

PUBLIC COMMENTS FOR APC 20-6

From: Bernie Hesse <bernie.hesse@gmail.com>
Sent: Saturday, September 5, 2020 8:42 AM
To: *CI-StPaul_Contact-Council <Contact-Council@ci.stpaul.mn.us>
Subject: 20-066-196 Taco Bell Drive-Thru Appeal

To: President and Councilmembers-

I would ask that the CUP for restaurant drive-thru reconstruction with building replacement be denied. Until we have reasonable hours of operation in place, more lobby hours, bike stands, adequate security, trash pick-up, and adequate snow removal, along with a safe traffic plan should it even be considered.

Please reject the permit application.

Thanks,
Bernie Hesse
1602 Thomas Ave
Saint Paul, MN 55104

From: Brian Alton <Brian@McClay-Alton.com>
Sent: Tuesday, September 15, 2020 11:57 AM
To: *CI-StPaul_Contact-Council <Contact-Council@ci.stpaul.mn.us>
Cc: Williams, Josh (CI-StPaul) <josh.williams@ci.stpaul.mn.us>; Brian Alton <Brian@McClay-Alton.com>
Subject: APC 20-6 / File #20-066-196 City Council Statement of Brian D. Alton, Attorney for Border Foods

Date: September 16, 2020. RE: APC 20-6 / File #20-066-196
Applicant: Border Foods Address: 565 N. Snelling
City Council Statement of Brian D. Alton, Attorney for Border Foods.

Council President Brendmoen and Members of the City Council:

My name is Brian Alton. My address is 951 Grand Avenue, Saint Paul. I represent Border Foods.

We request that you deny the appeal. The Planning Commission did not make any error in its findings. There is no basis for granting the appeal. The Planning Commission resolution correctly finds that 11 different findings of fact, standards, and conditions are met by the application.

The appeal filed by the Hamline-Midway Coalition fails to state any valid reason to reverse the decision of the Planning Commission. There is no rational basis for a denial of the conditional use permit. There are no factual or legal reasons to find an error was made.

Currently there is an existing valid conditional use permit for the existing drive through at this location which remains in effect. As shown by the application Border Foods is not asking for any modifications, waivers or variances. The use is not expanded or changed.

Border Foods intends to continue its business and wants to rebuild a new restaurant and make it better. This is a good time to do that and Border Foods is ready to go ahead.

The new building and site plan will be a major improvement over the existing conditions. The new plan:

- reduces parking,
- increases the pervious surface area,
- increases landscaping,
- includes rain gardens, and
- will improve traffic flow.

In the midst of this pandemic, a new building will improve the ability of Taco Bell to provide a moderately priced food option for its many hundreds of customers, delivered in a safe and secure way. Snelling Avenue is a busy state highway, but still most of Taco Bell's customers are local people who enjoy the food and appreciate the convenience.

There are a few letters that have been submitted in support of the appeal. These letters are all “anti” drive-through restaurant. None of them provide reasons to grant the appeal. Information that is not relevant to whether the Planning Commission made an error should not be considered. One letter, from a Planning Commission member, is particularly inappropriate and should not be considered by the Council. A personal dislike of drive-through and fast food restaurants, should not influence an important legal decision.

Please deny the appeal and approve this new application as recommended by the Planning Commission so that Border Foods can rebuild and improve. Thank you for your consideration.

From: Kristine V. <kayelvee@icloud.com>
Sent: Tuesday, September 15, 2020 4:31 AM
To: Williams, Josh (CI-StPaul) <josh.williams@ci.stpaul.mn.us>; #CI-StPaul_Ward4 <Ward4@ci.stpaul.mn.us>; *CI-StPaul_Contact-Council <Contact-Council@ci.stpaul.mn.us>
Cc: Privratsky, Matt (CI-StPaul) <Matt.Privratsky@ci.stpaul.mn.us>; kate <kate@hamlinemidway.org>; Dubruiel, Paul (CI-StPaul) <paul.dubruiel@ci.stpaul.mn.us>; Langer, Samantha (CI-StPaul) <samantha.langer@ci.stpaul.mn.us>
Subject: Public Comment for City Councilmembers on Taco Bell at 565 North Snelling

Think Before You Click: This email originated outside our organization.

September 14, 2020

Re: File 20-066-196 Taco Bell Drive-Thru Appeal

Dear Councilmember Jalali for Ward 4, Councilmember and President Brendmoen, and Councilmembers Prince, Thao, Tolbert, Noecker, and Yang:

We live near the Taco Bell in question and wrote a longer response to the application for a new Conditional Use Permit (CUP) in July, before the Zoning Committee hearing on the matter. We hope you all can read the many letters sent to the Zoning Committee that strongly urged denial of the CUP with a realistic request that if approved, the CUP have hours of operation no later than midnight during the week and 1am on weekends. The neighborhood input was consistent on these points.

We want to repeat that we feel the current application is disingenuous: the current building was not badly damaged in the rioting this past May. We watched it happen. What's more, Taco Bell is up and running for breakfast, lunch, and dinner as we type this to you. Therefore it cannot be said that the building absolutely needs to be replaced due to damage.

The fact is, Border Foods has come to the City several times in the past few years with tweaked site plans, hoping to get one approved that does not require reduced hours of operation. Its old 1973 permit did not include any hours conditions, though council minutes said the business would close at 11pm. The lack of actual hours conditions has allowed hours now extending to 4am, including the busy after-bar-closing period. When one permit was granted with a closing time of 1am on weekends a couple of years ago, Border chose to walk away from that permit, withdrawing its application and continuing to operate in its old building. Border tried again in January of this year, withdrawing before a final decision was made because city staff recommended denial of the permit. Border just keeps trying and hoping to "sneak in," and the post-George Floyd unrest, COVID-19, and City budget shortfalls this year have given it courage to try once again to get exactly what it wants.

In fact, the hours that Planner Joshua Williams proposed — 2am during the week and 3am on weekends — were, he admitted after one of the recent hearings, fairly arbitrary and chosen because "the applicant would agree to them." (Well, that's not what conditions are for, from what we understand. Conditions help mitigate a business' impacts.) *We therefore plead with the Council to recognize the close proximity of this Taco Bell to neighbors on Edmund and Charles Avenue and soon the tenants of the expanded Kimball Court low-income housing complex. This is a mixed-use area, and an all-night fast-food drive-through restaurant is not compatible with the residential properties within just a few feet of it. The speakerbox is loud, and customers in boom cars and with revving engines are loud.*

Hours of operation for fast-food restaurants with drive-throughs vary in this city as elsewhere, but here in the Midway and along Snelling we find:

- * Arby's on University Avenue closes at 10pm during the week and 11pm on weekends;
- * Arby's on Snelling in Highland Park closes at 10pm daily;
- * Culver's on University Avenue closes at 10pm daily;
- * Wendy's on University Avenue closes at 11pm during the week and 12midnight on weekends;
- * McDonald's on University Avenue now closes at 12midnight.

Therefore, the hours requested by us and others living near the Taco Bell on Snelling — no closing time later than 1am — seem more than reasonable, and we hope you agree if you feel you must approve the permit

But the reasons to outright deny the permit are compelling and too many to list. A few are:

- * Mr. Williams admitted that he was not sure the distance of the new building per the permit application is actually 61 feet from the nearest residential property. He did the measurements himself. If it does not meet current code for the distance requirement (at least 60 feet), it would be very

expensive for Border to have to tear down the new structure and either start over or even just shut down.

* The business is not grandfathered in, and the fact that it has been there for a long time means nothing — if its current building is aging out of usefulness after multiple owners over some four decades, that is proof that fair profit has been extracted from it. A new permit is not a right. In fact, the old permit did not refer to a drive-through window, so it's possible a drive-through has never been conducted on the site legally, and this could be challenged at great cost to both St. Paul and Border Foods.

* Taco Bell has a Cantina model store for walkable urban areas that might work well in this location, and Border Foods should be encouraged to try that model in Saint Paul rather than continue to try to impose a suburban-style, large-footprint operation on a small urban lot. Or it should move to a more suitable location elsewhere, such as near Allianz Field.

* Official plans for LRT station areas in St. Paul do not include auto-centric businesses. This is a most auto-centric business. Drive-through fast-food restaurants handle much more traffic, with many more cars entering and exiting their lots per hour, than do drive-through lanes at banks and pharmacies.

* Taco Bell at Snelling as run by Border Foods has not been a good neighbor and cannot be expected to suddenly become one. We have tried to call when the speakerbox is too loud, and much of the time, no one answers the phone. In the past month Taco Bell re-opened, the noise was excessive for the first week or so, and employees claimed in one message recorded by us that they had “no idea” how to adjust the volume. This suggests management did not feel it was an important aspect of their training — no “best behavior” even as their CUP application was pending — despite a history of problems with noise complaints. (We also collect snow plowing money for the block on which Taco Bell sits, and Taco Bell does not contribute to the \$600 yearly fee, even though many of its customers heading north turn right on Charles after exiting the drive-through lane, then right into our alley running parallel to Snelling, and continue to Thomas to turn left/northbound onto Snelling.)

We love St. Paul. We love the Midway (and “Downtown Midway” where we live). We want to see the plans and visions for this part of the City become reality, and even with the setbacks of this year, we know they can and will. With climate change upon us, we know cities are going to point the way forward.

Thank you.

Sincerely,
Mark and Kristine (Kay) Vesley
1598 Edmund Avenue
Saint Paul, MN 55104
6516452606