

From: [Lindsey Lee-CC](#)
To: [Plan Commission Comments](#)
Subject: 1609 South Park Street
Date: Monday, August 7, 2023 1:41:30 PM

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Dear Members of the Plan Commission,

I am writing you to state my opposition to a drive-thru-only restaurant on South Park Street.

First, let me acknowledge that I am wearing multiple hats in commenting on this proposal.

On April 28, writing as the owner of Cargo Coffee, located at 1309 S. Park Street, I did respond to concerns raised on the Bay Creek Neighborhood listserv that a Starbucks opening down from us would potentially hurt our business. I responded that while I appreciated the concern and support, I am quite positive that Cargo will be just fine. My main reason for believing this is that Park Street is becoming a much more prosperous place with many more people living and visiting our corridor. The proverbial pie is getting larger.

The developer of the property at 1609 South Park Street, where the proposed Starbucks would be located, noted my comments in their application. (And, as you know, the members of the Plan Commission and other land use decision makers for the City of Madison can not factor in how existing businesses might be affected by new competition when considering their applications.)

But, over the past twenty-two years, I have also worn other hats beyond just being a retail business owner on Madison's south side. These include: I served on the Urban Design Guidelines advisory group; I was a member of Park Street Partners, including serving as president; and I was a member and chaired the meetings of the Wingra BUILD Study Group.

There have been many other ways in which I have been active in helping to plan and encourage the development of a great new Park Street. I am proud that we are now well on our way and that this planning work is paying off.

A common theme of this work over the past quarter of a century is that Park Street should not be just an auto thoroughfare that turns its back on the neighborhoods that are connected by it. Instead, new development should be more dense, less exclusively auto-focused, and contribute to Park Street becoming a more dynamic, walkable urban center.

Obviously, this proposal does not help with achieving those goals. Instead, it would create a precedent for drive-thru-only restaurants on Park Street. (And, other similar streets in Madison.) This precedent would allow other existing fast-food restaurants on Park Street to transition to this car-centric business model, and for new drive-thru-only ones to be built.

Over multiple years, Park Street Partners, the Urban Design Guidelines advisory group, the Wingra BUILD study group, etc. did work to discourage such outcomes for Park Street. By allowing this drive-thru-only concept to take root you would be negating the work of many individuals who came together to envision a better Park Street.

Thank you for your service,

Lindsey Lee

Sent from my mobile phone

August 07, 2023

To: City of Madison Plan Commission

RE: Legistar # 78428, 1609 S. Park Street, Application for Conditional Use

I am writing to request that the Plan Commission withhold approval of this project as currently designed.

The project includes an area of pavement proposed to serve as part of the drive aisle leading to a drive through service window. The proposed drive aisle would run between the front of the building and South Park Street. South Park Street is the primary street for this project. The new service window would be constructed on the south side of the building. The recent revisions to **28.104 - Transit Oriented Development Overlay District** zoning prohibit drive aisles and drives between the front of a building and the primary street.

28.104 - TRANSIT ORIENTED DEVELOPMENT OVERLAY DISTRICT.

(8) Site Standards for Automobile Infrastructure

a) Applicability. The following standards are applicable to non-residential uses and buildings with over three residential units.

(b) Automobile parking, loading, **drives, drive aisles, driveways, vehicle access sales and service windows and drives**, gas pumps, gas station canopies, car wash vacuum stalls and electric vehicle charging facilities:

1. Shall not be allowed between the primary street-facing façades and the primary public or private street.

In an e-mail, dated July 20, 2023, zoning staff indicated they consider the drive aisle to be existing, so its use as a drive aisle can continue. It is true that the area of pavement in question has long existed and previously served as one of two routes for vehicles leaving Arby's drive through service window located on the north side of the building. Arby's closed this location over one and a half years ago. At the time of the recent TOD Overlay revisions, Arby's had been closed for well over twelve continuous months. Use of the pavement in question for the benefit of the building at 1609 S. Park Street ceased when Arby's closed in late 2021.

Application of the language in **Section 28.191 – Nonconforming Uses** makes it clear the existing physical pavement is not to be considered equivalent to the past, previously discontinued, use of that pavement.

For what length of time should this long unused section of pavement retain its right to be used as a now prohibited drive aisle or drive between the building and the primary street? The twelve-month standard for discontinuation of a nonconforming use, defined in **28.191**, would seem to establish a reasonable standard. If that twelve-month standard is reasonably applied to this case, the pavement in question is no longer eligible for nonconforming status as a drive aisle or drive. Proof of intent to permanently abandon the use is not required.

28.191 - NONCONFORMING USES.

(1) The lawful nonconforming use of a building, structure, or land existing on the effective date of this ordinance **may be continued although it does not conform to the provisions of this ordinance, provided that:**

(c) The building or structure does not become and remain vacant for a continuous period of twelve (12) months.

(d) The nonconforming use of the land does not cease for a continuous period of twelve (12) months.

A 1969 Wisconsin Supreme Court case regarding the abandonment of nonconforming uses, to which the city of Madison was a party, included the following citations from case law:

"... if such nonconforming use is discontinued, any future use of said premises shall be in conformity with the provisions of this ordinance."

"... it must be borne in mind that the policy of the law is the gradual elimination of nonconforming uses and, accordingly, ordinances should not be given an interpretation which would permit an indefinite continuation of the nonconforming use. ..."

"The spirit of zoning is to restrict rather than increase a nonconforming use and to eliminate such uses as speedily as possible."

The project conflicts with **33.24 (14) - Urban Design District No. 7** criteria, including the following:

d) Basis for Design Review

(1) Building Setbacks and Orientation

b. Guidelines

- i. The front yard setback should be designed to provide for amenities that will enhance the visual and pedestrian character of the street.
- iii. Walkways should be provided to connect the building entrance to the public sidewalk.

(7) Parking and Service Areas

c. Pedestrian areas ... should be separated from ... drive through areas.

Allowing the currently unused section of pavement to be used as a drive aisle for a new drive through service window would require pedestrians entering and exiting the building to twice cross through the drive aisle. That could compromise the safety of those pedestrians. The pavement in question should be converted to a use that would enhance the visual and pedestrian character of the street.

The project conflicts with **Section 28J - Supplemental Regulations** of the code which state, in part:

28.151 - APPLICABILITY.

Vehicle Access Sales and Service Windows .

(b) Points of vehicular ingress and egress shall be located at least sixty (60) feet from the intersection of two streets

The site plan presented to the UDC on July 26th shows an existing driveway on W. Wingra Drive being used for secondary access to the proposed Starbucks. That driveway is currently used for access to the parking lot for Bob's Copy Shop and is within sixty (60) feet of the intersection with S. Park Street. When zoning staff was contacted regarding that driveway, staff responded that the driveway would not be the primary driveway for Starbucks (**28.151** is silent about the prohibition applying only to primary driveways); and, since it's an existing driveway, it can continue to be used by Starbucks. Applying the rational presented above as to when a long unused previous use no longer qualifies as "existing," since use of that driveway for the benefit of 1609 S. Park Street has not existed since Arby's closed, the driveway cannot be granted nonconforming status or be used by Starbucks. It seems reasonable that **28.151(b)** was adopted for public safety purposes and its application in this case to prohibit use of the driveway on W. Wingra Drive by Starbucks is both reasonable and required.

At the July 26th UDC meeting, a commissioner recommended creation of an ingress/egress and vehicle flow plan for the entire site owned by Wingra Park LLC prior to resubmission of this proposal. That seems reasonable and preferable to piecemeal redevelopment. The surrounding community may wish to be involved in the review of such a plan.

The use of Beld Street as the main access for a high traffic volume generating use, such as a primarily drive through only Starbucks, was opposed by many in the community when this project was presented at a South Metropolitan Planning Council meeting in May. While several of the businesses located in the block surrounded by S. Park Street, W. Wingra Drive and Beld Street have driveways on both S. Park Street and Beld Street, they do not generate high traffic volumes, nor did Arby's.

The aerial photo below, from Google Earth, shows the north side of the building, Arby's former drive aisle and service window, the curb between the drive aisle and the parking lot to the north, and a triangular piece of land, circled in red, on the north side of the curb opposite the service window. It appears possible that a screening wall for the existing drive through window could be constructed on that triangular piece of land. The previously approved CSM for this site has not been recorded and could, perhaps, be revised to accommodate construction of a screening wall.



Respectfully submitted,

Dave Davis

From: [Nicholas Davies](#)
To: [Plan Commission Comments](#)
Subject: No on 78428 (Drive-thru Starbucks on Park St)
Date: Monday, August 7, 2023 1:02:46 AM

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Commission members,

I encourage you to vote against these plans for a heavily auto-oriented "cafe" on Park Street. The plans are in quite direct contradiction of TOD design rules.

The proposed plans show an automobile lane wrapping all the way around the building. This means every side of the building will be auto-oriented and only accessible to other users at the drivers' whims. This would even impact people who arrive by car but are willing to get out of their car.

The plans show a bike rack in the furthest corner of the property, outside the moat of car traffic for some reason, and it adjoins the Park Street sidewalk. There are problems with this. There's no curb cut shown, to get from street level to sidewalk level on the Park Street side. Also cyclists are more likely to approach from Beld Street, but to get to the bike racks from there, they'd have to go against the flow of car traffic.

Thank you for hearing the community's concerns on this.

Nick Davies
3717 Richard St

From: [Carrie Rothburd](#)
To: [Plan Commission Comments](#)
Subject: Plan Commission packet re Item #4, 1609 S Park
Date: Friday, August 4, 2023 10:59:25 AM
Attachments: [Rothburd and Richter UDC 072623 Item 2.docx](#)

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Please include this email in the Plan commissioner's packets for 1609 S Park (Item #4 on the August 7, 2023 agenda) along with attachments, one of which is a letter me and another South Madison resident and the other a City of Madison publication entitled, "PARK STREET CORRIDOR: MAIN STREET FOR THE SOUTHSIDE, URBAN DESIGN GUIDELINES For Private Property Improvements and Public Streetscape Design." It is the basis of and augments UDD7 guidelines and requirements. It is in alignment with the new TOD OD rezoning.

Here's the link to the guidelines online:

https://www.cityofmadison.com/dpced/planning/documents/ParkStDesignGuidelines_2004.pdf

Much of the exact language included in Municode 33.24 with respect to UDD #7 comes directly from these design guidelines. In fact, the portion of 33.24 that lays out UDD #7 cites this publication for further explanation of its intent. These guidelines and UDD#7 requirements as well as Subchapter 28.101 of the zoning code bear on evaluation of the plan submitted for 1609 S. Park, among them site access by cars and by pedestrians.

While I realize that Galway's plans for 1609 S Park have been referred by the UDC to a future meeting, I feel that it is important to include these documents in Plan Commission's packets along with Galways's design plans and the Planning staff report, which appears to overlook some of the specific content of UDD #7 and the OD zoning amendments.

Thanks,
Carrie Rothburd



To: Urban Design Commission

From: Carrie Rothburd, 830 W Lakeside St, District 13 resident; Jeffrey Richter, 2239 Cliff Court, District 14

Re: #2, 1609 S. Park Street

Date: July 26, 2023

This proposal is for a drive-through-only establishment (with walk-up window or counter) in a Transit-Oriented Development (TOD) Overlay District (OD). The purpose of recent TOD OD rezoning is to “promote transit over automobile use.” To do so, it, among other things, “implements more stringent building form and site layout regulations for auto-oriented uses...

<https://mcclibraryfunctions.azurewebsites.us/api/ordinanceDownload/50000/1196099/pdf>

To this end, Subchapter 28.101 of the Zoning Code, which deals with OD, states that the “requirements of the overlay districts shall apply to all zoning lots located in such districts” in addition to all requirements in the Madison General Ordinances that apply to the base zoning district classification of those zoning lots.” The OD thus modifies the underlying zoning regulations of the base district, and “in the event of a conflict between the provisions of any overlay district and the underlying base zoning district, the provisions of the overlay district shall apply, except where otherwise specified.”

This particular OD along South Park Street also adheres to UDD7 guidelines and requirements, which focus on aspects of walkability and activation of the streetscape at street level, as does the TOD OD. According to UDD7 requirements and guidelines, South Park Street is ... “a critical street for the vitality of adjoining neighborhoods.” The purpose of these design guidelines “is to provide clear direction for how property owners can make improvements to their properties to collectively improve the visual character and safety of Park Street. When applied, they will ensure against fragmented or incompatible development and will help prevent the negative visual and functional impacts of uncoordinated design decisions.” All development in UDD7 must also comply with the Zoning code.

The OD zoning in many ways reinforces the UDD. Both share the same intent, an activated streetscape that is not auto-centric. Of particular importance here are the ways in which the OD prohibition against placing drive aisles between the building and its primary street coincides with UDD7 admonitions to activate the streetscape and ensure walkability and safety.

| TOD OD | UDD7 |
|--|---|
| Automobile parking, loading, drives, drive aisles, driveways, vehicle access sales and service windows and drives...” shall not be allowed between the primary street-facing façades and the primary public or private street.” [Subchapter 28.104 (8) (b) 1] Site Standards for Automobile Infrastructure] | <ul style="list-style-type: none">• The front facade of the building and the primary entrance should face the primary street. If the public entrance is allowed on the side of the building, it should be positioned close to the primary street and preferably as a corner feature of the building.• Additions to existing buildings should help bring the building closer to the street and minimize any “gap” in the street wall.• The front yard setback should be designed to provide for amenities that will enhance the visual and pedestrian character of the street. |
| All non-residential use buildings must have a principal building entrance...that remains “open to the public” and must “be oriented to their primary abutting street and be located within the maximum setback. “Entrances shall be barrier-free, clearly visible and identifiable from the street, and delineated with elements such as roof overhangs, | <ul style="list-style-type: none">• Pedestrian areas ... should be separated from ... drive through areas,• Walkways should be provided to connect the building entrance to the public sidewalk.• Entrances to new buildings or additions located close to the sidewalk should include recessed entries to allow for pedestrian movement. |

| | |
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| <p>recessed entries, landscaping or similar design features."</p> <p><i>[Subchapter 28.104 (7), Site Standards for Buildings in ODs]</i></p> | <ul style="list-style-type: none"> The ground floors of commercial retail buildings shall have at least sixty (60) percent of the street wall area devoted to windows to enhance the pedestrian character of the primary street. |
| <p>Vehicle access sales and service windows shall be located under the building in which they are located, and the building shall have commercial or residential uses as allowed in the base district along the primary street frontage.</p> | <ul style="list-style-type: none"> Blank building walls with little detail or variety along primary facades shall be avoided. Improvements to [renovated] buildings shall include details at the street level to create a more comfortable pedestrian scale and character. |
| <p>Emphasis on density; minimum of two stories for new buildings.</p> | <p>Buildings shall be at least two stories in height or appear to be two stories.</p> |

The Planning staff report appears to be inconsistent in the application of TOD OD requirements and UDD7 guidelines and requirements for 1609 South Park. The report takes for granted the necessary two-story nature of the building, while ignoring the requirement that the drive aisle not be located between the primary façade and the primary street. It also ignores the Supplemental Zoning requirement that the drive-through window be under the building—as it is elsewhere in other buildings in Madison. The Heartland Credit Union building, for example, at 944 Williamson Street, was fully extended to include the drive-through aisle and window; and at 1603 Monroe Street drive-through service is located in the basement of the Associated Bank. We should expect full compliance with rules of Section 28.104 throughout Madison as well as with base zoning requirements and UDD guidelines that are not in conflict with TOD OD zoning.

Although many South Side residents, as well as the South Madison Plan, would argue that a more appropriate type of development along South Park Street would have sit-down options and contribute to community wealth building, there is nothing inherent to OD zoning that would prevent Starbucks from occupying this site. However the thrust of both the OD zoning and the UDD7 criteria are clear and this proposal should be redesigned to move its line of waiting cars off the street.

Furthermore, many residents oppose the use of residential Beld Street as the entrance and egress route for what is likely to become a highly trafficked drive-through. Beld is already a busy street that provides primary access to South Park Street for parts of Bay Creek, Bram's Addition, and Capitol View.

We sincerely hope that the UDC will oppose both the proposed vehicle queue between the building and South Park Street and the access route via Beld on the grounds that it will detract from the street-level experience of the segment of South Park Street in question, compromise the safety of pedestrians on both South Park and Beld, and contribute to unsafe traffic volume and congestion conditions on residential Beld Street.

We ask that you require the current proposal to do the extra work of ensuring that the proposed drive-through establishment fits the criteria established by a TOD OD and UDD7.

We endorse the other public comments written by South Madison resident Dave Davis and South Madison business owner Lindsay Lee.