

Dear City Council President Lantry and Council members:

The Board of Zoning Appeals ("BZA") recently received and acted upon a variance application for the purpose of constructing a new, one-story high Qdoba Restaurant at 2081 Ford Parkway. The BZA denied the variance and the applicant has appealed the BZA's decision to the City Council. The purpose of this letter is to inform each of you of a slight change in the size of the requested variance. I have discussed this issue with the City Attorney's Office ("CAO"). The CAO said that while change does not require a new hearing before the BZA, I was advised to send this note to each of you so that you understand for background purposes that the requested variance is slightly larger.

2081 Ford Parkway is located in a T2 Traditional Neighborhood Zoning District. T2 zoning requires one-story buildings to occupy at least 30% of the lot area. This land occupation requirement is known as "Floor Area Ratio" or "FAR." The applicant's original information indicated that the lot was 12,285 sq. ft. in size. Under T2 zoning, a one-story building meeting a FAR requirement of 30% would need to be at least 3,686 sq. ft. The building proposed by the applicant is 2,538 sq. ft. or 21% of the lot area. In order to be approved for a building of this size, the applicant requested a FAR variance of 1,148 sq. ft. which is the difference between the required building size and the proposed building size.

On April 1, 2013, the BZA heard the variance application and, based on the reasons in the staff report and all the testimony, the BZA denied the variance.

Following the BZA's denial and at the request of PED staff, the applicant, PED and BZA staff held a courtesy meeting to discuss possible alternative building designs which might meet the T2 FAR requirements as well as the applicant's business model. At that time, BZA staff requested a new survey of the 2081 Ford Parkway site. The applicant provided a new survey which revealed that they had not included half the alley as required and the lot in question is actually 13,249 sq. ft. and not 12,285 sq. ft. as stated in the original variance application.

Based on the corrected lot size information, the actual minimum required FAR for a one-story building on the subject lot is 3,975 sq. ft. The proposed 2,538 sq. ft. building now covers only 19% of the lot, not 21% percent as originally indicated. Consequently, the requested FAR variance has similarly changed from 1,148 sq. ft. or 9% to 1,437 sq. ft. or 11%.

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2075 FORD PARKWAY, L.L.C.
Two Paramount Plaza
7831 East Bush Lake Road, #102
Bloomington, Minnesota 55439
Phone: (952) 832-5151 Fax: (952) 832-5533

FILE
13-158216
13-173086

March 28, 2013

Zoning Administration
375 Jackson Street, Suite 220
St. Paul, Minnesota 55101

Re: 2081 Ford Parkway

Dear Zoning Appeals Board:

I am writing today in response to an application filed with the City of St. Paul for a variance at the property located at 2081 Ford Parkway. I am asking the Zoning Appeals Board to layover the hearing on this major variance application until such time as there is a resolution to several land use issues which arose surrounding development of this site and the large Walgreens development. I own the property adjacent to 2081 Ford Parkway.

The applicant has asked that a variance be granted allowing the construction of a single-story building which would have a FAR of 21% as opposed to the required 30%. The development of the 2081 Ford Parkway property is a 60 year land use decision. I believe that in order to make a wise and fully informed decision on how the property will be developed, more information and analysis is required. It is for additional time to assemble information and conduct analyses that I believe my request of the board to layover the variance is both reasonable, thoughtful, and in the best interest of the community and both property owners.

Background

The development of 2081 Ford Parkway is Phase II of a larger reuse plan which began in 2010. This plan required the assemblage of three parcels: 1) The old Snyders building; 2) a commercial building housing a Paper Warehouse retail store; and 3) a gas station. Once assembled, these properties were demolished and a new Walgreens was developed and two outlots were planned (see Attachment A). One of these outlots was located at 2081 Ford Parkway - the property which is the subject of this hearing. As planned, the developer identified 2081 Ford Parkway as a site to be developed with a two-story retail building containing over 5,200 square feet.

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The development required the demolition of the Snyder's building. Demolition occurred in 2010-2011. During demolition, several unknown building conditions arose which are ongoing, unresolved, and impact both the construction of a new building and the integrity of my building. As demolition occurred, it was discovered that the two buildings (Snyders and my building) shared utility services. More importantly, the building shared a party wall over approximately the northern 35 feet of the buildings. The City has an ordinance governing party walls and the requirements necessary to protect an adjacent property owner during demolition (see Attachment B).

Once the shared building components were discovered, a surveyor and an engineer were employed. The survey points out that the building wall in on the property line (see Attachment C). The engineer's report identifies areas of concern regarding the structural integrity of my building both during demolition and if subsequent development were to occur (see Attachments D and E).

Built in phases, my building and the Snyders building were once occupied by the same tenant. One addition to my building was constructed using the Snyders building as a party wall. This condition was unknown until demolition of the Snyders building occurred. This condition then required a demolition style which only partially removed the Snyders building (see Attachment F). The incomplete demolition continues to exist (see Attachment G).

In planning a building with a reduced FAR, questions arise regarding the impact construction of a smaller building may have on my building. Building height concerns arise as the two building's roofs will have to remain conjoined.

Conclusion

It would not be prudent at this time to move forward with the variance request. It was premature to ask for a variance when so much additional information and analysis is required.

Sincerely,



Robert J. Lunieski

RJL/bjl

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**CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 13-162436
DATE: April 1, 2013**

WHEREAS, Luis Mota has applied for a variance from the strict application of the provisions of Section 66.331 of the Saint Paul Legislative Code pertaining to the minimum floor area ratio (FAR) in order to construct a new building for Qdoba Mexican Grill Restaurant in the T2 Traditional Neighborhood zoning district. This zoning district requires that a one-story building occupy at least 30% of the lot area and the applicant is proposing a one-story building that would occupy 21% of the lot area for a variance of 9% in the T2 zoning district at 2081 Ford Parkway. PIN: 172823110108; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on April 1, 2013 pursuant to said application in accordance with the requirements of Section 61.601 of the Legislative Code; and

WHEREAS, the Saint Paul Board of Zoning Appeals based upon evidence presented at the public hearing, as substantially reflected in the minutes, made the following findings of fact:

1. *The variance is in harmony with the general purposes and intent of the zoning code.*

This finding is not met. The applicant is planning a new development that includes the construction of a new restaurant with outdoor seating, two bike racks and 16 surface parking spaces accessible from the street.

The intent of the T2 district is to foster and support compact, pedestrian-oriented commercial and residential development that, in turn, can support and increase transit usage. The outdoor patio on the south side along the public sidewalk creates a connection between the building and the streetscape, allowing easy pedestrian access to the site consistent with the intent of the T2 district to foster pedestrian-oriented commercial uses. This is the type of development encouraged in the T2 district due to the availability of transit on Ford Parkway and on Cleveland Avenue.

Conversely, this property was rezoned (Council File #11-24) from a B2 business zoning district to a T2 traditional neighborhood zoning district on May 21, 2011, as part of the Highland Village Zoning Study. Although the B2 zoning district would have allowed the proposed building without a variance, the T2 district has a minimum FAR requirement. As property is redeveloped in this area, new buildings must meet the current standards and over time, the structures will eventually be brought into conformance with the T2 standards. This request is not in keeping with the purposes and intent of the T2 district.

2. *The variance is consistent with the comprehensive plan.*

File #13-162436
Resolution

This finding is met. According to the applicant, with the development of this vacant parcel for a new restaurant, about 25 to 30 new jobs would be created. It would bring a diversity of restaurant choices and add vibrancy to Highland Village Business Corridor. The Economic Strategy of the Comprehensive Plan recognizes that for a city to be sustainable economically there must be wealth enhancement and employment. It states that achieving these objectives, however, lies largely outside the influence of government and that businesses create jobs. The City's role is to create a climate conducive to economic self-sufficiency and growth by fostering economic development activities and attracting businesses to Saint Paul. If the requested variance is approved, it would allow a new business in the area in keeping with this goal of the Comprehensive Plan to attract businesses to Saint Paul.

3. *The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

This finding is not met. According to the applicant, Qdoba has many restaurants with various footprints and designs. However, the business has come to find out that buildings that are between 2,500 to 2,540 square feet in size facilitate optimum employee and customer interaction, a important element that has been part of their business operation for many years. The proposed relatively small building footprint would be carefully designed to foster employee and customer interaction and maintain this human relations element that has been a major part of the business operation and proven to be a success for the business for many years. The applicant is concerned that a building with a larger footprint would cause customers to be too spread out and negatively affect the warm and friendly environment he is trying to preserve with the proposed building. However, a larger building would not necessarily mean additional customer area; additional floor space could be used for storage or kitchen space for Qdoba or could be rental space for another business.

4. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

This finding is not met. The applicant is proposing 16 off-street parking spaces which represent 10 parking spaces over the required 6 parking spaces on this site. Therefore, there is an option to construct a larger building by reducing the parking.

5. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

File #13-162436
Resolution

This finding is met. A restaurant is a use permitted in this zoning district. The requested variance if granted will not change the zoning classification of the property.

6. *The variance will not alter the essential character of the surrounding area.*

This finding is met. The proposed restaurant is located in the Highland Village Business Corridor, a commercial district with various uses including retail service establishments and restaurants. It would be designed to keep with and enhance the existing streetscape and pedestrian-friendly character of the neighborhood; it will not alter the character of the area.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 66.331 to allow a one-story building that would occupy 21% of the lot area on property located at 2081 Ford Parkway; and legally described as Saint Catherine Park Lots 24 & 25 Blk 9 & That Part Of Lot 23 Blk 9 Lying Ely Of A L Desc As Com At The Se Cor Of Lot 25 Th S 89 Deg 32 Min 29 Sec W On An Assumed Bearing Along The S Lines Of Lots 23,24 & 25 97.91 Ft To The Pt Of Beg Of The L To Be Desc; ; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

IS HEREBY DENIED.

MOVED BY: Bogen

SECONDED BY: Ward

IN FAVOR: 5

AGAINST: 1

MAILED: April 2, 2013

TIME LIMIT: No decision of the zoning or planning administrator, planning commission, board of zoning appeals or city council approving a site plan, permit, variance, or other zoning approval shall be valid for a period longer than two (2) years, unless a building permit is obtained within such period and the erection or alteration of a building is proceeding under the terms of the decision, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval, unless the zoning or planning administrator grants an extension not to exceed one (1) year.

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13-173086

File #13-162436
Resolution

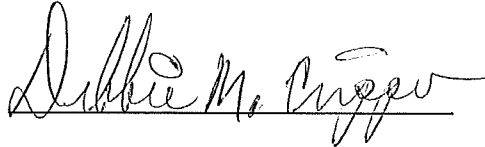
APPEAL:

Decisions of the Board of Zoning Appeals are final subject to appeal to the City Council within 10 days by anyone affected by the decision. Building permits shall not be issued after an appeal has been filed. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease until the City Council has made a final determination of the appeal.

CERTIFICATION:

I, the undersigned Secretary to the Board of Zoning Appeals for the City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on approved minutes of the Saint Paul Board of Zoning Appeals meeting held on April 1, 2013 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS



Debbie M. Crippen
Secretary to the Board

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CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220
St Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

Deadline for Action Notice

April 15, 2013

Qdoba Mexican Grill
Attn: Luis Mota
10252 Flintridge Drive
Villa Park, CA 92861

Re: Floor Area Ratio (FAR) variance application for 2081 Ford Pkwy
Zoning File # 13-162436

Dear Mr. Prokop:

Your application for a variance of the FAR was received in the office of the Department of Safety and Inspections (DSI) on March 11, 2013.

On April 1, 2013, the Board of Zoning Appeals (BZA) duly conducted a public hearing where all persons interested were afforded an opportunity to be heard. The Board closed the public hearing and moved to deny your variance request.

Minnesota Statutes 15.99 requires that all city action on zoning applications be completed within 60 days of the date the application is made but allows the city to extend this period for an additional 60 days (total 120 days).

In order to allow enough processing time for your appeal and permit the city to meet the deadlines established by state law, we are hereby extending the deadline for action on this matter to July 9, 2013. Please note that this notice is only an extension of the deadline for action and does not affect the City Council Hearing scheduled for May 1, 2013 in room 300 of City Hall at 5:00 p.m. If you have any questions regarding this matter, you may contact me at 651-266-9080.

Sincerely,

Yaya Diatta
DSI Inspector

19-173086

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, APRIL 1, 2013

PRESENT: Mmes. Maddox, Bogen and Morton; Messrs. Ward, Saylor and Wilson of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Vincent Courtney*

*Excused

The meeting was chaired by Joyce Maddox, Chair.

Luis Mota (#13-162436) 2081 Ford Parkway: The applicant is requesting a variance of the minimum floor area ratio (FAR) in order to construct a new building for Qdoba Mexican Grill Restaurant in the T2 Traditional Neighborhood zoning district. This zoning district requires that a one-story building occupy at least 30% of the lot area and the applicant is proposing a one-story building that would occupy 21% of the lot area for a variance of 9%.

Mr. Diatta showed slides of the site and reviewed the staff report with a recommendation for denial.

No correspondence was received opposing the variance request.

One letter was received from District 15 supporting the variance request.

Mr. Ward asked Mr. Diatta about the request for layover, was the layover requested by the applicant. Mr. Diatta replied no, it was from one of the business owners to the east of the property, the reason was to allow him and Qdoba time to discuss concerns about his building adjacent to this site.

The applicant **LUIS MOTA**, 10252 Flintridge Drive, Villa Park, CA, was present, with Brad Deval, 8239 Theyst Hoover Place, Littleton CO. Mr. Deval explained that the building they are proposing is about 1,000 square feet smaller than the T2 requires. He stated that they will be able to comply with all the other requirements for the T2 district and the community. Mr. Mota stated that the things that they worked on with the District Council were lighting, security and parking, one of the neighbors big concern was that they did not want the people parking in their neighborhood and walking across and into the business. He argued that making the kitchen larger would negatively affect the spatial relationships in the kitchen that was designed for optimum service. He contended that they could make the building larger, add more kitchen area, however, they have found that a larger space does not work for them. They made the building compact to allow parking in the rear so their customers can park there and not have to cross other peoples properties or the street. Mr. Mota stated that for finding three this building will fit just right in the neighborhood. Ford Parkway does not have a lot of public parking and on street parking spaces, what is there gets used up quickly, parking in the area is strained. When they met with the District Council, the Council was happy that Qdoba is proposing 16 off-street parking spaces for the building. The District Council was pushing for parking on the site. Mr. Mota stated that for the character of the surrounding area, they worked closely with the Highland District Council to create a building that fit the area, they really wanted something urban, the District Council did not want it to be a suburban looking building, they created a building to fit the traditional neighborhood and their vision for that building. Mr. Mota stated that they came to an agreement with the District Council and presented it to the Council and the neighbors on the 19th of March.

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Mr. Deval stated that Qdoba leases a lot of buildings that are already outlined and if they end up with a space that is 3,000 square feet they do not make the dining room or the kitchen bigger, the extra space becomes unused area. Their plans are set to optimize the space and that is the plan they follow. To make the building bigger would remove some of those parking spaces and put more strain on the parking in the area.

Mr. Ward asked Mr. Deval if he theyre a representative of Qdoba. Mr. Deval replied yes, he is the Director of Construction at Qdoba. Mr. Ward asked Mr. Deval whether Qdoba would lease this building back to Mr. Mota. Mr. Deval replied no, Mr. Mota is also with Qdoba. Mr. Ward asked if the building is an asset that Qdoba would hold. Mr. Deval replied yes. This is a corporate location, they do both franchise and corporate, more than half of their stores are corporate owned and this will be corporate owned. Mr. Ward questioned that they are asking for a 9% variance. Qdoba is going from nothing to a build out, you are going to carry an asset, and it will be on Qdoba's books for 15 to 20 years, then they will dispose of that asset either by sale or convert to use, to repurpose it for another use. Mr. Ward stated that in his opinion as a Real Estate Developer, Real Estate Broker, he would think that they would want the building to fit the FAR so it would be more attractive to any other business coming into the area because they have the amount of space that they would need and would give them more space rather than less space. Mr. Ward stated that he would think that Qdoba would want to do a larger building rather than a smaller building, so when it is time to sell the asset there are more people wanting to purchase it rather than less. Mr. Ward stated that he understands Qdoba's warm friendly atmosphere, kitchen sizes, they do not want to deal with a lot of storage. There is a purpose for the FAR. Qdoba is trying to reduce the FAR and most people are trying to get a variance in order to increase the FAR. Mr. Ward asked that they discuss how long corporately these franchises are in place and when they do try to sell what impact it has as far as getting rid of it. In order to make that reduction they are stuck with a small building rather than something that fits exactly. Mr. Mota stated that they do not look at it as an item to sell it, they are going through a 30 year amortization, they are going to own this building for a long time, unless something happens on the economic scale or the economy or anything else that hinders. Their real estate has really looked at this area and found it to be very viable and very up and coming and they want to be a part of that neighborhood. Mr. Mota stated that there are other restaurants in the area that have been there long term and they want to be there long term as theyll. Mr. Deval stated that they are looking at this as a restaurant investment not a real estate investment. They sell food for a living and that is what they are there for. Mr. Mota stated that Qdoba is starting a ground up program, they have gone into inline spaces, they are now creating their identity, their own brand so they can be out there with McDonald's and say here is their building, here is their look, this is one of them. Mr. Ward asked if they would be opposed totally to increasing their foot print. Mr. Deval stated that he does not want to close the door on that but they are before the Board for a variance so Qdoba can hold to their standard foot print that has been shown to work the best and is the most inviting for their customers and employees. Mr. Deval stated that there are many issues involved with making the building larger, the landscaping would have to be reduced, parking spaces would have to be removed and the parking in the area is already strained, not just the community but for the customers also. Mr. Ward asked if there theyre a requirement that their parking spaces be designated for their use only. Mr. Mota stated that they have not been made aware of such a requirement.

Ms. Maddox asked that Mr. Diatta address the parking designation issue raised by Mr. Ward. Mr. Diatta stated that the applicant's have not gone through a formal site plan review yet but when they do those issues will be discussed.

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Josh Bloom, 790 Cleveland South, stated that he sits on the Highland District Council, grew up in the Highland area, works at Ford Parkway and Cleveland and he handles that 70,000 square foot retail center there. He wanted to attend to see how the Board of Zoning Appeals works, because all he does is retail real estate. He stated that he grew up about 3 blocks south of Ford Parkway and Cleveland. There are 19,000 cars traveling down Ford Parkway and 13,000 cars down Cleveland the parking is challenged and he watched this particular retailer do a lot from a cost perspective made a lot of moves that cost money. He thought from a density and access perspective this is better. He stated that when Walgreens goes in they are very expensive and they always purchase extra land and then sell it off at \$54 and change a square foot. The land is so expensive, how many people can pull off it from a development standpoint what Qdoba is trying to do, is a long term play. He stated that he ran the numbers on both those dirt sites from a personal perspective and tried to put together a development project but it cost so much money that it was not viable. The economy scale on a project like this is not good, Qdoba is coming in and taking a risk.

There was opposition present at the hearing.

Bob Lunieski, 7831 Bush Lake Road East, Bloomington, stated that he has been a Real Estate Appraiser for the last 30 years and has owned the building adjacent to this property for the last 15 years. He stated that they have worked a long time to get the zoning changed in the Highland Area. It used to be zoned B and now it is T zoning. It is a traditional neighborhood zoning because they wanted to be a little denser. Looking at the FAR here and looking at the surrounding land uses, the idea was to put properties in more densely. That was the whole idea of the zoning and they are already, eight months from that change, and what is proposed would defeat that. He wanted to know why after going through that rezoning process, someone is here today asking to go back to the old model. The old model was not working which explains why high density is needed. This is going to be a 60 year land use and they have to take the time to think about this if they are going to give these people a variance. They do not know if they are going to be successful, but what they do know is that they are going to have a building that will not meet the requirements that the City Council just put in place, he questioned whether that is what they want. Mr. Lunieski stated that he was going to ask that this be laid over because when Walgreens was developed and the building next to his was demolished the demolition remains unfinished. He further asked what impact the new proposed smaller building will have on his building. He stated that he has never met with Qdoba and they have not spoken with him. He contended that these developers came in from Colorado and California and the only reason that Qdoba came here is because the demographics theyre good for them. Mr. Lunieski stated that he was not invited to the District Council meeting and has not had a chance to voice his concerns. Before the Board makes a 60 year land use decision that does not complement the zone changes in this area, that they think about it. The last out of town developer here was Walgreens and they damaged his building. Qdoba says it fits but the last development did not fit him so theyll. Mr. Lunieski stated that he came to the Board to ask that this be laid over, but now he is hoping that the Board denies this variance request.

Hearing no further testimony, Ms. Maddox closed the public portion of the meeting.

Mr. Mota stated that he would sit down with his neighbor Mr. Lunieski and review what has happened. He stated that he sympathizes with Mr. Lunieski and is willing to look at the situation and see what they can do about it. He stated that at the Highland Council meeting he explained how Qdoba would address that issue. They will present to Mr. Lunieski how they are going to fix that wall.

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Mr. Deval stated that they would like to meet with Mr. Lunieski and discuss ways to alleviate that problem, they did not create that problem but they would be here to help resolve the problem. Mr. Deval stated that he is from Colorado and Mr. Mota is from California they work for a national corporation and they travel around the country building restaurants for Qdoba, but their employees will live and work in this area. They are purchasing restaurants from franchisees, they are not building restaurants and selling them to franchisees. The business model is such that it creates a better model when they buy franchisees. It is not our intent to open a restaurant and then sell it to someone else. The foot print is smaller than wanted in the area but they are presenting a model that is going to work here to sell food to the community. Mr. Mota stated that he has worked for the company for two years and they have not sold any businesses, they have been purchasing. Qdoba purchased franchises that run into trouble and say they are going to close, they want to keep them open, so they step in. They purchase their restaurant and turn it into corporate.

Ms. Maddox and Mr. Diatta discussed the change from a B to a T zoning district, it was an area rezoning not a single property re-zoning. It was a long process, PED and the community theyre involved. The District Council did not send a representative but they did send a letter of support.

Ms. Bogen stated that she understands the requirements and reasoning for the B and T zoning districts, but she finds it interesting that this is the first time in years that somebody on Ford Parkway was going to put in more parking that what is required and she could see where the District Council was excited about that. Ms. Bogen stated she is having trouble deciding what way to go because the District Council was involved with the T2 Small Area Plan and they are now asking the Board to approve this variance. She is not sure how she is going to vote but it was amazing to her that someone is going to put 10 extra parking spaces on Ford Parkway.

Ms. Maddox stated that she has lived in that area at one point and knows how important parking is in the area and the Board has heard it time after time with the residents coming to the Board.

Mr. Ward stated that he wanted to echo some of those sentiments given some of the contentious meetings that the Board has had for Walgreens and the Walgreens setback and then again the residents that lived on Finn that did not want the LA Fitness and all the issues with the parking garage. Mr. Ward stated he is a liaison for both the Board of Zoning Appeals and the Planning Commission and there was exhaustive testimony that lasted a long time for parking and zoning. Trying to anticipate future uses that are going to fit this particular district that are also in line with the Master Plan for the Ford Parkway redevelopment, having to go down in FAR rubs against the grain but there is the benefit of the reduced traffic by the additional parking. It is a really tough decision, the Comprehensive Plan says that they want to be pro jobs and pro development in the City of St. Paul and to have a restaurant want to come in, spend money, develop the property, create more jobs, that's a win for everybody, and they get more parking so it is hard to say no.

Mr. Ward moved to approve the variance and resolution because it is going to add parking, bring more jobs to St. Paul, because it is going to bring more development and because it will also help Mr. Luniski get his wall repaired. Which died for lack of a second.

Ms. Bogen moved to deny the variance and resolution based on findings 1, 3 & 4.

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Mr. Saylor asked staff if they knew of any reason why the District Council after being involved with the rezoning process they would forward a letter to the Board to support going against what they agreed and helped lobby for in the last eighteen months. Mr. Warner replied he had no idea.

Ms. Bogen stated that her problem with this project is that it is leaving a lot of space that should be developed. The building is right up by the sidewalk but behind it is parking, more parking than is required. The purpose for density is have a lot of buildings to keep it focused on pedestrian traffic and bike traffic to make people to leave their cars at home. She thinks that the Board needs to stick with the T2 zoning and this project does not fit, it is not a good enough reason to her that they have a plan and that plan does not call for 3800 foot building, that is not a good enough reason to very what the code says.

Mr. Saylor requested that Ms. Maddox reopen the public portion of the hearing and recall the applicants for a question. Ms. Maddox reopened the public portion of the hearing and recalled the applicants.

Mr. Saylor asked Mr. Deval as a national concern, how many restaurants does Qdoba own at this time. Mr. Deval replied about 630. Mr. Saylor asked how many states they are located in. Mr. Deval stated that he is going to guess and it should be close to about 42. Mr. Saylor stated so it is a variety of parts of the country, geographic regions etc., what percentage of the stores currently owned by Qdoba are exactly this square footage. Mr. Deval replied somewhere north of 50% it varies a lot because they have to take the sites that are available. Mr. Mota stated when they take a Blockbuster they use half of it and lease out the other half. Mr. Saylor stated so at least 40% of your stores have a different square footage model, so there are other footprints that could be considered for this location, not just this one unique footprint. Mr. Deval replied yes that is correct. Mr. Saylor asked given that, what sort of economic data did Qdoba use to determine that this was the square footage that you wanted. Is there a customer count, is there demographic information that says only so many customers will be served, do you expect to do this much business. Mr. Deval replied that mainly it is the seating area that they like to have. They did this by trial and error they tried larger spaces. With a 3,200 square foot space they would get 90 seats in there, they would get a moderate lunch hour rush and get 60-70 people in there and the dining room would still only be half full and it does not create the type of family environment, community environment that feels bustling but not overcrowded. They also have some spaces that are too small and they are too busy. They do time and motion studies to keep our kitchens just the right size. They cannot make the kitchen any smaller because it is already optimized and if they make it larger it just does not work, that is why if they have extra space they leave it as empty space.

Ms. Bogen stated that she understands the kitchen issue but what she does not understand is not adding more tables to get up to 1,000 square feet or adding a separate little building that they could rent out 1,000 square feet to a lot of small businesses. Ms. Bogen stated she does not understand why Qdoba who has their required parking spaces taken care of, cannot make the building the extra 1,000 or 1,200 square feet to meet the requirement and then rent out the extra 1,000 square feet to a smaller business.

Mr. Deval replied Qdoba is not a landlord, they have a few spaces and there is one here in Egan where they sublet out. That space worked out because it was store front and they had to take it. It did not make sense to turn the extra into storage, but is was not a profitable operation for Qdoba. This is a little bit different because they are going to own the building. But their focus is in the restaurant business so they don't intend to build and then sell.

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Mr. Mota stated one of the District Councils questions was where are the employees going to park and if there is another business in there how many employees will it have and where are they going to park, making the building larger just creates another question.

Mr. Ward asked Mr. Mota for clarification, if Qdoba had to stick to a larger FAR then they would, is that what he heard? Mr. Mota replied that he is not at a level within the company to be able to make that statement, hotheyver, he would not close the door to a piece of property that they put a lot of effort and expenditures into. It is a possibility but the other issues is that the Highland District Council was extremely happy that they had more parking than the minimum. The District Council is often dealing with parking shortfalls, parking is hard to get in this area and it is valuable in this neighborhood.

Ms. Maddox closed the public portion of the hearing.

Mr. Ward seconded the motion, which passed on a roll call vote of 5-1(Ward).

Submitted by:

Approved by:

YaYa Diatta

Gladys Morton, Secretary

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