



## Legislation Text

**File #:** Ord 13-40, **Version:** 1

An ordinance memorializing a City Council decision to grant an appeal by Qdoba Mexican Grill for a T2 FAR variance in order to construct a new restaurant building on property commonly known as 2081 Ford Parkway.

WHEREAS, on or about March 11, 2013, Luis Mota, representing Qdoba Restaurant Co., 10252 Flintridge Dr., Villa Park, CA 92861 (hereinafter "Qdoba"), applied for a variance under DSI-Zoning File No. [13-162436](#) [<tel:13-162436>](tel:13-162436) for the purpose of building a one-story building on property commonly known as 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; PIN: [172823110108](#) [<tel:172823110108>](tel:172823110108); and

WHEREAS, the said property is located in a T2 Traditional Neighborhood zoning district and, under Legislative Code § 66.331, new one-story buildings constructed in T2 districts are subject to a minimum floor area ratio (FAR) of at least 30% of the lot area. Qdoba's proposed one-story building would only occupy 21% of the lot area which required a variance from the FAR standard under Leg. Code 66.331; and

WHEREAS, on April 1, 2013, the Board of Zoning Appeals ("BZA"), in accordance with Leg. Code § 61.601, duly conducted a public hearing where all interested persons were afforded an opportunity to be heard regarding Qdoba's FAR variance application; and

WHEREAS, at the close of the said public hearing, the BZA, based upon the application, reports and all the evidence presented at the public hearing, as substantially reflected in the minutes, denied Qdoba's FAR variance request based upon the following findings of fact from BZA Resolution No. [13-162436](#) [<tel:13-162436>](tel:13-162436), incorporated herein by reference, as follows:

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.*

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, an 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.*

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.

WHEREAS, on April 10, 2013, pursuant to Leg. Code '61.702(a), Qdoba, duly filed with the City Clerk under BZA-Zoning File No. [13-173086 <tel:13-173086>](#), an appeal from the BZA's April 1, 2013 determination and

requesting a hearing before the City Council for the purpose of considering the actions taken by the BZA; and

WHEREAS, on May 1, 2013, pursuant to Leg. Code '61.702(b) and upon notice to affected parties, the City Council duly conducted a public hearing where all interested parties were given an opportunity to be heard and, at the close of the public hearing the Council moved to lay the matter over to May 8, 2013 for discussion and a decision; and

WHEREAS, on May 8, 2013, Qdoba appeal was again considered by the City Council and, upon information that Qdoba would submit a new plan for review, the Council duly moved to lay the matter over to May 15, 2013 for discussion and a decision; and

WHEREAS, on May 15, 2013, the City Council again considered the Qdoba appeal and received a report from BZA staff that Qdoba, following the May 1, 2013 public hearing, offered to increase the size of its proposed building so that the FAR variance request was reduced to 771 sq. ft. from 1437 sq. ft. and based upon this proposed reduction in the requested FAR variance, the Council, having heard the statements made and having considered the original variance application, the report of staff, the record, minutes and resolution of the BZA, and in further consideration of the Qdoba's revised plan which increases the size of the proposed building which corresponds in a reduction in the amount of the FAR variance requested; does hereby,

RESOLVE, that the Council of the City of Saint Paul, pursuant to Leg. Code § 61.704 which gives the Council all the powers of the BZA, hereby reversed the decision of the BZA in this matter, based upon the following findings of the City Council:

The Council finds that the BZA's decision erred with respect to Finding no. 1 and that, on balance, Finding no. 1 was met. The zoning code states that the intent of a T2 zone is to "foster and support compact, pedestrian-oriented commercial development that, in turn, can support and increase transit usage." However, the zoning code also states that there be "careful attention to the amount and placement of parking and transitions to adjacent residential neighborhoods" in T2 districts. Qdoba, after meeting with the neighbors and the District Council regarding the proposed restaurant, submitted a building plan which addressed many of the specific concerns raised by the neighbors and District Council. Although Qdoba's original plan as well as its revised plan proposes a building smaller in size than that required under the T2 FAR standard, both of Qdoba's plan responded to neighbor concerns from the abutting residential district and the District Council's concerns. The residential neighbors abutting alley want to minimizing restaurant parking conflicts with the use of their garages which are located down the alley from Qdoba and the District Council wants to address commercial parking demand in an area already suffering from parking problems as well as reduce any impact from Qdoba's outside patio. While Qdoba's revised building design remains slightly smaller than the FAR standard, the design reasonably responds to neighborhood and District Council concerns. The Council finds that granting this relatively small FAR variance, which is based upon Qdoba's response to the reasonable parking concerns and the impact of the proposed use on an abutting residential neighborhood, is in harmony with the general intent and purpose of the zoning code as it relates to T2 zoning.

The Council further finds that the BZA erred with respect to Finding no. 3 and that Finding 3 is now met. The proposed restaurant is a permitted use in a T2 zone. The FAR of Qdoba's proposed building responds to the reasonable and genuine concerns raised by neighbors and the District Council regarding the restaurant's impact. Qdoba's slightly smaller building FAR demonstrates a reasonable attempt to respond to local concerns while balancing Appellant's established business model for restaurant designs. The Council finds that responding to various issues raised by neighbors and the District Council, while maintaining an established business model, results in some practical difficulty for Appellant with respect to meeting T2 zoning's FAR requirement. The council finds that the BZA erred when it found that Qdoba's first building design did not meet this finding. Granting this relatively small FAR variance allows Qdoba to use this property in a reasonable manner especially where the requested variance is the result of Appellant's response to reasonable and genuine concerns raised by neighbors and the District Council regarding the impact of the

restaurant.

The Council finally finds that the BZA erred regarding Finding No. 4. While Qdoba's variance request is based on a "stock" building design, the design submitted was dictated by Qdoba's response to reasonable and genuine concerns raised by neighbors and the District Council regarding the impact of the restaurant especially as it relates to parking. Although Qdoba could have designed a building for the subject property that met the minimum FAR required in a T2 zoning district, a building sized simply to meet the minimal T2 FAR might likely result in Qdoba's use of the property having a greater impact on the adjacent commercial and residential properties in this particular neighborhood. The neighbors and the District Council clearly recognized this and urged Qdoba to make certain changes to its restaurant design plans. Qdoba was willing to do this as reflected in its building plan showing a building with a FAR ratio slightly smaller than the minimum FAR required in a T2 zoning district.

Although Qdoba's response to the neighborhood results in a restaurant building with a smaller FAR than required under the zoning code, Qdoba's plan reflects a reasonable attempt to accommodate neighborhood concerns. As such, the circumstances behind the requested FAR variance cannot be said to be exclusively of the Appellant's making. Therefore, the BZA erred when it denied the Appellant's submitted site plan and its requested FAR variance.

AND, BE IT FURTHER RESOLVED, that the Council, having revised findings 1, 3 and 4 for the reasons noted above, also adopts as its own BZA findings 2, 5, and 6 as set forth in BZA Resolution No. [13-162436 <tel:13-162436>](#); and

BE IT FURTHER RESOLVED, that the appeal of Luis Mota be and is hereby granted; and,

BE IT FURTHER RESOLVED, that the Council, in granting this appeal, notes that the FAR variance is granted upon Qdoba's revised building size proposal which increases the building size to 3204 sq. ft., up from the 2,538 sq. ft. building originally proposed thus reducing its FAR variance down request to 771 sq. ft., provided that Qdoba, as a condition of this variance, formally submits and receives from the City, approval of a site plan for 2081 Ford Parkway that is consistent with the findings and conditions of this resolution; and

BE IT FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this resolution to Luis Mota on behalf of Qdoba, the Zoning Administrator, the Planning Commission and the BZA.