



District Council 11  
1558 Minnehaha Ave W  
St. Paul, MN 55104  
651.494.7682  
[www.hamlinemidway.org](http://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:

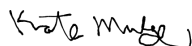
1. HMC is **OPPOSED** to granting a conditional use permit for locating a drive-through lane within 60 feet of the closest residential property. The layout of the proposed development places the ordering location in close proximity to two residential properties. The Hamline Midway Community Plan encourages 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](mailto:kate@hamlinemidway.org)  
651-494-7682

**From:** Kristine Vesley <kristinevesley@icloud.com>  
**Sent on:** Tuesday, July 14, 2020 6:39:43 AM  
**To:** Williams, Josh (CI-StPaul) <josh.williams@ci.stpaul.mn.us>; \*CI-StPaul\_PED-ZoningCommitteeSecretary <PED-ZoningCommitteeSecretary@ci.stpaul.mn.us>  
**CC:** Dubruiel, Paul (CI-StPaul) <paul.dubruiel@ci.stpaul.mn.us>; Privratsky, Matt (CI-StPaul) <Matt.Privratsky@ci.stpaul.mn.us>  
**Subject:** Our Public Comment for 7/16/20 Zoning Committee Hearing on Border Foods CUP Application (File Number 20-047-173)

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

Re: Zoning File Number 20-047-173

To All Members of the Zoning Committee of the Saint Paul Planning Commission:

Border Foods, owner of the Taco Bell at 565 North Snelling, is back at the City for the third time in just six years, seeking a permit to rebuild its fast-food restaurant (with a drive-through lane, ordering kiosk, and window), despite strong neighbor, District Council, and (in two of the three cases) zoning staff opposition. Border openly rejects ANY permit that imposes an hours-of-operation condition ending its current and apparently very profitable “bar rush” hours after [2:00am](#), when the building is not open and customers can only urinate in the parking lot or nearby alley. Very late-night hours for this Taco Bell have only been possible due to a fluke in the very old Special Use Permit that it has continued to enjoy as long as the original building has stood, even though a drive-through window was added after 1973 that should probably have required a new permit.

**\* WE HOPE THE COMMITTEE JOINS NEIGHBORS AND THE HAMLINE MIDWAY COALITION/DISTRICT 11 COUNCIL IN CONCLUDING THAT THIS PERMIT SHOULD BE DENIED. IF IT IS APPROVED, WE ASK THAT CONDITIONS BE IMPOSED, ESPECIALLY A CLOSING TIME OF 12:00AM DURING THE WEEK AND 1:00AM ON WEEKENDS.**

To prevent any rebuilt Taco Bell from opening again at 12:01am and [1:01am](#) in order to circumvent the intention of these closing hours, the operating-hours conditions should specifically include an opening time of no earlier than [7:00am](#) as well, because we have seen what happens when hours are laid out in community meetings but not included as specific and enforceable conditions on the permit. Border Foods will exploit any and all loopholes available to it. (See paragraph 2 in G. HISTORY/DISCUSSION of Josh Williams’ Staff Report: “At the public hearing for

the [1973] 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.” The restaurant is now open for up to 22 hours of the day.) Because he is on vacation this week, we are unable to ask Mr. Williams why he suggested seemingly arbitrary closing times of 2:00am during the week/3:00am on weekends in his report, should the application be approved. He did not explain or justify those hours in his report.

Under Section I: FINDINGS, item 2, Williams notes that the newest somewhat tortured configuration of the drive-through lane makes it “approximately 61 feet away from” the nearest residentially zoned property, which is our home. The standard in code that this barely meets? It is 60 feet: The drive-through lane must be at least 60 feet from the nearest residential property. Well, this plan just sneaks in by maybe 4 to 12 inches. (And it has to be noted that in many municipalities, this required distance is much greater than 60 feet.) It is meeting the letter of the law now on its third try at a magic-charm site design, but not the spirit. The fact remains that this very busy Taco Bell has been squished for decades onto a site that is really too small for it, at the expense of neighbors’ enjoyment of property, which is a legal right.

We feel strongly:

**\* GIVEN THAT THE DRIVE-THROUGH LANE IS POSSIBLY EXACTLY 60 FEET FROM OUR PROPERTY, OR POSSIBLY 61 FEET FROM IT, IT’S JUST TOO CLOSE! THE NOISE TRAVELS RIGHT UP THE WALL OF OUR HOUSE AND THROUGH OUR SECOND-STORY WINDOWS. OUTSIDE IT’S A CONSTANT PRESENCE.**

**\* GIVEN THAT THE ORDERING KIOSK IN THE CURRENT CONFIGURATION IS OPPOSITE OUR GARAGE BUT IN THE NEW ONE WOULD BE OPPOSITE OUR BEDROOM WINDOW, WE DON’T WANT THIS TACO BELL PERMIT TO BE GRANTED AT ALL. THE NEW PLACEMENT OF THE AMPLIFIED ORDERING KIOSK WOULD BE WORSE, NOT BETTER.**

**\*GIVEN THE PARKING SPOTS STILL DIRECTLY UNDER OUR BEDROOM WINDOW THAT WOULD BE FILLED WITH BOOM CARS AND PARTY CARS AT ALL HOURS OF THE DAY, IT’S BOUND TO BE A NUISANCE AND IS TOO CLOSE.**

**\* GIVEN ALL OF THIS, IF THE PERMIT IS GRANTED, THE HOURS AND ANY OTHER OPERATING CONDITIONS SHOULD BE IN PROPORTION TO THE PROXIMITY TO A RESIDENTIAL DISTRICT. THAT IS: IT IS MINIMALLY IN CONFORMITY TO CITY CODE FOR DISTANCE, SO IT SHOULD GET**

MINIMAL OPERATING HOURS, NOT GENEROUS HOURS THAT IT COULD GET IN ANOTHER, BIGGER LOT.

\* MAINTENANCE CONTRACTORS LIKEWISE SHOULD NOT BE ALLOWED, AS A CONDITION, TO DO THEIR VERY LOUD AND NUISANCE-CAUSING WORK BETWEEN 1:00am and 7:00am AS CURRENTLY HAPPENS FREQUENTLY.

\* THE DINING ROOM MUST REMAIN OPEN DURING DRIVE-THROUGH HOURS SO PATRONS MAY USE THE BATHROOM INSTEAD OF RELEIVING THEMSELVES IN THE PARKING LOT OR ON NEIGHBORS' PROPERTY.

FINALLY, there is a concurrent CUP application in the works for an expanded low-income housing facility at 555 North Snelling by Beacon Interfaith. The Committee should, we feel, take that into consideration. If both CUP applications are approved, then this Taco Bell's drive-through lane and ingress/egress points will be much closer than 60 feet to a residential property.

But we hope the Committee denies this application and denies the finding of the Zoning Staff Report that "The proposed new fast-food restaurant with drive-through sales does not expand this existing auto-oriented use." If it can think of ways to get more customers, it will do so. But more importantly, a re-built Taco Bell would expand the existing use in time, if not space and intensity. This thing would be here for at least a decade, and it does not belong in the Green Line LRT Snelling Station Area. Bicycle racks "may improve the existing character of the neighborhood"? That is hilarious — customers on bicycles (or on foot) cannot even be served in the drive-through lane. Fast-food drive-through restaurants are not transit-, bicycle-, or pedestrian-oriented, period.

We would like to end here, but we feel obliged to comment on the Border Foods' application statement, which makes astounding claims about its commitment to the neighborhood, shamelessly attempting to exploit the twin recent crises we've all experienced: COVID-19 and civil unrest after the killing of George Floyd. Border Foods, the applicant/owner/franchisee has never cared much about the Midway, to our knowledge. It has gone out of its way to continue reaping profits based on the ancient "special use permit" that functions as a conditionless conditional use permit — that piece of gold that Border has continued to go to great lengths to protect: no need for public process when changing/expanding hours. Now is the time to end that.

Many people on this Committee are aware of all the history, as Border Foods applied for a permit pre-crisis just 6 months ago. Just in January of this year, 2020, Border

withdrew its application after city planner Josh Williams wrote his report saying the permit should be denied on the basis of several factors! In 2015, Border similarly walked away from a permit that contained a couple of conditions that Border found intolerable: namely, reduced hours. It abandoned its own rebuilding plan and chose instead to keep operating in its old structure after bar-closing hours, its most profitable period.

So it's pretty disingenuous of Border to claim that it is so committed to this community that it will rebuild as an act of largesse after being looted in late May. It has been openly and actively trying to rebuild for half of a decade now. Border is not committed to this city or the Midway. It only wants to rebuild here on one condition: no conditions! Isn't that ironic?!

For the record: we watched the looting of Taco Bell and Holiday. Holiday was very hard hit for hours with multiple parties involved. We saw just a few teens park in front of our house and run into Taco Bell's back door, seemingly having little time to do much damage. I had a conversation with a contractor a few days later in the Taco Bell parking lot, and he told me they would probably be back open in a week. "Just a couple of counters were pulled from the wall," he said.

Please do not allow Border Foods to cry crocodile tears and misuse the current difficult circumstances to sneak in a new facility that would be in place for at least a decade, with no conditions, just because city coffers are running low and developments elsewhere in the Midway are stalled. We can do better than this.

There's a word for the behavior of Border and the language in its current application statement: BULLYING. We beg that you do not let Border intimidate you into giving it what it wants. Their claims are specious at best and, from all we've been learning about zoning and conditional use permits, probably factually (that is, legally) incorrect. "Conditional" "use" permits go with buildings, not land. The "use" part of it may go with the property from owner to owner and/or be grandfathered in, but the "conditional" part is subject to review and change upon a new conditional use permit being granted for a new building and site plan - that's the whole point of conditional use permits.

Shame on Border Foods for offering up a twisted interpretation of state and city law on conditional use permits and telling St. Paul's Planning Commission: "[T]he new conditional use permit must be granted" and "[T]he city cannot deny the application."

Shame on Border Foods for lying in order to get what it wants. It is simply untrue

that the 1973 permit remains in effect after a new one is issued. It is simply untrue that a CUP runs with the land. Note that no actual Minnesota law was cited — probably because there is not one.

Border Foods included a photo of the 1973 typewritten Special Use Permit with no conditions. But it did not, notably, include a photo of the minutes of the neighborhood council's minutes at the time, in which it was plainly stated that the new restaurant would be closing [at 11pm](#) during the week and possibly later on weekends. Maybe the city should go all the way back to 1973, and say to Border Foods, sure: the old SUP still holds if you will rebuild and close [at 11pm](#) during the week as per the gentleman's agreement that never got codified, because no one at that time anticipated hours as late as your latest of [5:00am](#). (We have attached a photo of those old minutes along with the photo of the old permit.)

A note to those on the fence: Border Foods says in its application statement that it will resume operation no matter what. If it continues in its old building, it won't be for long. Not nearly as long as in a brand-new building. We say: if this permit is denied Border Foods, let Border continue to run the current Taco Bell building into the ground for another year or so. Let Yum! Brands be the one to close it down when the franchiser no longer feels this Taco Bell is adequately adhering to brand standards. We know that can and does happen.

We feel that this applicant has abused the Saint Paul CUP application process these past five years, wasted taxpayers' money, and harassed us neighbors (forced to respond in a short timeframe over holidays each time, at personal cost) in doing so.

Thank you for your time and attention.

Sincerely,  
Kristine and Mark Vesley  
[1598 Edmund Avenue](#)  
[St. Paul, MN 55104](#)  
[651-645-2606](#)

Attachments (2) to Vesley Letter to Zoning Committee:

ST. PAUL ZONING BOARD

A special use permit was approved for the facility as indicated below. Along with respective copies of this form containing the information presented below, copies of the final plan were delivered to the Division of Housing and Building Code Enforcement, to the Division of Operations of the Department of Public Works and to the applicant.

Date : November 21, 1973

Zoning File number: 7545

Applicant's name : Construction 70

address: 1470 W. County Road C 55111

Purpose : Fast Food Restaurant

Location : Southwest corner of Kansas and Snelling

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

Plans approved : 11/17/73

Final plans dated 09/11/73  
received :

Comments :

SPECIAL USE PERMIT APPROVAL



MINUTES OF THE PUBLIC HEARING BEFORE THE BOARD OF ZONING  
ON THURSDAY, SEPTEMBER 6, 1973, AT 2:00 P.M.

PRESENT: Messrs. Horton and Cochran; Messrs. Hillits, Maddox and Rupp of the Board; Mr. Rosetter and Mrs. Bacriault of the Planning Department Staff.

CONNECTION 70 (7545): An application for a permit for a fast food restaurant on property located on the southwest corner of Blount and Snelling.

Mr. Rosetter read the staff report for this matter. He explained the changes that had to be made to the plan to meet design standards and explained why they had to be made. He said he also requested a 4-foot high screen fence on the alley line because of the residential area behind it. The Traffic Engineer also wanted some traffic control devices installed if the driveways remain the way they are.

Mr. Gordon Weber, representing Zapata, briefly explained the operation and said this would be an improvement over the car wash that was in there.

Mr. Hillits asked if the car wash will be removed.

Mr. Weber said the building will stay but the pumps will come down.

Mr. Rupp asked about the hours.

Mr. Weber said they would be 11 in the morning to 11 at night during the week and 11 to 1 or 2 A.M. on weekends, depending on the business they got.

Mr. Merrill Robinson, representing Nealine Community Association, said they have a policy of opposition to fast food restaurants going in the area.

Mr. Maddox asked if a higher reduced wave fence would be better.

Mr. Robinson said if this did go to, he would like to see a 6-foot fence or shrubbery.

Mr. Weber said he could see no problem with this. He said they usually place shrubbery behind the fence.

Mrs. Horton wondered how high the house behind it was, how much a 6-foot fence would hide the business.

Mr. Weber said they would plant trees in there now and eventually they would buffer the area better than a fence.

Mrs. Cochran moved they recommend approval of the permit subject to the recommendations of the staff. She said she shared the feelings of Mr. Robinson, but they do seem to meet all the requirements. The motion was seconded by Mr. Maddox. The motion carried unanimously.

Submitted by:

*Paul L. Rosetter*  
Paul L. Rosetter

Approved by:

*William E. Rupp, Jr.*  
William E. Rupp, Jr.

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**From:** Renee Spillum <renee.spillum@gmail.com>

**Sent on:** Tuesday, July 14, 2020 12:32:48 AM

**To:** Pereira, Luis (CI-StPaul) <Luis.Pereira@ci.stpaul.mn.us>; Williams, Josh (CI-StPaul) <josh.williams@ci.stpaul.mn.us>; kate <kate@hamlinemidway.org>

**Subject:** Taco Bell



Luis and Josh,

Perhaps HMCs letter was not strong enough. I have not heard any support for this rebuild in the community. The goal here should be for people-first development on that site. This drive thru condemns that site, which could house hundreds of people, to be an economically extractive, anti-people, pro-car, disruptive business for decades into the future. We do not demand that an existing business, no matter how problematic, be forced out, but this business cannot use the cover of the racial justice uprising to excuse its project that is destructive of its land's environmentally and economically resilient potential. As a private resident around the corner from the site, I ask on behalf of the future residents of the Snelling corridor not to grant this request, which is not supported by anyone from the community to my knowledge. I might not agree with the Vesleys' approach or attitude, but our conclusion is the same.

I believe if the committee had any fear that the city's position would change, we would have made it even more clear that we do not believe this plan is in the best interest of the community. The positive staff report was a very disappointing surprise.

-Renee

**From:** Richard Trout <richardjtrout@gmail.com>  
**Sent on:** Wednesday, July 15, 2020 1:03:45 PM  
**To:** \*CI-StPaul\_PED-ZoningCommitteeSecretary <PED-ZoningCommitteeSecretary@ci.stpaul.mn.us>  
**Subject:** Zoning File 20-047-173 - Taco Bell Drive Thru

To the City of Saint Paul Zoning Committee,

Regarding the Border Foods application for a conditional use permit to rebuild the Snelling Ave. Taco Bell with a drive-thru, I urge you to reject this latest proposal. A fast food drive-thru is clearly not in alignment with city or neighborhood goals for development in an area that has seen significant investment in mass transit and efforts to promote walkable, livable neighborhoods.

The current proposal has changed slightly from previously rejected proposals, however it does not address the livability issues that arise from operating a nearly 24 hour auto-oriented operation adjacent to residential properties. If the project must be approved, I ask that you consider limiting hours of operation to no later than midnight Sunday-Thursday and 1:00 AM on weekends.

Best regards,  
Richard Trout  
1528 Minnehaha Ave W

**From:** Tom <burns3276@hotmail.com>  
**Sent on:** Monday, July 13, 2020 11:43:28 AM  
**To:** Williams, Josh (CI-StPaul) <josh.williams@ci.stpaul.mn.us>  
**CC:** ZoningCommitteeSecretary@ci.stpaul.mn.us  
**Subject:** Zoning case #20-047-173 (Border Foods/Taco Bell), #20-046-445 (Kimball Court Supportive Housing)



Mr. Williams,

I own the duplex located at 1597 Charles Avenue. This property is located across the alley to the southwest of the Border Foods/Taco Bell location. I am writing to express my strong opposition to the Zoning Staff Recommendation of allowing Border Foods to operate their drive through until 3am on Saturday and Sunday and 2pm-Monday through Friday.

I propose that the committee adopt the recommendation of the Hamline-Midway Coalition and deny the application. However, if the committee chooses to approve, the closing hours should be midnight during the week and 1pm on weekends. The fact that the drive through meets the minimum standard by 1 ft and is close proximity to the residential properties directly across the alley should be strongly considered by the committee when considering this proposal. The committee should also consider future developments such as the proposed expansion of the Kimball Court Apartments.

Regarding the Kimball Court proposed expansion. My duplex is located directly across the alley from this property. I am overall supportive of this project but do have some concerns. I think it would be helpful if Kimball had someone available 24 hours at the building, who would be responsible for ensuring the policies in place are followed and could immediately address problems and concerns rather than reacting to issues, which is what is currently being done.

Thanks for considering my comments.

Tom Burns

From: **Bernie Hesse** <[bernie.hesse@gmail.com](mailto:bernie.hesse@gmail.com)>  
Date: Tue, Jul 14, 2020 at 10:44 AM  
Subject: 20-047-173 Taco Bell Drive-Thru  
To: <[PED-ZoningCommitteeSecretary@ci.stpaul.mn.us](mailto:PED-ZoningCommitteeSecretary@ci.stpaul.mn.us)>

To: Zoning Committee  
Re: Taco Bell

Dear Members-

I would ask that the committee members deny the CUP. The proposal would only add to increased traffic, danger to us who walk on Snelling, and doesn't work for the Comp Plan.

Please deny the application.

If you grant it- it should restrict hours of operation, keep the lobby open the same as the drive thru, develop a security plan for the workers and customers, along with a trash removal/litter plan for a two block radius around the store. And a snow removal plan on the sidewalks that border "The Border".

Respectfully submitted,

Bernie Hesse  
1602 Thomas Ave  
Saint Paul, MN 55104  
651-600-6650

To the Zoning Committee:

I am writing in opposition to the proposed Taco Bell reconstruction that would include a drive-thru and, should the reconstruction be allowed to proceed, the support of a condition on the operating hours of such.

As the City hopefully learned from the Starbucks at Marshall & Snelling, drive-thru oriented development only functions if sufficient space exists. If sufficient space does not exist, it creates a needless traffic headache. At the Taco Bell location, sufficient space does not exist for a drive-thru to be successfully implemented.

Furthermore, if this redevelopment is allowed to move forward, I ask that conditions be placed on the business. Being within feet of residential properties, a business operating nearly round-the-clock is anti-community. While I think that it would be perfectly reasonable to include a condition that the business be closed to the public from 10pm to 6am daily, it is my understanding that a more common and moderate condition would be that the business be closed to the public from midnight (12am) to 5am on Monday through Friday and 1am to 5am on Saturday and Sunday.

I hope that my comments are carefully considered and are reflected in the decision that is made by the Committee.

--Tyler Vidal  
1559 Sherburne Ave Apt 3  
Saint Paul, MN 55104