

From: [Darin Brock](#)
To: [Plan Commission Comments](#)
Subject: Item #78428 on 8/28/2023
Date: Monday, August 28, 2023 4:06:54 PM

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Plan Commission,

I'm writing in regards to agenda item 78428 in tonight's meeting, pertaining to the approval of a conditional use permit for a Starbucks on Park.

It's deeply embarrassing that the city is even considering approval of a drive-thru anywhere in the city, let alone a drive-thru only along one of the primary transit corridors. Staff should be double embarrassed that they recommended to approve the application.

It's 2023 not 1955. There have been manifold studies showing that if you make it easy and convenient to drive everywhere (i.e. by having excessive parking, drive-thrus etc.), then everyone will drive everywhere. If the city is actually serious about its Vision Zero and Complete Green Streets plans, then any car-focused plan like this one should be off the table.

A drive-thru only coffee shop wouldn't just invite people to drive, it would require it. Additionally, the lack of walk-up service is deeply classist, not serving any of the population that can't afford the ~\$10000 a year it costs to own a car.

The commission should be considering whether this location should be allowed to build parking at all, not if it should have a drive-thru, and definitely not if it should be drive-thru only.

I urge the commission to reject the conditional use permit.

Sincerely,

Darin Brock

To: Plan Commission

From: Members of the Neighborhood Council: Kirstin Bloy, Area 2 Rep; Jenny Hayes, Area 5 Rep; Cindy McCallum, Contact; Andrew Maier, Secretary; Janelle Munns, Area 3 Rep; Manuel Raminger, Area 1 Rep; Carrie Rothburd, Transportation Chair; Judy Robinson, Treasurer; Jim Winkle, Web Chair

Re: 1609 S Park Street, Legistar 78428

Date: August 28, 2023

A small group of neighbors from Bay Creek invited Galway to attend BCNA's monthly meeting in May where Steve Doran presents plans for redevelopment of 1609 South Park as a Starbucks. At the time of the presentation, the proposed shop was to have been primarily a drive-through but one that hosted walk-up service. The on-site traffic circulation had not yet been finalized, but Beld was being considered for entrance and egress.

Only a small group of Bay Creek residents were in attendance. The majority of neighbors remains uninformed about Galway's project plans because no sign announcing Galway's intent to submit a land use application has ever appeared on site at 1609 South Park.

Galway's proposal received an open-minded, if unenthusiastic, hearing at the May BCNA meeting. Concerns expressed include the following:

- There would be no sit-down service and no food served.
- The proposed access on Beld Street could cause traffic congestion and traffic safety concerns.
- The proposal with drive aisle between the building and the street does not contribute to making S Park a visually appealing, safe, and walkable street.
- Per the South Madison Plan, development on S Park
 - should be less auto- and more pedestrian-focused
 - should promote businesses that serve the surrounding neighborhoods.

Although BCNA has not had time to form a position on the 1609 proposal, we are taking this opportunity to communicate concerns expressed by members of our neighborhood.

Plan Commission
Meeting of August 28, 2013
Agenda #18, Legistar #78428

I submitted my comment letter prior to the issuance of the staff report. I would now like to supplement my comments.

"Per the revised letter of intent dated August 23, 2023 the coffee shop would be a drive-thru only location with no walk-up service. In discussing the change with the applicant they noted that the walk-up service was removed due to potential pedestrian-vehicle conflicts." (Page 3 of the Staff report.)

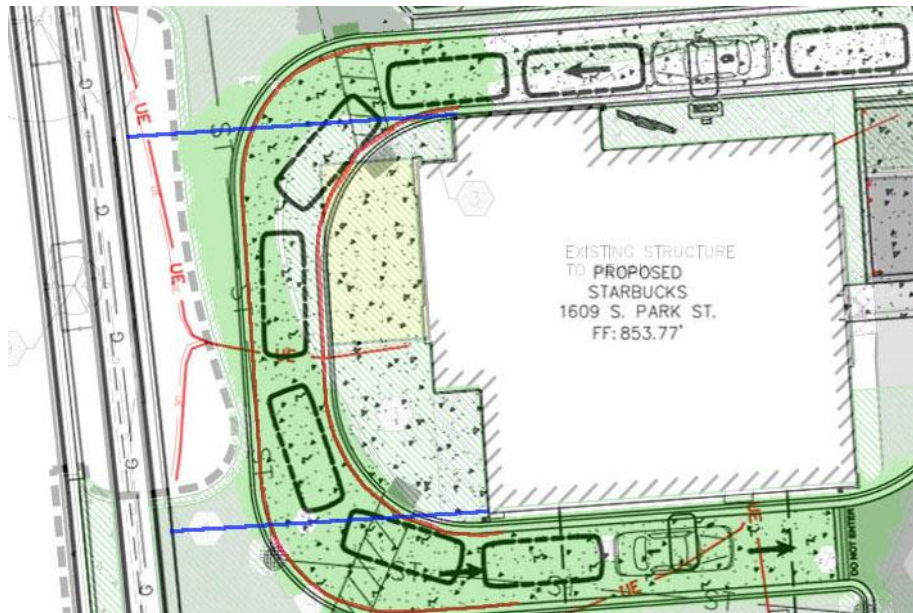
- Plan Commission is being asked to approve a drive-thru coffee shop, not a coffee shop with a drive-thru.
 - A coffee shop is a permitted use, a drive-thru is an accessory use which requires conditional use approval. An accessory use is a "use on the same lot with, and of a nature *customarily subordinate to, the principal use* or structure, and serving the occupants of the principal use or structure." MGO 28.211 (emphasis added)
 - The drive-thru will not be subordinate to the principal use. Rather, the drive-thru will be the principal, and only, use.
- Even though Starbucks will not have walk-up service, the provisions of MGO 28.151 still apply. In particular: "Site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern."
 - Unless Plan Commission restricts the use to drive-thru only, Starbucks would be free to add walkups in the future on a site where even the applicant recognizes potential conflicts. (The letter of intent addendum says: "Crosswalks, and enlarged hardscape remain in design to provide flexibility for Starbucks to potentially include walkups in the future.")
 - Starbucks could close and a new drive-thru, such as McDonalds, open. Assuming that the drive-thru use did not cease for more than a year, Plan Commission would have no say in the drive-thru use, including whether pedestrians had safe access.

"The existing drive-thru window is located on the north facade. The drive-thru lane continues along the west side and wraps around the building. " (Page 3 of the Staff report.) The UDC memo referred to this as an "access drive."

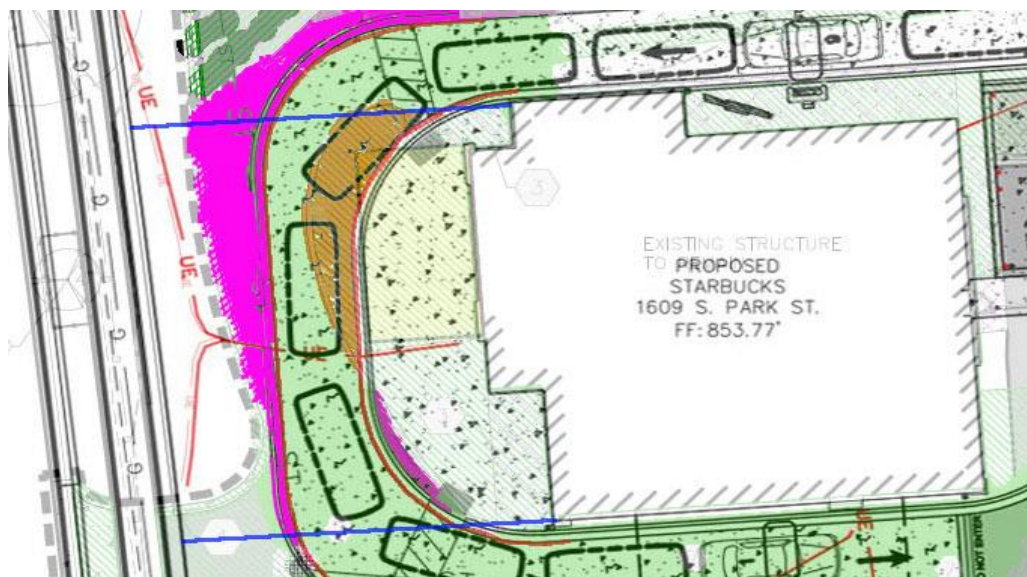
- What is a drive-thru lane? The ordinance distinguishes, and prohibits, drive, drive aisles driveways, and vehicle access and sales service drives between the building and the street. Each of these needs to have a separate meaning, otherwise there would not be a need to list them separately.
 - I would say that a drive-thru lane begins at the point where the vehicle is trapped into driving past the service window(s) and ends when the vehicle is no longer trapped in a lane designed, and used, solely for drive-thru service.
 - The area between the building and the street will become a stacking area, it will no longer be used for moving traffic.
- The existence of a drive, or drive-thru lane, between the building and the street became a nonconforming use upon adoption of the TOD. MGO 28.191 provides that a nonconforming use cannot be extended or expanded. It also provides that the nonconforming use expires if the building becomes and remains vacant for a continuous

period of twelve (12) months. The former Arby's has been vacant for more than 12 months.

- The area between the building and the street is being substantially altered. Below are images of Sheet C201 (site plan) overlaid on Sheet C101 (demolition plan). With this amount of change, it is hard to argue that the nonconforming use is being continued.



The light green background is the current drive.
The red lines are the new vehicle access sales and service drive



Fuchsia is the portion of the current drive that will not become part of the new vehicle access sales and service drive.
Rust is the area which is not part of the existing drive but which will become part of the new vehicle access sales and service drive.

"The drive-thru window would be relocated from the north elevation to the south elevation."
(Page 3 of the Staff report.)

- There is a drive-thru facility on the north side of the building in addition to the south side window.

"An addition would be built along the south elevation to enclose the drive-thru window." (Page 3 of the Staff report)

- This structure is an addition under MGO 28.211 ("any walled and/or roofed expansion to the perimeter and/or height of a building in which the addition is connected by a common load-bearing wall or foundation").
 - An addition is not necessarily part of the building (e.g., porches, as discussed in my original comment letter).
- The drive-thru window is not enclosed. A completely enclosed building is one that is "separated on all sides from the adjacent open space, or from other buildings or structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors." MGO 28.211. Two sides of this structure have no windows or doors, rather they have somewhat over 17' wide openings. The third side, the end of the canopy, may or may not be open. If columns are used to support the canopy, as shown in the plans, that side will be an opening of somewhat over 32' in width.

"Regarding the proposed use, although the Comprehensive Plan encourages TOD development in CMU areas, there is not a recommendation specifically against drive-thru facilities in mixed-use areas. ... The applicant proposes to establish a vehicle access sales and service window in a building with existing drive-thru facilities. Given due consideration of adopted plans, staff notes that the Comprehensive Plan does state that development should be transit oriented. Staff acknowledges that the applicant is proposing to re-use an existing one-story structure, and therefore the development is subject to different standards." (Page 6 of the Staff report.)

- The Comprehensive Plan (page 36) says "it will be important to not only provide enhanced transit options ..., but also ensure that development is constructed to support transit through its design and intensity."
 - A purely drive-thru establishment is probably the least transit-oriented use that could be proposed.
- It is not surprising that the Comprehensive Plan does not specifically speak against drive-thrus in the TOD. As the staff report says: "Importantly, while these broad principles were established as part of a plan, a specific TOD ordinance has been adopted to implement the plan's TOD recommendations." (page 4)
- The development is *not* subject to different standards in terms of use.
 - A reused building means that the building is not subject to the provisions of MGO 28.104(7) (building setback, entrance orientation, and minimum number of stories).
 - Whether a building is reused or new, the use of the building is subject to the same standards (with limited exceptions, such as continuation of a non-expired nonconforming use).
- The building does *not* have "existing drive-thru facilities."
 - As noted earlier in the staff report, conditional use approval of the drive-thru has expired. Thus, there are no existing drive-thru facilities.

- The former drive-thru window is not being used under the proposal. The former drive-thru window will be filled in with a brick wall and a new drive-thru facility will be created. The box in the image below is the location of the Arby's drive-thru window, the "X" is where the new drive-thru menu board, kiosk and awning will be located.



Proposed condition #8 states: "Provide elevations with glass detail consistent with Sec. 28.129 Bird-Safe Glass Requirements. Sec. 28.129 applies only to the added windows." The second sentence is a bit perplexing because all of the windows are new window openings. The Zoning Administrator said, in 2020: "...new window openings in existing buildings ... will require bird-safe glass, when applicable."

Respectfully Submitted,
Linda Lehnertz

From: [Gillian, Barb](#)
To: [Plan Commission Comments](#)
Subject: Starbucks at 1609 Park St.
Date: Monday, August 28, 2023 10:56:50 AM

To Plan Commission,

I am writing in opposition to the proposed Starbucks at 1609 S Park St. The use of Beld St for a Park St business is unacceptable. The UDC violated their own standards in passing this. A drive-thru only business is only a negative for the south side and in no way adheres to the South Madison Plan.

Beld St is one of only 2 ways into and out of Capitol View Heights neighborhood where I live. Beld St would not even be an option if traffic engineering had their way and dead ended Beld at Cedar. The neighborhoods fought to keep it open for ourselves - not as a high traffic corridor for businesses on Park St. Now Traffic wants to avoid having entry/exit on Park St for no good reason. Surely the 25 mph, 4 lane divided hwy can handle this right turn traffic better than a 2-lane residential left-turn street! If this gets approved it WILL cause high volume speeding traffic the entire length of Beld while making Beld hard to turn onto from Bram St for residents of Brams and Capitol View neighborhoods.

I fully support the opinions expressed in the SMPC letter.

Barbara Gilligan
2009 Sundstrom St.
Madison WI 53713

From: [Gregg Williard](#)
To: [Plan Commission Comments](#)
Subject: south park starbucks proposal
Date: Monday, August 28, 2023 10:57:00 AM

I am a long-term South Madison homeowner and oppose the building of a drive thru Starbucks on South Park St. We do not need or want a corporate chain coffee shop in our neighborhood.

Gregg Williard
2049 Sundstrom St.
Madison, WI 53713
g_williard@yahoo.com

In view of recent revisions to this proposed project, this letter is intended to supplement the letter I previously submitted.

1) MGO 28.061 - MIXED-USE AND COMMERCIAL DISTRICTS USES. The table for Mixed-Use and Commercial Districts shows that in CC-T districts "vehicle access sales and service windows" are an accessory use requiring a conditional use permit. Since this project is now proposed to be a drive through only coffee shop, there is no longer any primary use proposed for this site. Based on the zoning code, this site cannot be used exclusively for a drive through only coffee shop.

2) MGO 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 facades and the primary public or private street. ...

When asked why the drive aisle, or drive-thru lane, was being administratively approved, zoning staff consistently responded that: "the drive aisle accessing it is existing and so it can remain.". By the time the city adopted the TOD OD revisions in January of this year, Arby's had been closed for well over twelve months and the conditional use permit issued in 1984 for its drive through window and drive aisle had expired. There was no permitted, conditional, or nonconforming use being made of the drive aisle at the time either the TOD OD zoning was revised, or this land use application was filed. The former drive aisle continues to exist, although there is still no use of that drive aisle for the benefit of the vacant former Arby's building.

By ordinance, both conditional uses and nonconforming uses expire after twelve consecutive months of non-use even though the land, or building, where the conditional or nonconforming use occurred may continue to exist. The ordinances for conditional uses and nonconforming uses clearly distinguish between a physical "thing" and the use that is made of that "thing."

3) City staff have implied, in various correspondence, that the requested conditional use permit is appropriate since Starbucks' use of this site would be much like Arby's prior use of the site. The prior use by Arby's was for a sit-down restaurant having a drive through window. That earlier use ended almost two years ago. The proposal you are considering is nothing more than a glorified kiosk that will only be accessible to drivers, since it will provide service exclusively at a drive through window. This is not the community, pedestrian, or transit friendly type of use envisioned for, or by, TOD Overlay Districts, the South Madison Plan, or UDD 7.

4) In the conditional use standards section of the staff report for this project, there is a reference to a 2017 change in state law regarding conditional uses, specifically as they relate to "substantial evidence." After reviewing the statutory standard, *62.23(7)(de) Conditional use permits*, I find nothing that would act to invalidate the fact-based comments and opposition to this project expressed here tonight or in the written public comments submitted for this item.

5) Before you begin your deliberations and vote, I ask you to consider whether, or not, the city is committed to implementing the recently adopted revisions to the TOD OD zoning. While the project before you may be viewed by some as trivial, whatever you decide tonight will set one, or more, precedents for development in all the city's TOD Overlay Districts.

Respectfully submitted,
Dave Davis

From: [Jonathan Mertzig](#)
To: [Plan Commission Comments](#)
Subject: Comments re: Aug 28 agenda item - 1609 S. Park Street
Date: Sunday, August 27, 2023 10:24:04 PM

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Dear Members of the Plan Commission,

I am writing in regards to the proposal for 1609 S. Park Street, which is slated for the August 28th agenda (item 18, Legistar file 78428).

I have a number of concerns with this proposal, both general and site-specific. First, I do not like the precedent of approving new drive-through only businesses along our up-zoned BRT corridors. This seems to be directly in contradiction with goals of increasing density and mass transit utilization along these streets and instead encourages auto-dependent businesses in these areas. Unfortunately, I don't think we have anything (yet) in our current zoning regulations to stop this, but I hope the Plan Commission would hold such proposals to the highest degree of scrutiny as such land uses are contrary to many of the goals we are aiming for with investments such as Bus Rapid Transit.

A drive-through centered proposal at this location is concerning for a number of reasons as it is adjacent to both a bus stop and near a crossing of a bike trail, and given the considerable traffic a Starbucks can generate at peak commute hours, the traffic turning into this location could cause disruption to both the nearby bus stop and bike commuters attempting to cross nearby. If anything we should be discouraging further car-centric re-use of this parcel to avoid disrupting these other nearby modes of transit.

I find it particularly alarming that the developers chose to eliminate any sort of walk-up service because of safety concerns over conflict with cars... that in itself should ring alarm bells about this proposal's over-emphasis on cars over all other modes.

The failure to provide walk-up service also shows that this proposal fails to adequately engage the context of a neighborhood that is increasingly dense, with a nearby bike path, and that will soon have BRT access and increased pedestrian traffic. This design treats people out on a walk, transit users, and folks passing through on bikes as second-class citizens... or really doesn't treat them as customers at all. While Madison requires serving people on bikes in a drive through, it's still not as welcoming (or safe) as a walk-up window. Basically, this design is all for suburban commuters using Park Street as a highway, just passing through, and snubs anyone living nearby or enjoying the neighborhood at pedestrian or cyclist scale.

To put it bluntly, this design is a complete insult to Madison's development goals and a hazard to pedestrians, cyclists, and transit users. And while it's not my neighborhood, if I lived nearby, I sure as

heck would see this as something purely tailored for people driving through (a very literal "drive through!"), not for the benefit of the folks in South Madison.

I would encourage the Plan Commission to send this proposal back for some serious reconsideration. This should not be considered an acceptable land use in our city.

Sincerely,
Jonathan Mertzig

jmmertzig@uwalumni.com

District 11 resident

From: [Timothy Bauer](#)
To: [Plan Commission Comments](#)
Subject: Official opposition to the plan for a Starbucks at 1609 S Park
Date: Saturday, August 26, 2023 10:54:46 AM

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To Whom It May Concern,

I would like to voice my opinion in official opposition to the plan for a Starbucks at 1609 S Park in the Bay Creek neighborhood of Madison, where I am a resident.

None of my neighbors support this plan, period. To begin with, Cargo Coffee is three blocks north of the proposed site for Starbucks. Cargo Coffee reflects the values of our neighborhood: it's local, family-owned, and community-driven. Only a few blocks down from there is the hub and hive of the neighborhood, Lakeside Coffee. People converge, converse, listen to live music, sit down and slow down. A drive-thru only corporate chain coffee purveyor is totally antagonistic to this ethos. Moreover, Dunkin' Donuts is already down the road on Park St, closer to campus. We lost local Barriques due to the pandemic a couple years ago; we cannot afford to lose another staple of our local economy, which is what will happen if there is unnecessary competition between a corporate chain and two family-run local businesses. The Greenbush and Bay Creek neighborhoods on Madison's southside are some of the most diverse and vibrant parts of the city. There is no need or place for a faceless corporation here.

Secondly, a drive-thru Starbucks runs contrary to the City's goal of promoting Transit-Oriented Development districts by catering to private car culture and making public spaces less safe for pedestrians. This would be a self-inflicted wound, a step backwards, a contradiction. We must do better than this.

Thank you for your time and attention.

Sincerely,

Timothy Bauer
924 Clarence Ct
Madison, WI
53715

From: [Paula Proctor](#)
To: [Plan Commission Comments](#)
Subject: Park Street Starbucks
Date: Saturday, August 26, 2023 10:30:13 AM

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Hello:

I have been a neighborhood resident for 25 years and I do not support a drive thru Starbuck's in the previous Arby's location. The area does not need another coffee business especially a drive thru in a location that would be difficult to access by car only.

As a side note and I know it does not matter but anyway to let you know I would never frequent a Starbucks especially a drive thru Starbucks that supports poor air quality by encouraging a line of idling cars.

Thanks,
Paula Proctor

From: [Nicholas Davies](#)
To: [Plan Commission Comments](#)
Subject: Re: No on 78428 (Drive-thru Starbucks on Park St)
Date: Sunday, August 27, 2023 9:20:45 PM

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When I wrote to you before, I thought the plans included a public service area inside, but since then I've become aware that this is proposed to be a drive-thru *only*. And sure, Madison ordinance requires drive-thrus to provide service to pedestrians and cyclists who approach them, but in inhospitable weather, it's very much not the same. I would like to add this to the list of problems I have with this proposal.

On Mon, Aug 7, 2023 at 1:02 AM Nicholas Davies <nbdavies@gmail.com> wrote:

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: [Rebecca Eberhardt](#)
To: [Plan Commission Comments](#)
Subject: Starbucks
Date: Friday, August 25, 2023 4:01:34 PM

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I live in Bay Creek and I'm against the Starbucks going into the old Arby's on Park St. Having a drive-thru only store will create more traffic on Beld St. and Park St. There is already a Cargo close by. I vote no to Starbucks on Park St.

Becky
959 Clarence Ct.

Sent from my iPhone

From: tami@bohobauble.com
To: [Plan Commission Comments](#)
Subject: Starbucks at 1609 S Park St
Date: Saturday, August 26, 2023 6:08:33 AM

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Hi,

I'm a Bay Creek resident and I'm sending this email to oppose the planned Starbucks drive thru only at 1609 S Park St. I share the viewpoints of the SMPC memo.

Thank you.

From: [Chris Wagner](#)
To: [Plan Commission Comments](#)
Subject: Starbucks plan at 1609 Park St.
Date: Friday, August 25, 2023 6:16:20 PM

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

I am a current resident of Bay Creek and worked most of my adult life on Madison's south side. I am writing to express my opposition to the approval for a drive-thru Starbucks at 1609 S. Park St.

I participated in a zoom session with the owner of the parcel that the South Metropolitan Planning Council held earlier this summer. Based on what I learned there, what I know about the already agreed upon plans for development in South Madison and what healthy development looks like in a diverse urban community, I oppose this use for this land because of the reasons which others have stated, including alders Evers, Knox and Rummel:

- The proposed access on Beld Street negatively impacts 14th district neighborhood residents...[and]...could cause traffic congestion and traffic safety concerns at a major throughway out of the neighborhood.
- South Park Street is too critically important, too important to allow a flawed site plan to prevail for a controversial use, i.e., a drive-thru only business.
- The proposal does not meet the design guidelines of urbanism on Park Street, which include making S Park a visually appealing, safe, and walkable street. The drive aisle in front of the building on the street is a no go.

There are many things that site could be used for that would be great for our neighborhood. A little restaurant/bistro, an ice cream shop, a non-profit organization, a small local business, a unionized business, a retail store and more. A drive-thru, megacorporate, union-unfriendly coffee shop on a street that already has two perfectly fine coffee shops within a few blocks is not one of those things.

Sincerely,

Christina Wagner
1009 High St.
Madison, WI

cwagnerz@yahoo.com
Chris Wagner
Madison, WI

From: [Christine Schwartz](#)
To: [Plan Commission Comments](#)
Subject: Starbucks South Park
Date: Saturday, August 26, 2023 7:49:52 AM

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Hello,

I am writing to let you know that, as a Bay Creek resident, I oppose the drive-through only Starbucks proposed on South Park Street. I would, however, be in favor of it if it had a pleasant walk-up option as well. I don't care if there's no interior service. My opposition to drive-through only is that I think that we should be encouraging neighborhood-friendly and walkable development on Park Street.

All the best,
Christine Schwartz

117 Van Deusen St.
Madison, WI 53715