

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Taco Bell **FILE #** 20-047-173
 2. **APPLICANT:** Border Foods **HEARING DATE:** July 16, 2020
 3. **TYPE OF APPLICATION:** Conditional Use Permit
 4. **LOCATION:** 565 Snelling Ave N, SW corner at Edmund Avenue
 5. **PIN & LEGAL DESCRIPTION:** 332923140031, Lots 1, 2, and 3, Block 2, R.B. Thompson Addition, Ramsey County, Minnesota AND Lots 1 and 2, Block 1, Stierle, McConville and Seeger's Midway Addition, according to the recorded plat thereof, Ramsey County, Minnesota, EXCEPT the South 6.05 feet of the West 37.42 feet of said Lot 2, block 1, and EXCEPT the South 1.00 feet of the East 10.50 feet of Lot 2, Block 1, Stierle, McConville and Seeger's Midway Addition.
 6. **PLANNING DISTRICT:** 11 **PRESENT ZONING:** T2
 7. **ZONING CODE REFERENCE:** § 61.503, § 65.513, § 61.501
 8. **STAFF REPORT DATE:** July 10, 2020 **BY:** Josh Williams
 9. **DATE RECEIVED:** June 25, 2020 **60-DAY DEADLINE FOR ACTION:** August 24, 2020
-

- A. **PURPOSE:** Conditional use permit for restaurant drive-thru reconstruction with building replacement
- B. **PARCEL SIZE:** 16,584 sq. ft. (approx. 0.38 acres)
- C. **EXISTING LAND USE:** Fast food restaurant with accessory drive-through sales
- D. **SURROUNDING LAND USE:**
 - North: Commercial (T2)
 - East: Commercial (T2)
 - South: Commercial (T2)
 - West: Single-Family Residential (R4)
- E. **ZONING CODE CITATION:** § 61.503(d) requires a new conditional use permit when a building containing a conditional use is torn down and a new building is constructed; § 65.513 lists standards and conditions for drive-through sales and services; § 61.501 lists general conditions that must be met by all conditional uses
- F. **PARKING:** For restaurants, Zoning Code § 63.207 requires a minimum of one (1) off-street parking space for each 400 square feet of gross floor area. For T-zoned properties within ¼ mile of University Avenue, the minimum off-street parking requirement is reduced by 100%, but is still used for purposes of calculating the allowed off-street parking maximum. The size of the proposed building is 1,847 gross square feet, which would require a minimum of five (5) off-street parking spaces. For restaurants within an LRT station area, off-street surface parking provided may not exceed the minimum requirement by more than 200% (15 spaces) for the proposed building. The applicant is proposing 18 spaces. However, this a reduction from the current 25. Reduction of an existing nonconformity during reconstruction does not require a variance as long as the extent of nonconformity is not increased.
- G. **HISTORY/DISCUSSION:** In addition to the following discussion in this section of the staff report, a 2015 memo from the Zoning Administrator regarding the history of this site is included as an attachment to this staff report.

The building presently located at 565 North Snelling Avenue was constructed in 1973, at which time the site was zoned "commercial." Fast-food restaurants were a permitted use in the commercial zoning district with a conditional use permit. When the City adopted a new zoning code in 1975, the subject property was rezoned to B3 (general business). In 2011, as part of the Central Corridor zoning study, the subject land was rezoned again, this time to T2 (traditional neighborhood). Fast-food restaurants are permitted in both B3 and T2 zoning districts, with a conditional use permit if over 10,000 sq. ft. Drive-through sales and services are permitted with a conditional use permit in T2 zoning districts and permitted of-right in B3 zoning districts.

The first fast-food restaurant on the site was known as Zapata. Consistent with the commercial zoning classification for the property, Zapata obtained a conditional use permit from the city in

1973. At the public hearing for the permit, the Zapata representative said the hours of the restaurant would be 11 a.m. to 11 p.m. during the week and 11 a.m. to 1 or 2 a.m. on weekends. This was not specifically included as a condition of the permit. Each fast-food restaurant occupying the subject property since 1973, including the present occupant, Taco Bell, has used the property subject to the 1973 conditional use permit. At some point in time after 1973, a drive-through window was added to this use. Staff has found no record of any zoning or building permits pulled for the construction and operation of this drive-through window.

When adopting new zoning codes in 1975, the City added language governing fast-food restaurants and drive-through windows. These provisions remain in the code, and are administered through the site plan and conditional use permitting processes.

In March 2014, a complaint was made to the Department of Safety and Inspections alleging that the Taco Bell was a nonconforming use, and that a recent at that time increase in operating hours constituted an expansion of nonconforming use. In April 2014 the Zoning Administrator issued a letter stating that the business was a conforming use but that if a new drive-through service with a different configuration was proposed, a new conditional use permit would be required for the drive through. An appeal of this determination to the Board of Zoning Appeals was denied.

In 2015, the current applicant applied for a new conditional use permit for drive-through sales and service associated with a proposed demolition and reconstruction of the building at the subject site. The Planning Commission approved the conditional use permit with a number of conditions. The conditions of approval were appealed to the City Council by the applicant. Prior to a hearing being held on the appeal by the City Council, the applicant withdrew the application. An application made in late 2019 for a conditional use permit for drive-through sales was withdrawn by the applicant prior to the scheduled public hearing.

Around the time of the 2014 Zoning Administrator decision and 2015 conditional use permit application, City records show a number of noise complaints associated with the property to the police department and the Department of Safety and Inspections.

- H. **DISTRICT COUNCIL RECOMMENDATION:** The Hamline Midway Coalition (HMC, District 11 Council) recommends denial of the application. If the application is approved, HMC recommends drive-through hours be limited to no later than 12:00 midnight Sunday through Thursday and 1:00 a.m. on Fridays and Saturdays, and that the drive-through may only be open when the building is also open for counter service.
- I. **FINDINGS:**
1. The applicant proposes to tear down the existing building on the site and to construct a new building, including drive-through sales, with a different parking lot and drive-through lane configuration. The proposed new building and lot configuration will be nonconforming as to Floor Area Ratio (FAR) and maximum off-street parking in a surface lot. These nonconformities are allowed to remain if reconstruction occurs within one year of demolition, provided that they are not increased. The current building is 1,834 gross square feet, and the proposed building is 1,847 gross square feet. The required minimum FAR is 0.5, and both current and proposed FAR are 0.11. The current off-street parking is 28 spaces, and the proposed site plan has 17 spaces, both legally nonconforming with regard to the current 15-space surface lot maximum.
 2. § 65.513 lists the following standards and conditions for drive-through sales and services:
 - (a) *Drive-through lanes and service windows shall be located to the side or rear of buildings, shall not be located between the principal structure and a public street, and shall be at least sixty (60) feet from the closest point of any residentially zoned property or property occupied with a one-, two-, or multiple-family dwelling.* This standard is met. The proposed drive-through service lane and windows are located to the rear of the proposed building. The drive-through service lane as proposed is approximately 61 feet away from the closest point of residentially zoned property. The drive-through window is more than 60 feet from the adjacent residential zone.

(b) *Points of vehicular ingress and egress shall be located at least sixty (60) feet from the intersection of two streets and at least sixty (60) feet from abutting residentially zoned property.* This standard is met. The single ingress/egress point is at least 60 feet from the intersection of two streets and from abutting residentially zoned property.

(c) *Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property.* This standard can be met. According to the applicant, speaker box sounds will not be audible from the closest residential property, 100 feet to the west. A fence and landscaping can be installed along the west side of the property to further minimize noise impacts from the speaker box. Conformance with this condition can be a specific condition of approval.

(d) *A six-foot buffer area with screen planting and an obscuring wall or fence shall be required along any property line adjoining an existing residence or residentially zoned property.* This standard does not apply. There is no adjoining existing residence or residentially zoned property. There is an alley between this property and the existing residence to the west.

(e) *Stacking spaces shall be provided for each drive-through lane. Banks, credit unions, and fast-food restaurants shall provide a minimum of four (4) stacking spaces per drive-through lane. Stacking spaces for all other uses shall be determined by the zoning administrator.* This standard is met. The proposed drive-through lane has 7 stacking spaces, and there is room for stacking 3 additional vehicles in parking area maneuvering lanes. This is more stacking space than the current site configuration, which provides stacking for only 2 vehicles in the drive-through lane, and has room for 5-6 additional vehicles in parking area maneuvering lanes.

Additional conditions in the T2 traditional neighborhood district:

(f) *There shall be no more than one (1) drive-through lane and no more than two (2) drive-through service windows, with the exception of banks, which may have no more than three (3) drive-through lanes.* This condition is met. There is only one drive-through lane and only one drive-through service window.

(g) *The number of curb cuts shall be minimized. In light rail station areas, there shall generally be no more than one (1) curb cut on a block face per drive-through. Drive-through sales and services are prohibited along the entire length of block faces adjacent to light rail transit station platforms.* This condition is met. This is in the Snelling Avenue Station area, but not adjacent to the station platform. There is only one curb cut on one block face, the Snelling Avenue face.

3. §61.501 lists five standards that all conditional uses must satisfy:

(a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This condition is met. Policy LU 5 of the Hamline Midway Community Plan (HMCP) is to "Encourage appropriate transitions between disparate land uses." The proposed use is allowed as a conditional use in the T2 zoning district, and the proposed site configuration complies with zoning code requirements regarding the location of drive-through lane, order menu/speaker board, and service window. Provided limitations on late-night hours of operation, the proposed use is consistent with HMCP Policy LU 5.

The 2030 Saint Paul Comprehensive Plan identifies the subject property as part of both a "Mixed-Use Corridor" and a "Neighborhood Center". The following policies in the plan address the proposed use of the property for drive-through sales:

- LU (Land Use) 1.52 "Prioritize the development of compact commercial areas accessible by pedestrians and transit users over commercial areas more readily accessed by automobile. Discourage new and expanded auto-oriented uses."
- LU 1.53 "Encourage changes to the design of existing auto-oriented buildings and areas with elements of traditional urban form to minimize impacts on the pedestrian realm."

- LU 1.21 “Balance the following objectives for Mixed-Use Corridors through the density and scale of development: accommodating growth, supporting transit use and walking, providing a range of housing types use, and providing housing at densities that support transit.”
- LU 1.12 “Balance the following objectives for Neighborhood Centers through the density and scale of development: accommodating growth, supporting transit use and walking, providing a range of housing types use, providing housing at densities that support transit, and providing opens space and recreational opportunities.”

The subject property is also located within the Green Line LRT Snelling Station Area. The City adopted Station Area Plans for all stations along the Green Line outside of Downtown to “provide a more detailed framework for integrating decisions about future land use and development; the public realm; and the movement of LRT, buses, cars, pedestrians, and bicycles at each station area” (Snelling Station Area Plan, page 3). The plan calls for new development in the area of the subject property to be “predominately low to mid-rise in scale” (pg. 31) and in regard to movement states that “improving movement in the Snelling Station Area will require the collaboration of many partners in... improving both Snelling and University as more balanced, multi-modal corridors, and realizing frequent and safe options for pedestrian routes and crossings in consideration of a documented high volume of vehicles.

The proposed new fast-food restaurant with drive-through sales does not expand this existing auto-oriented use. The proposed new building and site layout reduces the amount of Snelling Avenue lot frontage occupied by parking. The number of curb cuts would also be reduced from two to one, which will help to reduce pedestrian-vehicle conflict opportunities. While the proposed use doesn’t add density in support of transit, the proposed building does not increase the nonconformity with regard to minimum FAR in comparison to the existing building.

- (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition appears to be met. The proposed plan provides a single right-in/right-out access from Snelling Avenue, removing one egress point relative to the current configuration, leaving only the combined ingress/egress furthest from the intersection of Edmund and Snelling. Consolidation of curb cuts as far away from intersections as possible generally improves function and safety.
- (c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The proposed new building and site plan replace an outdated and obsolete building and inefficient site. The new building, landscaping, and customer amenities like bicycle racks, may improve the existing character of the neighborhood. The reconfigured drive through will improve upon the existing situation and will provide better stacking of vehicles than in the existing condition.
- (d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* The fast-food with drive-through use, which is a reconstruction of the existing use, will not impede the normal and orderly development of the surrounding properties.
- (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met.

J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends **approval** of the conditional use permit for restaurant drive-thru reconstruction with building replacement, subject to the following additional condition:

1. Drive-through operations shall cease no later than 3 a.m. on Saturday and Sunday, and no later than 2 a.m. Monday through Friday.
2. Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property.
3. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this permit.



CONDITIONAL USE PERMIT APPLICATION

Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex, 25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6583

Zoning Office Use Only	
File #	_____
Fee Paid \$	_____
Received By / Date	_____
Tentative Hearing Date	_____

APPLICANT

Name Border Foods, Inc.
(must have ownership or leasehold interest in the property, contingent included)

Address c/o McClay-Alton, PLLP, 951 Grand Ave. City St. Paul State MN Zip 55105

Email _____ Phone 651-290-0301

Name of Owner (if different) _____ Email _____

Contact Person (if different) Brian D. Alton Email brian@mcclay-alton.com

Address _____ City _____ State _____ Zip _____

PROPERTY INFO

Address/Location 565 N. Snelling Ave.

PIN(s) & Legal Description See attached
(attach additional sheet if necessary)

Lot Area 16,584 sq.ft. Current Zoning T2

TYPE OF PERMIT: Application is hereby made for a Conditional Use Permit under provisions of Zoning Code Section(s) 61.501 for the following use or purpose:
Tear down and rebuild building containing a conditional use (61.503(d)), with no modifications of conditions.

SUPPORTING INFORMATION: Explain how the use will meet all of the applicable standards and conditions for the use. If you are requesting modification of any standards or conditions for a conditional use, explain why the modification is needed and how it meets the requirements for modification of special conditions in Zoning Code § 61.502. Attach additional sheets if necessary.

See Attachment.

Required site plan is attached

If you are a religious institution you may have certain rights under RLUIPA. Please check this box if you identify as a religious institution.

Applicant's Signature Date 06/25/2020

Barry M. Zelickson, Sr. Vice President

565 North Snelling Avenue – Border Foods Attachment to CUP Application

After all of the recent devastating events, Border Foods, Inc. is committed to rebuilding in the Midway area of St. Paul. It will rebuild and reopen its seriously damaged Taco Bell restaurant at 565 N. Snelling Avenue. Border Foods is making this commitment to its customers, 30 employees, and the community where it has served its Taco Bell food for almost 50 years.

With its experience over the past several months, Border Foods has learned that COVID-19, and the critical precautions that it put in place, mean that people value the safety and convenience of Taco Bell and the availability of a drive through as a means to deliver food. From this learning, Border Foods is ready to build a new state of the art building with an improved drive through that will meet the security and food safety needs of the customers and employees.

Despite the uncertainty of the future trajectory of the pandemic, and the recovery of the Midway area, Border Foods is ready to commit to a major investment on Snelling Avenue and despite all the challenges, this Taco Bell will not go away. Either the restaurant will be rebuilt, or it will be repaired and re-opened.

At the request of the planning department, Border Foods has explored all options for the site and had recently reviewed those options with City staff in PED and Public Works. The small size of the site and shallowness of the lot limit the options and resulted in one final direction. With this final option, the drive through has been moved to be farther from the residential property to the west and as such, no modifications of conditions or variances are being requested.

The new restaurant will replace the recently damaged building, and vastly improve the property, reconfigure the parking lot, reduce the number of parking spaces, add landscaping, and move the drive through ordering area further from the nearest residences.

The City Code states that removing the existing building and constructing a new building requires that a conditional use permit be applied for (§61.501). Border Foods, Inc. is ready to make application under §61.501 to accommodate the City's Code provision. But, the property already has a conditional use permit issued in 1973. This conditional use permit remains in effect, there is no violation of the CUP, and it is not changed by this application. All of the conditions under the existing CUP are met. The applicant is not seeking any modifications of conditions or variances. The City cannot deny the application or impose added restrictions on the use just because the building containing the use is being replaced. The City has no procedural basis for imposing new conditions on the use.

Therefore, the new conditional use must be granted. The standards of §61.501 are not applicable in that they cannot be used to deny the CUP. Border Foods also submits that the standards are met. Under Minnesota law, a CUP is a protected property right that is perpetual in nature and runs with the land. A conditional use permit shall remain in effect as long as the conditions agreed upon are observed.

The City cannot apply the Comprehensive Plan adopted after the granting of the CUP and require that the new application be in compliance. The City cannot apply the new plans to deny the application where the property owner seeks to continue the same use as was granted under the original CUP.

Even if the standards of §61.501 could be applied, the application shows that they are met as follows:

(a) *Substantial compliance with the Comprehensive Plan and applicable subarea plans which were approved by the city council. CONDITION IS MET*

The use complies with the City Comprehensive Plan Land Use Policy:

- 1.24 Support a mix of uses on Mixed-use corridors.
- 1.45 Maintain and enhance retail commercial areas throughout the city by promoting standards that make them vital and attractive
- 1.50 Facilitate the redevelopment of commercial areas where existing buildings are no longer considered functional.

(b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets. CONDITION IS MET*

The proposed plan provides a single right-in/right-out access from Snelling Avenue which will minimize congestion in the local streets, as will the stacking lanes provided for the drive through. With the new plan there is more stacking for cars than exists presently. The location of the drive through and parking spaces have been designed to minimize conflicts between vehicles and pedestrians and business operations' effect on nearest residential properties.

(c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare. CONDITION IS MET*

The use does not change. The proposed new building replaces the damaged building. The new building, landscaping, and customer amenities like bicycle racks, will improve the existing character of the neighborhood. The reconfigured drive through will improve upon the existing situation and will provide better stacking of vehicles than in the existing condition.

(d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. CONDITION IS MET*

Rebuilding the restaurant will aid the development and improvement of the area.

(e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located. CONDITION IS MET*

The use does not change with the new building.



PLANFORCE
ARCHITECTURE
INTERIORS

4811 West 26th Street
St. Louis Park, Minnesota
55424-1008
planforceinteriors.com



TACO BELL

668 SNELLING AVE. N.
ST. PAUL, MN

For Review
DATE: 02/20/20

Border Foods
5425 Boone Ave N.
New Hope, MN 55428

I hereby certify that the plan and specifications shown on this set of drawings were prepared by me or under my direct supervision and that I am a duly licensed professional engineer in the State of Minnesota.

Drawn by: _____
Checked by: _____
Project Engineer: _____
Project Manager: _____
Project Architect: _____

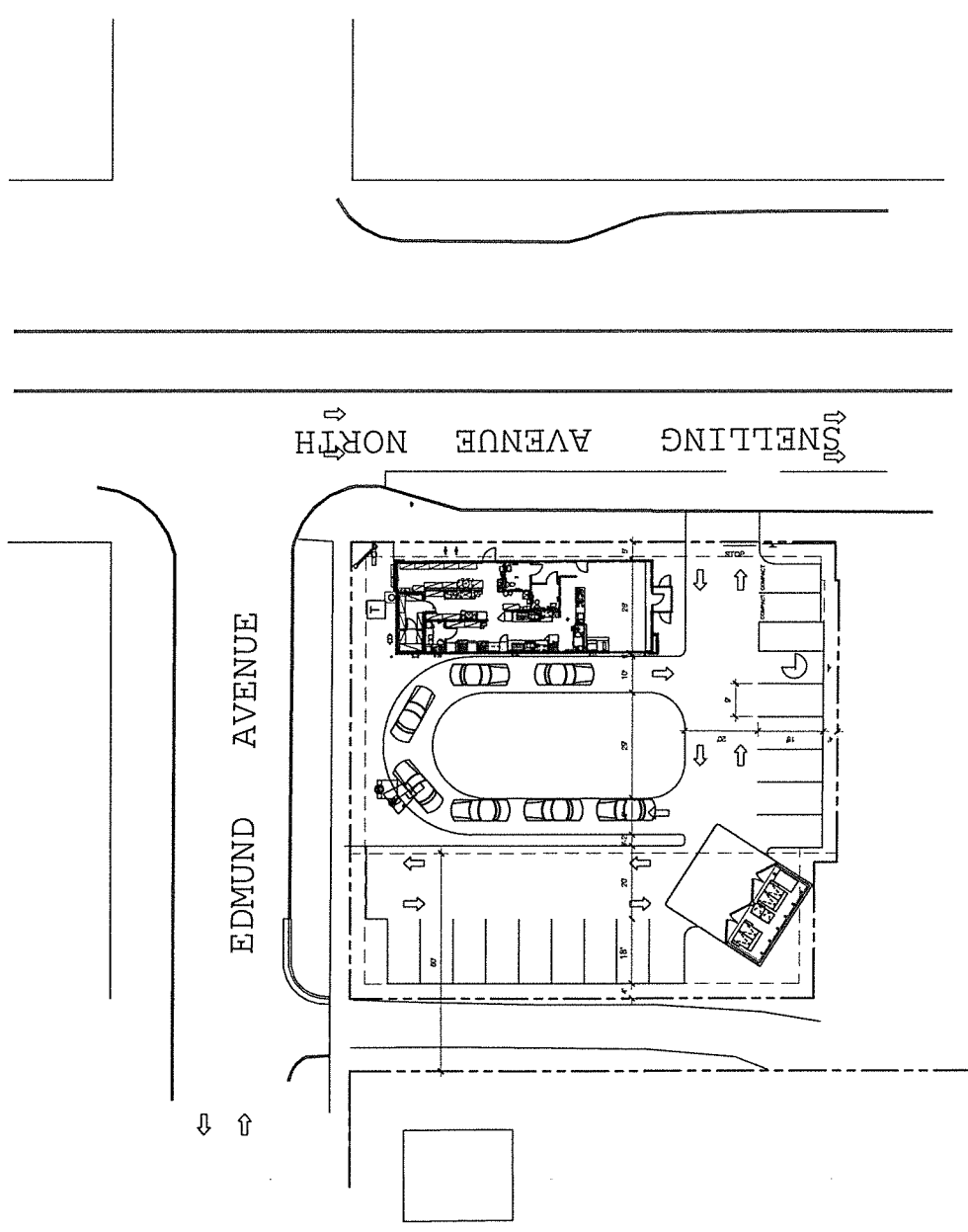
Printed by: _____
DATE: 02/20/20

1226 NEWMANS
1226 NEWMANS
1226 NEWMANS
28 SEATS
SITE PLAN

Project: 2018-011, 1927
Drawn: DMK
Checked: RF

C1.0

TACO BELL
668 SNELLING AVE. N.
ST. PAUL, MN.



SETBACK: MINIMUM REQUIREMENTS

CELTICAL	REAR	FRONT	SIDE
0'	0'	4'	4'
0'	0'	4'	4'

PARKING DATA:

REQUIRED PARKING SPACES:
 14 Spaces
 2 Spaces
 17 Spaces
 Provided 20.0 x 10.0 (m)
 Provided Accessible (ADA) 1. Spaces
 Provided top 17 Spaces
REQUIRED PARKING SPACES:
 1. 100% OF BUILDING GFA / 400 = 5 Spaces
REQUIRED PARKING SPACES:
 4 Vehicles

565 North Snelling, St. Paul, MN

LEGAL DESCRIPTION

Parcel ID 332923140031

Lot 1 Block 2 of R. B. THOMPSON'S ADDITION
EX S 6.05 FT OF W 37.42 FT & EX S 1 FT OF E 10.5 FT LOT 2 & ALL OF LOT 1 IN STIRERLE MC
CONVILLE & SEEGERS MIDWAY ADD & IN SD R B THOMPSONS ADD LOTS 1 THRU LOT 3

6
12-27
11

S.W. corner Edmund & Snelling

565 Snelling A

ST. PAUL ZONING BOARD

TO: Department of Community Services
Division of Housing and Building Enforcement

A special use permit has been approved for the facility as indicated below.
Two extra copies of the final plan are attached for your records.

Date : November 21, 1973
Zoning File number: 7545
Applicant's name : Construction 70
address: 1440 W. County Road C 5511

Purpose : Fast Food Restaurant

Location : Southwest corner of Edmund and Snelling

Legal description : Lots 1-3, Block 2, R. B. Thompson's Addition; Lots 1-4,
Block 1, Stierle, McConville & Seeger's Midway Addition.

Plans approved : 11/12/73

Final plans dated 09/11/73
received :

Comments :

SPECIAL USE PERMIT APPROVAL



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

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

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

Date: September 10, 2015
To: Saint Paul Planning Commission
From: Wendy Lane
Zoning Administrator
Re: 565 N. Snelling Ave.
Taco Bell

At your August 21, 2015 meeting, you requested the Department of Safety and Inspections (DSI) to prepare a report to the Zoning Committee on the status of Taco Bell's compliance with their existing special condition use permit, record of building permits for the existing drive-through, and current violations of any city zoning ordinances.

The building currently occupied by Taco Bell was built in 1973 for Zapata, a fast-food restaurant. A public hearing was held before the Board of Zoning for a fast food restaurant on September 6, 1973. At the hearing, the Zapata representative said the hours of operation would be 11 a.m. to 11 p.m. during the week and 11 a.m. to 1 or 2 a.m. on weekends depending on the business they get. A conditional use permit was approved by the City Council on November 12, 1973 "subject to the condition that said application-permittee, and its successors and assigns, shall make due compliance with all applicable provisions of municipal ordinances, state statutes and rules and regulations of public authorities having cognizance." There were no other conditions attached the approval including no conditions regarding the hours of operation. A site plan was subsequently approved by the St. Paul Zoning Board on November 12, 1973.

The land on which the building was constructed was zoned "commercial" in 1973, the only commercial zoning classification in the City prior to 1975. In 1975, the zoning code was rewritten and the property was rezoned to B3. Under B3 zoning, fast-food restaurants remained permitted uses with a conditional use permit. When the zoning code was reformatted in 2004, a separate category was created for drive-through sales and services, which required a conditional use permit in the B3 district. In 2011, as part of the Central Corridor zoning study, the property was rezoned again, this time to T2. Fast-food restaurants with drive-through sales are permitted with a conditional use permit in the T2 district.

Zapata became Zantigo between 1975 and 1977 and Zantigo became Taco Bell in mid-1987. The site has been operated as a fast food restaurant since built.

It appears that the drive-through lane may have been established when the building was originally constructed. It is likely that there was a "pass window" when built and there was a

one-way driveway along the southern side of the building going east. Presumably, customers would drive up to the window, order their food, wait for their food, and drive away with their purchase. A letter from a neighbor was submitted at a hearing when Zapata requested the Zoning Board to allow a driveway on Edmund in 1975 that refers to an existing "walk up service window". It is unknown when the speaker box was installed, but it appears that it was not there in 1991. Building permits are permanently retained and there is no permit on record for speaker box footings. There may have been an electrical permit for the speaker box installation, but electrical permits are purged after seven years.

At the time of construction, there were no conditions attached to fast food restaurant zoning regulations regarding speaker boxes. When the new zoning code was adopted in 1975, a condition was added to fast food restaurants that said that the impact on adjoining property by use of the site may not result in "loud, boisterous, and disturbing noise levels". A condition was later added in 1989 that said: "Speaker box sounds from drive-thru lanes shall not be plainly audible so as to unreasonably disturb the peace, quiet and comfort of abutting residential property." The condition was amended in 2004 to the language currently in the zoning code which says: "Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property." The zoning code has no objective measurement for noise levels so staff has relied on the noise standards under Chapter 293 that limit noise levels from commercial uses at residential property to 65 dBA during the day and 55 dBA between 10 p.m. and 7 a.m. Measurements were taken of the Taco Bell site in May of 2013 and between 1 a.m. and 3 a.m. in May of 2014 and no violations were observed.

The original site plan showed a 6' screen fence along the west property line separating the site from the alley with a 6' wide setback border between the west property line and the parking spaces. The border is identified on the plan as bark chips with four locust trees that were to be planted in the border. As I recall, several years ago the District Council requested that the wood fence be replaced with an open fence to increase the visibility into the site and to prevent unsavory individuals from lurking behind the wood fence. The fence is now a chain-link fence with no trees in the border.

When there is a license for a business issued by the city, adverse action against their business license is an option to address neighborhood concerns, however, the Minnesota Department of Health assumed responsibility for licensing restaurants from the city in July, 2013. When DSI asked them if they would take adverse action against a problem business, their response was that they will only do so if there are violations of the food code.

The police have met with Taco Bell representatives as well as neighbors to look at ways to address customer behavior issues at this location.

Taco Bell is not in violation of their existing conditional use permit, however, the obscuring fence and trees are no longer along the west property line as shown on the originally approved site plan.



District Council 11
1558 Minnehaha Ave W
St. Paul, MN 55104
651.494.7682
www.hamlinemidway.org

July 9, 2020

Subject: Border Foods/Taco Bell Zoning File # 20-047-173

To the Zoning Committee of the Saint Paul Planning Commission:

Regarding the application of Border Foods, Inc. for a conditional use permit and variances related to the proposed site plan for a new Taco Bell store at 565 North Snelling Avenue, Hamline Midway Coalition/District Council 11 (HMC) offers the following comments:

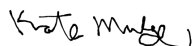
1. HMC is **OPPOSED** to granting a conditional use permit for locating a drive-through lane within 60 feet of the closest residential property. The layout of the proposed development places the ordering location in close proximity to two residential properties. The Hamline Midway Community Plan encourages appropriate transitions between disparate land uses such as auto-oriented drive-thru facilities and residential properties. No such transition is provided for in the design of this proposal.
2. HMC **CONTESTS** the assertion that the proposed development is in agreement with the City of Saint Paul's Comprehensive Plan. The establishment of a single-use, auto-oriented development within less than one-quarter mile of the Snelling Avenue Green Line Station runs counter to the following from Saint Paul's Comprehensive Plan:

- Transportation Chapter - Goal 4 (establishment of an auto-oriented drive-thru perpetuates single-occupancy vehicle dependence in Saint Paul)
- Land Use Policy LU-1 (low-density, single-use development within 1/4 mile of LRT)
- Land Use Policy LU-8 (continued support for auto-oriented development)
- Land Use Policy LU-9 (hazard of drive-thru lanes on key walking corridors)
- Land Use Policy LU-14 (a substantial percentage of this proposal is dedicated to auto-uses including parking)
- Land Use Policy LU-30 (drive-thru runs counter to pedestrian-friendly design)
- Land Use Policy LU-33 (spill-over from drive-thru lane would negatively impact transit service)
- Land Use Policy LU-36 (drive-thru oriented fast food is not compatible with transit-oriented neighborhood character)

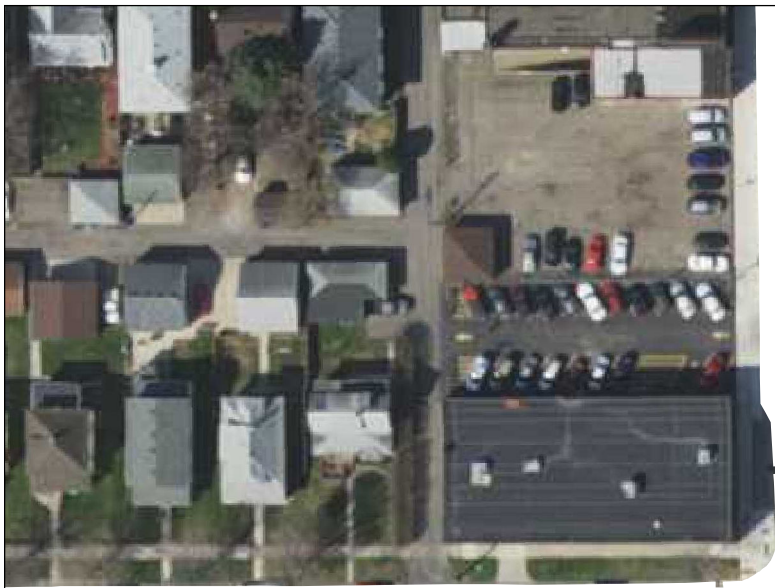
3. If a conditional use permit is to be granted, HMC requests that the following conditions be added to the CUP: 1) That the restaurant be required to close at 12:00 midnight on weeknights (Sunday – Thursday), and 1:00 am on weekends (Friday & Saturday); 2) That the drive-thru can only be open when the restaurant building is also open for counter service. HMC believes that these two conditions would ameliorate many of the nuisance conditions created by the restaurant and are commensurate with the significant impacts that would occur should the CUP be granted.

Respectfully,

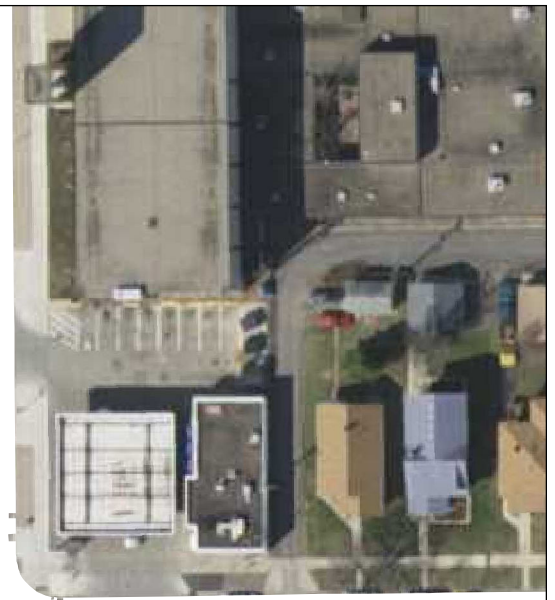
Hamline Midway Coalition Development Committee + Board of Directors



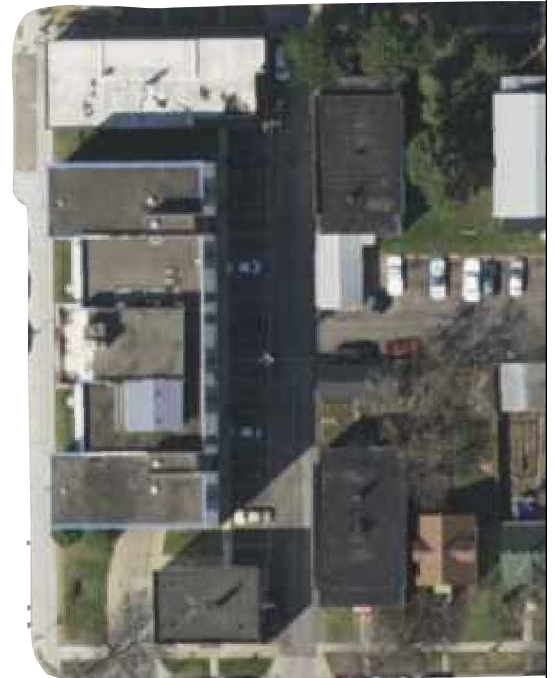
Kate Mudge
 Executive Director
 Hamline Midway Coalition
kate@hamlinemidway.org
 651-494-7682



Edmund Ave



Snelling Ave N

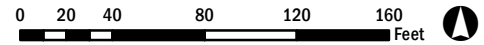


FILE #20-047-173 Aerial map
Application of Border Foods Inc.

Application Type: CUP
Application Date: June 25, 2020
Planning District: 11

Subject Parcel(s) Outlined in Blue

ParcelPoly on

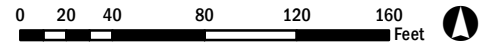


This document was prepared by the Saint Paul Planning and Economic Development Department and is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, survey, official tax map or engineering schematic and is not intended to be used as such. Data sources: City of Saint Paul, Ramsey County, Metropolitan Council, State of Minnesota.



FILE #20-047-173 Existing land use map
Application of Border Foods Inc.

Application Type: CUP
 Application Date: June 25, 2020
 Planning District: 11



This document was prepared by the Saint Paul Planning and Economic Development Department and is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, survey, official tax map or engineering schematic and is not intended to be used as such. Data sources: City of Saint Paul, Ramsey County, Metropolitan Council, State of Minnesota.

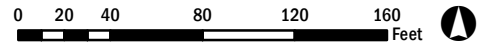
Subject Parcel(s) Outlined in Blue

- | | | | |
|---------------------------|--------------------------------|--------------------------------|--------------|
| ParcelPoly on | Multifamily | Industrial and Utility | Railway |
| Farmstead | Office | Extractive | Airport |
| Seasonal/Vacation | Retail and Other Commercial | Institutional | Agricultural |
| Single Family Detached | Mixed Use Residential | Park, Recreational or Preserve | Undeveloped |
| Manufactured Housing Park | Mixed Use Industrial | Golf Course | Water |
| Single Family Attached | Mixed Use Commercial and Other | Major Highway | |



FILE #20-047-173 Zoning case map
Application of Border Foods Inc.

Application Type: CUP
 Application Date: June 25, 2020
 Planning District: 11



This document was prepared by the Saint Paul Planning and Economic Development Department and is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, survey, official tax map or engineering schematic and is not intended to be used as such. Data sources: City of Saint Paul, Ramsey County, Metropolitan Council, State of Minnesota.

Subject Parcel(s) Outlined in Blue

ParcelPoly on	RM3 Multiple-Family	B2 Community Business	F2 Residential Low
RL One-Family Large Lot	T1 Traditional Neighborhood	B3 General Business	F3 Residential Mid
R1 One-Family	T2 Traditional Neighborhood	B4 Central Business	F4 Residential High
R2 One-Family	T3 Traditional Neighborhood	B5 Central Business Service	F5 Business
R3 One-Family	T3M T3 with Master Plan	IT Transitional Industrial	F6 Gateway
R4 One-Family	T4 Traditional Neighborhood	ITM IT with Master Plan	VP Vehicular Parking
RT1 Two-Family	T4M T4 with Master Plan	I1 Light Industrial	PD Planned Development
RT2 Townhouse	OS Office-Service	I2 General Industrial	CA Capitol Area Jurisdiction
RM1 Multiple-Family	B1 Local Business	I3 Restricted Industrial	
RM2 Multiple-Family	BC Community Business (converted)	F1 River Residential	