

BOARD OF ZONING APPEALS DIVISION II

March 11, 2025

Case Number: 2025-SE2-001
Address: 1452 Prospect Street (approximate address)
Location: Center Township, Council District #18
Zoning: C-4
Petitioner: 1452 Prospect Street LLC, by Misha Rabinowitch
Request: Special Exception of the Consolidated Zoning and Subdivision Ordinance to provide for a commercial parking lot.

Variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a parking area with a five-foot front yard setback from both Prospect Street and Spruce Street (10-feet required).

Current Land Use: Undeveloped

Staff Reviewer: Robert Uhlenhake, Senior Planner

PETITION HISTORY

This is the first time this petition has been heard.

STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

PETITION OVERVIEW

SPECIAL EXCEPTION

- ◇ A commercial parking lot is permitted in the C-4 District by the grant of a special exception, which must include findings that the proposed use will not injure or adversely affect the adjacent area or property values in that area, and any grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property.
- ◇ The Comprehensive Land Use Plan recommends village mixed uses for this site and the surrounding parcels along Prospect Street. The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.

- ◇ Each Special Exception request must show that the grant would not be injurious to the public health, safety, convenience, and general welfare of the community. The proposed parking lot use would provide exclusive parking for the mixed-use development located across the street. The original mixed-use development had requested and was granted a variance for commercial uses that exceeded the permitted 8,000 square feet. Staff supported that variance under the premise that the proposed commercial would be neighborhood based, would provide services to the immediate neighborhood, and would not require additional parking for visiting customers. In Staff's opinion, the request would does jeopardize the public safety by increasing the amount or vehicular traffic in an area that is recommended as village-mixed use.
- ◇ The special exception must indicate that the grant would not injure or adversely affect the adjacent area or property values. The proposed use for a parking lot is a generational use that would prevent and displace the proposed village mixed-uses and services further from the adjacent area. As a result of the parking lot, those nearby neighbors in the adjacent area would be forced to drive further to needed commercial uses and services, creating more vehicular traffic and noise in the area.
- ◇ Additionally, the grant must be in harmony with the character of the district and the land use authorized therein. The subject site is located within the C-4 zoning classification; the proposed parking lot would not be compatible with the Marion County Comprehensive Land Use Plan recommendation of Village-Mixed Use for the site.
- ◇ In Staff's opinion, there are existing parking lots to the east and south with limited use that should be sought out to provide a shared parking arrangement, as these businesses will typically have different peak usage times, effectively maximizing the use of the available parking spaces throughout the day or week.
- ◇ Summarily, in Staff's opinion, permitting a commercial parking lot in a village-mixed use district as proposed would be wholly inappropriate, particularly considering the general increase of vehicle use intensity within a pedestrian oriented area.

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The development standards of the Consolidated Zoning and Subdivision Ordinance, specifically those relating to setbacks, are intended to provide for adequate separation and ventilation between structures and use areas as well as provide for a continuous pattern of development through the block.
- ◇ The request would provide for a reduced five-foot front yard setback from both Prospect Street and Spruce Street, where a ten-foot setback is required.
- ◇ There is no practical difficulty associated with the subject site that would warrant the grant of this variance. The subject site has no natural or manmade physical obstacles that would prohibit compliance with the required setback as the proposed parking lot could have a reduced number of parking spaces to meet the required setback. Any practical difficulty related to the requested reduced setbacks would be self-imposed by the need to have an additional dedicated parking area for the adjacent commercial use.

GENERAL INFORMATION

| | | | |
|-----------------------------------|-------------------|----------------------------|---|
| Existing Zoning | C-4 | | |
| Existing Land Use | Undeveloped | | |
| Comprehensive Plan | Village Mixed Use | | |
| Overlay | No | | |
| Surrounding Context | Zoning | Surrounding Context | |
| | North: | C-4 | Single Family Dwelling |
| | South: | MU-2 | Mixed-Use development |
| | East: | C-4 | Religious Use |
| | West: | C-4 | Automotive fueling station |
| Thoroughfare Plan | | | |
| | Prospect Street | Primary Arterial | 80-foot existing and proposed right-of-way. |
| | Spruce Street | Local Street | 58-foot existing and proposed right-of-way. |
| Context Area | Compact | | |
| Floodway / Floodway Fringe | No | | |
| Wellfield Protection Area | No | | |
| Site Plan, Revised | February 21, 2025 | | |
| Elevations | N/A | | |
| Commitments | N/A | | |
| Landscape Plan, Revised | March 5, 2025 | | |
| Findings of Fact | January 8, 2025 | | |

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- The Comprehensive Plan recommends village mixed use for the site.

Pattern Book / Land Use Plan

- The Marion County Land Use Plan Pattern Book recommends the Village Mixed-Use typology for this site. This typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contributes to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- Not Applicable to the Site.

Infill Housing Guidelines

- Not Applicable to the Site.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

ZONING HISTORY

2016-CZN-816 / 2016-CVR-816; 1427, 1431, 1433, 1437 and 1443 East Prospect Street and 1116 Spruce Street (south of site), requested the rezoning of 1.28 acres from the C-4 district to the MU-2 classification to provide for a mixed-use district. **Approved.** Requested a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a 64-foot tall (maximum 35-foot height permitted) mixed-use development, with commercial businesses exceeding 8,000 square feet (not permitted), to provide for a zero-foot front setback, without landscaping (five-foot setback, with landscaping required), to provide for a five-foot rear transitional setback, without landscaping (10-foot setback, with landscaping required), without interior landscaping (interior landscaping required), and access from an alley or abutting street (curb cuts permitted only if access cannot be provided from an alley), **granted.**

2005-UV2-045; 1427 Prospect Street, requested a variance of use of the Commercial Zoning Ordinance to legally establish an existing four-unit multi-family dwelling and an existing five-unit multi-family dwelling. **Denied.**

2004-DV2-019; 1509 Prospect Street, requested a variance of development standards of the Sign Regulations to legally establish an 18.42-foot tall, 34.56-square foot pylon sign with a 4.50-foot setback from the existing right-of-way of Prospect Street (minimum fifteen-foot setback from the existing right-of-way required). **Granted.**

2003-UV3-02; 1443 Prospect Street, requested a variance of use of the Commercial Zoning Ordinance to provide automobile sales and display (not permitted). **Denied.**



2003-VHP-015; 1633-1637 East Prospect Street, requested a variance of use to provide for a neighborhood outreach center with clothing pantry, food pantry, feeding programs, and child preschool daycare, and future religious services to operate in an existing commercial building. **Approved.**

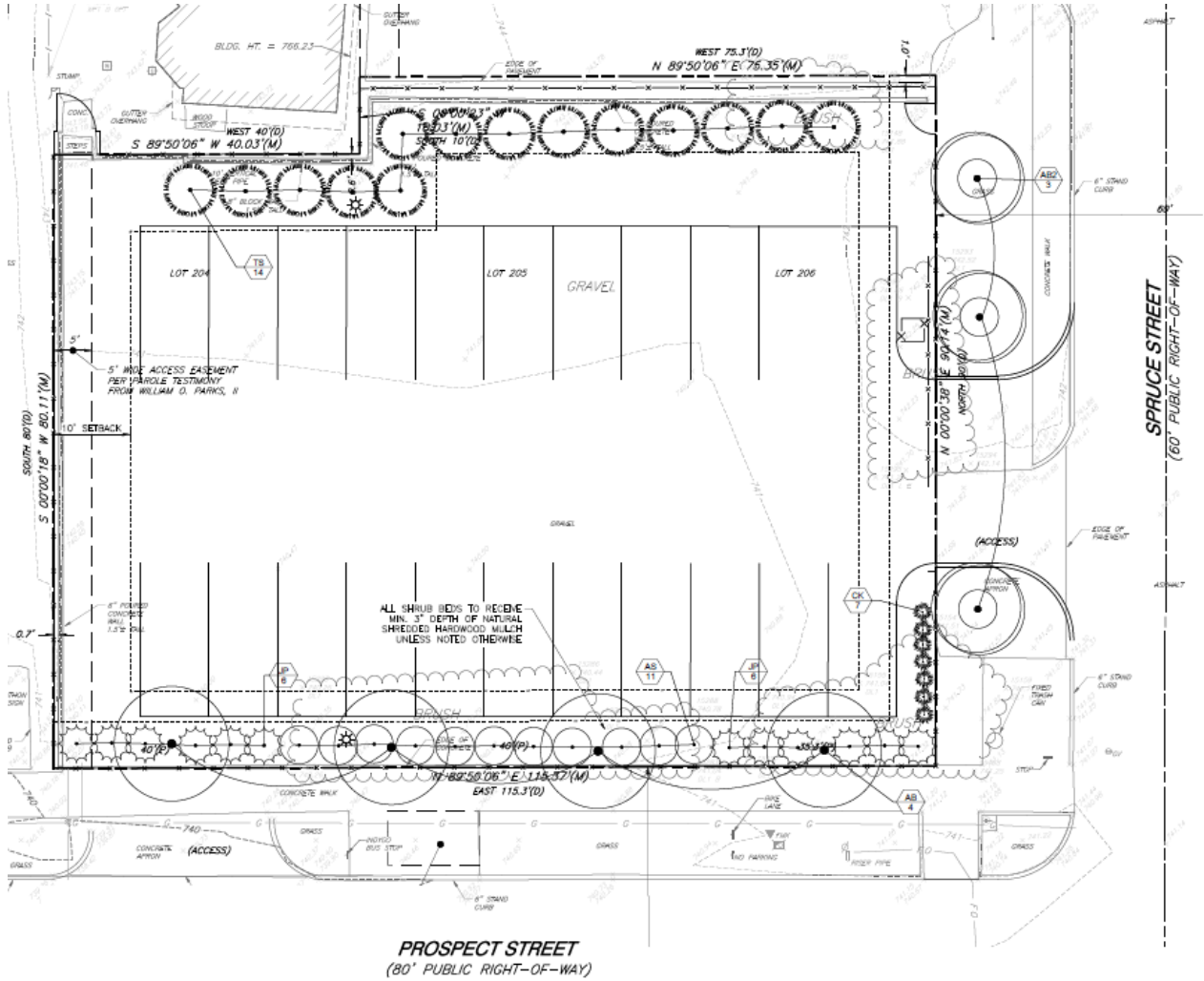
98-UV2-1; 1527-1529 East Prospect Street, requested a variance of use of the Commercial Zoning Ordinance to provide for the renovation of an existing building into two dwelling units with four off-street parking spaces. **Granted.**

98-Z-168; 1131-11333 South Linden Street and 1302 East Prospect Street, requested rezoning of 0.60 acre, from the D-5 and C-4 Districts to the SU-1 classification for religious uses. **Approved.**

96-UV2-16; 1118 Spruce Street, requested a variance of use and development standards of the Commercial Zoning Ordinance to legally establish an outdoor automobile sales lot with a zero-foot side transitional yard provided (minimum 10 feet required), landscaping not provided, parking within the front yard along Spruce Street and parking with the rear yard along the west property line (minimum 10-foot landscape strip required) (parking not permitted in the front and rear yards). **Granted.**

RU

Landscaping Plan - Revised



| TREES | | | | | | |
|--------|------|-----|--|-----------|-------------|-------------|
| SYMBOL | CODE | QTY | BOTANICAL / COMMON NAME | CONTAINER | SPACING | HEIGHT |
| | AB1 | 4 | ACER RUBRUM 'BOWHALL' BOWHALL RED MAPLE | B&B | 2.5' CAL | |
| | AB2 | 3 | ACER SACCHARUM 'BARRETT COLE TM' ARDELLO SUGAR MAPLE | B&B | 2.5' CAL | |
| | TS | 14 | THUJA OCCIDENTALIS 'SMARAGO' EMERALD GREEN ARBORVITAE | B&B | | 6' HT. MIN. |
| SHRUBS | | | | | | |
| | AS | 11 | ARONIA MELANOCARPA 'TROQUELS BEAUTY' IROQUOIS BEAUTY BLACK CHOKEBERRY | 5 GAL | 36" MIN. | |
| | CK | 7 | CALAMAGROSTIS X ACUTIFLORA 'KAIL' 'PUEBLEN' KAIL FORESTER LEATHER SEED GRASS | 2 GAL | | 1.5' O.C. |
| | JP | 12 | JUNIPERUS CHINENSIS 'KALLAYS COMPACT' KALLAY COMPACT FRITZER JUNIPER | 5 GAL | 18"-24" HT. | |





Findings of Fact

Petition Number _____

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

PETITION FOR SPECIAL EXCEPTION
FINDINGS OF FACT

1. The proposed use meets the definition of that use in Chapter 740, Article II because
The proposed use will be a hard surfaced parking lot that is the primary use of land as defined in the ordinance.

2. The proposed use will not injure or adversely affect the adjacent area or property values in that area because
It will add much needed parking for the apartments and retail uses on the south side of Prospect Street and will be properly landscaped and secured.

3. The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property because
It will add much needed parking for the apartments and retail uses on the south side of Prospect Street and will be properly landscaped and secured.

4. The proposed use will be compatible with the character of the district, land use authorized therein and the Comprehensive Plan for Marion County because
The Comprehensive Plan recommends Village Mixed Use and the proposed parking supports, and is complimentary to, the mixed use City's End property on the southside of Prospect St.

5. The proposed use conforms to the development standards in Chapter 744 applicable to the zoning district in which it is located because
With approval of the companion setback variance, the proposed use will achieve appropriate setbacks consistent with other uses in the immediate vicinity.

6. The proposed use conforms to all provisions of the Zoning Ordinance, including the performance standards in Chapter 740 and the development standards in Chapter 744 applicable to the zoning district in which it is located because
the proposed parking lot will be paved, striped, and properly landscaped.

7. The proposed use conforms to all of the use-specific standards in Chapter 743 for that use, including any Special Exception standards for that use because
there are no use-specific standards or Special Exception standards for a commercial parking lot.



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

(Setback Front & Side Yard)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

The reduced setbacks, which are consistent with other commercial setbacks in the immediate vicinity, will permit maximum use of the property for much needed parking, relieving the adjacent streets from on-street parking pressure.

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 reduced setbacks, which are consistent with other commercial setbacks in the immediate vicinity, will permit maximum use of the property for much needed parking, relieving the adjacent streets from on-street parking pressure.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

Without the reduced setbacks, use of the property for much needed parking cannot be maximized in a way that has no negative impact on the surrounding area.

Photographs



Subject site, looking north.



Subject site Prospect Street frontage, looking east



Subject site Spruce Street frontage, looking north.



Adjancet mixed use developmetn to the south



Adjacent religious use to the east, looking north



Adjacent commercial use to the west, looking north.