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Statement of Michael E. Hobbs
for the City Council
March 17, 2018

SUP #2017-0122
Taco Bell Cantina

Thank you, Mayor Silberberg, Vice Mayor Wilson and members of the Council. I am Michael Hobbs, residing at 419 Cameron Street.

The proposal before you would authorize Taco Bell to operate at this location until 2:00 a.m. every night of the week. As you know, that means in fact that although they could not admit any new customers after that hour, they would not be required to close for the night, and its customers depart, until an hour later, at 3:00 a.m. The proposal would require that outdoor dining close an hour earlier, at 1:00 a.m., and that service conclude at that hour.

These proposed operating and closing hours would have significant negative impacts on the nearby residential neighborhoods. They would be inconsistent with the standard that has long been applied to restaurants on King Street west of the waterfront; to the standards recognized as fair and reasonable in the administrative SUP and King Street Outdoor Dining programs; and inconsistent with the standards that have been applied to restaurants in this immediate neighborhood, on and facing this block and this adjacent residential neighborhood. It goes well beyond the "hours of operation" provisions governing other restaurants all along King Street, and differs importantly from the standard required of BurgerFi, Taco Bell's closest model in location, operation, and potential impacts.

PROXIMITY TO CAMERON STREET RESIDENCES

The Staff Report advises that noise impacts are not anticipated because "the restaurant faces King Street" and "the five-story Tavern Square building complex effectively blocks the interior courtyard from the Cameron Street residences." There are, to be sure, some large buildings between this site and the residences on Prince Street; but the rear of the restaurant faces Cameron Street through an open arcade, and the Tavern Square building on that side is two stories high, not five.

NOISE LEVELS

The application acknowledges (p. 16) that there will be a "moderate noise level" from patrons, but says that it will be controlled because "the patio is set back from the sidewalk space and masked by landscaping." Noise from the operation will be shielded to some extent facing across King Street to the south. But the concern about noise impacts is not just about noise inside the restaurant, but particularly the noise that is frequently generated by patrons when they leave the restaurant to hunt for their cars parked on the nearby residential streets, particularly in the early morning hours, and particularly if their dining experience at those late hours has been especially bibulous.

RELATIONSHIP OF PARKING AND TRANSIT OPTIONS TO THE CLOSING HOURS

The staff report notes that "restaurant patrons (will) have access to the public parking located in the Tavern Square parking garage, with pedestrian access to the garage located in front of the proposed

restaurant.” But the Tavern Square Garage closes at 9:00 p.m. Monday – Friday, 6:00 p.m. Saturday, and is open only to monthly tenants (with card access) on Sunday.

Similarly, the report observes that “the site is well served by public transportation, such as the King Street Trolley, the DASH bus, Metrorail buses, Capital Bikeshare, and the Metro.” That is true during the daytime and early evening, but service is sparse to nonexistent after midnight. The nearest Metro stations are close to a mile away; but in any case, Metrorail stops operating long before 2:00 a.m. The King Street Trolley does not run after 10:30 p.m. on weekdays, nor after midnight on weekends. Metrobus service is infrequent after midnight; there is one bus at 2:10 a.m. at the King/Washington Street stop. Only one DASH bus serves that stop after midnight on any day of the week (at 12:01 a.m. on weekdays).

Realistically, then, patrons leaving this cantina after midnight would most likely use their own cars (rather than public transportation) for travel, parking them on the nearby commercial or residential streets. (Parking across residents’ curb cuts, blocking access to their garages, is not unknown in this neighborhood, and patrons’ early-morning-hour return to their parked vehicles is often accompanied by loud conversation or other disturbances.)

NEIGHBORHOOD STANDARDS

The hours of operation in SUPs should be considered in the context of relevant neighborhood standards. “Neighborhood standards” may be recognized in the text of the Zoning Ordinance or other policy statements, or in the general pattern and practice established over a period of years in the terms of SUPs adopted for establishments in the area. Conformity to neighborhood standards is valuable because it affords a degree of consistency of treatment and reasonable expectations alike to applicants, permittees, and other affected parties (including other commercial enterprises and nearby residents).

I discussed a variety of relevant neighborhood standards at greater length in my statement for the Planning Commission. Suffice it here to say that the closing hours proposed for Taco Bell’s SUP are inconsistent with:

- (1) the standards in the Small Business Zoning Text Amendments (June 2016) for hours of operation, outdoor dining, and alcohol service in several comparable neighborhoods of the City;
- (2) the hours for *administrative* SUPs for restaurants in Old Town;
- (3) the hours specified in the ordinance for participants in the King Street Outdoor Dining program;
- (4) the hours of operation for other restaurants in the immediate neighborhood on King, Pitt, Cameron and Royal Streets;
- (5) the hours for other restaurants on or near King Street;
- (6) the standards for other restaurants sometimes cited in support of a 2:00 a.m. closing hour; and

- (7) the standard for Burger Fi, the restaurant that was closest to this site and that is highlighted in the staff report as the closest parallel—in terms of location, operating characteristics, and potential impacts—to the new Taco Bell Cantina.

HOURS OF OPERATION

I would urge your consideration of the attached chart, which summarizes these hours of operation.

With regard to indoor operating hours:

1. For restaurants in the immediate neighborhood, none operates later than 1:30 a.m. Most close much earlier.
2. For restaurants on lower King Street, Urbano 116 is authorized to operate until 2:00 a.m.—**but only on Thursday through Saturday**. Most of the others close at 1:00 a.m. on Friday and Saturday, and earlier on weeknights.
3. For SUP-authorized restaurants cited as precedents for Taco Bell, Blackwall Hitch is behind the Torpedo Factory on the City Dock, far from any residences, and its 2:00 a.m. daily closing hour is paired with an 11:00 p.m. outdoor dining hour. BGR closed daily at 12:00 a.m. Burger Fi closed at 12:00 a.m. on weeknights and 1:00 a.m. on weekends—**not 2:00 a.m. every day of the week**.

As regards outdoor dining hours, virtually all of those on and near King Street close at 11:00 p.m. nightly, either in accordance with the King Street Outdoor Dining Program, or the terms of their SUPs. Of those listed, only Burger Fi was authorized later hours—until midnight on weeknights and 1:00 a.m. on weekends—not 1:00 a.m. every night of the week, as proposed for Taco Bell.

CONCLUSION

So far as I can determine, the proposed combination of a 2 a.m. daily closing hour for the indoor restaurant and a 1 a.m. daily closing hour for the outdoor dining would be unprecedented for any restaurant in Old Town, including all those cited above. (I do not know the terms for all of the grandfathered restaurants, which are not “searchable” on line; but presumably none of them were grandfathered early morning closures for outdoor dining, which was liberalized and encouraged only with the King Street Outdoor Dining program decades later.) No compelling or persuasive reason has been advanced why this exception from past precedent and practice should be made—beyond the fact that this is what the applicant requested.

I would urge instead that Council adopt a condition setting the closing hour at 12:00 midnight Sunday-Thursday, 1:00 a.m. Friday-Saturday for indoor dining, and 11:00 p.m. daily for outdoor dining.

Such a condition:

- (1) Would be consistent with the neighborhood standard that has largely been followed for non-grandfathered restaurants on King Street in Old Town in the area farther away from the waterfront and closer to the residential areas.
- (2) Would be comparable to the standards recognized in the ordinance for administrative SUPs for restaurants in this and other neighborhoods where commercial and residential uses are in close proximity, and for outdoor dining in the King Street Outdoor Dining Overlay Zone—although it would provide later weekend closing hours for indoor dining.
- (3) Would represent only a moderate increment, rather than a dramatic departure, from the closing hours for indoor or outdoor dining for the grandfathered or SUP-governed restaurants on or facing this block.
- (4) Would correspond exactly (not “similarly”) to the indoor closing hours for Burger Fi, Taco Bell’s closest model and precedent both in location and operation, though it would require a somewhat earlier closure for the outdoor dining.

If the Council felt nonetheless that a 2:00 a.m. closing hour was essential, notwithstanding the significant differences here from other cases where that hour has been grandfathered or SUP-permitted, I would urge that you follow the Urbano 116 example of limiting that late-closing hour to the weekend; and, especially, the Blackwall Hitch precedent of requiring that the outdoor dining conclude by 11:00 p.m.

Thank you for your consideration.

RESTAURANT	LOCATION		INDOOR HOURS	OUTDOOR HOURS
TACO BELL (proposed)	417	King St.	2:00 a.m. daily	1:00 a.m. daily

RESTAURANTS ON OR FACING KING/PITT/CAMERON/ROYAL BLOCK

Caphe Banh Mi	407	Cameron St.	9:00 p.m. M-F 11:00 p.m. Sat 8:00 p.m. Sun	None
Gadsby's Tavern	138	N. Royal St.	11:30 p.m. daily	Not in the public right-of-way*
Jackson 20	480	King St.	1:30 a.m. daily	10:30 p.m. daily (interior, per SUP); 11:00 p.m. daily, KSODP**)
La Madeleine	500	King St.	11:00 p.m. M-Sat 10:00 p.m. Sun	11:00 p.m. daily (KSODP)
Chipotle	601	King St.	11:00 p.m. daily	Not in SUP; 11:00 p.m. if apply for KSODP*
Burger Fi	111	N. Pitt St.	See below	

LOWER KING STREET RESTAURANTS

Fish Market	105	King St.	12:00 a.m. Sun 1:00 a.m. M-Sat	11:00 p.m. daily (KSODP)
O'Connell's	108A	King St.	1:00 a.m. daily	11:00 p.m. daily (KSODP)
Bugsy's	111	King St.	11:30 p.m. Sun-Th 1:30 a.m. F-Sat	11:00 p.m. daily (KSODP)
Landini Brothers	115	King St.	12:30 a.m. daily	11:00 p.m. daily (KSODP)
Urbano 116	116	King St.	Sun-W 12:00 a.m. Th-Sat 2:00 a.m.	Not in SUP; 11:00 p.m. if apply for KSODP*
Paradiso Pizzeria	118	King St.	1:00 a.m. daily	Not in SUP; 11:00 p.m. if apply for KSODP*
Il Porto	121	King St.	12:00 a.m. daily	11:00 p.m. daily (KSODP)
Sang Jun Thai	300	King St.	Basement: 1:30 a.m. daily Floors 1-2: 10:00 p.m. Sun-Th 11:00 p.m. F-Sat	11:00 p.m. daily (KSODP)

OTHERS CITED AS PRECEDENTS FOR TACO BELL

Two-Nineteen	219	King St.	Basement: 2:00 a.m. daily Main floor: ?	11:00 p.m. daily (KSODP)
Blackwall Hitch	5	Cameron St.	2:00 a.m. daily	11:00 p.m. daily (SUP)
BGR	106	N. Washington	12:00 a.m. daily	11:00 p.m. daily (KSODP)
Burger Fi	111	N. Pitt St.	12:00 a.m. Sun-Th 1:00 a.m. F-Sat	12:00 a.m. Sun-Th 1:00 a.m. F-Sat (SUP)

* Restaurant without outdoor dining approved and closing hour specified in its SUP can apply for approval through King Street Outdoor Dining Program, with 11:00 p.m. closing daily. (§6-805(E).)

** "KSODP" = King Street Outdoor Dining Program