



Rapid City Zoning Board of Adjustment Variance Project Report

May 25, 2017

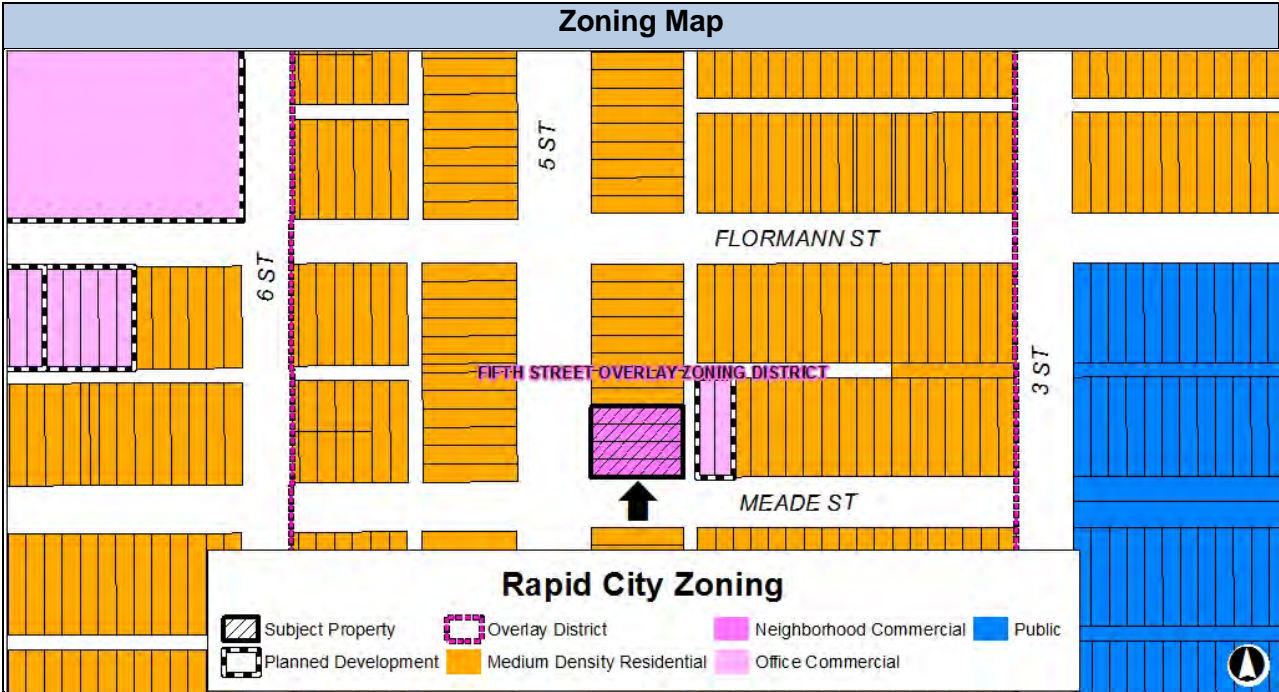
Item #3
Applicant Request(s)
Case #17VA005, a Variance request to waive the screening fence requirement as per Chapter 17.20.080 of the Rapid City Municipal Code
Companion Case(s) N/A

Development Review Team Recommendation(s)
The Development Review Team recommends that the requested Variance be approved.

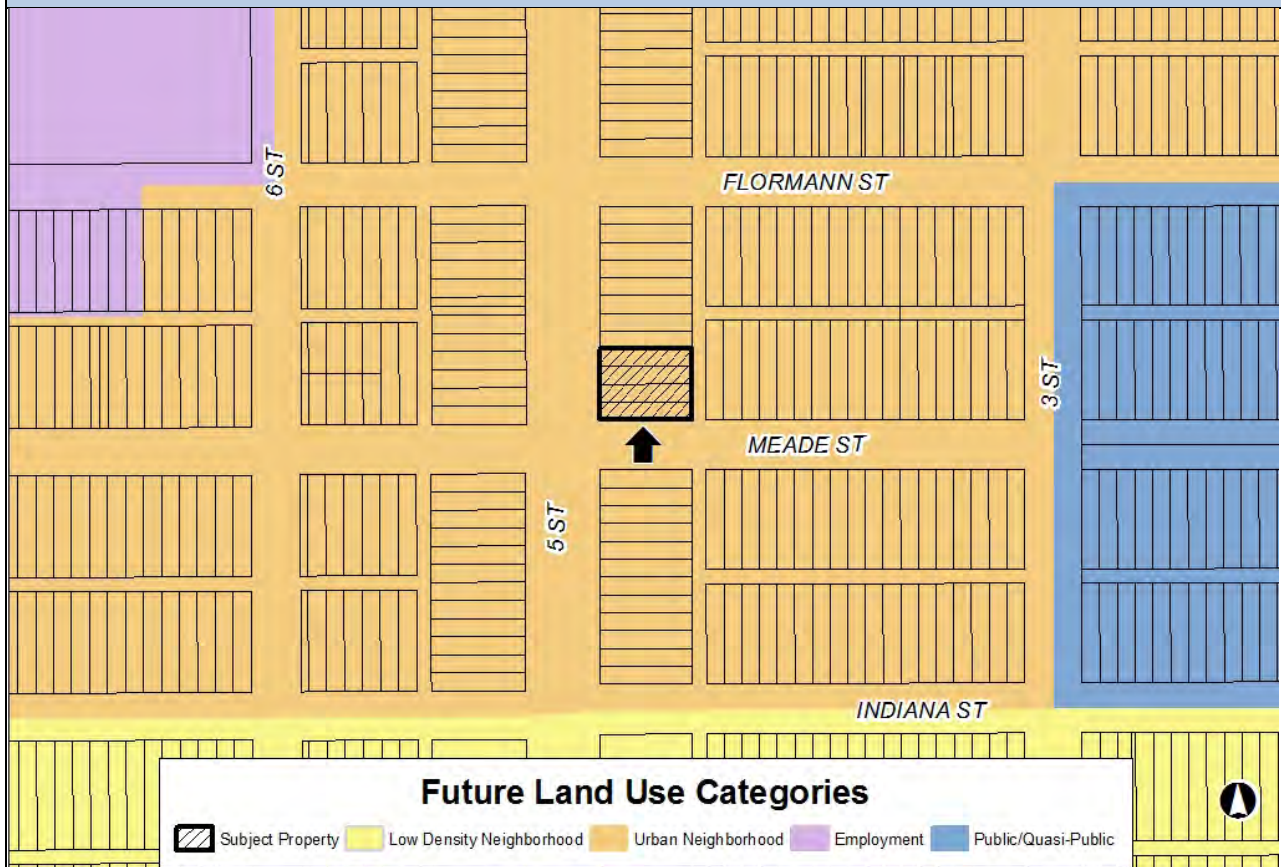
Project Summary Brief	
<p>The applicant has submitted a Variance request to waive the requirement to provide a five to six foot high opaque screening fence along the property line that abuts a residential district. On May 4, 2017, Planning Commission approved a Conditional Use Permit (File #17UR009) to allow a childcare center on the subject property. The stipulations of approval stated that a screening fence must be provided or a Variance must be granted to waive the screening fence requirement.</p>	
Applicant Information	Development Review Team Contacts
Applicant: Jessica Castleberry	Planner: Fletcher Lacock
Property Owner: Lynch and Lynch, LLC	Engineer: Dan Kools
Architect: N/A	Fire District: Tim Behlings
Engineer: N/A.	School District: N/A
Surveyor: N/A	Water: Dan Kools
Other: N/A	Sewer: Dan Kools

Subject Property Information	
Address/Location	2220 5 th Street
Neighborhood	Downtown / Skyline Drive Neighborhood
Subdivision	South Boulevard Addition
Land Area	0.3 acres, approximately 13,068 square feet
Existing Buildings	Existing commercial building
Topography	Level
Access	5 th Street
Water Provider	Rapid City
Sewer Provider	Rapid City
Electric/Gas Provider	Black Hills Power/ MDU
Floodplain	None identified

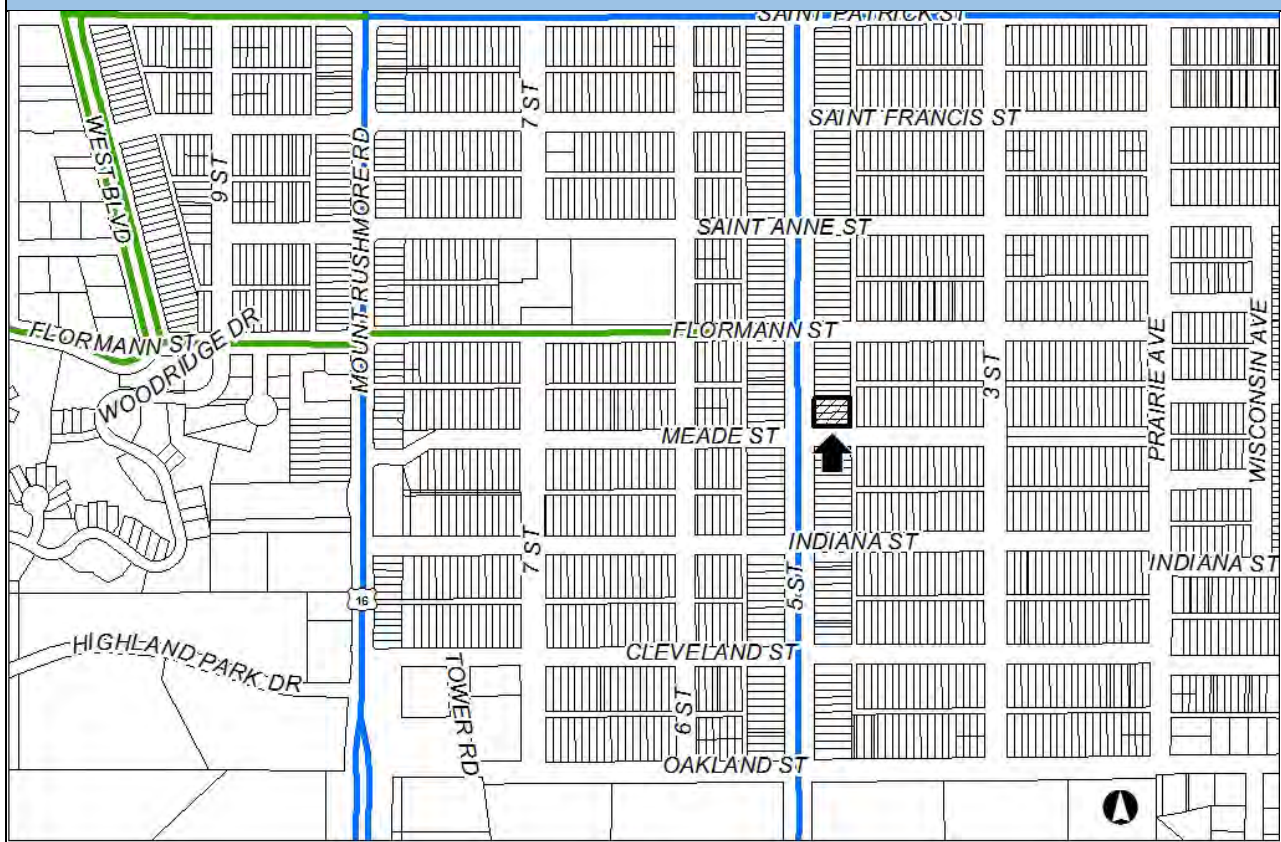
Subject Property and Adjacent Property Designations			
	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	NC and 5 th Street Overlay	UN	Existing commercial building
Adjacent North	MDR and 5 th Street Overlay	UN	Single-family dwelling
Adjacent South	MDR and 5 th Street Overlay	UN	Single-family dwelling
Adjacent East	OC-PD and 5 th Street Overlay	UN	Single-family dwelling
Adjacent West	MDR and 5 th Street Overlay	UN	Automobile sales and service



Comprehensive Plan Future Land Use



Parks or Transportation Plan



Relevant Case History			
Case/File#	Date	Request	Action
17UR009	05/04/2017	Conditional Use Permit to allow a childcare center	Approved

Relevant Zoning District Regulations		
Neighborhood Commercial District	Required	Proposed/Existing
Lot Area	N/A	0.3 acres, approximately 13,068 square feet
Lot Frontage	N/A	Approximately 230 feet
Maximum Building Heights	2½ stories, 35 feet	1 story <45 ft
Maximum Density	30%	12%
Minimum Building Setback:		
• Front	25 feet	25 feet
• Rear	30 feet	50 feet
• Side	25 feet	6 feet / existing legal non-conforming
• Street Side	25 feet	63 feet
Minimum Landscape Requirements:		
• # of landscape points	Approximately 11,487	Approximately 12,633
• # of landscape islands	Zero	Zero
Minimum Parking Requirements:		
• # of parking spaces	12	11 on-site / 18 leased
• # of ADA spaces	1 ADA van accessible	1 ADA van accessible
Signage	Per RCMC	Per RCMC, no LED signage proposed
Fencing	Per RCMC	Requesting a Variance to waive the screening fence requirement

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.	The landowner of 2220 5 th Street, Edward Lynch has had contact with the landowner to the north, Ronda Carlson. In the past Ronda has expressed that she does not wish to have a 6' privacy fence on the property due to the fence making maintenance of her yard/garage area. The lot line is currently defined with a softer screen of shrubs which is how she wishes to keep it.
2. Due to special conditions the literal enforcement of the zoning ordinance will result in unnecessary hardship.	The landowner to the north does not wish to have the fence in place. In the interest of considering her wishes we request the variance to not install the fence.
3. By granting the variance to the provisions of the zoning ordinance the spirit of the zoning ordinance will be observed.	The spirit of the ordinance will be observed by keeping the soft screening of shrubs in place, the building itself serves as a barrier between the residential property and the commercial property without infringing on Ronda Carlson's access to her property.
4. By granting the variance substantial justice will be done.	By granting the variance substantial justice will be done by respecting the wishes of Ronda Carlson, the landowner to the north.

Board of Adjustment Criteria and Findings for Approval	
Should the Board of Adjustment grant the variance for a reduction in the required side yard setback, 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.	On May 4, 2017, the Planning Commission approved a Conditional Use Permit (File #17UR009) to allow a childcare center. A requirement of the Neighborhood Commercial District is that a five to six foot high opaque screening fence be constructed along any property line that abuts a residential district.
2. The variance is the minimum adjustment necessary for the reasonable use of the land.	The subject property is currently developed with a commercial structure. On May 4, 2017, the Planning Commission approved a Conditional Use Permit (File #17UR009) to allow a childcare center. The required fence is intended to provide a visual and physical buffer between a Neighborhood Commercial District and the adjacent residential use to the north. The applicant is proposing to construct a six foot high fence around the proposed outdoor play area to be located on the east side of the property for the childcare center. The proposed play area fence and the location of the existing building along the north side of the property provide the buffer intended by the opaque screening fence.
3. There are special circumstances or conditions that do not apply generally in the district (exceptional narrowness, topography, etc).	The property abuts 5 th Street which is identified as a Principal Arterial Street on the City's Major Street Plan. The subject property and the residential property to the north take primary access from 5 th Street. The required five to six foot high opaque screening fence would interfere with the ability of vehicles to clearly see traffic while entering or exiting the properties. In addition, the detached garage on the property to the north is located very close to the property line. The required fence would limit the ability of the adjacent property owner to maintain the existing garage.
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 17.20.080 of the Rapid City Municipal Code is to ensure that a visual and physical buffer is provided when a property zoned Neighborhood Commercial District is located adjacent to a residential district. The existing structure and the proposed fencing around the outdoor play area for the childcare center will serve to provide the buffer from the parking lot located on the south side of the property in harmony with the intent of the Zoning Ordinance.
Conditions of Approval	
N/A	

Board of Adjustment Criteria and Findings for Denial	
Should the Board of Adjustment decide to deny the variance for a reduction in the required side yard setback, the following criteria would be applicable:	
Criteria:	Findings:
1. The strict application of the provisions of the zoning ordinance denies any reasonable use of the land.	As noted above, a Conditional Use Permit (File #17UR009) was approved to allow a childcare center. Chapter 17.20.080 of the Rapid City Municipal Code states that a five to six foot high opaque screening fence must be installed along the property line that abuts a residential district. Reasonable use of the land exists without the granting of the Variance.

Summary of Findings

The applicant is requesting a Variance to waive the requirement to install a five to six foot high opaque screening fence along the north property line as it abuts a residential district. On May 4, 2017, the Planning Commission approved a Conditional Use Permit (File #17UR009) to allow a childcare center. The existing structure and the proposed fence around the outdoor play area will serve to provide a buffer from the property to the north as the parking lot is located on the south side of the property. In addition, the properties are accessed from 5th Street which is identified as a Principal Arterial Street on the City's Major Street Plan. The required fence may impede the visibility of vehicles entering and exiting 5th Street. In addition, the applicant has indicated that the adjacent property owner to the north has expressed support for the requested Variance as the fence will limit the ability of the property owner to maintain their detached garage. Staff recommends that the Variance to waive the screening requirement be granted as the existing structure and the proposed outdoor play area fence provide the buffer intended by the property line screening fence.