



DeKalb County Zoning Board of Appeals

330 Ponce De Leon Avenue, Suite 500

Decatur, GA 30030

(404) 371-2155 / plandev@dekalbcountyga.gov

Wednesday, July 14, 2021

Planning Department Staff Analysis

Case No: A-21-1245005

Parcel ID: 15-195-08-035

Commission District: 5 Super District: 7

Applicant: Sarah Powell

Owner: Sarah Powell

Project Name: 1630 South Indian Creek Drive

Location/Address: 1630 South Indian Creek Drive, Stone Mountain, GA

Requests:

- 1) To reduce the south transitional buffer from the required 50 feet to 20 feet to expand an existing legal nonconforming structure; and
- 2) To reduce the required landscape strip from 10-feet to 2.5 feet, reduce the required sidewalk from six feet to 3 feet, and eliminate the requirement for street trees in the landscape strip every 50 feet (i.e., three trees) along the property frontage.

Staff Recommendation

- 1) Approval with a condition.
- 2) Approval with conditions.

STAFF FINDINGS

Site Location and Property Description:

The subject property is a 1.11-acre parcel with 150 feet of frontage on South Indian Creek Drive. It is located on the north edge of a commercial strip located along Covington Highway, between I-285 and Mercer Road. A one-story, 990-square foot building is located on the property, close to the south property line. The center of the property is cleared; trees and undergrowth are growing around the edges of the property. The topography of the site slopes downwards from the Indian Creek right-of-way, starting at the property line, at approximately 10 percent before it levels off at the center of the site. A grass strip, measuring approximately 2.5 feet wide, is located next to the street pavement; a concrete sidewalk, measuring approximately 3 feet wide is located back of the grass strip. There are approximately 14 feet of right-of-way between the street pavement and the property line.

Among the nearby commercial and office sites that comprise the Covington Highway commercial strip, two properties are zoned R-75. One of these properties adjoins the south property line for a length of approximately 100 feet. A transitional buffer requirement applies to the portion of the subject property that adjoins the R-75 property.

The proposal currently under consideration is to add to the front and rear of the existing building to increase the square footage of the building by 725 square feet. Thus, the sanctuary of the church would be enlarged to 1,485 square feet, and it would accommodate a total of 105 movable seats. A 44-space parking lot would be constructed to the sides and rear

of the building. This proposal received approval by the Board of Commissioners in May 2021 via a major modification to remove a zoning condition approved in 1996 to allow use of the property only for a bible school.

VARIANCE TO REDUCE THE TRANSITIONAL BUFFER

1. **By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

At 150 feet, the lot width is 50 feet wider than the required minimum width for a lot zoned OI. The lot area of 1.1 acres exceeds the required minimum lot size of 20,000 square feet. The topography, while uneven, is not exceptional. However, there are two interrelated conditions related to the property that directly affect the ability of the current property owner to use the property for a purpose for which it is zoned: a building was constructed in what is now a transitional buffer, and the rear property line of one of the two residentially-zoned lots on what is otherwise a consistently non-residential commercial strip along Covington Highway happens to border the subject property exactly where the building is located. This is an unusual situation that couldn't possibly have been created by the applicant, as the building was constructed in 1935, long before the applicant purchased the property, and the zoning of the residential property that borders part of the subject property was probably established in 1956, when the first zoning ordinance was adopted.

2. **The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The building addition only would encroach as far as the 20-foot south side setback line, thereby going no further towards the adjoining residential property than what the regulations contemplate as a reasonable separation of a building from the edge of an OI property. Of course, other OI properties are limited by transitional buffers when located next to residential property, but these limitations don't take into account whether or not the adjoining residentially-zoned property is likely to be developed for residential purposes in the future. In the case under consideration in this report, the affected residential property, because of its location along a four-lane major arterial (with turning lane) that is developed with non-residential office, retail, and auto-oriented land uses, is not very likely to be redeveloped with a single-family home.

3. **The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The variance will not be detrimental to the subject property, the adjoining property, or the public welfare. The applicant is seeking to redevelop the subject property in compliance with the *Zoning Ordinance*.

4. **The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

Application of the transitional buffer requirement would make it necessary to move the existing building on the property or demolish it and build a new building elsewhere on the property, which would entail considerably more time, effort, and expense than simply expanding the building. It would be unnecessary to impose this hardship on the applicant because expanding the building at its existing location would not be detrimental to adjoining properties or the larger neighborhood.

5. **The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text.**

The requested variance would be consistent with the spirit and purpose of the *Zoning Ordinance* and the policies of the Comprehensive Plan that support development of land uses in an orderly manner.

Variance to Eliminate Streetscaping

1. **By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The topography of the subject property starts to slope downwards at the property line. To install the required streetscaping, the right-of-way would need to be widened by two feet. In other words, the topography of the subject property doesn't allow for the widths of sidewalk and landscape strip that are required by the *Zoning Ordinance* without considerable grading and filling. The topography of the subject property can be assumed to be an exceptional condition since no two sites have exactly the same topography. Two nearby OI properties have flat areas next to the street front and their owners would, therefore, enjoy the privilege of installing, (if they were to redevelop their properties) the required streetscaping without grading and filling.

2. **The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The minimum variance would be that which would enable the applicant to install a landscape strip, sidewalk, and street trees in the 14-foot distance between the street pavement and the property line; for example, a six-foot landscape strip (which is the minimum width deemed sufficient for growth of a street tree) and an eight-foot sidewalk. Such a variance request wouldn't be a special privilege because other properties zoned OI would be required to install streetscaping if they were to be redeveloped.

3. **The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

Approval of the variance would not be materially detrimental to the public welfare because it would affect only a 150-foot length of street frontage on which a landscape strip and sidewalk, however meager, already exist.

4. **The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

The grading and filling that would be required to provide the required sidewalk would cause an undue hardship because it is out of proportion to the scope and scale of the redevelopment project proposed for the subject property.

5. **The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text.**

The requested variance would be consistent with the spirit and purpose of the *Zoning Ordinance* and the *DeKalb County Comprehensive Plan* because it is made in the context of the existing landscape strip and sidewalk along

Indian Creek Drive. If the variance is granted, the ability of pedestrians to walk along the front of the property is not completely eliminated. At the same time, it might be possible for the applicant to improve the walkability of the existing sidewalk without undergoing an undue hardship. Staff recommends widening the pavement surface of the sidewalk and planting the required number of street trees on the east side of the sidewalk.

STAFF RECOMMENDATION

Variance to the Transitional Buffer:

1. Approval, with the condition that the case number, approval date, type of variances, and variance conditions shall be noted on any site plan prepared during the permitting process for the proposed development.

Variance regarding Streetscaping:

2. Approval, with the following conditions:
 - a. Pavers shall be installed next to and on the east side of the existing sidewalk, to widen the walking surface of the sidewalk to 6 feet;
 - b. Three street trees shall be installed next to the sidewalk, to provide shade for pedestrians, subject to approval by the County Arborist; and
 - c. The case number, approval date, type of variance, and variance conditions shall be noted on any site plan prepared during the permitting process for the proposed development.

**ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING
(VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)**

Applicant and/or
Authorized Representative SARAH POWELL BOA No. _____
Mailing Address: 1669 DETROIT AVENUE N.W.
City/State/Zip Code: ATLANTA GEORGIA 30314
Email: sarajpowell@yahoo.com
Telephone Home: 917-651-5176 Business: _____

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: SARAH POWELL
Address (Mailing): 1669 DETROIT AVENUE N.W., ATLANTA GA 30314
Email: sarajpowell@yahoo.com
Telephone Home: 917-651-5176 Business: _____

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 1630 S. INDIAN CREEK DR. City: Stn. Mtn State: GA Zip: 30083
District(s): 15th Land Lot(s): 195 Block: _____ Parcel: 15195-08035
Zoning Classification: PLACE OF WORSHIP Commission District & Super District: 05 & 07

CIRCLE TYPE OF HEARING REQUESTED:

- VARIANCE (From Development Standards causing undue hardship upon owners of property.)
- SPECIAL EXCEPTIONS (To reduce or waive off-street parking or loading space requirements.)
- OFFICIAL APPEAL OF ADMINISTRATIVE DECISIONS.

*** PLEASE REVIEW THE FILING GUIDELINES ON PAGE 4. FAILURE TO FOLLOW GUIDELINES MAY RESULT IN SCHEDULING DELAYS. ***

TO BE COMPLETED BY PLANNING AND SUSTAINABILITY DEPARTMENT:

Date Received: _____ Fee Paid: _____

ZONING BOARD OF APPEALS APPLICATION AUTHORIZATION OF THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals
To inspect the premises of the Subject Property

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property subject to the application.

DATE: 6/2/2021

Applicant:
Signature

Sarah Powell

DATE: _____

Applicant:
Signature

ZONING BOARD OF APPEALS APPLICATION

AUTHORIZATION TO REPRESENT THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals
to inspect the premises of the Subject Property

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property and that I authorize the applicant/agent to apply for a hearing to the
Zoning Board of Appeals for the requests as shown in this application.

DATE: June 2ND 2021

Applicant/Agent: Sarah Powell
Signature

TO WHOM IT MAY CONCERN:

(I)/ (WE) Sarah Powell
(Name of Owners)

being (owner/owners) of the property described below or attached hereby delegate authority to:

Adam Mark Freeman

Notary Public



Sarah Powell

Owner

Notary Public

Owner

Notary Public

Owner

Pastor Sarah Powell (owner)

Location Address:

1630 South Indian Creek Drive,

Stone Mountain, GA 30083

917-651-5176

June 2nd, 2021

To: Dekalb County Department of Planning and Sustainability

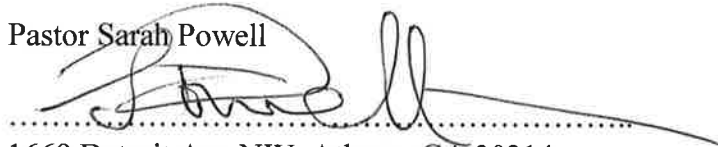
Re: Application for Variances for Parking

The owner of the building located at 1630 South Indian Creek Drive, Stone Mountain, Georgia 30083, is asking for a variance to renovate the building and the parking lot. Firstly, the building is near to the western and southern side of lot within the setback of the property line. This limitation or hardship was not created by this owner or applicant and the strict application of requirements of this chapter could deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district. My intention is to extent the frontal area of the building and build a proposed Ramp for people with Disabilities. The adjustment to meet the correct amount of footage from the property line as states by the Dekalb zoning and planning department to accommodate the new addition to the frontal area of the building was done by the architect on the proposed Site Plan. But due to exceptional narrowness of lot, the shape of the present building and trees on the property, it imposed limitation to the new frontal addition that push the parking lot within the setbacks of the property line, so a variance is needed.

Secondly, the lot upon which the building is located is within less than two hundred and fifty (250) feet nearest to property line. The parking lot on the property has a proposed parking for cars both posterior and anterior of building. This encroaches upon the property line and needs a variance. Two ADA Parking spaces for cars were proposed for the frontal area of the building as they will give the disabled person more access to enter the place of worship. Granting this variance will alleviate the burdens of turning away people with disabilities from the place of worship that they love attend and giving the owner the privilege to restore the present building into a place of worship.

Thanks,

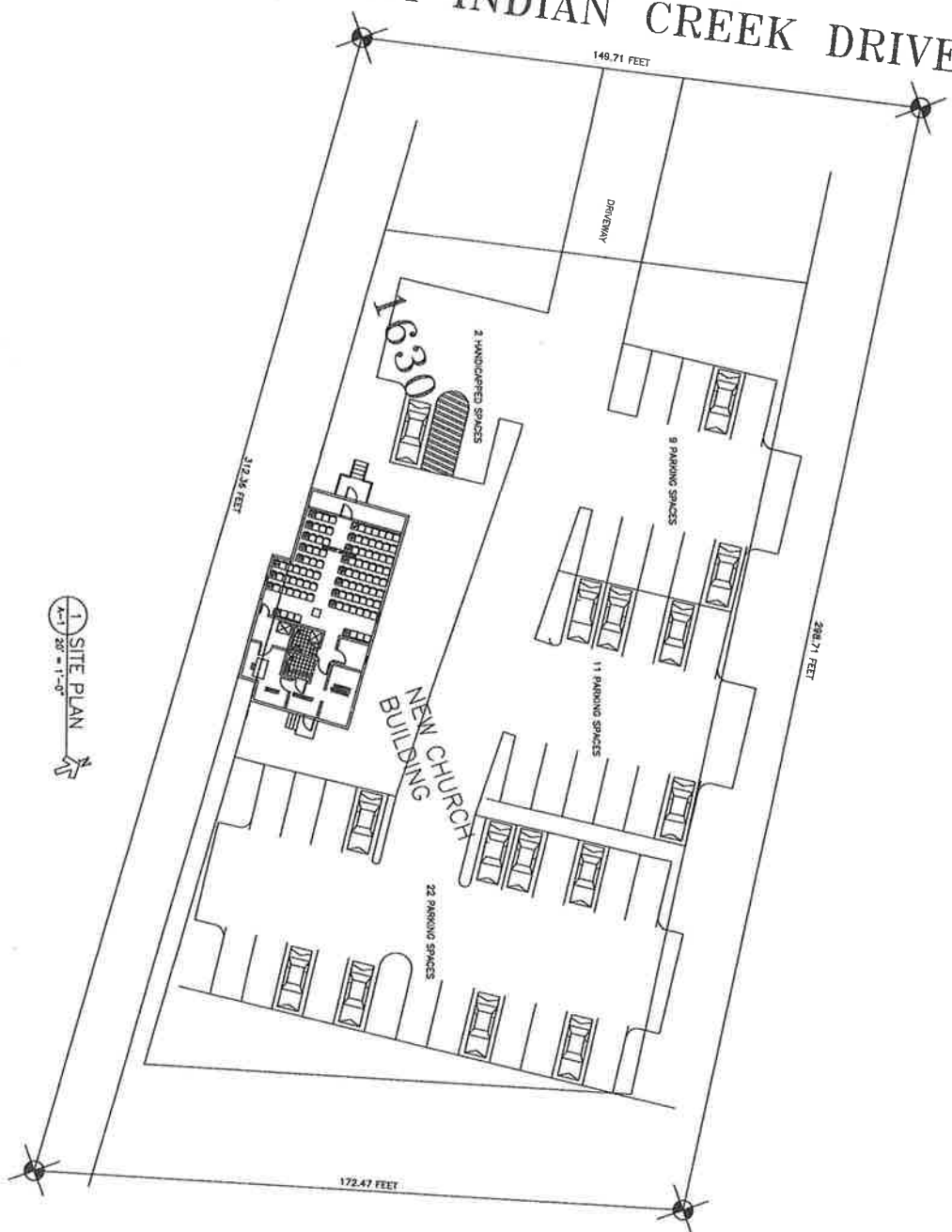
Pastor Sarah Powell

A handwritten signature in black ink, appearing to read 'Sarah Powell', written over a horizontal dotted line.

1669 Detroit Ave NW, Atlanta, GA 30314

917-651-5176

SOUTH INDIAN CREEK DRIVE



1 SITE PLAN
1" = 20' - 0"

REVISIONS	DATE	DESIGNED BY	DRAWN BY	CHECKED BY
1	8 APRIL 2021	EB	EB	EB
2				
3				
4				
5				



**E. F. BRATHWAITE
AND COMPANY ARCHITECTS**
A. I. A., NAA
3824 RADERS RIDGE DRIVE
Suite 100
Lithonia, Ga. 30038
770/617-6621
EFBRATH@aol.com

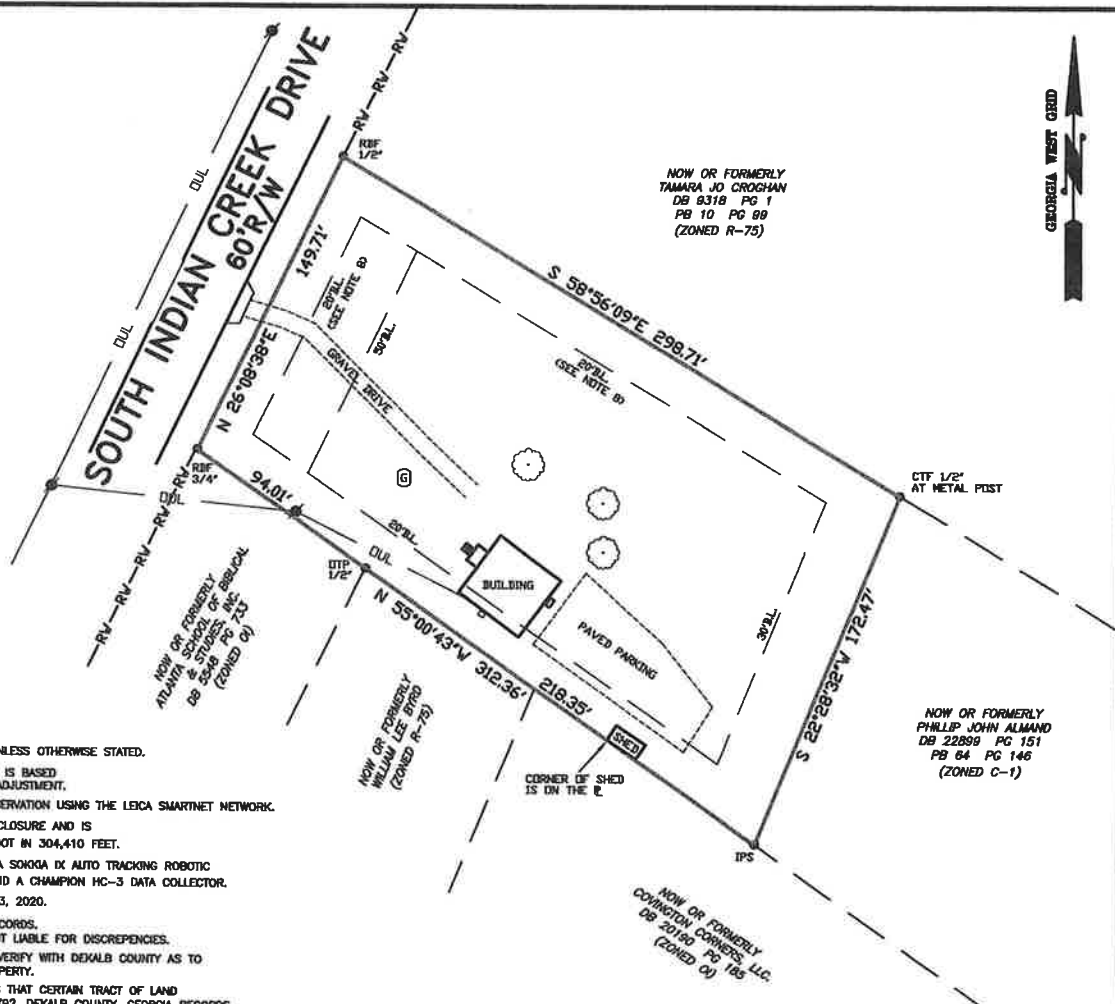
NOT RELEASED FOR CONSTRUCTION
NEW ASSEMBLY OCCUPANCY FACILITY
THE NEW CREATION APOSTOLIC FAITH CHURCH OF JESUS CHRIST
1630 SOUTH INDIAN CREEK DRIVE
INTERNATIONAL MINISTRIES, INC.
STONE MOUNTAIN, DEKALB COUNTY, GEORGIA 30083
PASTOR SARAH POWELL, OWNER REPRESENTATIVES

A-0
OF 1
PROJ. NO. 2018
REV. #
1077 WEST AVE. 4-0

THIS BLOCK RESERVED FOR THE
CLERK OF THE SUPERIOR COURT.

TAX PARCEL: 15 195 08 035
1630 SOUTH INDIAN CREEK DRIVE
DECATUR, GEORGIA 30035
ZONED: OI (DEKALB)

GEORGIA WEST ORD



NOTES:

1. ALL IRON PINS SET ARE 1/2" REBAR UNLESS OTHERWISE STATED.
2. THE FIELD DATA UPON WHICH THIS PLAT IS BASED WAS AN OPEN TRAVERSE AND HAD NO ADJUSTMENT.
3. BEARING BASIS TAKEN FROM A GPS OBSERVATION USING THE LEICA SMARTNET NETWORK.
4. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 304,410 FEET.
5. EQUIPMENT USED IN THIS SURVEY WAS A SOKKIA DX AUTO TRACKING ROBOTIC TOTAL STATION, A CHAMPION GPS 180 AND A CHAMPION HC-3 DATA COLLECTOR.
6. FIELD WORK COMPLETED ON OCTOBER 13, 2020.
7. SETBACK SHOWN ARE FROM COUNTY RECORDS. DAVID GARRISON LAND SURVEYING IS NOT LIABLE FOR DISCREPANCIES.
8. OI ZONING HAS CONDITIONAL SETBACK. VERIFY WITH DEKALB COUNTY AS TO WHAT CONDITIONS APPLIES TO THIS PROPERTY.
9. REFERENCED PROPERTY IS THE SAME AS THAT CERTAIN TRACT OF LAND RECORDED IN DEED BOOK 9192, PAGE 792, DEKALB COUNTY, GEORGIA RECORDS.

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated herein. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

THE REGISTERED LAND SURVEYOR FURTHER CERTIFIES THAT THIS MAP, PLAT OR PLAN COMPLIES WITH THE MINIMUM STANDARDS AND SPECIFICATIONS OF THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND THE GEORGIA SUPERIOR COURT CLERK'S COOPERATIVE AUTHORITY.

David L. Garrison



RETRACEMENT SURVEY FOR:
**THE NEW CREATION APOSTOLIC
FAITH CHURCH OF JESUS CHRIST
INTERNATIONAL MINISTRIES, INC.**

DISTRICT 15, LAND LOT 195
DEKALB COUNTY, GEORGIA

DATE : OCTOBER 19, 2020
JOB NO. : 1630 SOUTH INDIAN CREEK DR
FILE NO : 1630 SOUTH INDIAN CREEK DR

LEGEND

- CTF CRIMP TOP FOUND
- OTF OPEN TOP PIPE
- CMF CONCRETE MONUMENT FOUND
- IPS IRON PIN SET
- RFB REBAR FOUND
- ⊗ FIRE HYDRANT
- ⊕ UTILITY POLE
- ⊙ WATER METER
- ⊙ UTILITY POLE
- ⊙ GAS METER
- RV RIGHT OF WAY
- ⊙ STORM WATER JUNCTION BOX
- ⊙ SANITARY SEWER MANHOLE
- ⊙ PINE TREE
- ⊙ HARDWOOD TREE

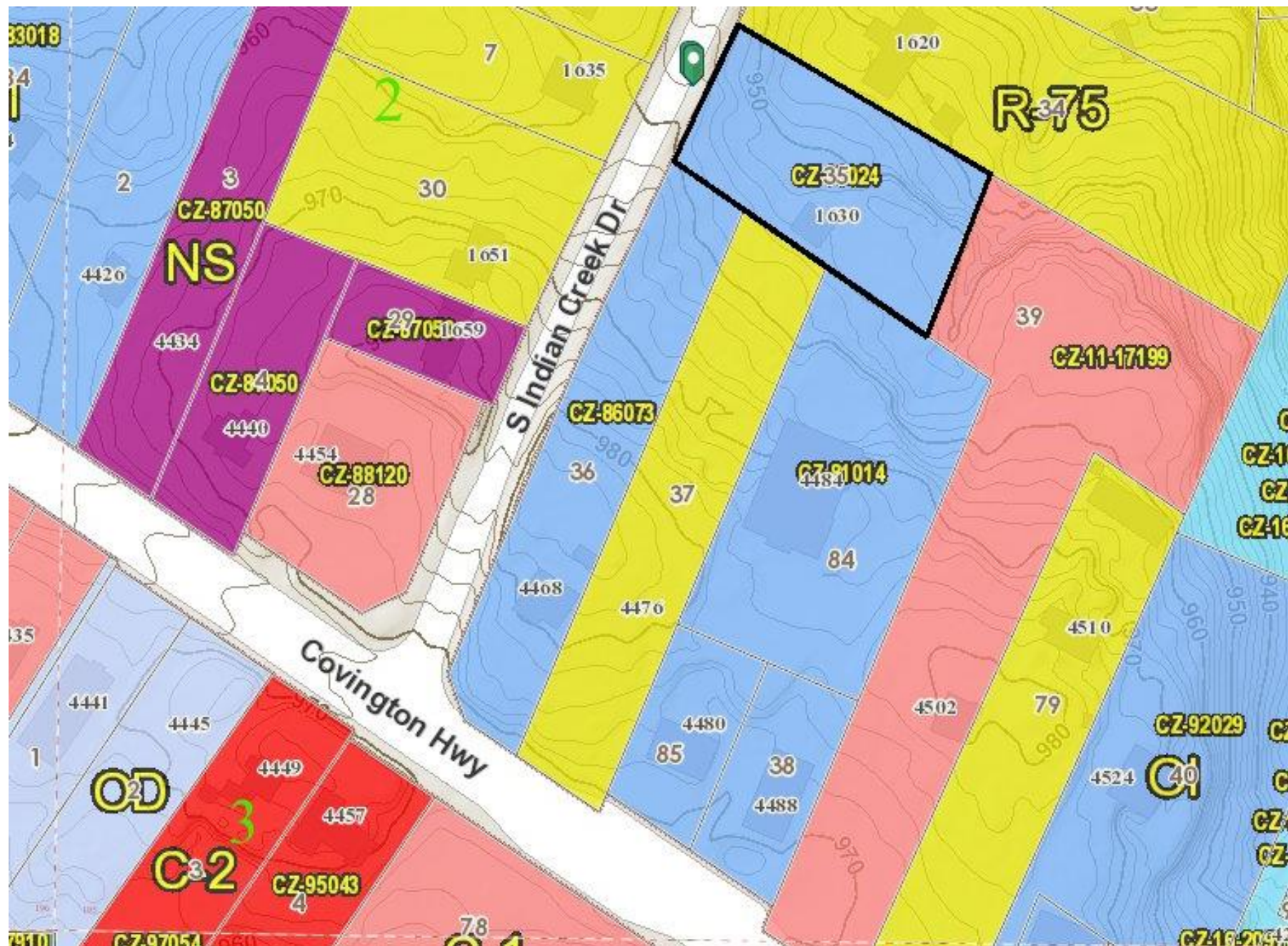
AREA = 1.11 ACRE



DAVID L. GARRISON
LAND SURVEYING

969 HALE ROAD
MAYSVILLE, GEORGIA 30558
PH. (770) 560-8031 EMAIL: DGARRISON@AOL.COM









Subject Property