

BOARD OF ZONING APPEALS DIVISION III

March 17, 2026

Case Number: 2025-DV3-002
Property Address: 8704 US 31 (approximate address)
Location: Perry Township, Council District #23
Petitioner: Fountain Creek LLC, by Joseph D. Calderon
Current Zoning: C-4
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the construction of a commercial building and parking with a 10-foot side transitional yard (20 feet required).
Current Land Use: Commercial
Staff Recommendations: Staff recommends **approval** of this petition.
Staff Reviewer: Michael Weigel, Senior Planner

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of this petition.

PETITION OVERVIEW

- 8704 US 31 is a commercial parcel currently being developed at the northwest corner of US 31 and Bipin Way (a private drive). The property and adjacent areas to the north were rezoned to the C-4 zoning designation via the petition 2020-ZON-094 to allow for commercial development. Surrounding land uses include commercial development to the south, east, and north (pending), as well as parking for Community Hospital South further to the west of the site. None of the commercial buildings to the south of the private driveway are utilized for medical purposes.
- Development of this property is underway to construct a commercial building with accessory parking areas and landscaping, per plans below. The building would contain two (2) tenant spaces: one would be for a restaurant, and the other would be retail sales for a mobile telecommunications company. The project has already received administrative approval (2025-ADM-305) and an Improvement Location Permit (ILP25-01149), based on an Early Conditional Permit letter issued to the petitioner on February 9, 2026 (within Exhibits below). The petitioner would assume any risk of investment or activity made based on that letter pending the results of this hearing.

- Although the development on the southern side of Bipin Way is also zoned C-4 and developed with commercial structures unaffiliated with the hospital, the private drive itself was rezoned to the HD-1 designation via the petition 2005-ZON-103 (a sign associated with the hospital and oriented to US 31 was installed shortly after this rezoning, visible in Photo 3 of the Exhibits). Because of this transitional yard, the applicable southern setback would be 20 feet instead of zero feet. Approval of this petition would allow for construction of the commercial building and parking areas with a setback of 10 feet, which would be permitted if the private access drive were not zoned HD-1 in association with the hospital use to the west.
- This property is zoned C-4 (Community-Regional District) to allow for the development of major business groupings and regional-size shopping center to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. Similarly, the Comprehensive Plan recommends it to the Regional Commercial typology, as described below.
- Findings of Fact provided by the applicant reference the lack of any negative impacts on surrounding property to the south as well as the fact that adequate transitional yard landscaping would be provided between their development and the private access drive to the south. Staff would also note that only around 2% of the proposed building would encroach into the required 20-foot setback areas, in addition to similarly minimal encroachments by proposed parking areas. Given this context, and that the proposed setback of 10 feet would exceed the standard that would be applicable if the zoning directly to the south of the parcel matched the commercial land uses to the south (Photo 5 within Exhibits), staff recommends approval of the variance.

GENERAL INFORMATION

Existing Zoning	C-4		
Existing Land Use	Commercial		
Comprehensive Plan	Regional Commercial		
Surrounding Context	Zoning	Surrounding Context	
	North:	C-4	North: Commercial
	South:	HD-1	South: Private Drive / Commercial
	East:	C-4	East: Commercial
	West:	C-4	West: Commercial
Thoroughfare Plan			
US 31	Primary Arterial	140-foot existing right-of-way and 124-foot proposed right-of-way	
Bipin Way	Private Drive		
Context Area	Metro		
Floodway / Floodway Fringe	No		
Overlay	No		
Wellfield Protection Area	No		
Site Plan	01/09/2026		

Site Plan (Amended)	N/A
Elevations	02/11/2026 (ILP25-01149)
Elevations (Amended)	N/A
Landscape Plan	01/09/2026
Findings of Fact	01/09/2026
Findings of Fact (Amended)	N/A

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Marion County Land Use Plan Pattern Book

Pattern Book / Land Use Plan

- The Pattern Book recommends this parcel to the Regional Commercial typology to provide for general commercial and office uses that serve a significant portion of the county rather than just the surrounding neighborhoods. Uses are usually in large freestanding building or integrated centers. Typical examples include shopping malls, strip shopping centers, department stores, and home improvement centers.

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

ZONING HISTORY – SITE

2020ZON094, Rezoning of 6.2 acres from the SU-1 and D-A district to the C-4 district, **approved**.

ZONING HISTORY – VICINITY

2013DV3017 ; 8820 US 31 (south of site), Variance of development standards of the Sign Regulations to provide for a freestanding sign, with a nine-foot front setback (15-foot front setback required), being within approximately 155 feet of a freestanding sign to the north and approximately 170 feet of a freestanding sign to the east, being the fifth sign on a frontage of less than 1,400 linear feet (maximum four freestanding signs permitted), **approved**.

2005VAR837 ; 8616 US 31 (south of site), Provide for a 20-ft. tall, 200-sq.ft. illuminated pylon sign located 5 ft. from a dwelling district in HD-1 (illuminated signs not permitted within 50 ft. of a dwelling district; maximum 4-ft. tall sign permitted within 600 ft. of a dwelling district), **approved**.

2005ZON103 ; 8616 US 31 (south of site), Rezoning from the D-A district to the HD-1 classification to allow for the construction of an access drive from U.S. 31 to Community Hospital South, **approved**.

81-Z-160 ; 1402 East County Line Road (west of site), Rezoning of 48.40 acres, being in D-P district, to HD-1 classification, to provide for a 150 bed general hospital and attached medical staff office building, **approved**.

EXHIBITS

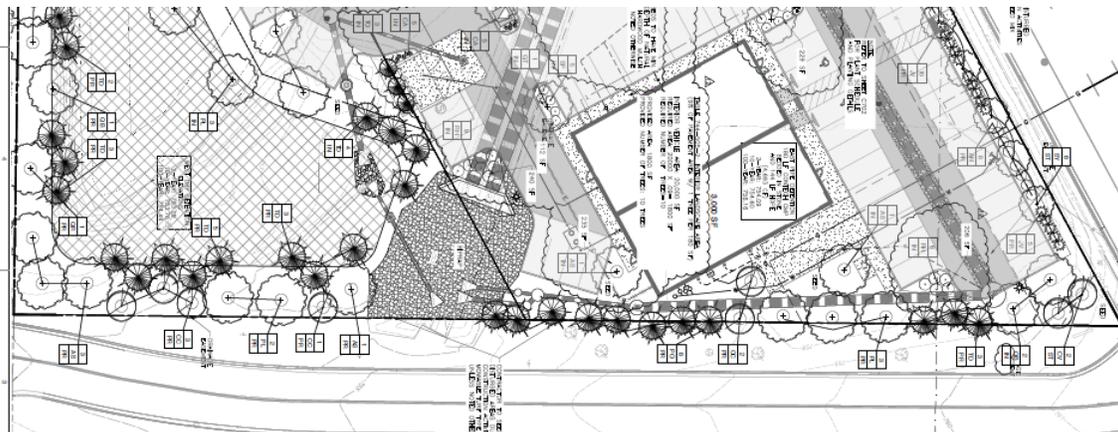
2026DV3002 ; Aerial Map



2026DV3002 ; Site Plan



2026DV3002 ; Landscaping Plan (southern property line)



2026DV3002 ; Elevations (ILP25-01149)



2026DV3002 ; Findings of Fact

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

The Variance of Development standards will not be injurious to the public health, safety, morals, and general welfare of the community because an adequate buffer will be maintained along the south property line with the required number of plantings. The reduced setback does not create a clear sight triangle issue, nor does it otherwise impede or endanger vehicular or pedestrian traffic

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 use or value of the area adjacent to the property included in the variance will not be adversely affected by the granting of the variance, as it will provide a better buffer along the adjoining private street (Bipin Way) than the south adjoinder does. Furthermore, the portion of the subject property requiring the setback variance is a private street, and no building structures can be built on the narrow area. Finally, the reduced setback does not impede with access or visibility to or from the adjoining uses.

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

The strict application of the terms of the zoning ordinance will result in a practical difficulty in use of the property given the unique site constraints of the property. There is an existing storm sewer box culvert and the angle of US 31 and Bipin Way is not a 90 degree angle. This results in site constraints on the property.

The required landscaping and buffer can be maintained along the south property line, however the width of the buffer yard varies between 10' and 29' wide.

2026DV3002 ; Early Conditional Permit Release Letter



February 9, 2026

Joseph D. Calderon
11 South Meridian Street
Indianapolis, IN 46204

RE: Early Conditional Permit
2026-DV3-002 – 8704 US 31 South
Perry Township, Zoned C-4

Dear Mr. Calderon,

I am in receipt of your request that the Planning Division consider authorizing conditional applications for Improvement Location Permits (ILP) pursuant to the above-referenced address.

The planning staff of the Planning Division indicates that they will be recommending approval of your petitions. Therefore, you may proceed with making application for said permit. Please be advised that, as the attached agreement indicates, you would be assuming all risk for any activity or investment made in reliance on such permit pending the outcome of the public hearing on your petitions.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Edward D. Honea Jr." in a cursive script.

Edward D. Honea Jr.
Current Planning Administrator

2026DV3002 ; Photographs



Photo 1: Subject Site Viewed from South



Photo 2: Subject Structure Viewed from Southwest

2026DV3002 ; Photographs (continued)



Photo 3: Subject Site and Hospital Signage Viewed from Southeast



Photo 4: Adjacent Property & Bipin Way to West

2026DV3002 ; Photographs (continued)



Photo 5: Adjacent Property & Bipin Way to South



Photo 6: Adjacent Property to East