

## PLANNING DIVISION STAFF REPORT

July 7, 2014



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 3801 Kipp Street (also addressed as 3757 Marsh Road)  
**Application Type:** Conditional Use  
**Legistar File ID #** [34334](#)  
**Prepared By:** Timothy M. Parks, Planning Division  
Report includes comments from other City agencies, as noted.

### Summary

**Applicant & Property Owner:** John Brigham, Fallen Oak, LLC and MMI, LLC; 5301 Voges Road; Madison.

**Requested Action:** Approval of a conditional use to allow construction of a brewery with a tasting room and outdoor eating area at 3801 Kipp Street (which is also addressed in City records as 3757 Marsh Road).

**Proposal Summary:** The applicant proposes to construct an approximately 20,000 square-foot brewery consisting of 7,000 square feet of production space, 9,450 square feet of warehousing, a 1,800 tasting room, and 1,750 square feet of office. An outdoor eating area is proposed at the southwestern corner of the building adjacent to the tasting room. The site plans submitted show the potential for an approximately 11,000 square-foot addition to be constructed along the north wall of the proposed brewery. The applicant wishes to commence construction of the brewery as soon as all regulatory approvals have been granted, with completion anticipated in early 2015.

**Applicable Regulations & Standards:** Table 28-F1 in Section 28.082(1) identifies breweries as a conditional use and outdoor eating areas associated with food and beverage establishments as an accessory conditional use in the IL (Industrial-Limited District). Section 28.183 of the Zoning Code provides the process and standards for the approval of conditional use permits.

**Review Required By:** Plan Commission

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find the standards met and **approve** a conditional use to allow construction of a brewery with accessory tasting room and outdoor eating area at 3801 Kipp Street subject to input at the public hearing and the conditions from reviewing agencies beginning on page 4 of this report.

### Background Information

**Parcel Location:** The subject site is a 2.25-acre parcel located at the northeastern corner of Marsh Road and Kipp Street; Aldermanic District 16 (DeMarb); Madison Metropolitan School District.

**Existing Conditions and Land Use:** The subject site is undeveloped, zoned IL (Industrial-Limited District).

#### Surrounding Land Use and Zoning:

**North:** Single-family residences located on the east side of Marsh Road, zoned IL (Industrial-Limited District); City-owned greenway, zoned A (Agricultural District) with Wetland Overlay;

**South:** Undeveloped land in the Marsh Road Industrial Subdivision, zoned IL; City-owned stormwater management outlot, zoned CN (Conservancy District);

**East:** Undeveloped land in the Marsh Road Industrial Subdivision and Two Men and A Truck movers, zoned IL;  
**West:** Franklin Fueling Systems and undeveloped land in the Genesis industrial subdivision, zoned IL.

**Adopted Land Use Plans:** The Comprehensive Plan identifies the subject site and surrounding properties located on both sides of Marsh Road generally north of Voges Road for Industrial uses.

The Marsh Road Neighborhood Development Plan also identifies the subject site and surrounding properties for industrial uses.

**Zoning Summary:** The site is zoned IL (Industrial-Limited District):

Requirements	Required	Proposed
Lot Area	20,000 sq. ft.	98,356 sq. ft.
Lot Width	75'	264.25'
Front Yard	0'	20'
Side Yards	15' or 20% of building height	30' on south, 85' on north
Rear Yard	30'	Adequate
Maximum Lot Coverage	Maximum 75%	67.5%
Floor Area Ratio	N/A	---
Maximum Building Height	N/A	---
Auto Parking	No minimum	38
Bike Parking	5% capacity of persons in tasting room/patio (TBD by occupancy); 1 per 10 employees for brewery	10 – See Zoning conditions
Loading	One 10' X 35'	Two 10' X 35', Two 10' x 50'
Building Forms	Industrial Building	Will comply
Other Critical Zoning Items		
Yes:	Floodplain, Barrier Free, Utility Easements	
No:	Urban Design, Wellhead Protection, Landmarks, Waterfront Development	
Prepared by: Matt Tucker, Zoning Administrator		

**Environmental Corridor Status:** A mapped environmental corridor extends across the northeasternmost corner of the subject site, while Corridor Map G10 shows most of the site within the 100-year floodplain. The City Engineer and Zoning Administrator have submitted comments/ conditions noting that any future development of this parcel (permitted or conditional) is required to obtain the necessary State and Federal approvals necessary to address the presence of floodplain on this property prior to final signoff of development plans and the issuance of building permits.

**Public Utilities and Services:** The property is served by a full range of urban services, including Metro transit service, which operates daily transit service along Marsh Road through the Kipp Street intersection adjacent the project site.

## Project Description

The applicant is requesting approval of a conditional use to allow construction of an approximately 20,000 square-foot brewery. The proposed facility will primarily be a contract brewing facility for other beer companies

and will consist of 7,000 square feet of production space, 9,450 square feet of warehousing, a 1,800 tasting room, and 1,750 square feet of office. An outdoor eating area is proposed at the southwestern corner of the building adjacent to the tasting room. The single-story, 35-foot tall industrial building will be constructed of concrete wall panels with prominent vertical scoring and horizontal banding. The building will be oriented towards Marsh Road, with 1 drive aisle containing 2 rows of parking for 38 automobiles proposed between the building and the street. Four loading docks are proposed along the eastern, rear wall and at the northeastern corner of the proposed brewery adjacent to a future 11,000 square-foot addition along the north wall shown on the site plan.

The letter of intent indicates that the hours of operation for the brewery will be 8:00 AM to 5:00 PM Monday-Friday, while the tasting room will operate Tuesday-Saturday from 4:00 PM to 9:00 PM.

## Analysis and Conclusion

The Planning Division believes that the conditional use for a brewery in the IL (Industrial-Limited) district can meet the standards for approval. The statement of purpose for the IL district generally recommends that a mix of light manufacturing, office, flex-space, and storage and warehousing uses be developed on parcels with relatively direct access to the regional highway system in a manner consistent with the adopted goals, objectives, policies, and recommendations of the Comprehensive Plan and adopted neighborhood plans, which in this case is the 1996 Marsh Road Neighborhood Development Plan. The neighborhood development plan recommends that light manufacturing and assembly uses be developed in this portion of the planning area while specifically discouraging heavy manufacturing uses. The IL district encourages the accommodation of a variety of differently sized light manufacturing and employment uses, while discouraging the proliferation of highway-oriented commercial uses that reduce the land available for employment uses, although limited retail and service uses may be appropriate to serve the primarily industrial uses.

Staff believes that the proposed brewery is consistent with the types of uses present and envisioned for this portion of the Marsh Road neighborhood. While the neighborhood plan specifically identifies the bottling and distribution of milk and soft drinks as one of the many types of uses recommended for the portions of the planning area recommended for industrial uses and is silent on the brewing of intoxicating beverages, Planning staff does not believe that a brewery would be incongruous with the type of manufacturing uses contemplated. The site will have sufficient access from Marsh Road, which is identified as a major collector street in the Marsh Road Neighborhood Development Plan.

Similarly, staff believes that the proposed outdoor eating area appurtenant to the tasting room can meet the conditional use standards and that the proposed patio will not have a negative impact on the uses, values and enjoyment nor normal and orderly development of the surrounding area. No limitations on hours of operation beyond those identified for the tasting room are recommended for the outdoor area, though the application materials should be revised to clarify that the hours outside will be the same as those proposed inside.

## Recommendation

### Planning Division Recommendation (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission find the standards met and **approve** a conditional use to allow construction of a brewery with accessory tasting room and outdoor eating area at 3801 Kipp Street subject to input at the public hearing and the following conditions:

**Recommended Conditions of Approval:** Major/Non-Standard Conditions are Shaded

1. That the letter of intent be revised prior to the issuance of building permits to clarify that the hours of operation for the outdoor eating area shall be the same as the tasting room. The Director of the Planning Division may consider a minor alteration to the conditional uses for the brewery and outdoor eating area to modify the hours of operation for either following a recommendation by the district alder.

**The following conditions of approval have been submitted by reviewing agencies:**

**City Engineering Division** (Contact Janet Schmidt, 261-9688)

2. This property has floodplain currently mapped on it. The applicant shall show the horizontal limits of the floodplain and the vertical elevation of the floodplain shall be shown on the plan. The 1% chance of flood line is shown on the site plan. Contrary to what is shown on the site plan, the current FEMA flood panel shows all but a small portion of the lot to be within zone AE (1% chance floodplain). Coordinate with City of Madison Zoning staff to determine the actions required to address the floodplain that would permit the project to be constructed as proposed.
3. The site plan shall show and label all easements of record.
4. Revise the plans to include a sewer access structure, as approved by the City Engineer, for purpose of monitoring sewerage strengths for billing purposes.
5. The address of the new brewery will be 3757 Marsh Road.
6. Modify and reconstruct the existing sidewalk at the northern most drive to have it in a more standard location, which is 1 foot from the property line.
7. The site plan shall reflect a proper street address of the property as reflected by official City of Madison Assessor's and Engineering Division records.
8. The applicant shall replace all sidewalk and curb and gutter abutting the property, which is damaged by the construction, or any sidewalk and curb and gutter that the City Engineer determines needs to be replaced because it is not at a desirable grade regardless of whether the condition existed prior to beginning construction.
9. All work in the public right of way shall be performed by a City-licensed contractor.
10. All damage to the pavement on Marsh Road and Kipp Street adjacent to this development shall be restored in accordance with the City's Pavement Patching Criteria.
11. This project falls in the Rock River TMDL Zone and is subject to increased erosion control enforcement as authorized by Resolution 14-00043 passed by the Common Council on January 21, 2014. The project will be expected to meet a higher standard of erosion control than the minimum standards set by the Wisconsin Department Natural Resources (WDNR).
12. The plan set shall be revised to show a proposed private internal drainage system on the site. This information shall include the depths and locations of structures and the type of pipe to be used.

13. The applicant shall demonstrate compliance with Section 37.07 and 37.08 of Madison General Ordinances regarding permissible soil loss rates. The erosion control plan shall include Universal Soil Loss Equation (USLE) computations for the construction period. Measures shall be implemented in order to maintain a soil loss rate below 7.5-tons per acre per year.
14. For commercial sites less than 1 acre in disturbance, the City of Madison is an approved agent of the Department of Commerce and Wisconsin Department of Natural Resources (WDNR). As this project is on a site with disturbance area less than 1 acre and contains a commercial building, the City is authorized to review infiltration, stormwater management, and erosion control on behalf of the Department of Commerce. No separate submittal to Commerce or the WDNR is required.
15. Prior to final approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to: provide infiltration in accordance with Chapter 37 of the Madison General Ordinances; provide oil & grease control from the first 1/2" of runoff from parking areas, and; complete an erosion control plan and complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website as required by Chapter 37 of the Madison General Ordinances.
16. The applicant shall submit prior to plan sign-off, electronic copies of any Stormwater Management File including: SLAMM DAT files; RECARGA files; TR-55/HYDROCAD/etc., and; sediment loading calculations. If calculations are done by hand or are not available electronically the hand copies or printed output shall be scanned to a PDF file and provided.
17. The applicant shall submit, prior to plan sign-off, digital PDF files to the City Engineering Division. The digital copies shall be to scale, shall have a scale bar on the plan set, and shall contain the following items: building footprints; internal walkway areas; internal site parking areas; lot lines and right-of-way lines; street names, stormwater management facilities and; detail drawings associated with stormwater management facilities (including if applicable planting plans).
18. The area adjacent to this proposed development has a known flooding risk. All entrances shall be 2 feet above the adjacent sidewalk elevation or 1 foot above the 100-year regional flood elevation (whichever is greater), including garage entrances.
19. The applicant's utility contractor shall obtain a connection permit and excavation permit prior to commencing the storm sewer construction.
20. The site plan shall be revised to show all existing public sanitary sewer facilities in the project area as well as the size, invert elevation, and alignment of the proposed service.

**Traffic Engineering Division** (Contact Eric Halvorson, 266-6527)

21. The applicant shall provide a direct sidewalk connection to Kipp Street and Marsh Road. Connections as shown on the submitted plan do not provide for a safe pedestrian connection to the public right of way.
22. The sidewalk in front of building adjacent to motor-vehicle parking shall be a minimum of 7 feet wide to account for vehicle overhang

23. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawings shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including 2 feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
24. The developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
25. The City Traffic Engineer may require public signing and marking related to the development; the developer shall be financially responsible for such signing and marking.
26. All parking facility design shall conform to the standards in MGO Section 10.08(6).
27. All new or modified entrances shall conform to City of Madison driveway standards and shall be 'commercial' type entrances.
28. No portion of a site entrance shall be constructed in front of an adjacent parcel.

**Zoning Administrator** (Contact Matt Tucker, 266-4569)

29. A significant portion of this property appears to be located within the current regulatory floodplain area, as shown on the City's official floodplain maps. Prior to any building or site grading permit issuance, all floodplain zoning-related requirements must be satisfied.
30. Meet applicable Building and Fire codes. The outdoor capacity shall be established. Occupancy is established by the Building Inspection Division. Contact Mike VanErem at 266-4559 to help facilitate this process.
  31. Bicycle parking shall comply with MGO Section 28.141(4)(g) Table 28I-3 (General Regulations). Provide the minimum number of bicycle parking stalls for said uses. Bicycle parking design and location shall comply with MGO Sec. 28.141 (11). Provide details on final plans, a bike-parking stall is 2 feet by 6 feet with a 5-foot access area.
  32. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with MGO Chapter 31, Sign Codes prior to sign installations.
  33. Pursuant to Sec. 28.142(3), *Landscape Plan and Design Standards*: Landscape plans for zoning lots greater than 10,000 square feet in size must be prepared by a registered landscape architect.
  34. Screening of other site elements are subject to MGO Section 28.142(9). Provide details of refuse enclosure, loading area and rooftop equipment screening.
  35. Label distances to buildings from property lines on final plan sets.

**Fire Department** (Contact Bill Sullivan, 261-9658)

36. Provide fire apparatus access as required by IFC 503 2012 edition, MGO Section 34.503.
37. Where a building, or portion thereof, is used for high-piled combustible storage, fire department access shall be provided as required by IFC 503.1.3 and IFC 2306.6.

**Water Utility** (Contact Dennis Cawley, 261-9243)

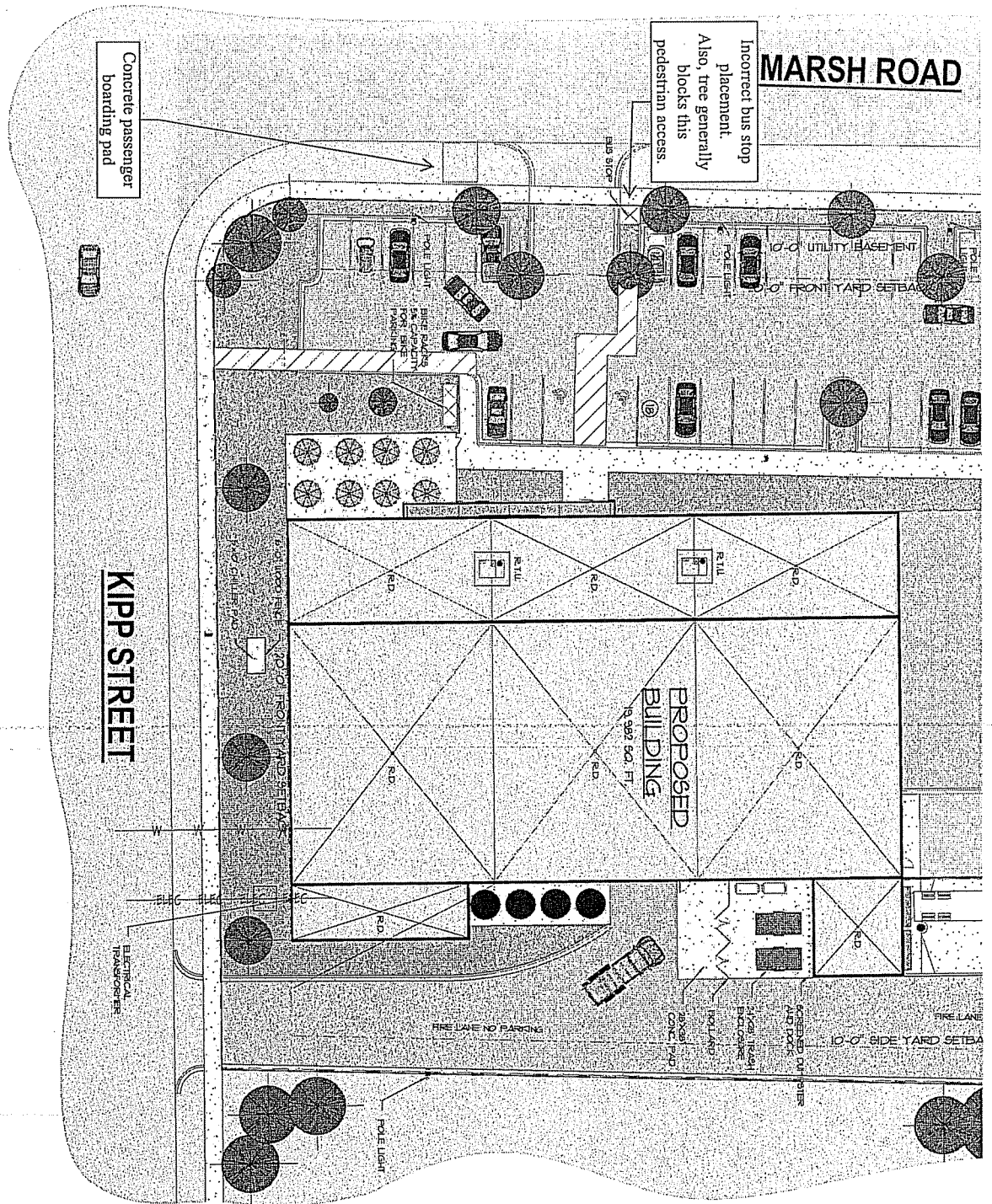
38. Note: All operating private wells shall be identified and permitted and any unused private wells shall be abandoned by the Madison Water Utility in accordance with MGO Section 13.21.

**Parks Division** (Contact Kay Rutledge, 266-4714)

39. Additional street trees are needed for this project. All street tree planting locations and trees species in the right of way shall be reviewed by City Forestry. Please submit a tree planting plan (in PDF format) to Dean Kahl – [dkahl@cityofmadison.com](mailto:dkahl@cityofmadison.com) or 266-4816. Approval and permitting of tree planting shall be obtained from the City Forester and/or the Board of Public Works prior to the approval of the site plan. Tree planting specifications can be found in Section 209 of the *City of Madison Standard Specifications for Public Works Construction*.
40. Existing street trees shall be protected. Please include the following note on the site plan: The contractor shall install tree protection fencing in the area between the curb and sidewalk and extend it at least 5 feet from both sides of the tree along the length of the terrace. No excavation is permitted within 5 feet of the outside edge of a tree trunk. If excavation within 5 feet of any tree is necessary, the contractor shall contact City Forestry (266-4816) prior to excavation to assess the impact to the tree and root system. Tree pruning shall be coordinated with City Forestry.” Tree protection specifications can be found in Section 107.13 of *City of Madison Standard Specifications for Public Works Construction*. Please reference ID# 14134 when contacting Parks Division staff about this project.

**Metro Transit** (Contact Tim Sobota, 261-4289)

41. In coordination with public works improvements, the applicant shall install a new concrete passenger boarding pad on the east side of Marsh Road, north of Kipp Street. The concrete pad shall occupy the full distance of the terrace, measure a minimum of 10 feet in width parallel to the street, and lie flush between the sidewalk and the top of curb. The applicant shall include the location of these transit amenities on the final documents filed with their permit application so that Metro Transit may review and approve the design. *[See attached Metro exhibit showing location of this improvement.]*



CONCEPTUAL SITE  
1" = 30'-0"

METRO  
EXHIBIT