

March 7, 2017

Alders, Madison Common Council  
210 Martin Luther King Jr. Blvd.  
Madison, Wis. 53703

Re: Item 44842 New License BKM Group LLC • dba Biergarten at Olbrich Park  
Re: Item 45968 Authorizing the City to execute an agreement with BKM Group, LLC to conduct food and beverage concession sales (alcoholic and non-alcoholic) and selling supporting merchandise at Olbrich Park

Dear Alders:

Thank you for considering us to be a vendor of placemaking services at Olbrich Park. We appreciate that the Board of Park Commissioners and Board of Estimates have passed the vendor agreement, and that the Alcohol License Review Committee (ALRC) has passed our application for liquor license.

We are proud of our idea to establish a German-style biergarten in Olbrich Park. A beer garden in Madison would be a continuation of a long placemaking tradition. In fact, Madison's sister city, Freiburg, Germany, has a beer garden in a public park. The park sits on a lake, and the beer garden shares its space with a boat launch. Closer to home, Milwaukee County has had great success with several biergartens in parks. Those biergartens have brought underutilized public assets back to life, generated a significant amount of revenue for the County, and have reduced negative activity from a significant level down to next to nothing. This successful model is ripe for replication in Madison.

This proposal has gotten overwhelmingly positive feedback via emails, calls, social media, and the letters you have received. One of the adjacent neighborhood associations has no position on the proposal and the other two endorse it. The support is multi-generational and from all over the City. At last count, 75% of contacts to the City were supportive.

We have done a staggering amount of public outreach and engagement, far above and beyond the requirements usually placed on any liquor license applicant. We have offered neighbors and other members of the community numerous opportunities to ask questions and provide feedback. We have thoroughly answered questions via email, telephone, and at fourteen public meetings (the proposal was discussed at two other neighborhood association meetings that we were not invited to). Appendix A lists those public engagement activities.

In response to what we have heard at many of those public meetings, we have made meaningful adjustments to our proposal in response to concerns. More information on those adjustments is available in Appendices B and C. These include changing our doing business as name, operating capacity and hours, and moving up the "last call" time.

Everyone will be welcome at the Biergarten. We've planned for the space to be open to all park users when we are not operating. Even then, one wouldn't need to make a purchase to sit there. Patrons can bring their own food or have it delivered.

The use agreement has been thoroughly vetted and reviewed by multiple attorneys on both sides. Parks Superintendent Eric Knepp called this "The most thoroughly vetted agreement ever to go through Parks."

## ***The BKM Group***

We will make this a safe and responsible operation. The Board of Park Commissioners passed our use agreement with the attached Responsible Alcohol Consumption Action Plan. The Alcohol License Review Committee recommended that the Council approve our license with a list of fourteen conditions. One of those conditions is that we submit a security plan with input from the Madison Police Department (MPD) to you before your meeting on March 7. See our security plan, which was drafted with input from the MPD, in Appendix D. These plans will ensure our operation is safe, secure, and responsible.

Please vote yes on the use agreement and our application for a Class B beer license.

Sincerely,



Michael Bare  
Co-Owner, BKM Group, LLC, d/b/a Biergarten at Olbrich Park  
(608) 620-3001  
[mike.bare83@gmail.com](mailto:mike.bare83@gmail.com)  
<http://www.olbrichbiergarten.com>

Enclosures:

Appendix A: List of public engagement activities

Appendix B: Adjustments made to the proposal

Appendix C: Responses to seven specific concerns shared by a group of individuals who are opposed to this proposal

Appendix D: Security plan

Appendix E: Slides about our proposal

**Appendix A – List of public engagement activities:**

We have attended 14 public meetings (two others occurred that we were not invited to, for a total of 16 public meetings) and answered questions at each. The following is a list of public engagement activities related to the Biergarten at Olbrich Park:

- May 25, 2016: City of Madison issued a request for proposals (RFP) for placemaking services at the Olbrich Park Beach House.
- September 19: After following its standard process, the City of Madison notified us we were co-winners of the RFP, and the City publicly released the announcement.
- September 19: We informed Alder Ahrens of the announcement.
- September 22: We met with Alder Ahrens to discuss neighborhood outreach.
- September 26: Alder Ahrens notified the leaders of Eastmorland and Lake Edge Neighborhood Associations of our proposal.
- September 27: We responded the next day to both leaders.
- October 11: We presented our proposal to the Eastmorland Community Association at their monthly meeting.
- October 12: We presented our proposal to the Lake Edge Neighborhood Association at their monthly meeting.
- October 13: We presented our proposal to the SASY Neighborhood Association. They passed a motion to endorse our proposal and later submitted a letter to City leaders.
- October 14: We notified the leadership of the Eastmorland, Lake Edge and SASY neighborhood associations of our October 27 required information session.
- October 14: We provided blurbs for the neighborhood association newsletters and listservs that included a description of our proposal, the date of our information session, and our contact information.
- October 27: We held a required information session at the Olbrich Park Beach House to discuss our proposal and liquor license application.
- November 8: The Eastmorland Community Association discussed our proposal at its monthly meeting, but we were not invited to participate.
- November 9: The Lake Edge Neighborhood Association passed a motion to endorse our proposal and later submitted a letter to City leaders.
- November 16: ALRC held a public hearing on our proposal and application for a liquor license.
- November 22: We notified neighborhood associations and individuals who had been in touch with us previously about our December 8 public information session.
- November 22 to December 8: Alder Ahrens, neighborhood associations, BKM Group, and City staff informed neighbors of our December 8 information session.
- November 28: The City Clerk's office notified about 200 nearby residents of our December 8<sup>th</sup> information session via postcard.
- December 6: We responded in writing to 46 questions sent the previous day by Ms. Jennifer Laack, representing neighbors.
- December 8: We held an additional public information session.
- December 14: We met privately with the leaders of the Eastmorland Community Association.
- December 14: The Parks Commission held a public hearing on the draft vendor agreement.
- December 20: We briefed the Friends of Starkweather Creek.
- December 20: We briefed the Board of Directors of Olbrich Botanical Gardens at its public meeting.
- December 21: ALRC held a public hearing on our proposal and application for a liquor license.
- January 2, 2017: We met with the leaders of an "ad-hoc group of individuals" opposed to the proposal to hear their seven requests for improving the proposal.

## ***The BKM Group***

- January 10: We answered questions at a meeting of the Eastmorland Community Association.
- February 8: The Parks Commission approved our use agreement after a public hearing.
- February 13: The Board of Estimates approved our use agreement after a public hearing.
- February 15: ALRC approved our application for a liquor license after a public hearing.
- March 7: The Common Council will consider our liquor license application and use agreement.

**Appendix B – Adjustments made to the proposal**

The attached use agreement has been changed to respond to eleven identified specific concerns made by members of the public, the City Attorney’s office, members of ALRC, members of the Board of Park Commissioners, and alders:

1. Changing our name to “The Biergarten at Olbrich Park,” which has been agreed to by the Executive Committee of the Olbrich Botanical Society;
2. Adding an exclusive use provision that puts liability for the premises on us;
3. Reducing the number of operational hours per week from 55 down to 51 (a 7% reduction) to match our proposed hours;
4. Setting “last call” at 9:00pm with alcohol sales prohibited after 9:30pm, along with a provision to move the end of service to 9:00pm if necessary;
5. Limiting amplified music to only a PA1 between the hours of 4:00pm and 8:00pm on Friday and Saturday only;
6. Adding a requirement for daily litter collection;
7. Removing the bathrooms from the alcohol premises so that they may be accessed by 1) park users of any age who do not possess alcohol when unlocked and 2) our patrons who do not possess alcohol during our operating hours;
8. Ensuring the premises will be open to park users of any age for legal uses during our non-operating hours;
9. Adding a precise map of the alcohol premises that was created by a Parks Division surveyor.
10. Allowing for a “permeable demarcation” of the premises, including benches, planters, signs, landscaping, etc.;
11. Reducing our maximum capacity by 20% from 300 people down to 240 people. This will both reduce any potential noise and reduce the burden on the Park’s parking lots. Both the Fire Department and Building Inspector approved this number.
12. Adding a 20 foot buffer between the shoreline riprap so that park users of any age may access the shore without entering the alcohol premises;
13. Requiring BKM Group to present to the neighborhood associations (if requested) and to the Board of Park Commissioners by February 15 of each year on the operation during past year, plans for the upcoming year, concerns from neighbors, and to answer questions;
14. Conforming the seasonal opening and closing of the Biergarten to the Parks Division’s winterization schedule; and
15. Removing the four special events allowance that had included an increase in capacity.

**Appendix C – Responses to seven specific concerns shared a group of individuals who are opposed to this proposal:**

Below are concerns shared with us from a self-described “ad-hoc group of individuals” who are opposed to this proposal. The concerns are followed by how we have made meaningful attempts to address those concerns in the proposal.

1. “Seating Capacity at 150;”
  - a. We are proposing a capacity of 240 (20% reduction from the originally proposed 300) that has been approved by the Building Inspector and Fire Department. Any further reduction would not be viable for this business plan.
2. “Close 2 days per week;”
  - a. Our operation is a weather dependent operation. The Madison airport experiences measurable precipitation on 120 days of the year on average since the 1940s. That’s one out of every three days. Closing on additional scheduled days simply would not be viable for this business plan. We have agreed to only have amplified music on Friday and Saturday between 4pm and 8pm.
3. “Last call at 9pm;”
  - a. We agree to do “last call” at 9pm and end service at 9:30pm. The attached use agreement includes a provision that would move the end of service to 9pm if necessary.
4. “Manager approved by ALRC;”
  - a. We were open to this condition being placed on our liquor license. It’s also a requirement of the attached use agreement that we have an operations manager and notify the Parks Division. We do already plan to change our registered agent to our operations manager, which will have to be approved by the City.
5. “Keep and produce a log and present to ALRC monthly;”
  - a. We will keep a log of incidents. The attached use agreement requires us to hold a public session with the neighborhood associations and to appear before the Board of Park Commissioners annually to report on the operation and plans for the coming year. We agree to ALRC having our application for renewal in 2017 and 2018 separated for discussion by ALRC at its annual renewal meeting.
6. “Do not increase the footprint during the agreement;” and
  - a. We agree and this is not allowed by the attached use agreement and any change to the premises would require ALRC approval.
7. “Set dates for seasonal open and close.”
  - a. The attached agreement indicates our seasonal dates will follow the Parks Division’s winterization schedule. Set dates would have actually have been a longer potential season than the winterization schedule. Reality is that we can’t operate without the water on, so that dictates the season.

## **Appendix D – Security plan**

This Security Plan is submitted to the Madison Common Council on March 7, 2017, as required by the Alcohol License Review Committee. It has been drafted with input from the Madison Police Department, as required.

### **Security Plan**

The Biergarten at Olbrich Park

#### **Goals**

- To create a safe and secure environment on and immediately surrounding the Biergarten premises for all patrons, employees, and park visitors.
- To mitigate any inappropriate conduct or noise by patrons.
- To diffuse any situations as they occur and establish preventive measures to minimize potential incidents.
- To maintain trained staff responsible and accountable for looking after the security and safety of our patrons.

#### **Personnel**

- We will ask all job candidates for references and job history, and will evaluate candidate backgrounds, which will include calling references and conducting a reasonable background check.
- All employees will have a written job description to ensure they understand the expectations of their role, including security of the premises.
- We will contract with a sufficient number of licensed security guards should they be necessary.
- Management will hold regular staff meetings to discuss policies and procedures, any recent incidents, and best practices to prevent those situations from occurring again.
- Management will spot check staff compliance with policies and procedures and provide staff with regular performance feedback.
- All employees will receive training on monitoring the premises for safety, and training will include the Biergarten's Responsible Alcohol Consumption Action Plan (as laid out in the use agreement between the City of Madison and BKM Group, LLC), Biergarten Rules (as laid out in the use agreement between the City of Madison and BKM Group, LLC), and Security Plan. These documents will be readily available to all employees.
- Staff will maintain a close, cooperative working relationship with the Madison Police Department, including meetings as requested and necessary.
- Use or possession of illegal drugs on the way to work, on the job, or on the premises is not permitted and will result in disciplinary action up to and including termination.

#### **Checking Identification**

- All patrons appearing to be age 35 or younger will be required to show ID to purchase alcohol.
- We will have a state ID book and ID scanner with computer hard drive on hand to enable staff to scan-check IDs and store scans.
- All identification cards used to prove age must be valid (i.e., may not be expired), and must be government-issued. If the identification card is expired or appears at all questionable to the employee, the employee may request a second form of identification. The employee shall make sure that the individual purchasing the liquor resembles the identification card. All employees are encouraged to ask patrons questions relating to their identification in order to verify their identity. If the employee has a strong suspicion that an ID is false, altered, or belongs to someone other than the person presenting the ID, he/she shall confiscate the ID and turn it over to management, to be presented to the police. Employees will receive a stipend for finding false IDs.
- We will contract with an outside vendor to conduct at least two unannounced alcohol age compliance checks each year.

#### **Monitoring the Premises**

- The on-site manager will maintain an adequate ratio of staff to customers. All employees are trained to escalate to the manager when they believe more staff is needed to monitor customers. If additional staff is not available, staff will be positioned at the entrance to prevent additional patrons from entering.
- Maximum capacity will be posted and displayed prominently.

## ***The BKM Group***

- During busy periods, to ensure capacity limits are met, staff will monitor the number of people entering and leaving the premises with a counter system and do periodic patron counts.
- Security cameras with views covering the entire premises will be used to monitor the premises in compliance with Madison Ordinance 38.05(13). Records will be kept for thirty days and provided to law enforcement upon request, and records of any material incidences will be kept permanently to facilitate response training.
- Staff will be trained to monitor the premises and conduct periodic checks of areas immediately surrounding the premises for suspicious activity or safety concerns. A radio communication system will be available for use by staff to facilitate easy communication.
- Staff will ensure signs indicating the Biergarten rules and premises boundary are clearly posted.
- Staff and posted signs will encourage patrons to exit Olbrich Park and its parking lot by the Park closing time at 10:00pm.
- The premises will be well lit during dark operating hours by overhead and ground lighting as necessary to ensure safety.

### ***Handling Incidents***

#### ***Service Procedures***

- We will maintain a log of all incidents and disturbances and provide copies to law enforcement upon request. The log will minimally include: date, time, summary of incident, the names, dates of birth and address of those involved, and whether police were notified and by whom.
- Staff will be instructed to notify dispatch ("911") and request police response when any disturbances occur on or around the licensed premises. The police will be called, in a timely manner, anytime management or staff has information to believe a crime has been or is about to be committed or whenever they believe a threat of or act of violence occurs on the premises or on immediately surrounding areas in view or earshot of the premises.
- Staff will not serve alcohol to anyone they determine has had too much to drink or anyone who is visibly intoxicated. When a customer has been "cut off", the server will notify the other employees. Management will support the server's decision to terminate service to any customer. If a customer is too impaired to drive safely, staff will try to persuade the customer not to drive, and arrange a safe ride. If the customer refuses, management will notify the Police Department and provide officers with a description of the person and the license plate number of the vehicle, if possible.

#### ***Weather Procedures***

- In the event of a Tornado warning or of other weather emergency that threatens safety (e.g. lightening), staff will discontinue service and direct patrons to seek shelter.
- Following a storm or other incident, staff will check the area for any hazardous conditions (e.g. downed electrical wires) and work with Parks staff and emergency personnel to mitigate these hazards before resuming operations in that area of the premises.

#### ***Fire Procedures***

If the fire is small and easy to control, staff are instructed to:

1. Call for help.
2. Use one or more available fire extinguishers. Do not use water on any fire if it is near electricity or chemicals of any kind.
3. Remove any chemicals, aerosols, etc. from the area.
4. Clean the area of debris and water when it is safe to do so.
5. Notify a supervisor and complete an incident report.

If the fire is not easy to control, staff are instructed to:

1. Call for help.
2. Direct patrons and staff to evacuate the premises.
3. Call 911 from a safe location and follow instructions of emergency personnel.

#### ***Additional Policies and Procedures***

- Staff will abide by the Responsible Alcohol Consumption Action Plan as laid out in the use agreement between the City of Madison and BKM Group, LLC, which includes additional actions and policies that support security.



## ***The BKM Group***

- Staff will enforce the Biergarten Rules as laid out in the use agreement between the City of Madison and BKM Group, LLC. Management is authorized to remove any individuals in violation of these rules or any applicable law, and to contact law enforcement.
- Staff are instructed to follow instructions provided by the Madison Fire Department, Madison Police Department, Madison Park Rangers, or other law enforcement.
- Staff will coordinate with the Madison Police Department and the Parks Division to ensure our operational capacity is maximized and premises are secure during special events that draw large crowds to the Park, including “Shake the Lake” and others.

**Appendix E – Slides about our proposal**

Please visit <https://www.olbrichbiergarten.com> to view detailed slides about our hours, staffing, menu, a map of the premises, and examples of other biergartens.