



Rapid City Zoning Board of Adjustment

Variance Project Report

January 10, 2019

Item #3
Applicant Request(s)
Case #18VA015, a Variance request to reduce the front yard setback from 25 feet to 2.9 feet
Companion Case(s) N/A

Development Review Team Recommendation(s)
Staff recommends that the Variance request be approved for the existing structure only.

Project Summary Brief
The applicant has submitted a Variance request to reduce the minimum required front yard setback from 25 feet to 2.9 feet. The South Dakota Department of Transportation (SDDOT) is acquiring right-of-way and removing a portion of the existing structure to accommodate the widening of Omaha Street. The requested Variance is for a public improvement that will benefit the general public. The current setback is 0 feet. The new setback, after the right-of-way is dedicated and a portion of the building is removed, will be 2.9 feet. The property is the location of a bike shop and a micro-brewery.

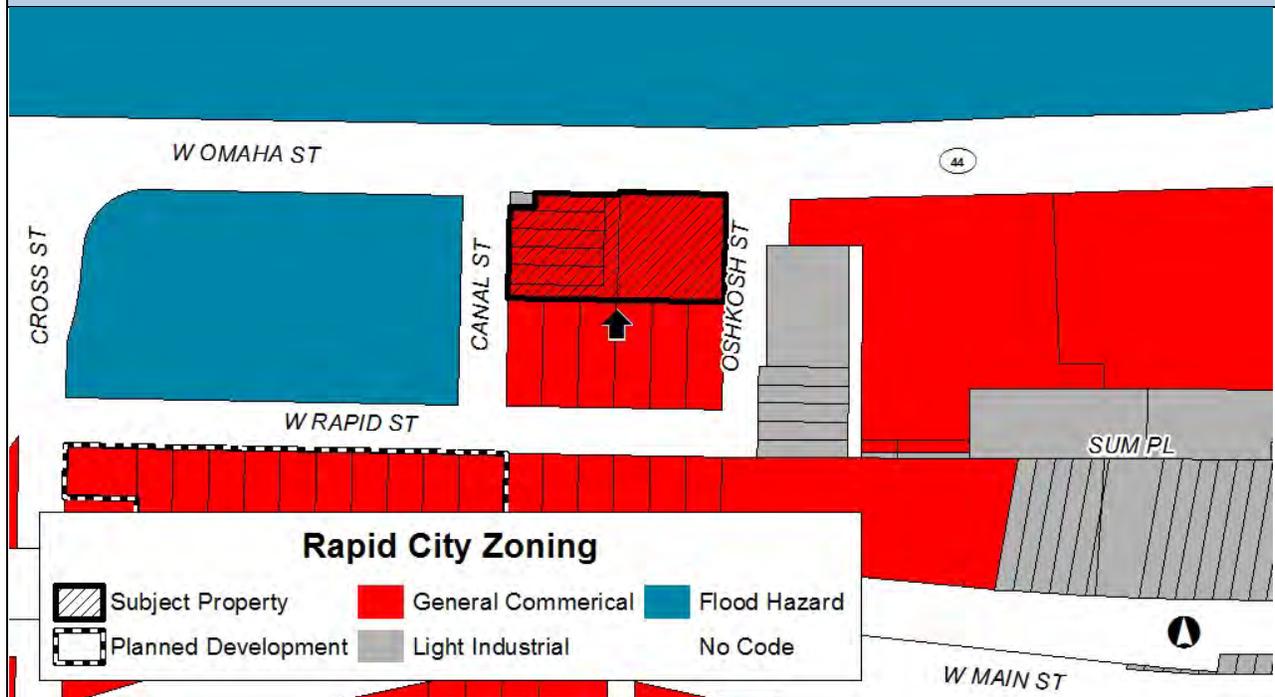
Applicant Information	Development Review Team Contacts
Applicant: M Hill Business Plaza	Planner: Fletcher Lacock
Property Owner: Mount Rushmore Society	Engineer: Roger Olsen
Architect: N/A	Fire District: Tim Behlings
Engineer: FMG Engineering	School District: N/A
Surveyor: N/A	Water: Roger Olsen
Other: N/A	Sewer: Roger Olsen

Subject Property Information	
Address/Location	1401 West Omaha Street
Neighborhood	Downtown / Skyline Drive Neighborhood Area
Subdivision	Gateway Addition
Land Area	43,996 square feet
Existing Buildings	11,219 square feet
Topography	Relatively flat
Access	West Omaha Street / Canal Street
Water Provider	Rapid City
Sewer Provider	Rapid City
Electric/Gas Provider	Black Hills Power/ MDU
Floodplain	Federally designated 100-year and 500-year floodplain
Other	N/A

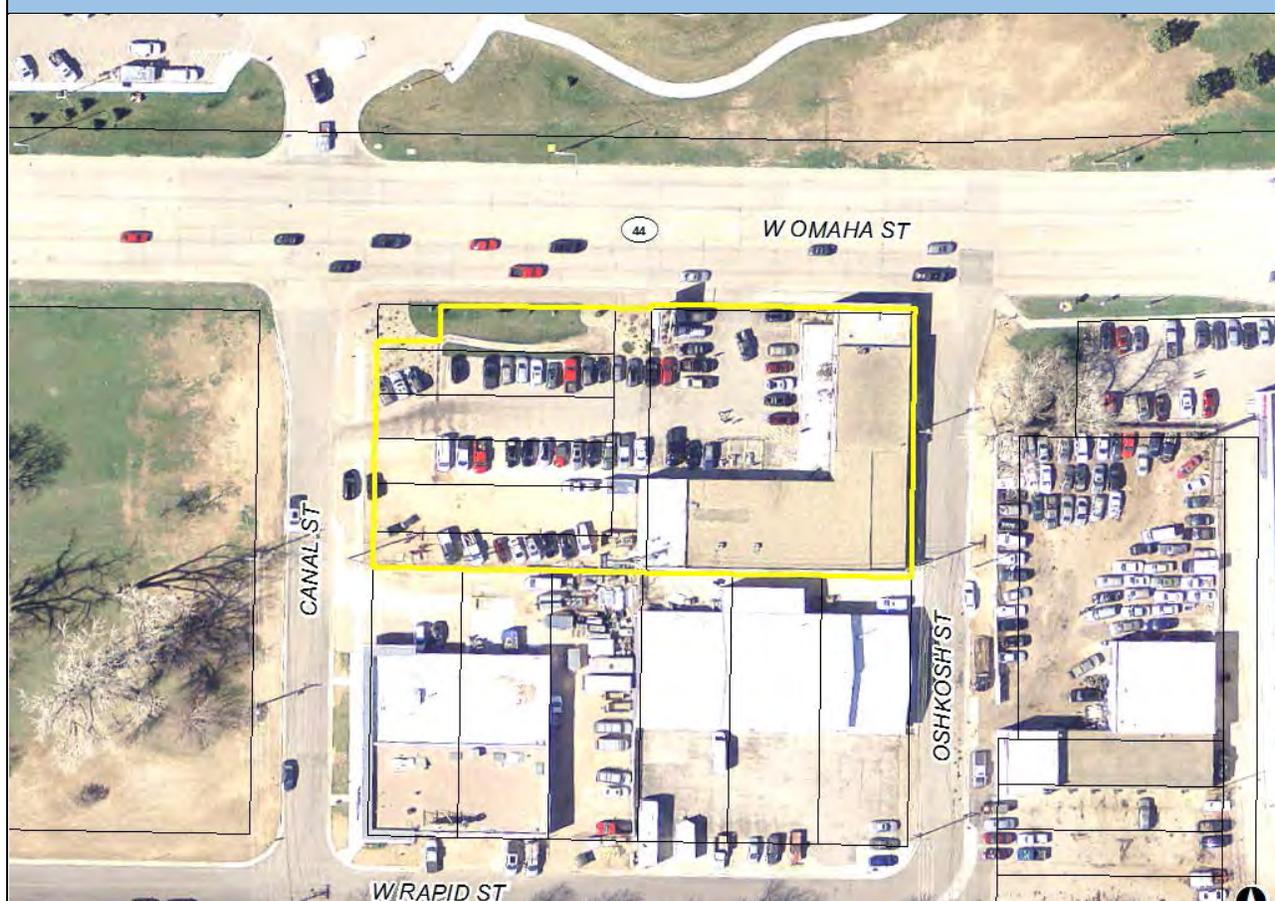
Subject Property and Adjacent Property Designations

	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	GC	MUC	Commercial structure
Adjacent North	FH	PG	Park
Adjacent South	GC	MUC	Commercial structures
Adjacent East	LI and GC	LI and MUC	Auto service
Adjacent West	LI and FH	PG	Park

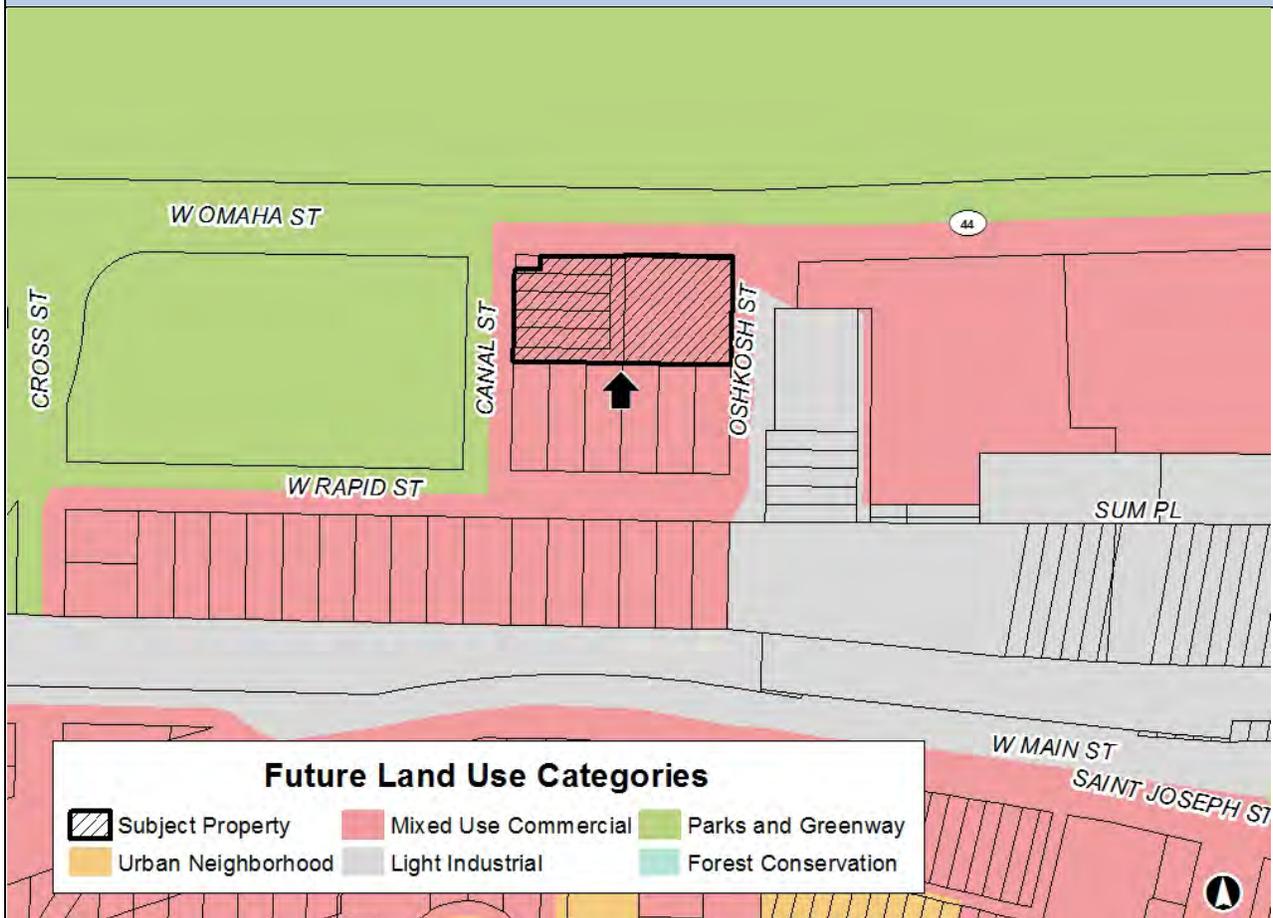
Zoning Map



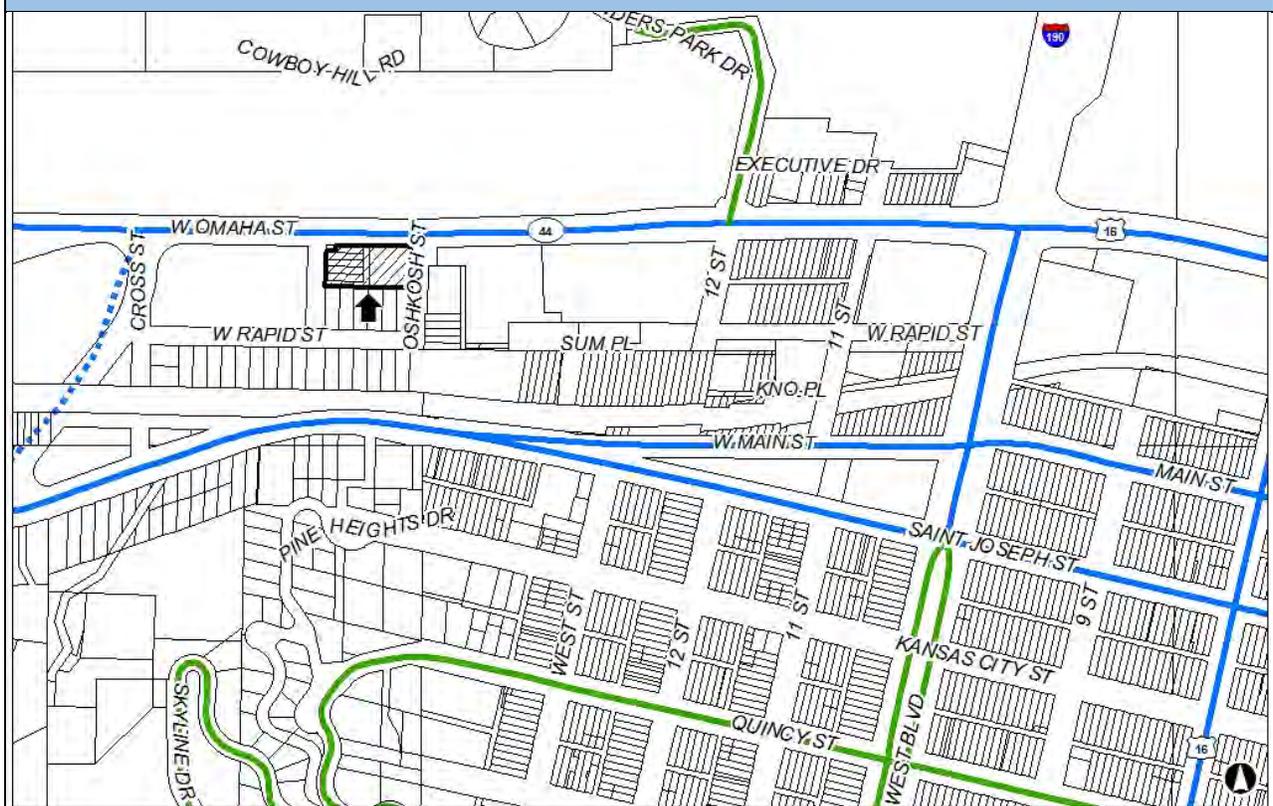
Existing Land Uses



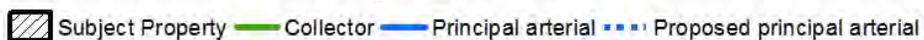
Comprehensive Plan Future Land Use



Parks or Transportation Plan



Major Street Plan



Relevant Case History			
Case/File#	Date	Request	Action
16UR022	11/23/2016	Major Amendment to a Conditional Use Permit to allow expansion of an existing micro-brewery and additional outdoor seating	Approved with Stipulations
15UR016	8/06/2015	Conditional Use Permit to allow a microbrewery	Approved with stipulations
13RZ006	5/20/2013	Rezoning from Light Industrial District to General Commercial District	City Council approved
Relevant Zoning District Regulations			
General Commercial District		Required	Proposed/Existing
Lot Area		N/A	43,996 square feet
Lot Frontage		N/A	450 feet
Maximum Building Heights		4 stories / 45 feet	1 story
Maximum Density		75%	24%
Minimum Building Setback:			
• Front		25 feet	Requesting a Variance to reduce to 2.9 feet
• Rear		0 feet	0 feet
• Side		0 feet	N/A
• Street Side		25 feet	0 feet (legal non-conforming)
Minimum Landscape Requirements:			
• # of landscape points		22,290	22,290
• # of landscape islands		N/A	N/A
Minimum Parking Requirements:			
• # of parking spaces		45	45
• # of ADA spaces		2	2
Signage		Pursuant to RCMC	No new signage proposed
Fencing		Pursuant to RCMC	None proposed
Applicant's Justification:			
<p>Pursuant to Chapter 17.54.020.D of the Rapid City Municipal Code, before the Board shall have the authority to grant a Variance, the applicant must adequately address the following criteria:</p>			
Criteria:		Applicants Response (verbatim):	
1. The granting of the variance will not be contrary to the public interest.		Variance is needed to comply with the proposed right-of-way agreement with the South Dakota Department of Transportation (SDDOT).	
2. Due to special conditions the literal enforcement of the zoning ordinance will result in unnecessary hardship.		Requiring a 25 foot building setback would not comply with the proposed right-of-way agreement with the SDDOT.	
3. By granting the variance to the provisions of the zoning ordinance the spirit of the zoning ordinance will be observed.		Current front yard setback is zero feet and is grandfathered. Reduced setback as result of removing a portion of the building complies with the proposed right-of-way agreement with the SDDOT.	
4. By granting the variance substantial justice will be done.		Proposed setback related to the reduction in building size and the proposed right-of-way widening are as requested by the SDDOT.	

Board of Adjustment Criteria and Findings for Approval	
Should the Board of Adjustment grant the Variance for the pedestrian sign, the following criteria, findings, and conditions of approval would be applicable:	
Criteria:	Findings:
1. The variance is for a use allowed in the zoning district.	A commercial building is a permitted use in the General Commercial District. The Variance to reduce the minimum required front yard setback is due to SDDOT acquiring right-of-way.
2. The strict application of the provisions of the zoning ordinance denies any reasonable use of the land.	The existing 0 foot setback is legal non-conforming. The new setback will be 2.9 feet after a portion of the building is removed. A Variance to the minimum required 25 foot front yard setback is required due to the acquisition of right-of-way along Omaha Street.
3. There are special circumstances or conditions that do not apply generally in the district (exceptional narrowness, topography, etc).	The SDDOT is acquiring right-of-way from the subject property to allow the widening of Omaha Street. The existing setback is 0 feet. The new setback will be 2.9 feet.
4. The variance is the minimum adjustment necessary for the reasonable use of the land.	The SDDOT will be acquiring 10 feet of property along Omaha Street and removing the front of the existing structure. The current setback is 0 feet. With the acquisition of right-of-way, the new setback will be 2.9 feet. The Variance is the minimum adjustment necessary.
Conditions of Approval	
Staff recommends that the Variance be approved for the existing structure only. Redevelopment of the property or damage over 50% of the structures value shall require that new structures comply with the minimum required setbacks.	

Board of Adjustment Criteria and Findings for Denial	
Should the Board of Adjustment decide to deny the Variance, the following criteria would be applicable:	
Criteria:	Findings:
4. The variance is in harmony with the general purposes and intent of the zoning ordinance and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.	The Zoning Ordinance is the tool that carries out the designations of the Comprehensive Plan. The purpose of Chapter 17.18.050 of the Rapid City Municipal Code is to provide separation between structures and adjacent rights-of-way. Reducing the minimum required setback from 25 feet to 2.9 feet is not in keeping with the intent of the Zoning Ordinance. As such, staff recommends that the Variance be granted for the existing structure only. If the structure is redeveloped or damaged beyond 50% of it's value, new structures must comply with the minimum required 25 foot front yard setback.
Summary of Findings	
The applicant has submitted a Variance request to reduce the minimum required front yard setback from 25 feet to 2.9 feet. The request is due to the SDDOT acquiring right-of-way from the subject property. A portion of the existing structure will be removed to accommodate the additional right-of-way. The resulting front yard setback will be 2.9 feet. The setback reduction will actually increase from 0 feet to 2.9 feet. The proposed Variance is due to a public improvement project and will benefit the general public. Staff recommends that the Variance to reduce the front yard setback from 25 feet to 2.9 feet be granted for the existing structure only. Redevelopment of the structure or damage over 50% of the structures value will require that new structures provide a minimum 25 foot front yard setback.	