounding property will be adversely affected.
5. Whether or not adequate provisions are made for parking and traffic considerations.
6. Whether or not the site or intensity of the use is appropriate.
7. Whether or not adequate provisions are made regarding hours of operation.
8. The location or proximity of other similar uses (whether conforming or nonconforming).
9. Whether or not adequate controls and limits are placed upon commercial deliveries.
10. Whether or not adequate landscaping plans are incorporated to ensure appropriate transition.
11. Whether or not the public health, safety and welfare of the surrounding neighborhoods will be adversely affected.

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## ANALYSIS & CONCLUSION

The applicant, Union Chapel United Methodist Church, is requesting a Special Land Use Permit for the properties located at 264 and 268 Fowler Circle and zoned R-4. This site is the current location for the church and, in order to expand or make additions to the property, a SLUP is required. First Landmark Bank lies to the east of this 0.7 acre site. To the north and east are single family detached homes, also zoned R-4. North Marietta Parkway lies directly to the south. Plans submitted by the applicant show a 3,184 s.f. addition to the existing 2,400 s.f. church building. A sidewalk linking the church building to the First Landmark Bank parking lot is also shown. A fence and 15 foot planted buffer along the northern property line should be considered in order to protect the resident to the north.

Should Council wish to grant the SLUP to only allow the existing church at 264 Fowler Circle to remain "as-is", the following variances would be required:

- Variance to reduce the front setback from 75 feet to 21 feet. [708.04.E.1.b]
- Variance to reduce the major side setback from 75 feet to 27 feet. [708.04.E.1.b]
- Variance to reduce the side setback from 75 feet to 21 feet. [708.04.E.1.b]
- Variance to reduce the 10 foot landscape strip to 0 feet to allow existing parking lot to remain. [712.08.G.2 and 712.08.G Table G]

Should City Council wish to grant the SLUP for both properties, which would allow for the expansion of the existing building, the following variances would be required instead of the above mentioned variances:

- Variance to reduce the front setback from 75 feet to 21 feet. [708.04.E.1.b]
- Variance to reduce the major side setback from 75 feet to 27 feet. [708.04.E.1.b]
- Variance to reduce the side setback from 75 feet to 16 feet. [708.04.E.1.b]
- Variance to reduce the rear setback from 75 feet to 46 feet. [708.04.E.1.b]
- Variance to reduce the 10 foot landscape strip to 0 feet to allow existing parking lot to remain. [712.08.G.2 and 712.08.G Table G]

Also, one of the two following variances may be considered:

- Variance to allow required parking to occur on an adjacent property to the east. [716.07.A]
- Variance to reduce the required number of parking spaces from 80 spaces to 15 spaces. [716.07 TABLE I.]



**Department of Development Services**  
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Brian Binzer, Director

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The FLU of the City's Comprehensive Plan designates these parcels as Medium Density Residential (MDR), which is suitable for medium-density housing with densities of ranging from three (3) to six (6) dwelling units per acre. Although this property is zoned residential, it has historically been used as a church. Its frontage along North Marietta Parkway makes it an appealing site for a commercial venture or mixed use development. For this reason it is unlikely that it would ever be developed for single family use. As a result, United Chapel Methodist Church serves as an appropriate transition between the residential neighborhood and the North Marietta Parkway corridor, as long as the neighborhood is protected from any further encroachment.

**Prepared by:** \_\_\_\_\_

**Approved by:** \_\_\_\_\_



## DATA APPENDIX

### ***CITY OF MARIETTA - WATER***

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Is a water line adjacent to the property?	Yes
If not, how far is the closest water line?	n/a
Size of the water line?	6-inch
Capacity of the water line?	Flow test required
Approximate water usage by proposed use?	Information not provided

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### ***CITY OF MARIETTA - SEWER***

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Is a sewer line adjacent to the property?	Yes
If not, how far is the closest sewer line?	n/a
Size of the sewer line?	8-inch
Capacity of the sewer line?	Available
Estimated waste generated by proposed development?	A.D.F                      Peak Information not provided
Treatment Plant Name?	Cobb County
Treatment Plant Capacity?	Cobb County
Future Plant Availability?	Cobb County

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## DATA APPENDIX CONTINUED

### *Drainage and Environmental Concerns*

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Does flood plain exist on the property?	NO
What percentage of the property is in a floodplain?	---
What is the drainage basin for the property?	Sope Creek
Is there potential for the presence of wetlands as determined by the U.S. Environmental Protection Agency?	NO
If so, is the use compatible with the possible presence of wetlands?	---
Do stream bank buffers exist on the parcel?	NO
Are there other topographical concerns on the parcel?	NO
Are there storm water issues related to the application?	NO
Potential presence of endangered species in the area?	NO

### *Transportation*

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What is the road affected by the proposed change?	Fowler Circle
What is the classification of the road?	Local
What is the traffic count for the road?	No data available
Estimated number of cars generated by the proposed development?	Insufficient Data Provided
Estimated number of trips generated by the proposed development?	Insufficient Data Provided
Do sidewalks exist in the area?	YES
Transportation improvements in the area?	NO
If yes, what are they?	---

- Site plans for new building and sidewalk will be required for construction. Site plans must include, parking, driveways, streets, stormwater management, stormwater quality, 10% downstream analysis, and any other applicable improvements required by City code and Georgia Stormwater Management Manual. Additional comments will be made at time of site plan submittal. There can be no point discharge onto adjacent property which is not into a stream, defined drainageway, or storm sewer. Discharge will not be allowable at the property line. If easements are required for drainage through adjacent property, then the owner is to obtain.
- The property accesses onto a Residential Street, however, it is grandfathered as non-conforming.
- An Exemption Plat is required to combine the parcels.
- An easement is required to connect the proposed sidewalk from Fowler Circle to the Bank property which has acquired the parcel.
- The existing parking spaces in the existing parking lot off Fowler Circle are partially within the R.O.W. of the Circle. These must be removed from the R.O.W.
- A portion of the existing parking lot is shown within the R.O.W. of North Marietta Parkway (SR 120), a State Highway. These could be removed by the State if construction occurs on the Parkway (planned).



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**DATA APPENDIX CONTINUED**

***EMERGENCY SERVICES***

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Nearest city or county fire station from the development?	112 Haynes St.
Distance of the nearest station?	0.75 miles
Most likely station for 1 <sup>st</sup> response?	Same
Service burdens at the nearest city fire station (under, at, or above capacity)?	None

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***MARIETTA POWER - ELECTRICAL***

Does Marietta Power serve this site?      Yes   X                        No           

If not, can this site be served?              Yes                                 No           

What special conditions would be involved in serving this site?

Additional comments: