



Rapid City Zoning Board of Adjustment Variance Project Report

July 8, 2021

Item #2
Applicant Request(s)
Case #21VA006, A Variance to reduce the front yard setback from 25 feet to 17.4 feet and to reduce the side yard abutting a street setback from 25 feet to 2.6 feet to replace an existing canopy.
Companion Case(s) N/A

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

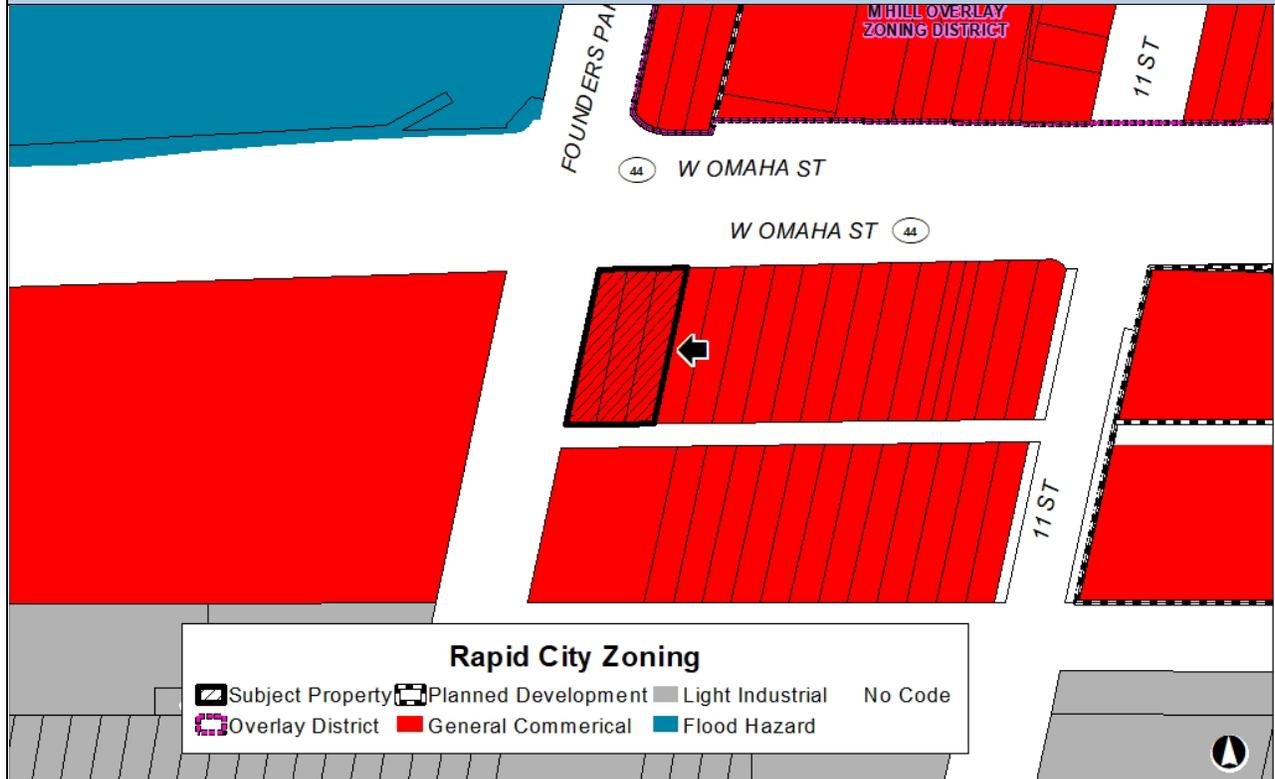
Project Summary Brief	
<p>The applicant has submitted a Variance request to reduce the minimum required front yard setback from 25 feet to 17.4 feet and to reduce the side yard abutting a street setback from 25 feet to 2.6 feet. The applicant is requesting a Variance to replace a 32-foot by 86-foot legal non-conforming convenience store canopy that was damaged by heavy winds on March 29, 2021. A demolition permit was issued for the existing canopy on May 24, 2021, and it has since been removed. The proposed new canopy will be slightly smaller in size at 28 feet in width, and it will be set back approximately 1.5 feet more than the original canopy. The canopy covers six existing fuel dispensers (aka “pumps”) at the Common Cents convenience store located on the southeast side of the intersection of West Omaha and 12th Streets.</p>	
Applicant Information	Development Review Team Contacts
Applicant: Moyle Petroleum Company	Planner: Karl Bauer
Property Owner: Moyle Petroleum Company	Engineer: Todd Peckosh
Architect: N/A	Fire District: Tim Behlings
Engineer: KTM Design Solutions, Inc.	School District: N/A
Surveyor: N/A	Water: Todd Peckosh
Other: N/A	Sewer: Todd Peckosh

Subject Property Information	
Address/Location	1129 West Omaha Street
Neighborhood	Downtown / Skyline Drive Neighborhood Area
Subdivision	Riverside Addition
Land Area	.24 acres
Existing Buildings	Approx. 1,500 square-foot convenience store, approx. 45 square-foot shed
Topography	Relatively flat
Access	West Omaha Street / 12 th Street
Water Provider	Rapid City
Sewer Provider	Rapid City
Electric/Gas Provider	Black Hills Power/ MDU
Floodplain	Federally designated 500-year floodplain
Other	N/A

Subject Property and Adjacent Property Designations

	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	GC	MUC	Convenience store with fueling pumps
Adjacent North	GC-PD, FH	MUC, PG	Carpet store, park
Adjacent South	GC	MUC	Chiropractor's office
Adjacent East	GC	MUC	Casino
Adjacent West	GC	MUC	Restaurant

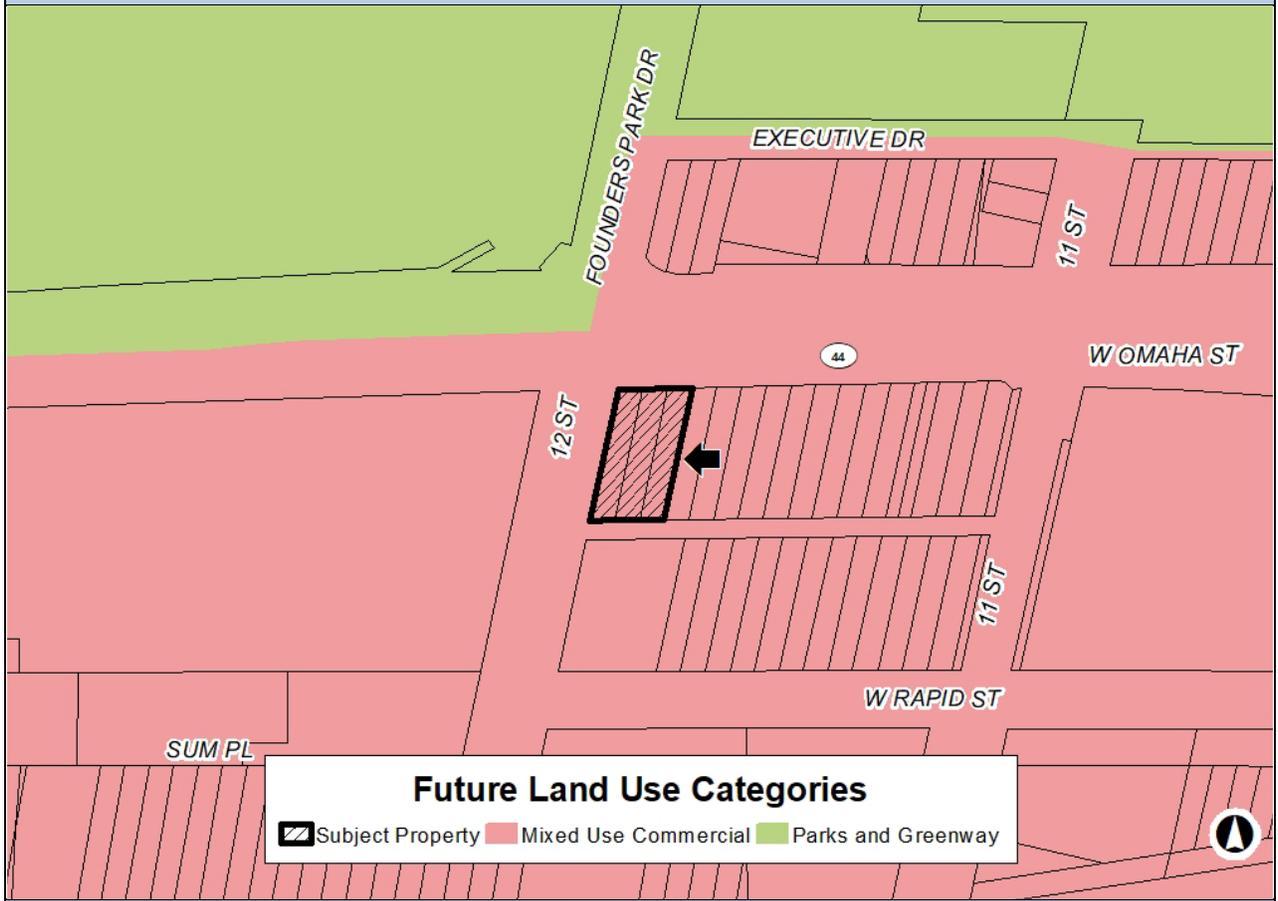
Zoning Map



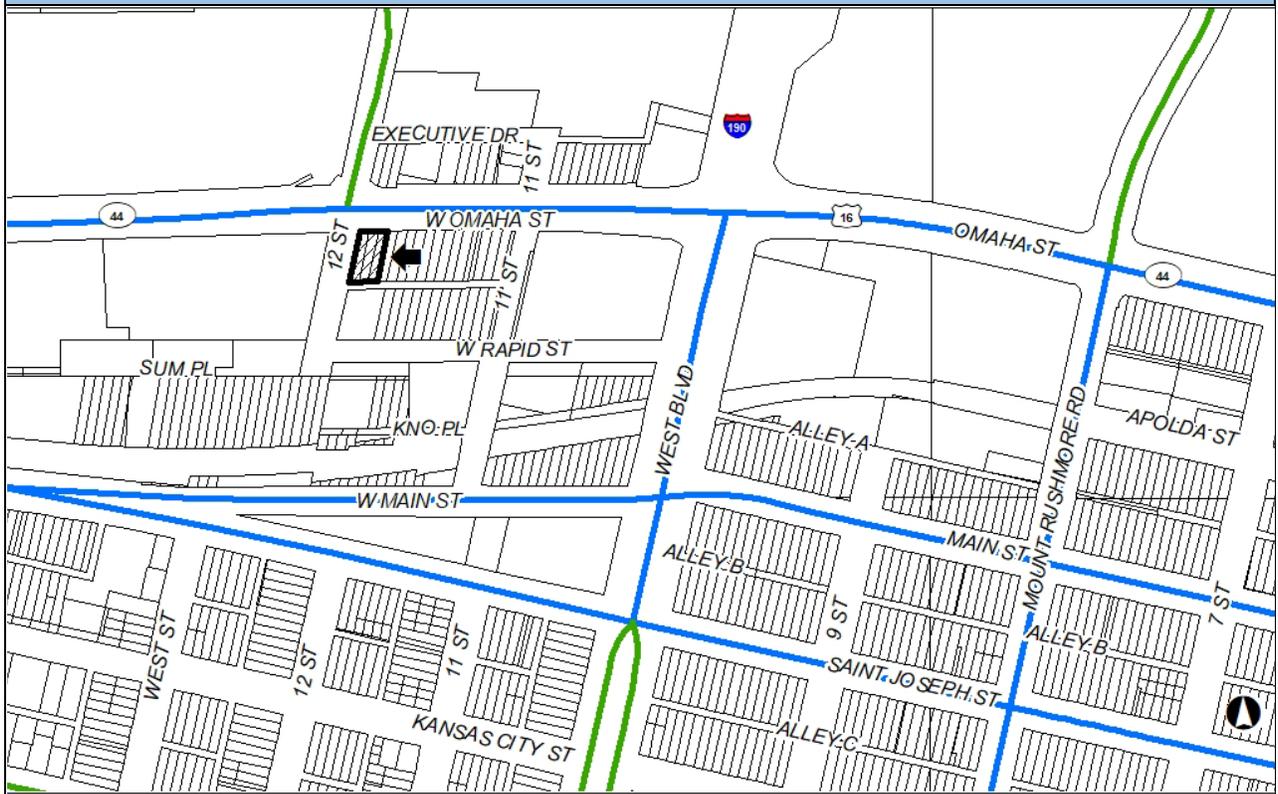
Existing Land Uses



Comprehensive Plan Future Land Use



Parks or Transportation Plan



Relevant Case History			
Case/File#	Date	Request	Action
N/A	N/A	N/A	N/A
Relevant Zoning District Regulations			
General Commercial District	Required	Proposed/Existing	
Lot Area	N/A	10,454 square feet	
Lot Frontage	N/A	Approx. 75 feet	
Maximum Building Heights	4 stories / 45 feet	1 story	
Maximum Density	75%	Approx. 60%	
Minimum Building Setback:			
• Front	25 feet	Requesting a Variance to reduce to 17.4 feet	
• Rear	0 feet	0 feet	
• Side	0 feet	N/A	
• Street Side	25 feet	Requesting a Variance to reduce to 2.6 feet	
Minimum Landscape Requirements:			
• # of landscape points	4,609	Legal non-conforming	
• # of landscape islands	N/A	N/A	
Minimum Parking Requirements:			
• # of parking spaces	18	Legal non-conforming	
• # of ADA spaces	1	Legal non-conforming	
Signage	Pursuant to RCMC	Pursuant to RCMC	
Fencing	Pursuant to RCMC	None proposed	
Applicant's Justification:			
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:			
Criteria:	Applicants Response (verbatim):		
1. The granting of the Variance will not be contrary to the public interest.	No, there was an existing fuel canopy in its place prior.		
2. There are special conditions attached to the property that do not generally apply to other properties in the same district	Lot size and fuel dispenser layout dictate location that the canopy would be constructed.		
3. Owing to special conditions, the literal enforcement of this title will result in unreasonable hardship;	Any and all convenience stores/fueling locations have fuel canopies. Not allowing this would be a disservice to Moyle Petroleum and its customers.		
4. By granting the Variance contrary to the provisions of this title, the spirit of this title and the city's Comprehensive Plan will be observed; and	The canopy was already in place. Moyle Petroleum will construct the canopy as it was.		
5. By granting the Variance, substantial justice will be done.	The existing canopy was a danger to the public and structures around it. Removal and replacement was necessary.		

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 convenience store with pumps is a permitted use in the General Commercial District. A standard design for convenience stores is to provide a canopy over the pumps to protect customers from weather conditions as they fuel their vehicles. The Variance is for a use allowed in the zoning district.
3. There are special circumstances or conditions that do not apply generally in the district (exceptional narrowness, topography, etc).	The existing location of the convenience store and pumps mandates the location of the canopy which supports granting the Variances as proposed.
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:
2. The strict application of the provisions of the zoning ordinance denies any reasonable use of the land.	The strict application of the provisions of the Zoning Ordinance will not deny reasonable use of the property. However, the previous canopy was slightly larger and did not create any safety concerns along the adjacent streets, nor did it create a utility or drainage conflict.
4. The Variance is the minimum adjustment necessary for the reasonable use of the land.	As previously noted, a standard design for a convenience store includes a canopy over the pumps to protect customers from weather conditions. However, eliminating the canopy from the required setbacks along 12th street and West Omaha Street does deny the applicant reasonable use of the property.
Summary of Findings	
<p>The applicant has submitted a Variance request to reduce the minimum required front yard setback from 25 feet to 17.4 feet and to reduce the side yard abutting a street setback from 25 feet to 2.6 feet. The existing convenience store canopy was damaged by heavy winds and was demolished, as it presented a safety concern. The location of the existing store and pumps mandates the location of the canopy. This existing condition creates a special circumstance and supports granting the Variance as requested.</p> <p>The proposed canopy is slightly smaller than the previous canopy and will be set back approximately 1.5 feet more than the original. The original canopy did not create any concerns along adjacent streets or create a utility or drainage conflict. As such, staff is recommending that the Variance be granted as requested for the canopy only. The applicant should be aware that if the Variance is granted a building permit must be submitted for review and approval for the canopy prior to the start of construction.</p>	
ZBOA Recommendation and Stipulations of Approval	
Staff recommends that the Variance to reduce the front yard setback from 25 feet to 17.4 feet and to reduce the side yard setback from 25 feet to 2.6 feet be granted for the proposed canopy only.	