

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2022-CZN-868 / 2022-CVR-868 (Second Amendment)
Address: 431 South Shortridge Road (*Approximate Address*)
Location: Warren Township, Council District #18
Petitioner: Bhullar Deol Properties, Inc, by David Kingen and Emily Duncan
Request: Rezoning of 2.74 acres from the D-A district to the C-S district to provide for an event center and C-1 uses with exceptions.

ADDENDUM FOR April 13, 2023, HEARING EXAMINER

The Hearing Examiner acknowledge the withdrawal of the variance portion of this companion petition.

A continuance was requested by a remonstrator to allow time to continue negotiations. A continuance from the April 13, 2023 hearing to the April 27, 2023 hearing was granted.

Updated lists of commitments and excluded uses have been submitted by the petitioner, as follows:

ATTACHMENT "D":

Petitioner commits to the following:

- 1. No sleeping shall be permitted between on the site.*
- 2. No billboards or off-site advertising signs shall be permitted on the property.*
- 3. No new Electronic Variable Message Signs (EVMS) or new pole signs shall be erected on the subject property.*
- 4. All parking lot areas shall be maintained and kept litter and weed free.*
- 5. All parking areas shall be striped and marked for appropriate parking and access*
- 6. All persons, visitors and attending events or coming to any office at the 431 So. Shortridge site shall park on the private property of 431 So. Shortridge and shall not park along the frontage of this site or any other site along So. Shortridge Road in the public right of way or in the grass along the frontage of So. Shortridge Road.*
- 7. Trash containers shall be enclosed on three sides and have gates.*
- 8. The existing tree line along the east and south properties lines of the site shall be preserved and maintained except for trimming of the existing trees and vegetation to continue to provide screening and buffering.*

9. *Only one ground sign d(non-illuminated) or one pylon (non-illuminated) shall be permitted on the site.*
10. *All the additional landscaping with year around evergreens shall be installed prior to the use of the site. All front yard landscaping of trees and shrubbery shall meet the minimum standards of the landscape requirements of Indy Rezone including the species of plant materials.*
11. *No lighting shall be projected off the site.*
12. *No liquor license shall be sought or issued for use on this site. Catering liquor for a specific event would be permitted.*
13. *Hours of operation shall be 7 am to 11 pm, Mondays thru Thursdays and 7 am to 12 midnight Fridays and Saturdays.*
14. *No truck and trailer parking shall be allowed on this site.*

ATTACHMENT "E":

Petitioner commits to exclude the following C1 uses from the subject site:

1. *Substation and utility Distribution*
2. *Wireless Communications facility*
3. *Transit Center*
4. *Fleet Services*
5. *Indoor recreation and entertainment, as a secondary use*
6. *Retail*
7. *Parking garage and or parking lot commercial*
8. *Drive through, including sales of food or merchandise*
9. *Outdoor seating or patio*
10. *Outdoor events*
11. *Recycling collection point*
12. *Sidewalk Café*
13. *Swimming pool or hot tub*

Staff continues to **recommend approval** of the petition.

ADDENDUM FOR April 13, 2023, HEARING EXAMINER

Updated materials were submitted for this petition on February 22, 2023. Remonstrators requested a continuance from the February 23, 2023 hearing to the April 13, 2023 hearing to allow time to review and consider the new submittals.

The new materials submitted for this petition include the **withdrawal of the variances of development standards**. This request requires the acknowledgement of the Hearing Examiner.

(Continued)

STAFF REPORT 2022-CZN-868 / 2022-CVR-868 (Continued)

The new submittal amends the request to provide for an event center and C-1 uses with exceptions. The request no longer provides for truck fleet services. Revised attachments C, D, and E were submitted and can be found below.

With the withdrawal of the variance and removal of truck fleet services from the list of uses, staff **recommends approval** of the petition.

ATTACHMENT “C”

Development Plan and Site Plan to allow:

Uses:

1. Event Center
2. All C1 uses except those listed in the Excluded uses list.

Building:

Retention of the existing building for an event center and offices for lease for any C1 use other than those excluded from this site.

Parking:

Forty-eight (48) parking spaces with two (2) additional spaces reserved for the handicapped, to serve the site.

Signs:

Wall signs and one ground sign, with no signs of any type oriented towards a protected district shall be permitted. Directional signs shall be permitted. No signs on the site shall be illuminated.

No pole signs shall be permitted or sought for approval on the site.

No off-site advertising signs shall be erected on the site.

Landscaping, screening and buffering:

Install the landscaping along So. Shortridge Road where indicated on the site plan and per the requirements for front yard landscaping per Indy Rezone.

Security:

Monitored by security cameras, minimum of six (6)

Lighting:

Parking lot lighting may be used on the site, with no light spillage off the site or oriented towards any protected district.

Box lighting shall be used and affixed to the existing building.

Trash Collection:

All dumpsters shall be behind or to the side of the buildings and to the southeast of the building; and enclosed and gated so as not to be visible, from any public street.

2/22/23

ATTACHMENT "D":

Petitioner commits to the following:

1. No sleeping shall be permitted between 12 midnight and 6 am on the site.
2. No billboards or off-site advertising signs shall be permitted on the property.
3. No new Electronic Variable Message Signs (EVMS) or new pole signs shall be erected on the subject property.
4. All parking lot areas shall be maintained and kept litter and weed free.
5. Trash containers shall be enclosed on three sides and have gates.
6. The existing tree line along the east and south properties lines of the site shall be preserved and maintained except for trimming of the existing trees and vegetation to continue to provide screening and buffering.
7. Only one ground sign d(non-illuminated) or one pylon (non-illuminated) shall be permitted on the site.
8. All the additional landscaping with year around evergreens shall be installed prior to the use of the site. All front yard landscaping of trees and shrubbery shall meet the minimum standards of the landscape requirements of Indy Rezone including the species of plant materials.
9. No lighting shall be projected off the site.
10. No liquor license shall be sought or issued for use on this site. Catering liquor for a specific event would be permitted.
11. Hours of operation shall be 7 am to 11 pm, Mondays thru Thursdays and 7 am to 12 midnight Fridays and Saturdays.

ATTACHMENT "E":

Petitioner commits to exclude the following C1 uses from the subject site:

1. Substation and utility Distribution
2. Wireless Communications facility
3. Transit Center
4. Indoor recreation and entertainment
5. Retail, Light general
6. Parking garage commercial
7. Drive through
8. Outdoor seating or patio
9. Recycling collection point
10. Sidewalk Café
11. Swimming pool or hot tub

2/22/23

	<p>SITE DATA</p> <p>431 S. SHORTRIDGE RD. LOT SIZE: 120,176 S.F. TOTAL PARKING SPACES: 135 HANDICAP SPACES: 4</p>
<p>58 02.MAR.2023</p>	<p>FOR ZONING GRAPHICAL REPRESENTATION ONLY</p>
<p>02/02</p>	<p>PROJECT: 431 SOUTH SHORTRIDGE ROAD</p>
<p>58 02.MAR.2023</p>	<p>FOR ZONING GRAPHICAL REPRESENTATION ONLY</p>

ADDENDUM FOR FEBRUARY 23, 2023, HEARING EXAMINER

A continuance for cause from the January 26, 2023 hearing to the February 23, 2023 hearing was requested by the petitioner's representative. The continuance was granted. Staff has received no new information and continues to **recommend denial** of the petition.

ADDENDUM FOR JANUARY 26, 2023, HEARING EXAMINER

The petition was amended and continued from the December 29, 2022 hearing to the January 26, 2023 hearing to provide time for proper notice to be issued.

The petition was amended from a request for rezoning to the C-7 district to a request for rezoning to the C-S. District. The C-S district allows a petitioner to develop a custom list of permitted land uses. The C-S district requires a development statement and site plan.

The custom list of permitted land uses submitted with this petition would allow for truck fleet services, an event center and C-1 uses with exceptions

Staff continues to **recommend denial** of this request. Staff would recommend approval of the petition if the truck fleet services were excluded from the list of uses and the variances were withdrawn.

Truck Fleet Services falls into the Fleet Terminal land use category of the Ordinance, where it is permitted in the I-3 and I-4 zoning districts, the two most intense industrial districts. Fleet Terminal is defined in the Ordinance as a central facility for the distribution, storage, loading and repair of fleet vehicles, with or without associated dispatch services and offices. This definition includes uses such as ambulance services; courier, delivery, and express services; cleaning services; key and lock services; security services; motor truck terminals; limousine services; armored car services; and taxi services. An inherent characteristic of this use is the parking of operable vehicles.

Truck fleet services are not considered to be an appropriate use in the Office Commercial typology of the Comprehensive Land Use Plan. Additionally, the Ordinance notes that the districts that permit truck fleet services present risks to the general public and should be located away from protected districts. As the subject site is located within close proximity to a daycare to the north, residentially-zoned land to the east and a low-intensity office use to the west, staff doesn't believe that this is a suitable location for a heavy industrial use that involves significant truck traffic.

Event centers fall into the Indoor Recreation and Entertainment land use category, which is permitted as a primary use in the C-4, C-5 and C-7 zoning districts. This use is also considered to be too intense for the Office Commercial typology of the Comprehensive Land Use Plan.

(Continued)

STAFF REPORT 2022-CZN-868 / 2022-CVR-868 (Continued)

The C-1 district generally provides for offices and for personal professional services. The petitioner has indicated that three primary uses and eight accessory uses would be excluded from the permitted C-1 uses. The excluded primary uses are Substation and Utility Distribution Nodes, Wireless Communications Facility and Transit Centers. The eight accessory uses to be excluded can be found in Attachment E below. Staff would note that one of the proposed excluded land use categories, Indoor Recreation and Entertainment, includes event centers, which is one of the primary uses proposed by this petition. This would result in a stand-alone event center being permitted, but an event center that is part of larger facility being excluded.

The C-1 district would be an appropriate zoning district in the Office Commercial typology of the Comprehensive Land Use Plan.

The petition was also amended to remove a request for a variance of development standards to provide for a deficient side yard to the south. Staff has determined that the amended site plan meets the side yard requirement of the Ordinance, so the variance is no longer needed.

The amended site plan would remove parking spaces from the right-of-way and provides some landscaping in the area. Landscaping that meets the standards of the Ordinance would be required.

The site plan does not show a sidewalk along South Shortridge Road. A sidewalk would be required along this frontage.

ADDENDUM FOR DECEMBER 29, 2022, HEARING EXAMINER

This petition was continued from the December 1, 2022 hearing to the December 29, 2022 hearing to provide for the amendment of the petition.

December 29, 2022 Staff Report **RECOMMENDATION**

Staff **recommends denial** of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation.

(Continued)

STAFF REPORT 2022-CZN-868 / 2022-CVR-868 (Continued)

LAND USE

- ◇ Historic aerial photography from 1962 shows the subject site under development with the existing structure and parking lots. The nearby Shadeland Avenue freeway was newly constructed and a row of single-family dwellings lined the east side of Shortridge Road north of the site. The nearby industrial dairy was not yet in existence. The site was used for many years as a union hall.
- ◇ The site was most recently occupied by a religious use. The area is now a mix of land uses including a daycare, credit union, woodland and an industrial dairy.
- ◇ The Comprehensive Land Use Plan for Warren Township (2018) recommends Office Commercial for the site and the surrounding area. This land use category is intended for offices, financial institutions and personal care salons.

ZONING

- ◇ This petition requests a rezoning to the C-7 district, which is a high-intensity commercial district. This district is intended for commercial uses that have features such as outdoor storage, sizable merchandise, or outdoor parking and storage of trucks, materials or equipment that make these uses unusually incompatible relative to other commercial uses. These uses should be located near freeway interchanges or on major commercial arterials. This district should not be located in close proximity to retailing, offices or restaurants. It should never be located adjacent to protected districts.
- ◇ The proposed commitments submitted with the request eliminate all uses other than truck and trailer parking. However, truck and trailer parking is considered to fall into the Fleet Terminal land use category of the Ordinance and the C-7 district does not permit fleet terminals. As submitted, this rezoning would have the effect of not permitting any use on the site.
- ◇ The site plan shows what might be 19 truck parking spaces. If they are truck parking space, the maneuvering room for the trucks doesn't appear to be adequate.

(Continued)

STAFF REPORT 2022-CZN-868 / 2022-CVR-868 (Continued)

VARIANCE

- ◇ This petition requests variances of development standards to provide for a 20-foot wide south side transitional yard where a 40-foot wide yard is required, for no east yard where a 10-foot wide rear yard is required, and without the required front-yard landscaping.
- ◇ The purpose of transitional yards is to provide a buffer between a less intense use and a more intense use. The parcel to the south is zoned D-A, which is a dwelling and agricultural district, and would require buffering from a C-7 district under the Ordinance. However, the site is used for neither a dwelling nor agriculture and is solidly wooded. The site is recommended for Office Commercial uses in the Comprehensive Land Use Plan.
- ◇ Rear yards are required for the more intense commercial districts to provide some buffering and open space around these intense uses. In this case the site abuts a rail right-of-way.
- ◇ Front yard landscaping is required for a number of reasons including the provision of an attractive streetscape and the screening of intense uses. The site appears to have been originally developed with parking in the rear. By 1972, a parking lot was constructed in the front of the building and partially in the right-of-way. This parking remains.
- ◇ The site plan shows the parking lot remaining in the right-of-way with stones placed in the center of the lot, but outside of the right-of-way. A low hedge is proposed between the parking lot and the building. This would have no effect on screening the parking lot from the street. The Department of Public Works has requested that the parking be removed from the right-of-way. Additionally, staff would recommend that adequate landscaping be provided between the right-of-way and the parking area to provide an effective landscape screen of the parking area.
- ◇ The back parking lot is fenced. The fence is topped with barbed wire. Barbed wire is not permitted under the Ordinance except for livestock and Public Safety properties such as correctional facilities. The barbed wire should be removed.

GENERAL INFORMATION

EXISTING ZONING, CONTEXT AREA, AND LAND USE
D-A Metro Religious use

(Continued)

STAFF REPORT 2022-CZN-868 / 2022-CVR-868 (Continued)

SURROUNDING ZONING AND LAND USE

North	C-7	Undeveloped and wooded land
South	D-A	Undeveloped and wooded land
East	D-2	Railroad right-of-way, undeveloped and wooded land, parking lot
West	C-1	Credit Union with drive-thru

COMPREHENSIVE LAND USE PLAN The Comprehensive Land Use Plan for Warren Township (2018) recommends Office Commercial.

THOROUGHFARE PLAN Shortridge Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Local Street, with a 115-foot existing right-of-way and a 60-foot proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT This site is not located within a wellfield protection district.

STREAM PROTECTION CORRIDOR This site is not located within a Stream Protection Corridor.

ZONING HISTORY – SITE

86-UV1-4; 431 South Shortridge Road, requested a variance of use to permit an addition to an existing union hall, **approved**.

ZONING HISTORY – VICINITY

2018-ZON-068; 405, 409 & 411 South Shortridge Road (north of site), requested the rezoning of 8.8 acres from the D-11 and C-7 districts to the C-S district to provide for C-1 and I-1 uses, warehousing, commercial and building contractor, truck and trailer parking, heavy truck, heavy equipment and vehicle sales repair and service, **approved**.

2007-ZON-071; 415 South Shortridge Road (north of site), requested the rezoning of 2.7 acres from the C-1 district to the C-ID district, **approved**.

98-Z-100; 411 South Shortridge Road (north of site), requested the rezoning of 2.9 acres from the D-A district to the C-ID district, **approved**.

(Continued)

STAFF REPORT 2022-CZN-868 / 2022-CVR-868 (Continued)

89-Z-144 / 89-CV-21; 405 South Shortridge Road (north of site), requested the rezoning of 5.5 acres from the A-2 district to the D-11 district and a variance of development standards to provide for deficient perimeter yards and deficient distance between buildings, **approved**.

86-UV1-1; 411 South Shortridge Road (north of site), requested a variance of use to provide for a storage and maintenance building for an electric company and the operation of a automobile and small engine repair facility, **approved**.

86-Z-78; 415 South Shortridge Road (north of site), requested the rezoning of four acres from the A-1 district to the C-1 district, **approved**.

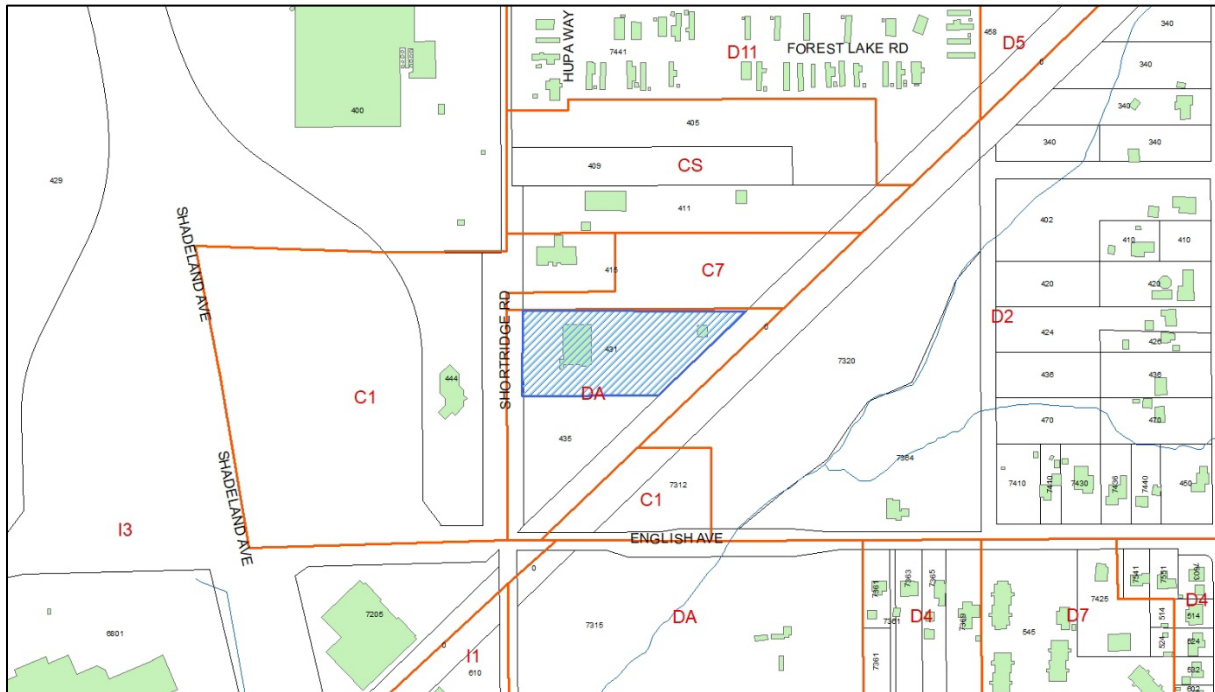
85-Z-157; 7302 English Avenue (south of site), requested the rezoning of 1.1 acre from the D-2 district to the C-1 district, **approved**.

84-UV1-40; 411 South Shortridge Road (north of site), requested a variance of use to provide for retail and repair of commercial search lights, electrical contractor, fabrication, maintenance and sales of radio towers, auto repair and outdoor storage, **approved**.

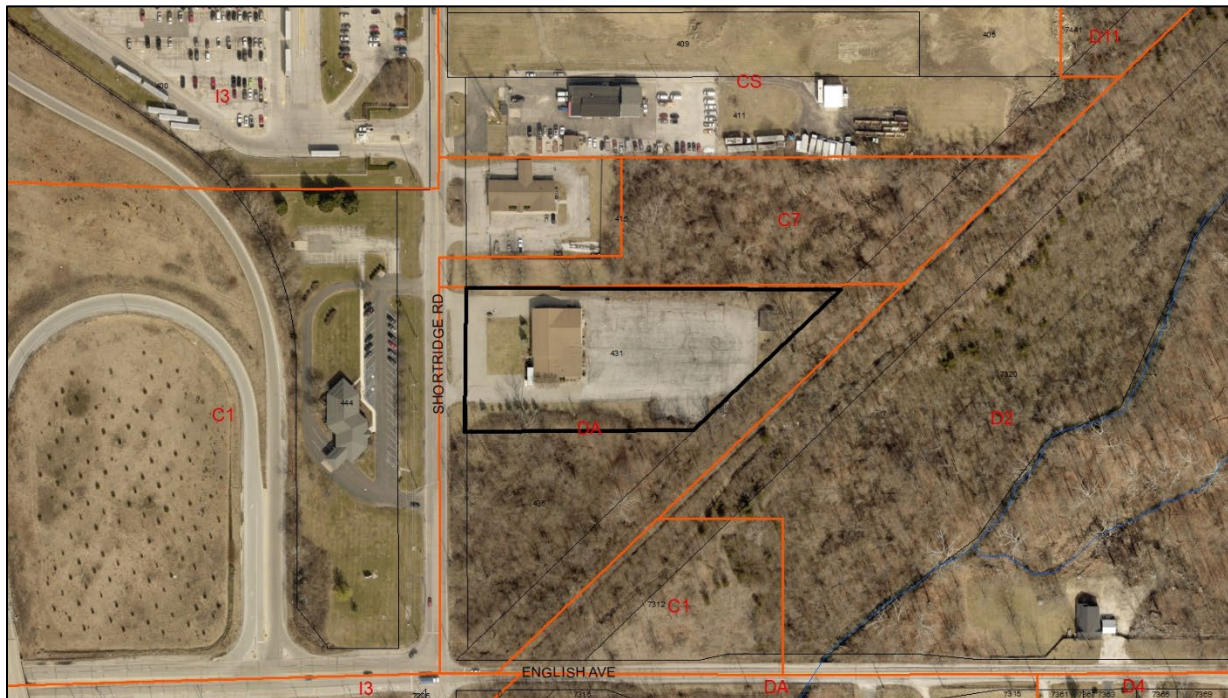
83-UV2-119; 405 South Shortridge Road (north of site), requested a variance of use to provide for automobile service and storage in an A-2 district, **denied**.

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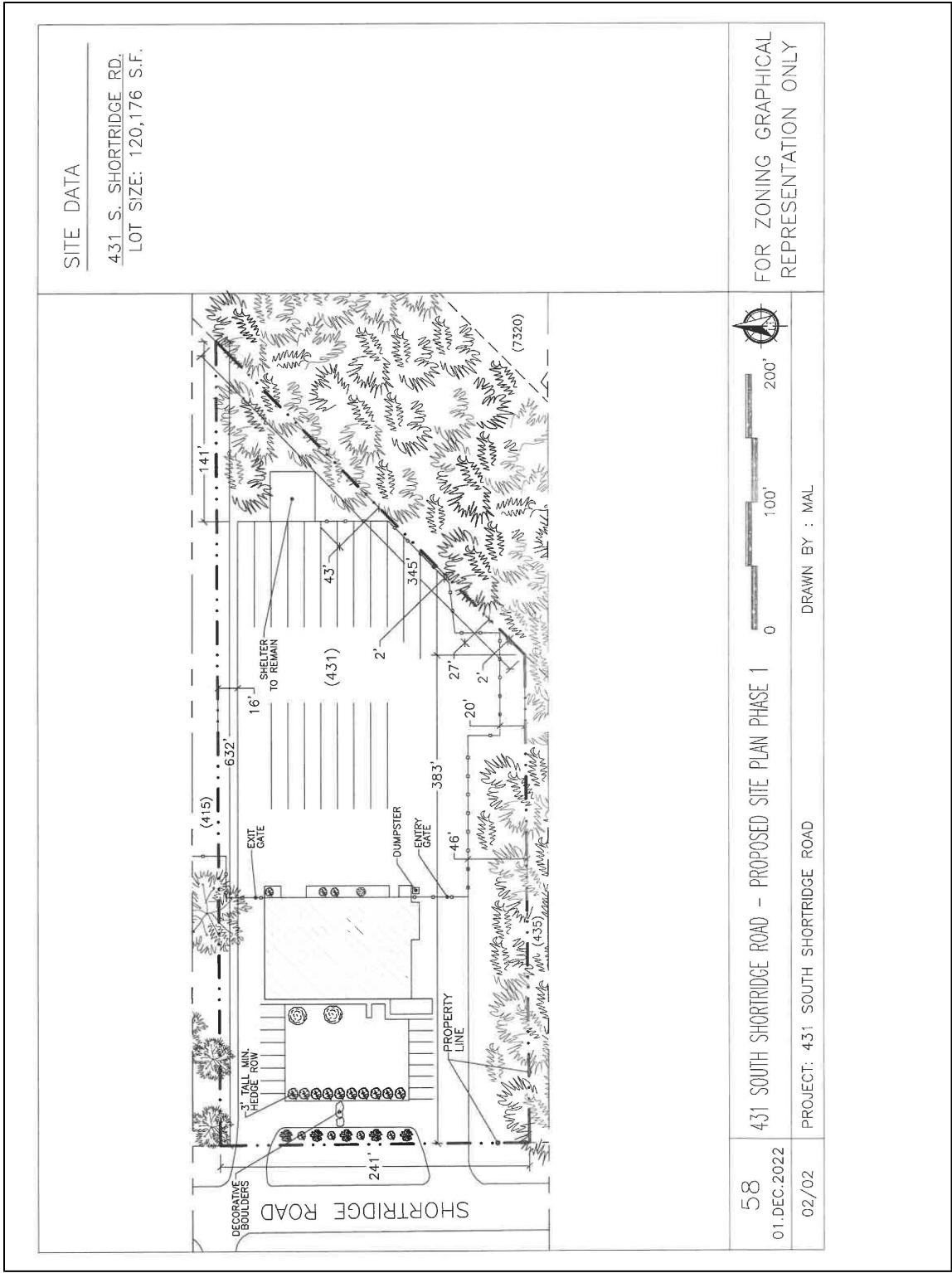
STAFF REPORT 2022-CZN-868 / 2022-CVR-868, Location



STAFF REPORT 2022-CZN-868 / 2022-CVR-868, Aerial photograph (2021)



STAFF REPORT 2022-CZN-868 / 2022-CVR-868, Site Plan



STAFF REPORT 2022-CZN-868 / 2022-CVR-868, Proposed Commitments

ATTACHMENT "C"

Development Plan and Site Plan to allow:

Uses:

1. Truck Fleet Services.
2. Event Center
3. All C1 uses except those listed in the Excluded uses

Building:

Retention of the existing building for the office of both the operation of a commercial truck parking facility and other offices for lease for any C1 use other than those escluded from this site.

Parking:

Thirty (30) parking spaces with one (1) additional space reserved for the handicapped, to serve the site.

Signs:

Wall signs and one ground sign, with no signs of any type oriented towards a protected district shall be permitted. Directional signs shall be permitted

No pole signs shall be permitted or sought for approval on the site.

No off-site advertising signs shall be erected on the site.

Landscaping, screening and buffering:

Install the landscaping along So. Shortridge Road where indicated on the site plan, per plans on file.

Security:

Monitored by security cameras, minimum of six (6)

Lighting:

Parking lot lighting may be used on the site, with no light spillage off the site or oriented towards any protected district.

Box lighting shall be used and affixed to the existing building.

Trash Collection:

All dumpsters shall be behind or to the side of the buildings and to the southeast of the building; and enclosed and gated so as not to be visible, from any public street.

12/13/22

ATTACHMENT "E":

Petitioner commits to exclude the following C1 uses from the subject site:

1. Substation and utility Distribution
2. Wireless Communications facility
3. Transit Center
4. Indoor recreation and entertainment
5. Retail, Light general
6. Parking garage commercial
7. Drive through
8. Outdoor seating or patio
9. Recycling collection point
10. Sidewalk Café
11. Swimming pool or hot tub

12/13/22

STAFF REPORT 2022-CZN-868 / 2022-CVR-868, Findings of Fact

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA**

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE: With the "no touch" zone for the buffering to the south and to the east, and the former railway line to the east; the grant shall not be injurious to the general welfare of the community.

2. THE USE OR VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE:

The trend of the area development along both sides of Shortridge Road, from East Washington Street to East English Street is heavy commercial and thus the "No touch zone" along the transitional yards on the two sides, provides for that area adjacent to be affected in a positive manner.

3. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE WILL RESULT IN PRACTICAL DIFFICULTIES IN THE USE OF THE PROPERTY BECAUSE:

The parking lot is existing and thus the transitional yards are already reduced in width and with the "no touch zone" to the south and east will allow the property to be used and leave all of the existing trees and vegetation and not shrink the parking lot by removing some of the asphalt.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ Day of _____, 20 ____

STAFF REPORT 2022-CZN-868 / 2022-CVR-868, Photographs



Looking east at the subject site.



Looking east along the northern edge of the site.



Looking east along the southern edge of the site.



Looking west along the southern edge of the site.



Looking north along Shortridge Road.



Looking south along the Shortridge Road frontage. Roughly the western half of the parking lot is in the right-of-way.



Looking east from Shortridge Road at the parcel to the north of the site. The site is to the right. A daycare operates behind the green fence to the left.



Looking southwest across Shortridge Road at the neighbor to the west.