

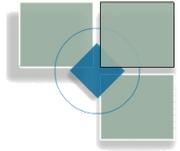


DeKalb County Department of Planning & Sustainability

330 Ponce De Leon Avenue, Suite 300

Decatur, GA 30030

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



Michael L. Thurmond
Chief Executive Officer

Planning Commission Hearing Date: Thursday, September 7, 2017, 6:30 P.M.
Board of Commissioners Hearing Date: Tuesday, September 26, 2017, 6:30 P.M.

STAFF ANALYSIS

Case No.: Z-17-21582 **Agenda #:** N.7

Location/Address: The northeast intersection of Covington Highway and South Indian Creek Drive at 4468 and 4476 Covington Highway, Decatur, Georgia and 1630 South Indian Creek Drive. **Commission District:** 5 **Super District:** 7

Parcel ID: 15-195-08-036; 15-195-08-037; 15-195-08-035

Request: To rezone property from O-I (Office-Institutional) District and R-75 (Residential Medium Lot) District to NS (Neighborhood Shopping) District to develop a 5,000 square foot convenience store with gas pumps and 12,000 square feet of retail uses for a total of 17,000 square feet.

Property Owners: American Univ. of Biblical Studies, Inc.

Applicant/Agent: Indore Investment, Inc./CO Battle Law PC

Acreage: 3.58 Acres

Existing Land Use: Vacant residential structures previously used for office

Surrounding Properties: Single-Family Residences; Office Park; Used Car Dealership

Adjacent & Surrounding Zoning: North, East & West: R-75(Residential Medium Lot) District
Further East: O-I (Office-Institutional) District
South & West: Commercial & Neighborhood Shopping District

Comprehensive Plan: Commercial Redevelopment Corridor (CRC) Consistent X

Proposed Building Square Feet: 17,000 Square Feet	Existing Building Square Feet: 2,068 Square Feet
Proposed Lot Coverage: <80%	Existing Lot Coverage: <35%

SUBJECT SITE & ZONING HISTORY

The subject site consists of 3.58 acres at the southeast intersection of Covington Highway (SR-278, a four-lane major arterial with a middle turn lane) and South Indian Creek Drive (a two-lane collector) that tapers to a three-lane at its intersection with Covington Highway. The site is composed of three (3) contiguous parcels, 4468 and 4476 Covington Highway, Decatur, Georgia and 1630 South Indian Creek Drive, Stone Mountain Georgia. The site is currently developed with two (2) existing vacant residential structures previously occupied as Atlanta School of Biblical Studies. The primary building façade for the school fronts on Covington Highway but is accessed from a singular curb cut on South Indian Creek Drive. The second structure is also accessed from South Indian Creek Drive. There is no direct access to the site from Covington Highway. The remainder of the site consists of mature dense vegetation.

The majority of the site frontage (approximately 724 feet) is along South Indian Creek Drive. Directly facing the site is Midway Motors Used Car Dealership at the northwest intersection of Covington Highway and South Indian Creek Drive. Financial Dynamic Consulting, Inc. and two (2) residential zoned properties are opposite the site on South Indian Creek Drive. The residential property adjacent to the consulting office is uninhabitable and vastly overgrown with dense vegetation. The second residential zoned property across from the site is an existing single-family residence at 1635 South Indian Creek Drive. Further north and adjacent to the site along the South Indian Creek Drive corridor are several established residential zoned subdivisions (Leigh Enterprise, Chedworth, Indian Forest and Colony East Subdivision). Covington Corners Office Park is an adjacent office use along Covington Highway. Nearby commercial uses along the south side of Covington Highway include Grand Royale Events Center, Don Janelle Hair Spa and Barber Shop, F & M Motors.

A portion of the subject site (4476 Covington Highway) is zoned R-75 (Residential Medium Lot) District. The lot at the intersection (4468 Covington Highway) is zoned O-I (Office-Institutional) for a seminary and lay training center pursuant to CZ-86073. The lot furthest north (1630 South Indian Creek Drive) is zoned O-I (Office-Institutional) for office use for the Atlanta School of Biblical studies only pursuant to CZ-96024.

PROJECT ANALYSIS

The request is to rezone property from O-I (Office-Institutional) District and R-75 (Residential Medium Lot District) to NS (Neighborhood Shopping) District to redevelop the site with a 5,000 square foot convenience store with gas pumps and 12,000 square feet of retail space within two (2) buildings for a total building square footage of 17,000 square feet. Per the submitted site plan, the convenience store with gas pumps (5,000 square feet) and 2,000 square feet of retail will be located at the intersection of Covington Highway and South Indian Creek Drive. There appears to be five (5) gas pump islands proposed for the subject site. The second retail building (10,000 square feet) will be located along the South Indian Creek Drive frontage. Both primary building facades will face South Indian Creek Drive. Outdoor seating areas are depicted at the end of both buildings with enhanced interior greenspace areas and landscaped parking strip for added curb appeal along South Indian Creek Drive. The site plan depicts a minimum 75-foot wide transitional buffer along the north property line adjacent to residential zoned properties. An 8-foot high chain link fence is proposed along the east property line adjacent to Covington Corners Office Park and along the north property line adjacent to residential zoned property. Ten foot wide landscaping and 6-foot wide sidewalks are proposed along Covington Highway and South Indian Creek Drive. The submitted site plan also depicts a four (4) foot wide bike lane along South Indian Creek Drive.

Access to the site is proposed via one (1) right-in only curb cut along Covington Highway (SR 124) subject to approval by Georgia Department of Transportation (GDOT). A full service access is proposed on South Indian Creek Drive aligned with the curb cut for Financial Dynamic Consulting, Incorporated across from the subject site. Further along South Indian Creek Drive, a right-in, right-out only access is proposed on the site.

ARTICLE 5 DESIGN STANDARDS COMPLIANCE - Sec. 27-4.4.28.(b)

(b) Gas station and convenience store design shall comply with the design standards set forth in chapter 27 Article 5 of this code.

REQUIRED	PROPOSED	COMPLIANCE
Table 5.1 Streetscape Dimensions Landscape Strip – 10 Feet Sidewalk – 6 Feet	Landscape Strip – 10 Feet Sidewalk – 6 Feet	Yes
Min. 10% of parking lot shall be landscaped	Not calculated on site plan	However, It appears that the site can accommodate this standard.
Min. 1 tree per 8 parking spaces & 1 landscape island per 10 parking spaces	Not calculated on site plan	However, It appears that the site can accommodate this standard.

SUPPLEMENTAL REGULATIONS - Sec. 27-4.4.28.(c)

APPLICABLE STANDARDS TO	PROPOSED	COMPLIANCE
ALL GAS PUMPS		
(1) The primary building (i.e., convenience store or automobile service station) shall be exempt from primary building setbacks if located in activity centers.	Not applicable.	N/A. Site is not located within an activity center. It is located within the Commercial Redevelopment Corridor (CRC) Land Use Character Area.
(2) Canopies covering gasoline pumps shall be set back not less than fifteen (15) feet from all street rights-of-way.	30 Feet from South Indian Creek 60 Feet from Covington Highway	Yes
(3) Canopy height shall not exceed the greater of twenty (20) feet or the height of the principal building.	Canopy height will not exceed building height of convenience store.	Yes
(4) Canopies and their columns shall be complementary to the overall color scheme and building materials scheme of the building façade to which the canopy is accessory.	Documentation depicting canopy color scheme not submitted.	Unable to determine.
(5) Canopy lighting shall not extend beyond the area immediately beneath the canopy and all fixtures shall be recessed, including any fixture or lens. Lighting shall project inward and downward, shall not	Lighting Plan not submitted.	Unable to determine.

have any spillover to adjacent properties, and shall cut off no later than thirty (30) minutes after closure of the facility.		
(6) Automobile service stations with gas sales shall have a capacity to store one (1) car per bay (car area in front of a pump), so as not to interfere with driveway ingress and egress traffic flow.	Submitted site plan does not depict details of gas pumps.	Unable to determine.
(7) A minimum of thirty (30) feet is required between a gas pump and the nearest property line.	Submitted site plan depict gas pumps a minimum of 30 feet from the nearest property line along South Indian Creek Drive.	Yes.
(8) Owner and operator are responsible for daily litter clean-up to ensure that property remains free of litter, trash, and debris.	The applicant will comply with this standard.	Yes.
(9) When a separate retail or restaurant use is located on the same property as fuel pumps, there shall be separate and distinct parking spaces for each use.	Submitted site plan depicts a parking layout where separate and distinct parking spaces can be designated for each use.	Yes. Site can comply with designated parking spaces for each use.
(10) The use of light emitting diodes, neon lights, and illuminated panels placed around the windows or on the outside of the building is prohibited.	The applicant intends to comply with standard.	Yes.

On May 23, 2017, the Board of Commissioners approved an amendment to Chapter 27 – Zoning, Article 4 Use Regulations which stipulate requirements for permitted uses in DeKalb County. Per Section 27- 4.2.28(d), fuel pumps associated with convenience stores can be exempt from requesting a Special Land Use Permit (SLUP) if the proposed use location is not within an activity center designated by the 2035 Comprehensive Plan Future Land Use Map and the development can meet at least three (3) of the following criteria:

- (1) Facility is located within four hundred (400) feet of an intersection of a major arterial street and a major or minor arterial street, or located within one thousand (1,000) feet of an intersection with an interstate highway.
- (2) Facility is accessible via direct and secondary access, either through a secondary street or by inter-parcel or other shared access.
- (3) Facility is a new building of at least five thousand (5000) square feet or facility is part of a major redevelopment as defined in Section 8.1.16.
- (4) Facility includes at least two (2) bathrooms capable of serving at least three (3) persons at a time, open to the public and compliant with the Americans with Disabilities Act.

The proposed site at the intersection of Covington Highway and South Indian Creek is not within any designated activity center. The site is within a Commercial Redevelopment Corridor (CRC) character area. Per the documentation submitted with the application, the proposed development meets criteria 2, 3 and 4. The facility is accessible via direct and secondary access through Covington Highway and South Indian Creek. The proposed convenience store is 5,000 square feet and will have public restroom facilities capable of serving 3 persons at a time in compliance with the Americans with Disabilities Act. Therefore a Special Land Use Permit (SLUP) is not required for the proposed fuel pumps associated with the convenience store. Only the proposed rezoning application to NS (Neighborhood Shopping) District is required.

ZONING ANALYSIS

The current R-75 (Residential Medium Lot) District and O-I (Office-Institutional) District zoning on the site for institutional uses in the existing residential structures are compatible with the residential character of the single-family residences adjacent and north of subject site along South Indian Creek Drive. The proposed NS (Neighborhood Shopping District) is an intrusion into the existing residential of the area that extends along South Indian Creek Drive. The requested NS (Neighborhood Shopping) District allows for non-residential uses that would increase traffic along South Indian Creek Drive resulting in a negative impact on residences and subdivisions in the area. The below chart illustrates the significant increase in daily trips and pm peak trips for the proposed uses versus what is currently on the site.

	Units of 1,000 Square Feet	*Calculated Daily Trips	PM Peak Trips-Total
Existing Office in residential structures on subject site 2,068 Square Feet	2	22	3
Proposed Convenience Market with Gas Pumps 5,000 Square Feet	5	4,228	298
Proposed Retail-Shopping Center 12,000 Square Feet	12	515	40

***Trip Generation Rates from the 8th Edition ITE Trip Generation Report**

The added traffic from a convenience gas facility with other retail along the two-lane collector (South Indian Creek Drive) would adversely impact the flow of traffic on existing subdivisions in the area. The character of use and hours of operation (24-hour operation of gas pumps & convenient store) would generate high traffic volumes, promote loitering, noise and glare (during night time hours) that would adversely impact the adjacent single-family area. Existing non-residential zoning districts in the area of the subject site primarily front on Covington Highway. The northwest intersection of Covington Highway and South Indian Creek is zoned O-I (Office-Institutional), NS (Neighborhood Shopping) and C-1 (Local Commercial District with low impact uses. The proposed gas pumps, convenience store and retail development would have its primary frontage and entrances along South Indian Creek Drive encroaching into a stabilized residential area. Therefore, given the potential adverse impacts on adjacent and nearby residences and established single-family subdivisions along South Indian Creek Drive, the requested NS (Neighborhood) District would not be appropriate for the subject site.

Chapter 27- Article 7.3.5. Standards and factors governing review of proposed amendments to the Official Zoning Map. The following standards and factors are found to be relevant to the exercise of the county's zoning powers and shall govern the review of all proposed amendments to the Official Zoning Map:

A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The proposed NS (Neighborhood Shopping) District is allowed within the CRC (Commercial Redevelopment Corridor) designated by the 2035 Comprehensive Plan for the subject site. However, the proposed use is too intense given the site's location at a busy intersection that is in close proximity to single-family residences. The added traffic would further exacerbate the existing traffic conditions. The primary entrances to the proposed gas pumps, a convenience store and retail use is located on a two-lane collector street (South Indian Creek Drive) that serves as the entrance to many single-family residences and several neighborhood subdivisions. The proposed use is inconsistent with the following 2035 Comprehensive Plan principle: Neighborhood Compatibility – Commercial uses that would have a negative influence on adjacent residential neighborhoods or individual residence shall not be permitted.

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The proposed NS (Neighborhood Shopping) District on the subject site is not suitable in view of nearby adjacent properties. The intensity of the commercial use is oriented towards South Indian Creek Drive where single-family residences are also oriented and directly accessed. Convenience stores and gas pumps are high traffic generators during peak periods and also operate with extended operating hours. The more intense zoning would generate an increase of daily traffic in the stabilized residential areas as well as allow commercial uses directly facing existing low density residential properties from across a two-lane local collector street. The NS district as would be an encroachment into the existing residential neighborhood. This use is more suited if oriented and appropriately accessed from Covington Highway, a major thoroughfare aligned with other non-residential uses.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The majority of the site is currently zoned O-I (Office-Institutional) District which should allow for several options for redevelopment for low impact non-residential uses.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The rezoning request will adversely affect adjacent and nearby properties used and zoned residential in the area. Some residences fronting on South Indian Creek Drive will have difficulty entering and exiting property due to the increase in traffic and back-up of vehicles trying to access the proposed gas pumps and retail uses on the site.

E. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

The proposed use will increase traffic in the area and cause traffic congestion at the intersection of Covington Highway and South Indian Creek Drive. The site is located across from residential properties and the proposed use encroaches into a single-family residential area. The proposed NS district on the site could allow commercial uses inconsistent and incompatible with existing single-family residences in the area.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.

The proposed rezoning request should not have an adverse effect on historic buildings, sites, districts, or archaeological resources.

G. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The primary access of the site is located on a two-lane collector street (South Indian Creek Drive) with a right turn lane at the intersection with Covington Highway. The proposed gas pumps and retail uses with only one full service curb cut on South Indian Creek Drive has the potential for traffic back up and cause an excessive traffic burden on an already heavily traveled South Indian Creek Drive. The proposed use will have no impact on area schools.

H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The rezoning proposal to the NS district for retail and commercial uses should not adversely impact the environment or surrounding natural resources. A significant amount of the existing mature vegetation will

COMPLIANCE WITH DISTRICT STANDARDS

Per the chart below, it appears the proposed use and buildings on the site can comply with minimum development standards of the NS (Neighborhood Shopping) District per Table 2.2 of the DeKalb County Zoning Ordinance.

STANDARD	REQUIREMENT	PROPOSED	COMPLIANCE
LOT WIDTH (NS)	A minimum 100 feet of lot width on a public street frontage	Approximately 187 feet of frontage along Covington Highway and 724 feet of frontage along South Indian Creek Drive.	Yes
LOT AREA (NS)	20,000 Square Feet	3.58 acres or 156,098 sf	Yes
FRONT BUILDING SETBACK	Covington Hwy. 30 Feet S. Indian Creek Dr. 20 Ft	60 Feet 30 Feet	Yes Yes
SIDE INTERIOR SETBACK	20 Feet	Minimum 20 Feet	Yes
TRANS. BUFFERS Table 5.2(a)	50 feet adjacent to R-75 zoned district along north (rear) property line	Exceeds 50 feet.	Yes
HEIGHT	2 Stories/ 35 Feet	1-Story	Yes
PARKING Article 6 Convenience store with gas pumps 5,000 Square Feet Retail: 12,000 Square Feet	Minimum 1 space for each 500 square feet of floor area = 10 Space: Max 1 space for each 150 square feet of floor area = 34 spaces Minimum 1 space for each 500 square feet of floor area = 24 Spaces: Max 1 space for each 200 square feet of floor area = 60 spaces	88 Total Parking Spaces	Yes

Staff Recommendation: WITHDRAWAL WITHOUT PREJUDICE

The request is to rezone property from O-I (Office-Institutional) District and R-75 (Residential Medium Lot District) to NS (Neighborhood Shopping) District to redevelop the site for a 5,000 square foot convenience store with gas pumps and 12,000 square feet of retail space within two (2) buildings for a total building square footage of 17,000 square feet. The proposed use reflects inconsistency with the following 2035 Comprehensive Plan Land Use principle for development: Commercial uses that would have a negative influence on adjacent residential neighborhoods or individual residence shall not be permitted. The proposed rezoning will result in an increase of traffic in an area of stabilized neighborhoods. The two-lane collector street (South Indian Creek Drive) may not be able to sustain the increase in traffic generated by the proposed gas pumps, convenience store and retail uses. The existing O-I (Office-Institutional) District on the site may provide options for economical use of the subject site. However, Planning Staff has been notified that the applicant is requesting withdrawal without prejudice of the rezoning application. Therefore, Planning Staff & Sustainability recommends **WITHDRAWAL WITHOUT PREJUDICE** per the applicant's request.



DEKALB COUNTY GOVERNMENT PLANNING DEPARTMENT DISTRIBUTION FORM

The following areas below may warrant comments from the Development Division. Please respond accordingly as the issues relate to the proposed request and the site plan enclosed as it relates to Chapter 14. You may address applicable disciplines.

DEVELOPMENT ANALYSIS:

- **Transportation/Access/Row**

Consult the Georgia DOT as well as the DeKalb County Transportation Department prior to land development permit. Verify widths from the centerline of the roadways to the property line for possible right-of-way dedication. Improvements within the right-of-way may be required as a condition for land development application review approval. Safe vehicular circulation is required. Paved off-street parking is required.

- **Storm Water Management**

Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control is required as a condition of land development permit approval.

- **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area was not indicated in the County G.I.S. mapping records for the site; and should be noted in the plans at the time of any land development permit application.

- **Landscaping/Tree Preservation**

Landscaping and tree preservation plans for any building, or parking lot must comply with DeKalb County Code of Ordinances 14-39 and are subject to approval from the County Arborist.

- **Tributary Buffer**

State water buffer was not reflected in the G.I.S. records for the site. Typical state waters buffer have a 75' undisturbed stream buffer and land development within the undisturbed creek buffer is prohibited without a variance per DeKalb County Code of Ordinances 14-44.1.

- **Fire Safety**

Plans for land development permit must comply with Chapter 12 DeKalb County Code for fire protection and prevention.



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

**NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO
MADOLYN SPANN MSPANN@DEKALBCOUNTYGA.GOV OR JOHN REID JREID@DEKALBCOUNTYGA.GOV**

**COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING**

Case No.: Z-17-21582 Parcel I.D. #: 15-195-08-036

Address: SOUTH INDIAN CREEK DRIVE
COVINGTON HWY
DECATUR, GA

Covington Hwy MAJOR

(classification) (classification)

Capacity (TPD) _____	Capacity (TPD) _____
Latest Count (TPD) _____	Latest Count (TPD) _____
Hourly Capacity (VPH) _____	Hourly Capacity (VPH) _____
Peak Hour. Volume (VPH) _____	Peak Hour. Volume (VPH) _____
Existing number of traffic lanes _____	Existing number of traffic lanes _____
Existing right of way width _____	Existing right of way width _____
Proposed number of traffic lanes _____	Proposed number of traffic lanes _____
Proposed right of way width _____	Proposed right of way width _____

Please provide additional information relating to the following statement.

According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7TH Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1,000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula, the _____ square foot place of worship building would generate _____ vehicle trip ends, with approximately ____ peak hour vehicle trip ends.

Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the _____ (Single Family Residential) District designation which allows a maximum of ____ units per acres, and the given fact that the project site is approximately ____ acres in land area, ____ daily vehicle trip end, and ____ peak hour vehicle trip end would be generated with residential development of the parcel.

COMMENTS:

PLANS AND FIELD REVIEWED. CONCERNS ABOUT THE STRIPING OF THE BACK OUT AREAS, AND MOVEMENT PROHIBITION SIGNAGE. NEED CLARIFICATION ON WHICH DIRECTIONS THE MOTORISTS ARE ABLE TO ENTER AND EXIT ESTABLISHMENT. THE BACK OUT AREA PROHIBITING TURNING AND CROSSING LEFT AND EXITING ESTABLISHMENT ACCORDING TO THE PLANS. SEE ATTACHED MARK UP PLAN

NO LEFT OUT AT DRIVE CLOSURES TO COVINGTON P.A.

Signature: [Handwritten Signature]

SCHOOL COMMENTS
SEPTEMBER 2017 ZONING AGENDA

From: David Yoke (Operations) [mailto:david_s_yoke@dekalbschoolsga.org]

Sent: Wednesday, August 16, 2017 8:54 AM

To: Hill, LaSondra

Subject: RE: Inter-Dept. Comments

No comment on any of the September agenda applications. Thanks.

David Yoke
Planning & GIS Analyst
DeKalb County School District
1780 Montreal Rd
Tucker, GA 30084
678.676.1329(Office) 404.423.6758 (Cell)
david_s_yoke@dekalbschoolsga.org



DeKalb County Department of Planning & Sustainability

Michael L. Thurmond
Chief Executive Officer

Andrew A. Baker, AICP
Director



REVISED
JUL 20 2017

APPLICATION TO AMEND OFFICIAL ZONING MAP
OF DEKALB COUNTY, GEORGIA

MAY - 2 2017

ZICZ No. 21582
Filing Fee: 750

Date Received: Application No.:

Applicant: Indore Investment, Inc. - Umesh Patel, CEO - Mail: PatPatel@IndoreOil.com
Patel0254@Gmail.com

Applicant Mailing Address: 5387 Manor Drive - Stone Mountain, GA 30083-3065

Applicant Phone: Work: 770-469-7677 Fax: 770-469-7773
Cell: 678-429-2762

Owner(s): American Univ. of Biblical Studies, Inc. E-Mail: DocBetty@Bellsouth.net
(If more than one owner, attach as Exhibit 'A')

James W. MCKay, Jr. - Chairman of Board
Owner's Mailing Address: 182 North Mill Court - Sandy Springs, GA 30328-5380

Owner(s) Phone: Cell: 404-252-3174 Fax: 770-777-1996
Home: 678-234-5380

Address/Location of Subject Property: 4476 COVINGTON HIGHWAY
4468 Covington Highway - Decatur, GA 30035-1215

District(s): 15 Land Lot(s): 195 Block: 08 Parcel(s): 15 195 08 036, 035, 037
3.58 Total Acres

Acres: 1.11 Acres Commission District(s): 05 - Unincorporated, 07

Present Zoning Category: O1/O1/R-7S Proposed Zoning Category: OXXX NS

Present Land Use Category: E6 - Educational Institutions / CRC

PLEASE READ THE FOLLOWING BEFORE SIGNING

This form must be completed in its entirety before the Planning Department accepts it. It must include the attachments and filing fees identified on the attachments. An application, which lacks any of the required attachments, shall be determined as incomplete and shall not be accepted

Disclosure of Campaign Contributions

In accordance with the Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A, the following questions must be answered:

Have you the applicant made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes X No

If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

- 1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the C.E.O. and the Board of Commissioners, DeKalb County, 1300 Commerce Drive, Decatur, Ga. 30030

NOTARY PUBLIC
12/7/2017
EXPIRATION DATE / YEAR

SIGNATURE OF APPLICANT / DATE
Check One: Owner Agent X

330 West Peachtree Street, Suite 100-500 - Decatur, Georgia - 30030
[voice] 404.371.2155 - [Planning Fax] 404.371-4556 [Development Fax] (404) 371-3007
Web Page: http://www.dekalbcountyga.gov/planning
Email Address: planninganddevelopment@dekalbcountyga.gov

ADDENDUM TO
STATEMENT OF INTENT

And

Other Material Required by
DeKalb County Zoning Ordinance
For

Rezoning Application pursuant to
the DeKalb County Zoning Ordinance

Of

INDORE INVESTMENT, INC.

For

+/- 2.47 acres of Land
located in
Land Lot 195, 15th District, DeKalb County

from

OI & R-75 to NS

Submitted for Applicant by:

Michèle L. Battle
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, Georgia 30030
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com

STATEMENT OF INTENT

The Applicant, Indore Investment, Inc. is seeking to rezoning the property located at 4468 and 4476 Covington Highway and 1630 South Indian Creek (the "Subject Property") from OI and R-75 to NS as an integrated retail/restaurant development (the "Project"), including a Convenience Store with Gas Pumps. With respect to the Convenience Store, the Subject Property is located outside of all activity centers identified by DeKalb County, and the Applicant is proposing to develop a facility which complies with the following three criteria of the requirements set forth within Section 27-4.2.28(d) of the DeKalb County Zoning Ordinance, which exempts the Applicant from having to apply for Special Land Use Permits for accessory gas pumps and alcohol outlet in connection with the submission of this Application:

1. The facility is accessible via direct and secondary access through Covington Highway and South Indian Creek;
2. The proposed Convenience Store will be a minimum of 5,000 sq. ft.; and
3. As the submitted floor plan shows, the facility will have a minimum of two bathroom facilities, which each facility serving a minimum of three (3) persons at a time, which shall be open to the public and compliant with the Americans with Disabilities Act.

It is the Applicant's contention that the submitted revise site plan date 4/14/17 last revise 7/19/17 prepared by Edwards Engineering Consultants, LLC, addresses concerns raised by both the Planning Department and the County's Transportation Department regarding the proposed project. In addition to reducing the intensity of the zoning district being requested, the revised site plan increases the buffer and landscaped area along the northern boundary of the property. The second driveway along South Indian Creek was modified to being a right in, right out driveway, and will have a landscaped island. The total square footage of the project was reduced from 20,200 sq. ft. to 17,000 sq. ft., and outdoor seating areas were added to the interior end units along with an enhanced landscaped parking strip for provide for a more curb appeal.

CONSTITUTIONAL ALLEGATIONS

The portions of the DeKalb County Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the DeKalb County Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the DeKalb County Board of Commissioners without any rational basis therefore, constituting an abuse of discretion

in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the DeKalb County Board of Commissioners to rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

The existing zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the County an opportunity to revise the Property to a constitutional classification. If action is not taken by the County to rectify this unconstitutional zoning classification within a reasonable time, the Applicant is hereby placing the County on notice that it may elect to file a claim in the Superior Court of DeKalb County demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

#21582

Notice Date: Thursday April 20, 2017

PUBLIC NOTICE

TO

REQUEST TO REZONE FROM R-75 (SINGLE FAMILY RESIDENTIAL)
& O-I (OFFICE INSTITUTIONAL) TO C-1 (COMMERCIAL)

FILED BY: INDORE INVESTMENT, INC.

PROJECT LOCATED AT: 4476 Covington Highway / 4468 Covington Highway / 1630 S.
Indian Creek Drive
Stone Mountain, GA 30083

Current Use: Vacant residential structure

Proposed Use: Approximately 20,200 SF Retail Center with shops & Convenience Goods

Hours of Operation: Sunday – Saturday 7AM – 12 Midnight

PRE-SUBMITTAL COMMUNITY MEETING TO TAKE PLACE AT:

STRAIGHT LIFE CHURCH OF GOD PENTECOSTAL INC

Location: 4228 Glenhaven Drive, Decatur GA 30035

Date & Time: Friday May 12th, 2017 at 7:00PM To 8:00PM

Contact Information:

Pat Patel @ 678-429-2762

Kevin Edwards @ 678-575-9263

#21582

MEETING SIGN-IN SHEET

Project: 4476, 4468 COVINGTON / 1630 S. INDIAN CR Meeting Date: FRIDAY MAY 12, 2017

Facilitator: INPORE INVESTMENT INC. Location: STRAIGHT LIFE CHURCH OF GOD

Name	Address	Phone	E-Mail
LINDA AUSTIN	1527 Pine Blm Cr	4/289-9662	
Rosalina Rogers	1536 " " "	4/288-1614	
Lena Lowe	4345 Mercer Rd	4/534/9737	
GARY HIGGINS	4089 INDIAN CR	404 289 4949	bellsouth.net ghiggins4089e
Mary Ann	4099 INDIAN CREEK CR	470-2695606	
LAWANDA SHAWTS	4384 Raven Valley Ct	6571-6732	nemo4384@gmail
Jenni Kraus	1523 Colony E Cr	404 289 1224	
STEVE WEATHERS	3715 HIGH GABLES EAST	770-717-7778	
DALTON WRIGHT	6500 WELINGTON OFFICE	(4) 468-3550	
LENOVA BIERA-LAND	3993 Inca Ct Stn Mt Cr	470/233-3433	ee/bloyahoo.com
Joyce Dawson	3982 Inca Ct 30083	(4) 534-1126	JBDMD@msn.com
MORRIS DAWSON	3982 INCA CT 30083	(4) 534-1126	" "
Eunice Wight	4284 Glenham Dr	4229-9846	
Felecia Garrison	4003 Inca Ct	404-680-9145	clac3@yahoo.com
Melba Garrison	4003 Inca Ct	404-788-5352	melbag@comcast.com
Terry Banks	3585 Inca Cr	470-268-1629	
Kenneth Saunders III	1558 Atom forest	678-358-5803	kerster2014@me.com
ALICIA ROBERTSON	4312 Colony E Side	4) 604-8250	GAR2FOR@gmail.com
Gwen Williams			gwelum22@yahoo.com
DAVID HOLCOMB	4412 COLONY EAST DR	404 286-1876	



May 2, 2017

DeKalb County
Department of Planning & Sustainability
330 W. Ponce de Leon Avenue
Decatur, Georgia 30030

RE: Rezoning Letter of Application
EEC Job No.: 09068-155
Project Address: 4476 Covington Highway / 4468 Covington Highway & 1630 S. Indian Creek Drive

Dear Sir/Madam:

The existing site is located at the approximate 3.58-acre tracts located at 4476 Covington Highway, 4468 Covington Highway & 1630 S. Indian Creek Drive. The parcels are currently zoned R-75, O-I and O-I respectively. There are existing vacant residences on two of the three lots.

We are proposing to rezone the parcels to C-1 (Local Commercial) district.

The adjacent uses abutting the parcels are C-1, O-I and R-75. Across S. Indian Creek Drive is C-1, O-I and NS. Across Covington Highway closest to our tracts are C-1, C-2 and O-D. The project proposes a 4000 SF C-store, 1500 SF in Retail Building #1, 1500 SF in Retail Building #2 and 13,200 SF in future Retail Building #3. The total proposed square footages will be 20,200 SF. Proposed uses will be as permitted uses under the C-1 (Local Commercial) district.

Building height proposed will be single story, although there is an allowance of up to two stories. The anticipated uilding operations will be Sunday through Saturday 7AM to 12 midnight.

The project is at the corner of South Indian Creek Drive and Covington Highway, with proposed access points off both street frontages. Covington Highway being Georgia DOT managed and maintained, will require a GDOT Curb Cut permit through their jurisdiction.

The intent is to construct all of the access points, infrastructure, utility connections, C-store and retail buildings #1 and #2 in the initial phase, and then build the second phase building #3 after.



The applicant agrees to self-impose conditions on this rezoning as follows:

1. No night clubs or such late night establishments;
2. No pawn shops.

Sincerely,

EDWARDS ENGINEERING CONSULTANTS, LLC.

A handwritten signature in blue ink, appearing to read "Kevin Edwards", is positioned below the typed name.

Kevin Edwards, PE
(678) 575-9263



May 2, 2017

DeKalb County
Department of Planning & Sustainability
330 W. Ponce de Leon Avenue
Decatur, Georgia 30030

RE: Detailed Analysis
EEC Job No.: 09068-155
**Project Address: 4476 Covington Highway / 4468 Covington Highway &
1630 S. Indian Creek Drive**

Dear Sir/Madam:

The anticipated impact of the proposed use and rezoning on the surrounding properties with relation to the standards and factors specified in Article 7-3 of the DeKalb County Zoning Ordinance are as follows:

- a. The proposed C-1 (Light Commercial) zoning for these contiguous tracts will be in conformity with the adjacent uses and the Comprehensive Plan along Covington Highway.
- b. The zoning proposed will permit a use that is suitable to the site and adjacent developments because there are adjacent C-1 (Light Commercial) zoning district adjoining the parcel and across both street frontages.
- c. The subject property does not have a reasonable economic use when we combine these contiguous tracts that have cross O-I and R-75 zoning mixed in with the adjacent commercial uses.
- d. The proposed zoning will not adversely affect the existing use or usability of adjacent properties since the adjacent parcels are commercial, plus the R-75 adjacent lot will be provide with a screen fence, landscaping and a 50-foot undisturbed buffer.
- e. The conditions on the parcels fronting Covington Highway are where the lots are being used as commercial lots. Parcels up and down this section of Covington Highway which were narrow residential lots in the past have been converted and rezoned to commercial use, similar to what is being proposed in our rezoning.



- f. There is no known historic buildings, sites, districts or archeological resources that will be adversely impacted by this zoning proposal.
- g. The parcels front on two well traversed street frontages, with Covington Highway being managed and maintained by the GDOT. The proposed development will have access points on Covington Highway and South Indian Creek Drive with ample parking and drive aisles on the parcel. This will allow for adequate queuing on the project site and also ample vehicular movement so as not to cause excessive or burdensome use of the existing streets, transportation facilities, utilities or schools.

Again, self-imposed zoning conditions will be:

1. No night clubs or such late night establishments;
2. No pawn shops.

Sincerely,

EDWARDS ENGINEERING CONSULTANTS, LLC.

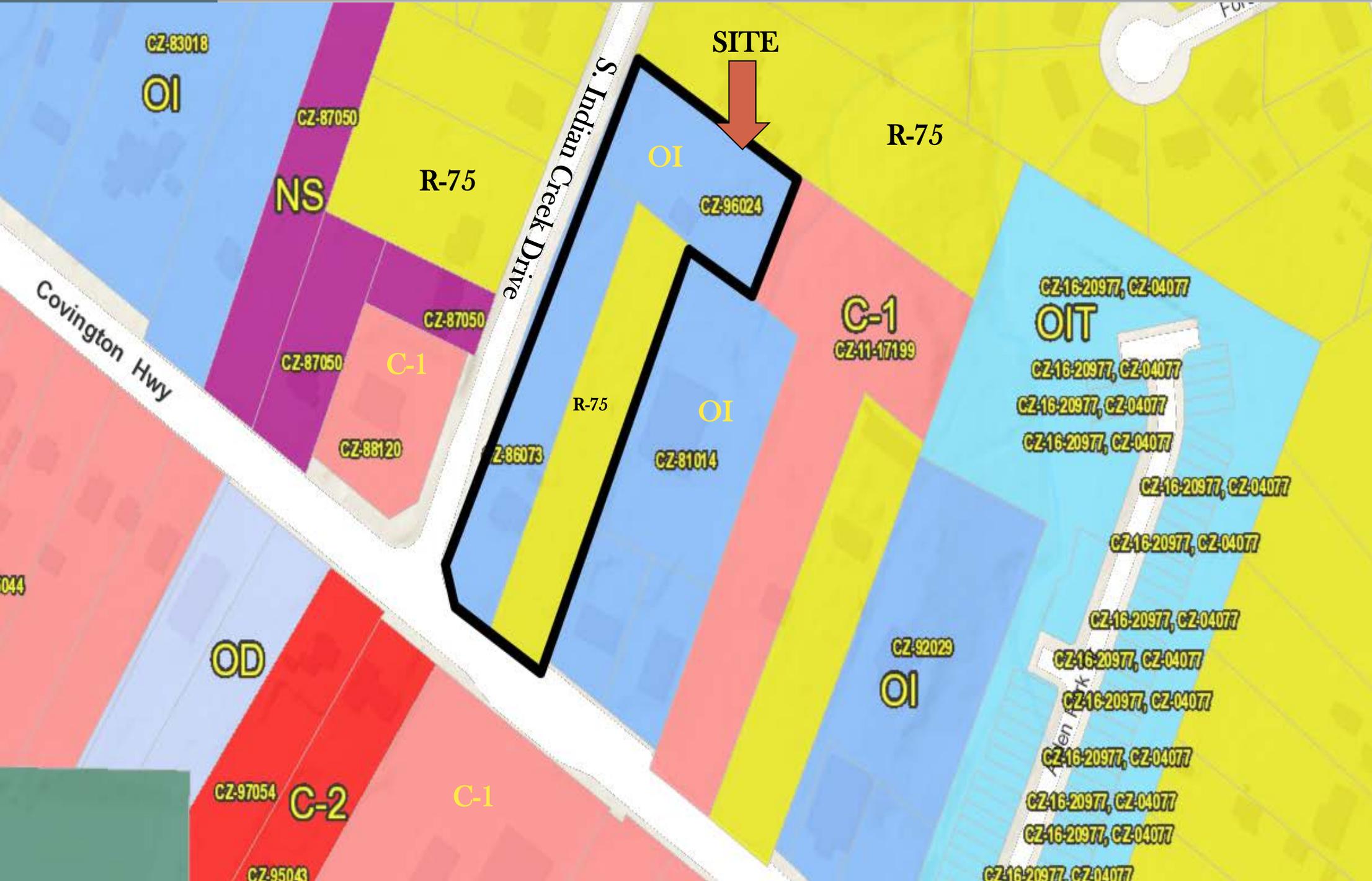
Kevin Edwards, PE
(678) 575-9263

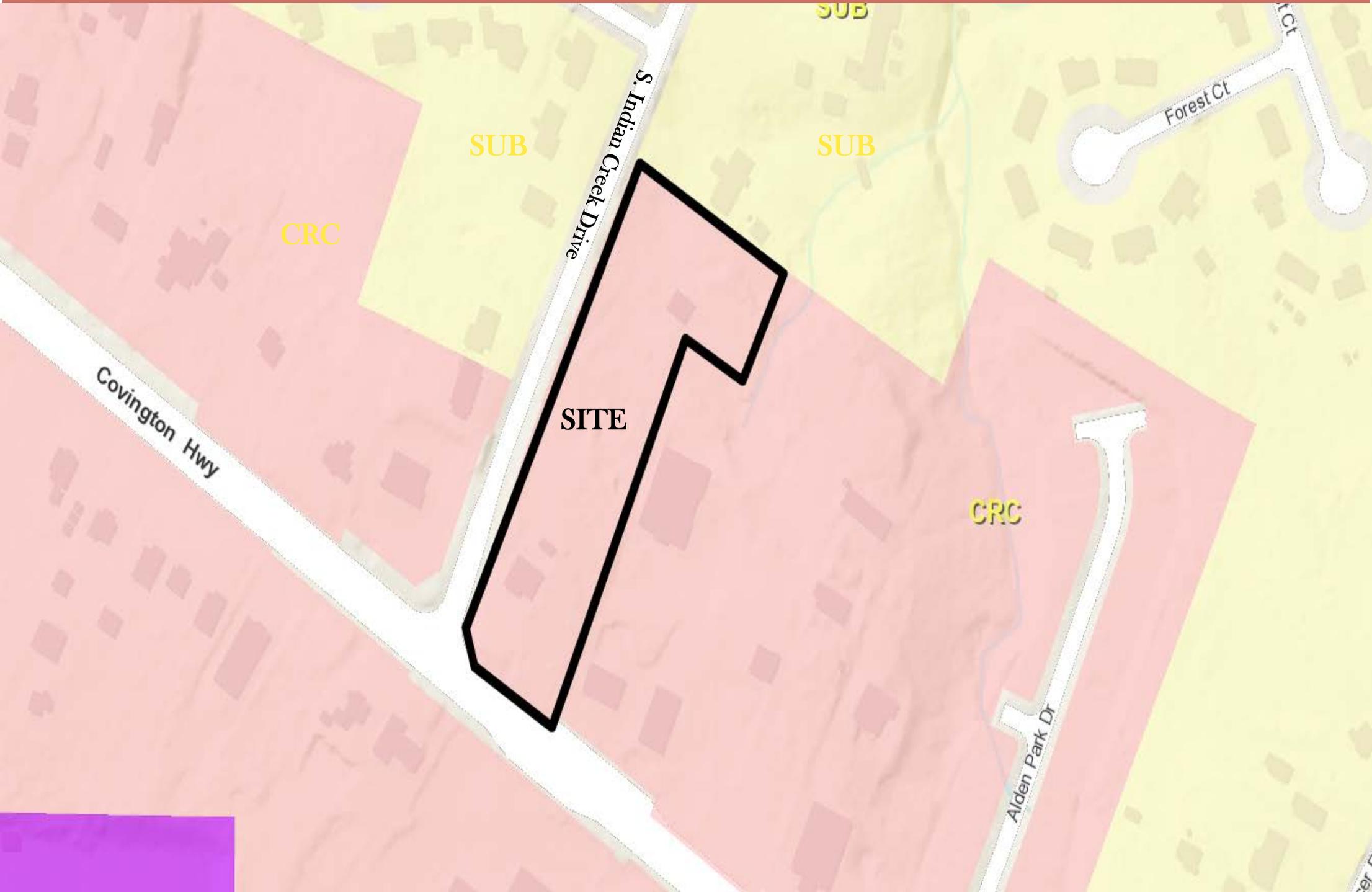
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Z -17-21582

Site Rendering









SF

SF

SF

SF

SF

Office

SITE

Midway Motors

Office Park

F & M Motors

Hair Salon

Events Center

Covington Highway

S. Indian Creek Drive



Site frontage along Covington Highway



Site frontage along South Indian Creek Drive



Location of site across from existing residential property along South Indian Creek Drive



Existing daily traffic at intersection of Covington Highway & S. Indian Creek Drive



Existing daily traffic along S. Indian Creek Drive