



**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

February 26, 2026

**Case Number:** 2025-ZON-139 (Amended) / 2026-VAR-001  
**Property Address:** 1055 and 1095 East 52<sup>nd</sup> Street  
**Location:** Washington Township, Council District #7  
**Petitioner:** EMR Mulligan Properties, LLC, by Misha Rabinowitch  
**Current Zoning:** D-5 (W-5)  
Rezoning of 0.80-acre from the D-5 (W-5) district to the MU-2 (W-5) classification.  
**Request:** Variance of Use of the Consolidated Zoning and Subdivision Ordinance to provide for processing and packaging of food and beverage and automobile club (not permitted).  
**Current Land Use:** Commercial uses  
**Staff Recommendations:** Approval  
**Staff Reviewer:** Kathleen Blackham, Senior Planner

**PETITION HISTORY**

The Hearing Examiner acknowledged the automatic continuance filed by the petitioner's representative that continued this petition from the January 29, 2026 hearing, to the February 26, 2026 hearing. The continuance provided additional time to amend the request and send new notice.

**STAFF RECOMMENDATION**

Approval of the rezoning request and the variance for an automobile club.

The petitioner's representative will be **withdrawing the variance of use request related to processing and packaging of food and beverage.**

**PETITION OVERVIEW**

This 0.80-acre site, zoned D-5 (W-5), is developed with two commercial / industrial buildings and associated parking lots. It is surrounded by commercial uses to the north, across East 52<sup>nd</sup> Street, zoned I-4 (W-5); single-family dwellings to the south, zoned D-5 (W-5); Monon Trail to the east, zoned D-5 (W-5); and a duplex and single-family dwellings to the west, across Winthrop Avenue, zoned D-5 (W-5).

## **REZONING**

The request would rezone the site to the MU-2 district to provide for mixed use. “The MU-2 District is intended to meet the daily needs for surrounding neighborhoods and include small social spaces that serve as neighborhood gathering places. The district includes primarily neighborhood-serving businesses and institutions, including a wide range of small-scale retail and service uses that typically do not draw customers from beyond the adjacent neighborhoods, and employment, institutional and residential uses that complement the compact, walkable development pattern. The MU-2 District is implemented as a small node or on busy corridors in the Traditional Neighborhood or City Neighborhood Typologies of the Land Use Pattern Book, or as a Village Mixed Use Typology. The typical size of a district is from 2 to 20 acres (1 to 4 blocks) but depends on the context and what integrates best into surrounding neighborhoods and complimentary zoning districts.”

The Comprehensive Plan recommends Village Mixed-Use typology for the site.

Recommended land uses in this typology include detached / attached / small- and large- scale multi-family housing; assisted living facilities / nursing homes; group homes; bed and breakfast; small-scale offices, retailing, and personal or professional services; small- and large- scale schools, places of worship, neighborhood serving institutions / infrastructure, and other places of assembly; small-scale parks; artisan manufacturing and food production; structured parking; and community farms / gardens.

As proposed, this rezoning request would be consistent with the Plan recommendation of village mixed-use. Staff, therefore, supports this request.

### **Wellfield Protection Secondary Zoning**

A wellfield is an area where the surface water seeps into the ground to the aquifer and recharges the wells that are the source of our drinking water. This secondary zoning district places closer scrutiny on uses and activities that might contaminate the underground drinking water supply.

There are two wellfield district designations. An area identified as W-1 is a one-year time-of-travel protection area. The W-5 is a five-year time-of-travel protection area. All development within these districts is subject to Commission approval. The filing of a site and development plan is required and subject to approval, on behalf of the Commission, by a Technically Qualified Person (TQP), unless exempted by the Ordinance.

“Because of the risk that hazardous materials or objectionable substances pose to groundwater quality, it is recognized that the further regulation of the manufacturing of, handling, transfer, disposal, use or storage of hazardous materials or objectionable substances related to nonresidential use activities is essential in order to preserve public health and economic vitality with Marion County.”

All uses permitted in the applicable primary zoning district shall be those uses permitted in the W-1 and W-5 zoning districts, unless otherwise prohibited by the Ordinance, and provided no other secondary zoning district prohibits the use.



“No building, structure, premises or part thereof shall be altered, constructed, converted, erected, enlarged, extended, modified, or relocated except in conformity with this Section, and not until the proposed Site and Development Plan has been filed with and approved on behalf of the Commission by the Technically Qualified Person (TQP). Regulations found in Chapter 742, Article II, Section 4 shall apply to all land within the Wellfield Protection Zoning Districts. The entire site shall be subject to review by the TQP. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.”

The subject site is located in W-5 Fall Creek wellfield protection area and any use or development within a wellfield protection district would be subject to the Technically Qualified Person (TQP) review and approval, unless and until the property owner provides sufficient justification that the type of use, type of facility, and chemical quantity limits, independent of the land use would be exempt from the requirements for filing a development plan. Otherwise, a development plan would be required to be filed and approved on behalf of the Metropolitan Development Commission by the (TQP). Contaminants that would have an adverse effect would include chemicals that are used in the home, business, industry, and agriculture. Chemicals such as furniture strippers, lawn and garden chemicals, cleaning chemical and solvents, gasoline, oil, and road salt can all contaminate groundwater supplies if poured on the ground or improperly used or stored.

**Variance of Use**

The proposed variance of use would be for an automobile club, which would not be a permitted use in the MU-2 district. Based on the description related to this variance request, no vehicles would be stored outside or serviced on site. The contemplated use would allow members to display and detail their vehicles. There would not be any outdoor storage.

Staff believes this request would be supportable because activities would generally be inside the existing buildings. There would not be any outdoor storage of vehicles. Consequently, the proposed use would not negatively impact the surrounding land uses.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-5 (W-5)	
<b>Existing Land Use</b>	Commercial / Industrial uses	
<b>Comprehensive Plan</b>	Village Mixed-Use	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
North:	I-4 (W-5)	Commercial uses
South:	D-5 (W-5)	Single-family dwelling
East:	D-5 (W-5)	Monon Trail
West:	D-5 (W-5)	Duplex / Single-family dwellings

Thoroughfare Plan		
East 52 <sup>nd</sup> Street	Primary Collector	Existing 50-foot right-of-way and proposed 56-foot right-of-way.
Winthrop Avenue	Local Street	Existing 50-foot right-of-way and proposed 48-foot right-of-way.
<b>Context Area</b>	Compact	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	Yes. Fall Creek (W-5)	
<b>Site Plan</b>	N/A	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	January 9, 2026	
<b>Findings of Fact (Amended)</b>	N/A	
<b>C-S/D-P Statement</b>	N/A	

**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

The Comprehensive Plan recommends Village Mixed-Use. 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.

**Pattern Book / Land Use Plan**

The Comprehensive Plan consists of two components that include The Marion County Land Use Pattern Book (2019) and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

*Conditions for All Land Use Types – Village Mixed-Use Typology*

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.
- In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
- Where possible, contributing historic buildings should be preserved or incorporated into new development.

**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)

The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”

The following listed items describe the purpose, policies and tools:

- Classify roadways based on their location, purpose in the overall network and what land use they serve.
- Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
- Set requirements for preserving the right-of-way (ROW).
- Identify roadways for planned expansions or new terrain roadways.
- Coordinate modal plans into a single linear network through its GIS database.

## ZONING HISTORY

**2024-CZN-817 / 2024-CVR-817; 1103 and 1115 East 52nd Street (east of site)**, requested rezoning of 1.05 acres from the D-5 (W-5) district to the MU-2 (W-5) district to legally establish existing uses and to provide for a potential mixed-use development and variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for multiple dwelling units on the southside of an existing two-story building without orientation to a public street, **approved and granted**.

**2016-HOV-006; 5228 Winthrop Avenue (north of site)**, Variance of Use of the Commercial Zoning Ordinance to provide for primary and accessory residential uses, including the expansion of an attached garage (not permitted), **granted**.

**2015-UV3-029; 1022 East 52<sup>nd</sup> Street (west of site)**, requested a variance of use and development standards of the Industrial Zoning Ordinance to provide for offices and restaurants (not permitted), to provide for a parking lot with a 10-foot front setback from Winthrop Avenue and to legally establish a building, with an 11-foot front setback from Winthrop Avenue (20-foot front setback required) and an 80-foot front transitional setback from the centerline of 52<sup>nd</sup> Street (110-foot front transitional setback from the centerline of 52<sup>nd</sup> Street required), **granted**.

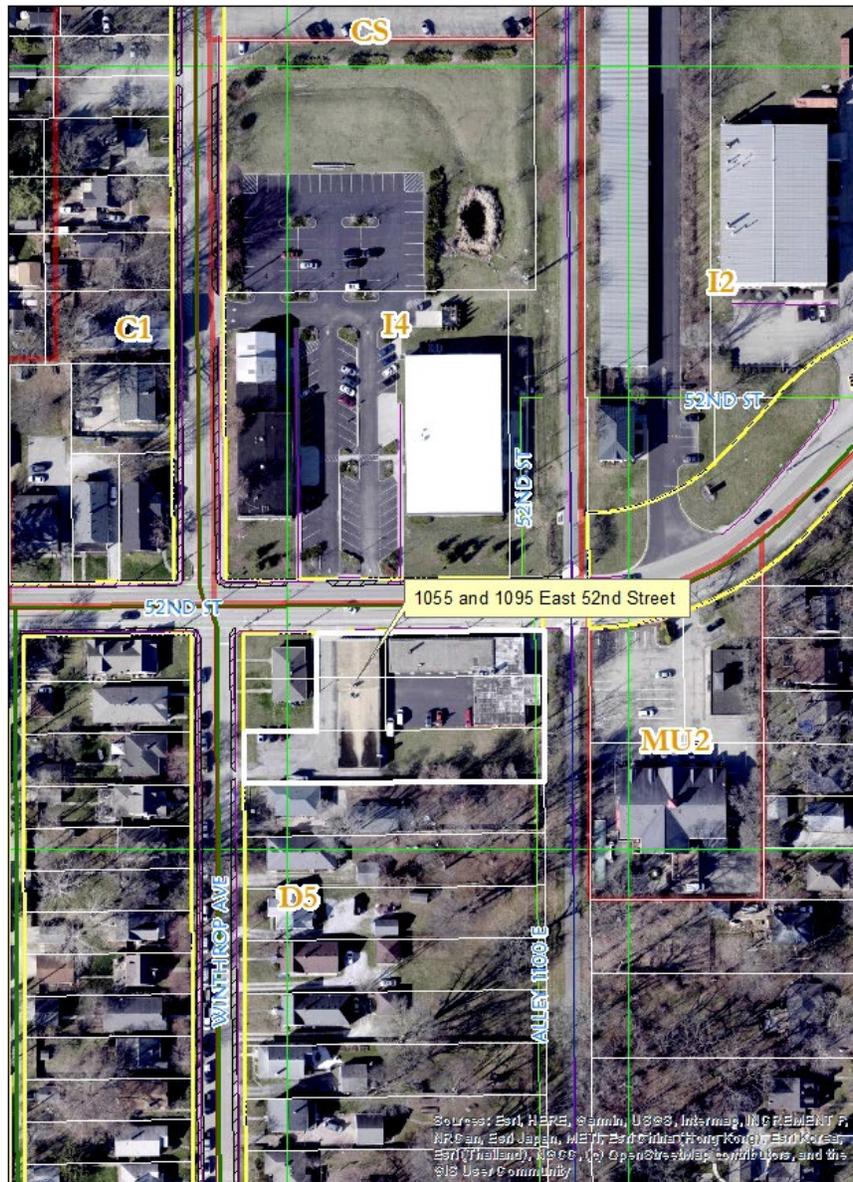
**2014-HOV-050; 1103 and 1115 East 52<sup>nd</sup> Street (east of site)**, requested a variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a dwelling unit (1103) and garage, with a 290-square foot main floor area (minimum 660 square feet required) and an 18-foot rear setback (minimum 20-foot rear setback required), **granted**.

**99-UV2-8; 1102 East 52<sup>nd</sup> Street (north of site)**, requested a variance of use of the Industrial Zoning Ordinance to provide for a 12,000 square foot coffee roasting and blending plant with 660 feet of retail coffee sales (not permitted), **granted**.

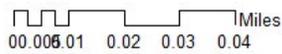
**97-CP-36Z / 97-CP-36V / 97-CP-36VAC; 1102-1115 East 52<sup>nd</sup> Street (north of site)**, requested rezoning of 7.035 acres from I-4-U (W-5) to I-2-U (W-5) to provide for an industrial park development, with a variance of use of the Industrial Zoning Ordinance to provide for an on-site resident manager for the proposed industrial park, and a vacation of a portion of "Old 52<sup>nd</sup> Street", **approved**.

**89-UV1-21; 1002 East 52<sup>nd</sup> Street (north of site)**, requested a variance of use and development standards of the Industrial Zoning Ordinance to provide for the construction of a window manufacturing facility, office and showroom with parking in the front transitional yard, **granted**.

EXHIBITS



1055 and 1095 East 52nd Street



#### Description of Use Variances

In addition to uses permitted in the MU-2 district, the Petitioner is seeking use variances of use to permit the following:

1. **Private Indoor Automobile Club.** An indoor automobile club with display, storage and detailing (but not servicing) of member's vehicles. The existing buildings can accommodate up to 40 member vehicles. No vehicles would be stored outside of the Buildings and no vehicles would be serviced on site. The Buildings (and exterior parking areas serving the Buildings) will be fully secure, with key fob, card, remote, or pad, access only. No exterior lighting is anticipated, beyond exterior building lighting as necessary to comply with applicable legal requirements.

2. **Processing and Packaging of Food and Beverage.** Specifically, a locally based business seeking to store, package, and distribute its tea products.



Petition Number \_\_\_\_\_

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

The private automobile club use will be entirely indoors, with no outside storage or operations, and will not generate significant automobile traffic.

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

The private automobile club use will be entirely indoors and will, with no outside storage or operations, and will not generate significant automobile traffic.

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3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

MU-2 is an appropriate zoning classification but the proposed automobile club use is not specifically identified in the zoning ordinance. The proposed use is compatible with repurposing the existing buildings, which have been used for light industrial purposes.

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4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

The proposed use fits in context with the area and provides for productive adaptive reuse of the existing buildings.

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5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

The use is compatible with the comprehensive plan recommendation of Village Mixed Use, as the area includes a mix of residential, commercial, and industrial properties in the immediate vicinity.

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DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

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Petition Number \_\_\_\_\_

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

The tea and coffee storage and packaging use will be entirely indoors, with no outside storage or operations, and there will be no noxious fumes.

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

The tea and coffee storage and packaging use will be entirely indoors, with no outside storage or operations, and there will be no noxious fumes.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

MU-2 is an appropriate zoning classification for the site context and the property has been used for light industrial uses even though the property has been zoned for residential use. The proposed tea and coffee storage and packaging use is consistent with the site context despite the historical zoning on the site.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

The proposed use fits in context with the area and provides for productive adaptive reuse of the existing buildings.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

The use is compatible with the comprehensive plan recommendation of Village Mixed Use, as the area includes a mix of residential, commercial, and industrial properties in the immediate vicinity.

DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

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View of site looking southwest across East 52<sup>nd</sup> Street



View of site looking south across East 52<sup>nd</sup> Street



View looking southeast along East 52<sup>nd</sup> Street



View of site looking southwest across Monon Trail



View of site looking northwest across Monon Trail



View of site looking east across the Monon Trail



View of adjacent property to the south looking southwest across Monon Trail



View of site and duplex looking southeast across East 52<sup>nd</sup> Street



View of site and duplex looking northeast across Winthrop Avenue



View of site and adjacent property to the south looking southeast across Winthrop Avenue



View from site looking northwest across East 52<sup>nd</sup> Street