

September 14, 2016

TO: Sara Eskrich, District 13 Alder, and the Madison Plan Commission

RE: Barriques At 961 South Park Street Application For A Conditional Use Permit To Roast Coffee Beans

This document details the saga of two coffee bean roasters, Barriques here in Madison and Rock City Coffee Roasters located in Rockland, Maine. It uses links to articles online about Rock City Coffee Roasters' struggle to continue roasting coffee beans versus the rights of nearby neighbors to enjoyment of their property and their right to breath clean air free of noxious odors. This same struggle has been ongoing here in Bay Creek between Barriques and their nearby neighbors.

I ask that you take the time to go to all the links in this document and review the information gathered here and to compare the Rockland, Maine struggle with what has been happening here in the area surrounding Barriques on Park Street for the past five years since Barriques opened at that location and began roasting coffee beans. I didn't originally intend for this document to be this long and detailed but after talking in depth with the people who complained about the continuous noxious fumes and odor that were experienced for years in both cities with little or no attempt by city administration to work on resolving the situation I felt I had to compile all this data into one through, thoughtful, and truthful document.

The following link is to an ABC News story that has no date stamp but is believed to have been written and placed online in early 2008:

Maine Coffee Roaster Addresses Odor Issue

<http://abcnews.go.com/Business/story?id=4301341&page=1>

The next link is to a similar news story from the Bangor Daily News posted online in January 2008:

Coffee Roastery's Fines Over Odors Mounting

<http://archive.bangordailynews.com/2008/01/28/coffee-roasterys-fines-over-odors-mounting/>

The city of Rockland had sent a committee to the business to witness the roasting operation in late 2007. The committee ruled in September of 2007 that the smell was objectionable. On January 14, 2008, the city sent a formal complaint to the Rock City Coffee Roasters owners saying that the odor of roasting coffee from the business is objectionable and a public nuisance. They were given until February 15, 2008 to remedy the situation.

At a city council meeting in January 2008, the roastery owners submitted a petition to the city signed by over 1200 people including about 350 Rockland residents to let Rock City Coffee Roaster continue to roast coffee beans. The petition they signed stated they " do not find the odor of roasting coffee emanating from Rock City Coffee at 252 S. Main Street offensive or objectionable in any way."

However, none of the 1200 petitioners lived or worked near the coffee roasting operation and did not have to personally deal with the intense fumes that occurred at least three days a week for about five hours a day.

The roastery owners offered a solution of raising the roasting exhaust stack an additional 15 feet to better disperse the roasting fumes. But they also wanted an explicit agreement from the city that if the taller stack was installed, the formal citation and complaint would be dropped even if the taller stack does not solve the fume problem. The city would not agree to that explicit agreement.

The next link jumps ahead a few years to another news story from the Bangor Daily news posted online on December 12, 2015:

<http://bangordailynews.com/2015/12/12/business/rockland-coffee-roaster-seeks-funds-to-end-stink-save-business/>

Rock City Coffee Roasters had gone ahead and installed the taller exhaust stack anyway and the city said they would give them time to see if it works to solve the odor problem. Well, the taller stack actually made matters worse as even more nearby residents started complaining not only about the odor but also the particulate matter that emanated from the exhaust stack and coated their property with coffee chaff and ashes.

After finding the taller stack didn't work, the owners of Rock City Coffee Roasters said they spent over two additional years trying to find a solution to the fume and odor problem without actually making any further changes to the roasting equipment and the city of Rockland just letting them continue roasting anyway. But then a wealthy and well known Rockland resident began talks with the city to build a 5 story tall luxury hotel at 250 Main Street, right next to the Rock City Coffee Roasters. However, he didn't want his hotel guests to deal with the oppressively strong coffee roasting smoke and fumes. The new hotel would be taller than the already super tall roasting exhaust stack. Surely, once the hotel would open there were going to be major issues with the roasting fumes entering the hotel rooms and balcony areas. The city didn't want to lose out on the increased tax base of the proposed new hotel and magic happened. Rock City Coffee Roasters was finally being pressed by the city to find a solution or stop roasting coffee beans at that location. In a desperate move to survive, Rock City Coffee Roasters started a crowd funding effort to get customers and others to donate funds to help the roastery purchase a new \$80,000 "smokeless" coffee roaster.

That fund raising effort started in December, 2015. Here is a link to the Rock City Coffee Roasters crowdfunding website: <https://www.indiegogo.com/projects/rock-city-coffee-we-need-a-new-roaster#/>

The crowdfunding effort raised \$22,495 towards the purchase of a new 15K [Loring Smart Roast coffee roaster](#). Another third of the funding was provided by donations from customers and the remainder of the new roaster purchase price and installation costs paid for by the roastery owners. See link below for the news story: <http://bangordailynews.com/2016/02/23/news/midcoast/rockland-coffee-business-meets-goal-to-buy-new-roaster/>

I called [Rock City Coffee Roasters](#) on August 17, 2016. I spoke with the roaster operator working at the time I called. I asked him how the new coffee bean roaster is working out. The response was that there was a bit of a learning curve to adapt to using the new roaster but that it is working out great, producing great roasted beans and the new roaster truly is smokeless. He said they have not received any complaints since the new roaster was installed. The person I talked with suggested I call again and ask to talk to Kevin Malmstrom, head roaster, who could better answer any additional questions.

Well, not 100% convinced, I also called the [Rockland Code Enforcement Office](#) on August 17, 2016 and spoke with John Root, Code Enforcement Officer. He said that they have received no complaints since the new roaster was installed. John said that he personally donated to the cause when Rock City coffee Roasters started a fund raising campaign to purchase the new smokeless roaster. He said he couldn't be happier with the end result. He said it brought the community together and saved a business that had helped over the years in the restoration of the Rockland downtown business district.

I then called the [Myrtle Street Tavern](#) one of the nearby businesses that had previously complained about the roasting smoke and odor affecting their business. The employee I spoke with said that they can still smell the very slight odor of the coffee roasting but it is not as strong as before and there is no visible smoke. She said that before the smoke was so thick and full of particulate matter that it sometimes set off the smoke alarms inside their tavern and often coated their white picket fence and outdoor area with a filthy coating. She suggested I call on a Saturday morning when the owner, Leslie Spiers, is usually there and ask her how improved the roasting odor situation is. I tried calling again a few times but never was able to reach Leslie.

Well, being a perfectionist and wanting to learn more, I called the [250 Main Hotel](#) that was recently built and now open for business right next door to the Rock City Coffee Roasters and talked to the hotel manager. She said that while there

is still a slight odor while they are roasting it is no were near as strong and smells more like coffee and does not have the strong burnt odor and smoke that existed before. She said they are pleased with the results.

Last but not least I called a phone number for the Wheeler House and spoke briefly with Jeanine Lee who with her husband filed the original complaint about the Rock City Coffee Roasters odors back in 2007. They own the [Wheeler House](#) just to the north of the Rock city Roasters and rent out two apartments there. She said that the roasting odor issue has been resolved but did not want to talk about it any longer as it was a very long struggle to get the city and others to realize this was a real problem and get anyone to do something about it. Jeannie said she doesn't want to talk about it anymore and abruptly hung up.

Confused by the abrupt conversation, I emailed Jeannie Lee through her Wheeler House rental website email address and asked why she couldn't elaborate on the odor issue more. I told her that I am an empathetic person who is trying to help the nearby neighbors in Madison, WI with similar issues in dealing with coffee roasting fumes and odor. Jeannie wrote back and told me she was dragged through the mud and harassed by the city of Rockland and the owners of the roastery, who were well connected with the city and the "good old boys club" and launched a smear campaign against her and her husband that still has ramifications today.

On August 22, I tried one more time to call Jeannie Lee in Rockland, Maine to ask her again if the roasting odor from the new "smokeless" roaster is tolerable. She finally opened up and told me in great length their whole saga with the roastery next to their property, the Wheeler House in Rockland, Maine. Jeannie said the situation is tremendously improved with the new "smokeless" coffee roaster. She said that you can still occasionally notice the odor of coffee in the air but it is now finally tolerable. The smoke and the particulate matter and the noxious fumes are gone. Jeannie and her husband are now considering moving back into the Wheeler House to live out their retirement days across the street from the historic harbor of Rockland, Maine.

On August 23, 2016, I again tried calling John Root, City of Rockland Code Enforcement Officer to ask him why it took so long, about 10 years, to resolve the coffee roasting fume issue. However, John was on vacation until September 1 so I left a message with that question for him to answer when he returned. On September 2, I got a call back from John Root's secretary. She said that John told her to call with his simple one word response, "Politics". Seems John didn't really want to get into this whole matter again so I left it at that. "Politics" was a brilliantly simple and fitting answer to the question.

I finally reached Kevin, head roaster at Rock City Coffee Roasters, on August 24. Kevin said that the new roaster produces great coffee and is virtually smokeless but it is more difficult to do darker roasts and achieve the same dark roast flavor that his old drum type roaster produced. Overall he is happy with the new roaster.

Kevin also said that when they were researching other options for reducing the roasting fumes he looked into installing an afterburner for the old drum type coffee roaster that had been used from day 1 until the new Loring smokeless roaster was installed. He decided not to install an afterburner with the old roaster setup as it would more than double the amount of natural gas consumed in the roasting process and not significantly reduce the fume and odor issue. He also said that he wanted to find a solution with a more environmentally friendly footprint. That is why, when finally pressured by the city of Rockland, his research lead him to purchasing the Loring Smart Roast smokeless coffee roaster.

Coincidentally, from talking with Steve Vanko and Jane Elmer, who were the first neighbors to register a complaint about Barriques smoke, fumes, and odor shortly after Barriques started roasting coffee on August 16, 2011, it appears that Barriques and the city of Madison have treated Steve and Jane over the years since that first complaint in 2011 very similarly to the way Jeanne Lee was treated in Rockland. I have myself heard Matt Weygandt make ridiculing comments about Steve and Jane more than once and so have others. Many city employees who have been involved with this issue

for five years now have blown off Steve and Jane repetitively, some even intimidating them with their comments and manor of handling the odor issue over the years.

Jeannie Lee and her husband had to move out of the Wheeler House in Rockland due to the relentless heavy smoke and fumes and due to the way they were treated by city of Rockland and the owners of that roastery. They kept ownership of the property but even their renters complained about the smoke and odor. Likewise, Steve Vanko and Jane Elmer had to sell their long time home on Monona Bay within 200 feet of Barriques and purchased a different house over 2-1/2 blocks away to get away from the constant and oppressive roasting fumes and odor. The person who purchased Steve and Jane's house at 954 West Shore Drive in January 2016 was warned by Steve and Jane, as required by law, that the property has a frequent reoccurring smoke and fume/odor issue due to Barriques coffee roasting across the street. The new owner replied to them that he likes coffee and the fumes will probably make him go across the street and get some coffee each time he smells the roasting process. However, months later the new owner now admits that the fumes are often overpowering and nothing like the smell of a fresh brewed cup of coffee.

There is something wrong with the way this entire situation has been handled by the city of Madison. Barriques has been roasting coffee beans in violation of city zoning ever since they fired up the coffee roaster for the first time on August 16, 2011. The Madison Public Health Department has been steadily ignoring the complaints about smoke and odor for years. When Barriques applied for an alcohol license and a conditional use permit for outside seating the owners made no mention of the fact that they were planning to roast coffee on the premises. At a public meeting on December 16, 2010, Jane Elmer asked Matt Weygandt directly if they were planning on roasting coffee beans at the proposed cafe. He told her no. Steve Vanko also asked what the huge back room was for and Matt Weygandt told him it was for storage and an office. Yet, when the remodeling of the building was ongoing three phase electrical power was wired to the building. You don't need three phase electrical power for a tiny cafe that only has a refrigerator and a microwave oven as the main electrical equipment. Three phase electrical power is routinely installed for large electric motors and machinery with a high electrical power needs. Just days after Barriques opened their new cafe a large truck unloaded coffee roasting equipment that was then installed in the back room of Barriques. And a few days after that Barriques was roasting coffee beans illegally at that location. They didn't bother trying to get a conditional use permit back when they applied for the conditional use permit for the outdoor seating area because the zoning of the property at that time did not allow a conditional use permit for limited production and processing in C2 zoning at all. The application would have been denied.

Barriques should not have been allowed to continue roasting coffee beans at all back in 2011 after the Madison Public Health Department started getting numerous complaints from Steve Vanko about Barriques coffee roasting fumes and odor. Steve was continually told that Barriques had all the necessary permits and that the coffee roaster has an afterburner and catalytic converter installed to minimize any smoke or odor issues. Steve Vanko even video recorded the fumes and smoke emanating from Barriques roasting exhaust stack on numerous occasions. Here is a link to [numerous videos of Barriques roasting fumes taken in 2012 and 2013](#). Steve Vanko has continued to record and document the fumes even into 2015 but I don't have all of them online yet. Brandon Macomber of the Public Health Department told Steve Vanko that there was nothing he could do about the fumes and odor. But in reality, Barriques did not have all the necessary permits and Barriques roasting equipment was not state of the art.

The [initial set of plans dated December 15, 2010](#) sent to Al Martin for Review by the Urban Design Commission contained the following quote, "The building at 961 Park Street is approximately 2700 square feet, 2000 of which will be used for the cafe. The remaining square footage will be used to house space for our employee training program and may be used for bakery and/or coffee production."

Coffee production? This is interesting because not once in all the meetings for the alcohol license, the UDC approval, the conditional use approval by the Plan Commission and Common Council did Barriques or anyone else bring up any

questions or concerns about coffee production. Surely questions about any potential for a bakery or coffee production must have been discussed between Barriques owners and the Madison Planning Department staff after staff read that initial set of plans that were submitted on December 15, 2010. And why did Matt Wygandt on the very next day on December 16, 2010 tell Jane Elmer at a public meeting they had no plans to roast coffee beans when she asked him that question directly.

None of any of the many planning department staff reports regarding Barriques mentions anything about potential for use as a bakery or coffee production. The [initial letter of intent submitted with plans to the Plan Commission on March 2, 2011](#) for Barriques conditional use permit application in 2011 left out any mention of coffee production but did have this quote, "The building at 961 Park Street is approximately 2700 square feet. The space will be used for the cafe, the Barriques training program and possibly for bakery production." Yet again, there was no discussion about use as a bakery or for coffee production during any public meetings or in planning staff reports. Coffee bean roasting was not mentioned at a public meeting ever during the entire approval process except for that first neighborhood public meeting on December 16, 2010 when Jane Elmer asked Matt Wygandt if they were planning on roasting coffee and he said, "No".

How is it then that just days after Barriques first opened for business on August 3, 2011 a large truck unloaded coffee roasting equipment into the "back room" of Barriques on August 11, 2011. Then just five days later on August 16, 2011 Barriques started roasting coffee for the first time. Madison Public Health received the first smoke and odor complaint that same day. You can't just order a coffee roaster on Amazon and get it shipped a few days later. You have to do some research ahead of time, decide which coffee roaster manufacturer you want to purchase equipment from, which model best suits you needs and place an order. The manufacturer then usually has to manufacture the equipment and then ship it by truck. Barriques owners had to have been researching coffee roasting and roasting equipment for months before the equipment arrived at their doorstep in August 2011.

Why did Madison Public Health keep blowing off Steve Vanko all these years? Brandon Macomber of Madison Public Health told Steve Vanko numerous times that there was a lack of regulations available to compel a change in Barriques operations. Not true! The old Madison Zoning Code in force in 2011 did not allow limited production and manufacturing at all on property zoned C2, not even with a conditional use permit. The new zoning code in force from January 1, 2013 to December 31, 2015 did not allow limited production and manufacturing on property zoned TSS, not even with a conditional use permit. The property Barriques is on was changed from C2 to TSS zoning on January 1, 2013.

When the available paper trail first indicates that Matt Tucker, Madison Zoning Administrator, supposedly first found out about Barriques coffee bean roasting production facility, in an email from Marsha Rummel dated October 23, 2014, he did nothing to stop the coffee bean roasting operation even though it was in direct violation of both the zoning code and the conditional use permit Barriques received in April, 2011. Matt Tucker even replied to Marsh Rummel and others who were copied in that reply on October 24, 2014 that he has known about the coffee roasting operation for a while but does not know how the situation can be resolved. Instead, he let Barriques keep roasting coffee beans and even went to work to draft an amendment to the zoning code that was passed by the Common Council in late 2015 that would allow limited production and processing on TSS zoned property with an approved conditional use permit.

It is my belief that planning staff including Matt Tucker knew about Barriques initial mention of a possible bakery or coffee production operation from the date those initial plans sent to the UDC on December 15, 2010. They had to have had one or more discussions about the zoning code and limited production and processing with the Barriques owners as to major problems with getting approval for such an operation at that location due to the C2 zoning. This is why there was never any mention of a possible bakery or coffee production again on any plans; at any public meeting; or in any planning staff report after the initial letter of intent was sent on December 15, 2010.

It is my belief that Barriques owners, being warned of this problem back in December of 2010 decided to take a risk and secretly plan for the coffee production facility and install it in the huge "back room" that seemed awfully big for a room with no stated use other than office and storage. They planed ahead to have room sized for the roasting equipment and installed 3 phase electrical power to be ready for delivery of the roasting equipment that was on order. They decided to take the risk and deal with the ramifications of the zoning violation after the fact. It boggles my mind that it has taken five years of complaints by the nearby neighbors to bring this issue out into the open. All the City has done so far is

ignore the nearby neighbors and grease the skids with a new zoning text amendment. Now it seems all Barriques has to do is get the Plan Commission to rubber stamp the new conditional use permit application and they are good to go.

However, even then Barriques would have to abide by the following current Madison Zoning Code provisions:

28.133 ENVIRONMENTAL PROTECTION STANDARDS.

(1) General Standards.

(a) All uses shall be conducted so as to prevent or substantially minimize any nuisance, hazard, or commonly recognized offensive conditions, including creation or emission of dust, gas, smoke, noise, fumes, odors, vibrations, particulate matter, chemical compounds, electrical disturbance, humidity, heat, cold, glare, or night illumination.

(b) No use shall result in the harmful discharge of any waste materials across the boundaries of the subject property or into the ground, into any sanitary or storm sewer system, into any water body or water system, or into the atmosphere.

(c) The Zoning Administrator may require evidence of adequate controls on any potential nuisances or hazards prior to issuing a zoning or occupancy certificate.

(2) Activities Which May Be Potential Hazards or Nuisances.

(a) Productive Processes. All activities involving the production, processing, cleaning, servicing, testing or repair of materials, goods or products shall be conducted in such a manner whereby there shall be no danger of fire or explosion, no offensive noise, vibration, smoke, dust, odor, glare or heat, and no objectionable influence detrimental to the public health, safety, comfort or general welfare of the immediate neighborhood or community.

This zoning code has been effective since January 2013 furthermore the old zoning code effective since before Barriques submitted their initial application and letter of intent on December 15, 2010 had the following requirements which applied to all city of Madison properties no matter what the zoning is:

28.04 General Provisions

28.04(17) Activities Which May Be Potential Hazards Or Nuisances.

(a) Productive Processes.

All activities involving the production, processing, cleaning, servicing, testing or repair of materials, goods or products shall be conducted in such a manner whereby there shall be no danger of fire or explosion, no offensive noise, vibration, smoke, dust, odor, glare or heat, and no objectionable influence detrimental to the public health, safety, comfort or general welfare of the immediate neighborhood or community.

So, I want to know, with the above provisions in the old and the current zoning code, why has Barriques been allowed to belch noxious fumes into the Bay Creek neighborhood by the Madison Department of Public Health and by Matt Tucker, Zoning Administrator, for five years?

Many nearby neighbors of Barriques have now joined in to fight the fumes and odor. Barriques owners roast coffee beans and they smell money. The nearby residents smell a stench of noxious fumes and odor for at least 6 hours a day, five days a week. They are tired of this after five years of the city blowing them off, and angry too.

I hope that the struggle to find a viable solution to the problem with the coffee roasting fumes and odor does not take much longer. The struggle for the nearby neighbors of the Rock City Coffee Roasters in Rockland lasted about 10 years. Already the nearby neighbors of Barriques on Park Street have been struggling five long years and it has fallen on the deaf ears of the owners of Barriques and city officials. They shouldn't have to wait five more years to get this issue resolved.

I personally do not believe that the installation of a new larger catalytic converter will solve the smoke, fume and odor issue that has been plaguing Barriques nearby neighbors will permanently resolve the problem. It may kind of work temporarily but I believe the new catalytic converter will fail prematurely just like the one before it did. We need a permanent fix for this problem, not a temporary one.

Barriques should have investigated other roasting equipment options such as the [Loring Smart Roast](#) "smokeless" coffee roaster that seems to have solved the same roasting fume and odor issues in Rockland Maine. Barriques could also have investigated the installation of a high efficiency particulate cyclone and wet scrubber system as an alternate method of reducing smoke, particulates, and odors if they should refuse to give up their old style fume and smoke belching drum roaster. Their old drum roaster and afterburner/catalytic converter combination is not "state of the art". I suggested these options for reducing fumes to Matt Wygandt back in June 2016 and he blew me off saying the suggested equipment was too expensive to even consider.

I feel the Madison zoning code is clear. The nearby residents surrounding Barriques deserve to breath air free from the smoke, fumes and odor of a commercial coffee roasting operation or that coffee roasting operation should be forced to move somewhere else further from a residential area.

The roasting fumes and odor is not the only problem Barriques has with the 961 South Park Street location. There are major issues with parking, loading and unloading of coffee beans and other cafe supplies, and excessive traffic issues. Blockage of driving lanes by delivery trucks and cafe customers is rampant. All these issues need to be discussed and considered with this conditional use permit application. Perhaps the best solution to all of these issues would be to move the coffee bean roasting operation somewhere further from a residential area and to expand the cafe seating area at the Park Street location into where the back room is now. Customers could then enjoy the view of Monona Bay and the Madison skyline across the bay.

In May 2016 the Bay Creek Neighborhood Association asked for and received a delay in a Madison Plan Commission meeting to decide whether or not to approve a conditional use application to allow Barriques to continue to roast coffee beans at their Park Street location. We wanted time to work with Barriques to see if we could come up with a mutually agreeable solution to the coffee bean roasting fume issue.

However, after our initial meeting with Barriques owner, Matt Wygandt, the Bay Creek Neighborhood Association and nearby residents have been left mostly in the dark as to what Barriques is doing to try to resolve the roasting fume issue. Barriques owner, Matt Wygandt, has repeatedly refused to answer emails and phone calls to arrange to meet again and discuss what they have been doing to work on the roasting fume issue.

On September 10 to 13, 2016, I worked on creating a map of the affected nearby property owners and renters in the area surrounding Barriques to show the impact of Barriques coffee bean roasting on the nearby neighbors using the surveys completed by the nearby neighbors that the Bay Creek Neighborhood Association was able to contact in late August through September 13. Reading these surveys and even the previous surveys taken in May of 2016 was heartbreaking. So many nearby neighbors were being affected by the relentless roasting fumes and told in their own words that this was personally affecting their quality of life and in some instances even affecting preexisting health issues such as asthma and other breathing disorders.

The results of the recent surveys show no let up in the complaints about the fumes. In fact even more nearby residents have joined in to oppose the conditional use permit. Barriques owners have shown a complete disregard for their nearby neighbors ever since they began roasting in August 2011. In fact, this utter disregard for their nearby neighbors has gotten even worse over the summer of 2016, when Matt Wygandt blew off repeated attempts to contact him to arrange to meet and discuss his progress in making roasting equipment modifications.

Alderson, Sara, Eskrich, and the members of the Madison Plan Commission need to soundly reject Barriques conditional use permit application to be allowed to continue roasting coffee beans at 961 South Park Street. Monday September 19, 2016 needs to be the last day Barriques is allowed to turn on their coffee roaster at this location. If Barriques hasn't gotten a clue as to the situation at hand and already found a new location to move the coffee roasting operation to, then they can just revert to buying their roasted coffee beans wholesale from a responsible local coffee bean roaster like they used to before purchasing their new roaster and illegally starting up a production facility in the Bay Creek Neighborhood.

It is too late to give Barriques any more time to pretend to be working on solving this coffee roasting fume issue. They need to move the roasting operation somewhere far from any residential area and they need to do it now.

Sincerely,

Ron Shutvet
Madison, WI