

## STAFF REPORT

### Department of Metropolitan Development Division of Planning Current Planning Section

**Case Number:** 2022-MOD-015  
**Address:** 9111 Allisonville Road and 5750 East 91<sup>st</sup> Street (*Approximate Address*)  
**Location:** Washington and Lawrence Townships, Council District #3  
**Zoning:** C-1  
**Petitioner:** Indianapolis Children's Choir, Inc., by Joseph D. Calderon  
**Request:** Modification of Commitments to terminate all commitments related to 88-Z-85 and 2000-APP-007.

This petition was continued from the October 13, 2022 hearing to the November 10, 2022 hearing.

### **RECOMMENDATION**

Staff **recommends approval** of the termination of Commitments #2 through #7, #9, #10, #12, #13, #15, #18 through #22, and #24 of 88-Z-85 as modified by 2000-APP-007.

### **SUMMARY OF ISSUES**

The following issues were considered in formulating the recommendation:

#### **LAND USE**

- ◇ The subject site is home to two office buildings. The first building to be constructed on the site was erected in late 1980s in the southwest corner of the site. The second building to be developed was put up in the northeast corner in the site in 2000/2001. Having been established in the 1970s, the subdivision to the north and east and the apartment communities to the west were in place when the subject site was developed.
- ◇ The 2018 Comprehensive Land Use Plan recommends Suburban Neighborhood for the site. This typology primarily envisions single-family dwellings, but also accommodates some commercial development such as small-scale offices if located at the intersection of arterial streets and if adequately screened and buffered from neighboring residences.

(Continued)

**STAFF REPORT 2022-MOD-015 (Continued)**

**MODIFICATION OF COMMITMENTS**

- ◇ This site was part of a 162-acre rezoning in 1969 from the A-2 district to the D-2 district to provide for single-family development. In 1983, the site was rezoned to the C-1 district to provide for the development of three office buildings with combined area of no more than 16,215 square feet. Approval of the rezoning was subject to 27 commitments.
- ◇ In 1988, a modification of commitments was requested and approved, which replaced the original 27 commitments with 24 commitments and increased the maximum building height to allow for a building cupola up to 44.6 feet. In 2000, another a modification was requested and approved. This modification reduced the number of buildings on site from three to two, but increased the maximum square footage from 16,215 to 18,500. The other commitments were retained as previously approved.
- ◇ This modification of commitments would entirely delete the 24 commitments from 88-AP-85, as modified by 2000-APP-007. In review of the 24 commitments, staff determined that many of the commitments were redundant to the Ordinance or have become redundant to the Ordinance by way of ordinance amendments since 2000. As such, staff has no objection to the deletion of Commitments #2 through #7, #9, #10, #12, #13, #15, #18 through #22 and #24.
- ◇ However, several of the commitments could be important to the orderly development of the site, should the site undergo redevelopment at some point in its future. As such, staff recommends that the following commitments be retained as written or revised in some appropriate manner: #1, #8, #11, #14, #16, #17 and #23.

**GENERAL INFORMATION**

**EXISTING ZONING, CONTEXT AREA, AND LAND USE**

C-1	Metro	Offices
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**SURROUNDING ZONING AND LAND USE**

North	D-2	Single-family dwellings
South	MU-1, SU-1	Multi-family dwelling complex, church
East	D-2	Single-family dwellings
West	D-6-II, D-7	Multi-family dwelling complex

COMPREHENSIVE LAND USE PLAN	The Washington and Lawrence Township Comprehensive Land Use Plans (2018) recommend Suburban Neighborhood.
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(Continued)

## **STAFF REPORT 2022-MOD-015 (Continued)**

### **THOROUGHFARE PLAN**

Allisonville Road is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Arterial, with an existing right-of-way ranging from 123 to 153 feet and a 102-foot proposed right-of-way.

91<sup>st</sup> Street is classified in the Official Thoroughfare Plan for Marion County, Indiana as a Primary Collector, with an existing right-of-way ranging from 99 to 105 feet and a 90-foot proposed right-of-way.

### **FLOODWAY / FLOODWAY FRINGE**

The site is not located within a floodway or floodway fringe.

### **WELLFIELD PROTECTION DISTRICT**

This site is not located within a wellfield protection district.

## **ZONING HISTORY – SITE**

**2000-APP-007; 5809 East 91<sup>st</sup> Street**, requested modification of Commitment #11 of petition 88-AP-85, **approved**.

**88-AP-85; 9105 Allisonville Road**, requested modification of Commitment #10 of petition 83-Z-85, **approved**.

**83-Z-85; 5710 East 91<sup>st</sup> Street**, requested the rezoning of 3.5 acres from the D-2 district to the C-1 district, **approved**.

**69-Z-252, 9100 Allisonville Road**, requested the rezoning of 162.3 acres from the A-2 district to the D-2 district, **approved**.

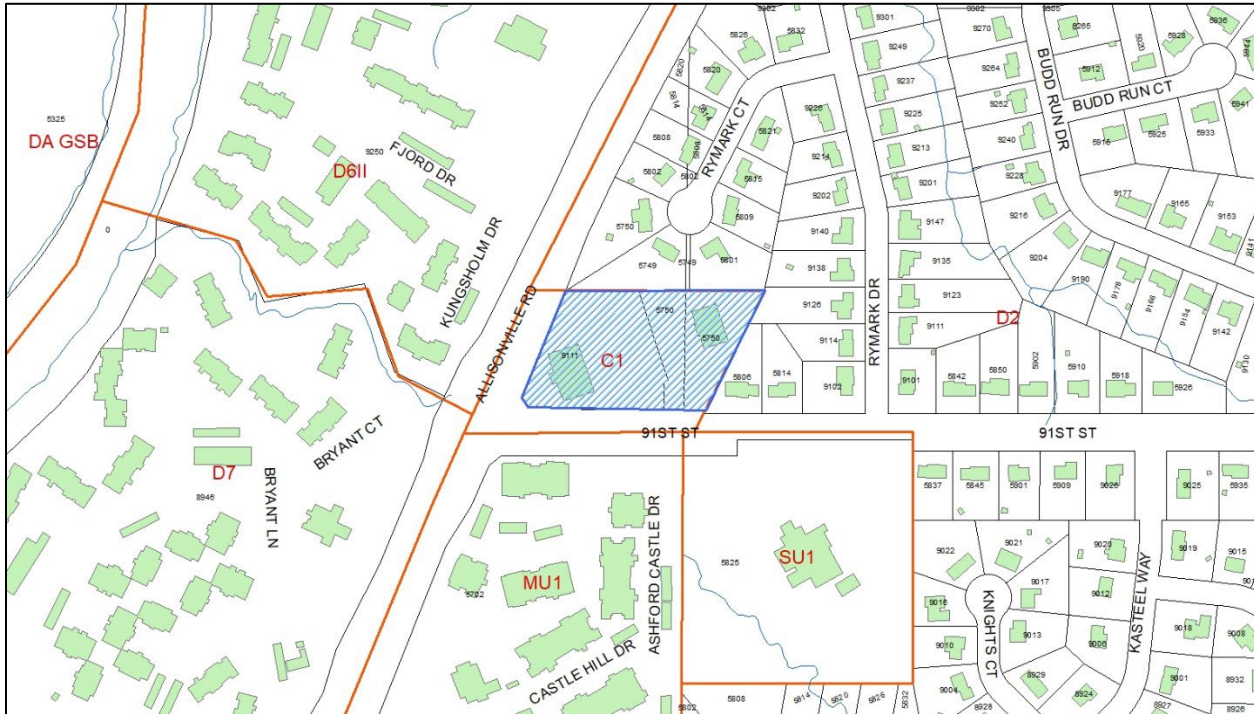
## **ZONING HISTORY – VICINITY**

**97-Z-201; 9051 Allisonville Road (south of site)**, requested the rezoning of 16 acres from the SU-2 district to the C-2 district, **approved**.

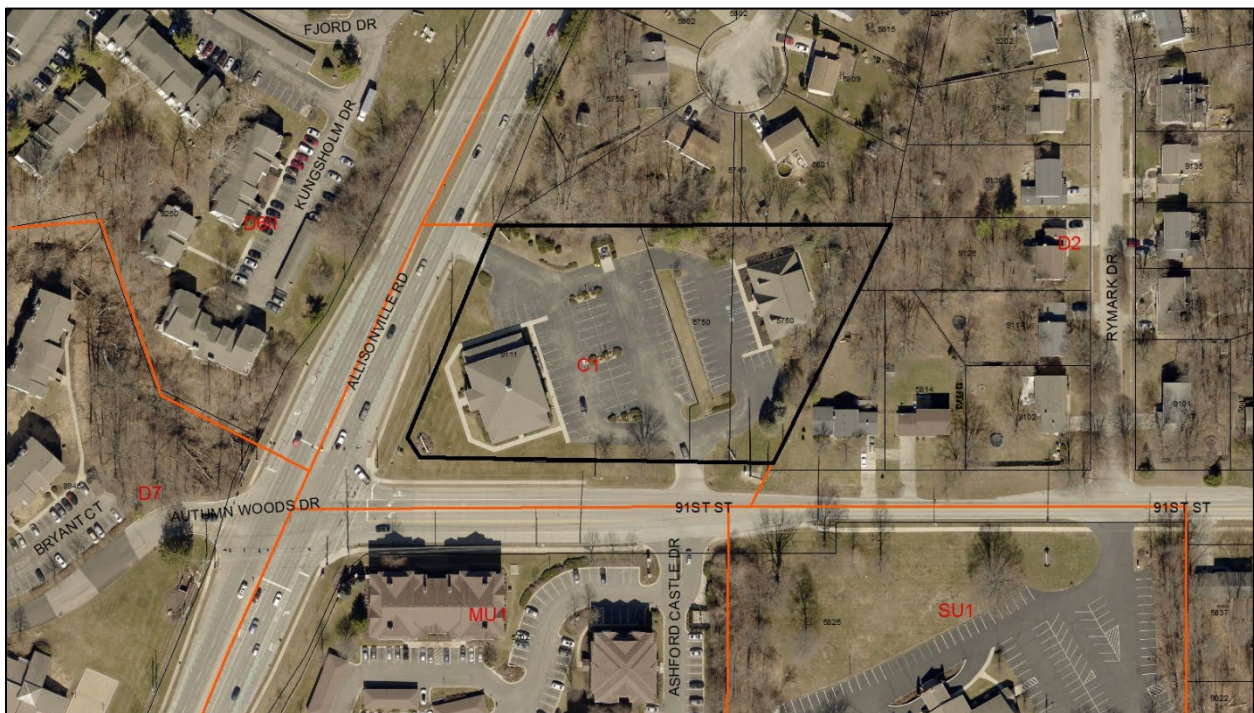
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## STAFF REPORT 2022-MOD-015, Location



## STAFF REPORT 2022-MOD-015, Aerial photograph (2021)



**STAFF REPORT 2022-MOD-015, Current Commitments from 1988-AP-85**

**NOTE:** Article VI, Section 3(b) of the rules of the Metropolitan Development Commission requires use of this form in recording commitments made with respect to zoning and approval cases in accordance with I.C. 36-7-4-607. Resolution No. 85-R-69, 1985 of the Metropolitan Development Commission requires the owner to make Commitment #1.

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE  
MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL**

In accordance with I.C. 36-7-4-607, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

Legal Description:

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Statement of COMMITMENTS:

BETH O'LAUGHLIN  
MARION COUNTY RECORDER

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. The Real Estate usage shall be limited to the uses described in Sections 2.01, A, 1 and 5 of the Commercial Zoning Ordinance as in effect on the effective date hereof.
3. A definitive site plan for the Real Estate will be submitted to the Administrator of the Division of Development Services of the Department of Metropolitan Development of the City of Indianapolis, Indiana (the "Administrator"), and will be subject to approval by the Administrator prior to the issuance of an improvement location permit.
4. A detailed perimeter treatment plan for the Real Estate, including details of access, building locations, parking, signs, landscaping and screening, will be submitted to the Administrator prior to the issuance of an improvement location permit.
5. A detailed landscaping plan for the Real Estate will be submitted to the Administrator and will be subject to approval by the Administrator prior to the issuance of an improvement location permit.
6. All signage on the entire tract shall be in accord with the requirements of the Open Occupancy Ordinance in effect on the effective date hereof and identifying the office complex and its occupants; the building at the southwest corner of the Real Estate may contain a ground sign in the front of the building identifying the building as the office of F. C. Tucker and Company said building shall also be permitted to have a wall sign on the rear thereof not higher than the first floor ceiling. No signs may be exposed neon and there shall be no banners. All signs on the Real Estate will be subject to approval by the Administrator prior to the issuance of an improvement location permit.
7. Exterior lighting equipment will be of the types and distribution that are appropriate to lighting within the property lines of the Real Estate. All lighting equipment will be so located, shielded and directed that the lighting distribution is confined to area to be lighted and that spill light onto adjacent properties or streets is avoided. Lighted details will be subject to approval by the Administrator prior to the issuance of an improvement location permit.



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8. The definitive building plans for those buildings will be submitted to the Administrator and will be subject to the Administrator's approval for architectural style and design prior to the issuance of an improvement location permit.
9. Access to the Real Estate will be as permitted by the Department of Transportation ("DOT") prior to the issuance of an improvement location permit.
10. Subject to approval by the Department of Public Works, surface water drainage will be constructed so as to drain water away from adjoining properties on the north and east of the Real Estate.
11. No buildings will be built on the Real Estate other than three (3) buildings, all of which combined, shall not exceed 16,215 square feet of gross floor area. All buildings shall be finished alike, with the front and back of like detail and construction. No building shall be constructed with an exterior concrete block wall. The F. C. Tucker and Company building to be constructed on Tract A shall be permitted to have two (2) stories and an elevation of 56 feet at peak roof height with the top of the cupola on the roof at an elevation of 44 feet 6 inches above grade. All other buildings on the total tract shall not exceed 25 feet or one and one-half stories in height. Any wall built around a trash container(s) serving the F. C. Tucker and Company Building shall be of the same construction as the architectural brick used in construction of the F. C. Tucker and Company building, and, such trash container(s) may be located in parking areas provided the same are also surrounded by earth mounding which shall be landscaped in accordance with the administrator's approved landscaped plan. All other trash containers shall be installed in like manner with walls constructed of masonry similar to the building(s) served, and with like mounding treatment.
12. No dumpsters or trash containers on the Real Estate shall be in view of any adjoining property or street. All trash or refuse in these dumpsters or trash containers must be properly bagged in plastic tyne trash bags and secured to prevent odors or refuse from being transmitted onto adjoining property or streets.
13. Subject to approval of the utility companies, all utilities will be installed underground with no additional utility poles or electric boxes along the north and east boundaries of the Real Estate.
14. For tree preservation, all healthy existing trees more than three (3) inches in diameter, twelve (12) inches above ground grade, that are located within fifteen (15) feet of the north and east property lines of the Real Estate shall be preserved.
15. All landscaping and screening installed on the Real Estate will be maintained in good condition and repair and any trees or shrubs that die will be replaced not later than the following planting season.
16. There will be undulating earth mounding along the north and east boundaries of the Real Estate with tree and shrub plantings.
17. Tree plantings along and on earth moundings shall consist of conifers, such as arbovitae type, with interspersed shrubs to attain desire density.
18. The combined tree preservation, moundings and plantings along the north and east boundaries of the Real Estate will be such as substantially to remove the view of access roads or parking areas from adjoining properties on the north and east boundaries of the Real Estate.
19. No more than one (1) parking space for each two hundred (200) square feet of gross building floor area shall be provided on the Real Estate with parking areas broken up by tree plantings.

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20. There will be no car, boat, recreational vehicle or truck storage on the Real Estate except during the initial construction phase.

21. No trucks or cars will be allowed to use the parking lots, access drives or other roads within the boundaries of the Real Estate for overnight parking.

22. No environmental public nuisance (as defined in Chapter 50-1/2 of the Code of Indianapolis and Marion County, Indiana, as in effect on the effective date hereof) shall be allowed to exist on the Real Estate prior to commencement of construction.

23. No part of any building on the Real Estate will be built closer to the north property line of the Real Estate than thirty (30) feet and/or closer to the east property line of the Real Estate than twenty-five (25) feet.

24. All of the aforementioned plans, etc., subject to approval by the Administrator will also be submitted to the Castlewood Association of Neighbors for review and comment at the same time as they are submitted to the Administrator.

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal Opportunity Commitments) shall not be binding on an owner, if such persons are exempt persons or are engaged in an exempt activity as defined on Attachment "A", which is attached hereto and incorporated herein by reference. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

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## **STAFF REPORT 2022-MOD-015, Proposed Commitments**

### **STATEMENT OF MODIFICATION OR TERMINATION OF COVENANTS OR COMMITMENTS**

#### **COVENANTS OR COMMITMENTS MODIFYING OR TERMINATING EXISTING COVENANTS OR COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH AN APPROVAL PETITION, REZONING OF PROPERTY, A VARIANCE PETITION OR SPECIAL EXCEPTION PETITION**

In accordance with I.C. 36-7-4-918.8 and I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or termination(s) of covenants or commitments concerning the use and development of that parcel of real estate:

**Legal Description:** See Exhibit "A" Attached Hereto And Incorporated By Reference.

#### **Statement of MODIFICATION OR TERMINATION of Covenants or Commitments:**

1. Those certain Commitments provided in connection with Cases #88-AP-85 and #2000-APP-007, and recorded as Instruments #880062311 and #2000-0053259, in the Office of the Recorder of Marion County, Indiana, are hereby terminated in their entirety.

These COVENANTS or COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein. These COVENANTS or COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COVENANTS or COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition 2022-MOD-\_\_\_.

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various Township Assessors of Marion County



which list the current owners of record. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time the commitment was made);

These COVENANTS may be enforced by the Metropolitan Development Commission.

The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Covenant or Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of modification and/or termination of Covenant(s) or Commitment(s) of petition # 2022-MOD-\_\_\_ by the Metropolitan Development Commission.

**STAFF REPORT 2022-MOD-015, Photographs**



Looking northeast at the southwestern building on the site.



Looking east across the northern portion of the site from Allisonville Road.



Looking southwest along the Allisonville Road frontage.



Looking northeast along the Allisonville Road frontage.





Looking west along the 91<sup>st</sup> Street frontage.



Looking east along the 91<sup>st</sup> Street frontage and beyond.