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Department of Planning & Community & Economic Development  
**Planning Division**

Website: [www.cityofmadison.com](http://www.cityofmadison.com)

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**TO:** Maribeth Witzel-Behl, City Clerk  
**FROM:** William A. Fruhling, Acting Planning Division Director  
**DATE:** January 24, 2013  
**SUBJECT:** Appeal of Plan Commission Decision on Legistar ID #28723

Dear Ms. Witzel-Behl-

At their January 14, 2013 meeting, the City of Madison Plan Commission approved a conditional use request for a mixed-use building with 36 residential units and a daycare facility at 1360 MacArthur Road (Legistar ID #28723).

On January 23, 2013, Plan Commission Secretary Steven Cover received a petition to appeal the Plan Commission action to the Common Council.

Sec. 28.12(11)(i) states that "[a]n appeal from the decision of the City Plan Commission may be taken to the Common Council by the applicant of the conditional use, by the Alderman of the district in which the use is located or by twenty percent (20%) or more of the property owners notified objecting to the establishment of such conditional use. Such appeal must specify the grounds thereof in respect to the findings of the City Plan Commission and must be filed with the Secretary of the Plan Commission within ten (10) days of the final action of the City Plan Commission."

Upon examination by Planning Division staff, it appears that this petition was signed by over 20% of the property owners notified of the Plan Commission public hearing, pursuant to the requirements in Section 28.12(11)(i) of the former Zoning Code.

Thank you, and please feel free to contact me with questions.

Sincerely,

William A. Fruhling, Acting Planning Division Director

CC: Steven Cover, Director, Dept. of Planning and Community and Economic Development  
Maureen O'Brien, City Attorney's Office  
Anne Monks, Mayor's Office  
Alder Joe Clausius  
Kevin Page, Kothe Real Estate Partners

Bill, FYI  
JRC

Hello Mr. Cover and the City of Madison Secretary of the Plan Commission,

I have enclosed a signed petition to appeal the action by the City Plan Commission regarding their decision to approve the conditional use permit for the proposed 36-unit apartment complex development at 1360 MacArthur Road, Madison, WI. Please note that the petition has been signed by over 20% (100% of all occupied residence owners) of the property owners originally notified of the conditional use permit application and the petition specifies the grounds of our appeal in respect to the findings of the City Plan Commission and the respective zoning code subsections of appeal. I have also enclosed a copy of the list of property owners originally notified for your easy reference. This list was provided to me from the plan commission staff as the official list of notification. It is likely worth mentioning that this list neglected to list/notify 2 residences that are within 200ft of the property in question.

I have provided this petition to you on 23 Jan 2013, which is 9 calendar days after the final action had been taken by the Plan Commission (on 14 Jan 2013). The enclosed document should satisfy the requirements of zoning code 28.12(11)(i) for appeal from action by city plan commission.

I am requesting that you shall transmit this appeal to the City Clerk and that the City Clerk shall file this appeal with the Common Council. I also request that the common council shall fix a reasonable time for the hearing of the appeal and give proper public notice.

Please feel free to contact my by phone if you have any questions or concerns.

Sincerely, Hilton Jones  
1353 MacArthur Road  
Madison, WI 53714  
Cell > 309-838-2156  
Email > hmjones3@gmail.com

**CITY OF MADISON**

**JAN 23 2013**

**Planning & Community  
& Economic Development**

Petition to Appeal Action by City Plan Commission >1360 MacArthur Road Conditional Use Permit

The intent of this petition is to appeal the decision of the Madison Plan Commission approval of the conditional use permit of a 36 unit apartment complex at 1360 MacArthur Road, Madison, WI.

We the undersigned are owners of the impacted properties located within 200ft of the 1360 MacArthur Road parcel and contest that the Plan Commission findings are not in accordance with the standards established for granting of a conditional use under the City of Madison Zoning Code Sec. 28.12(11)(g).

Specifically we contest the Plan Commission ruling on the following grounds:

- They neglected to adequately demonstrate that the establishment, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, safety, and general welfare (Sec 28.12 (11)(g) item 1).
- They did not adequately prove that the uses, values, and enjoyment of other property in the neighborhood for purposes already established will be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance, or operation of the conditional use (Sec 28.12 (11)(g) item 3).
- They did not ensure that adequate access roads, parking supply, and vehicular, pedestrian, bicycle, and public transport needs are being provided to meet the needs of the conditional use (Sec 28.12 (11)(g) item 5).
- They have not properly addressed transportation demand management (TDM) to minimize traffic congestion and to ensure public safety and adequate traffic flow on the public streets (Sec 28.12 (11)(g) item 6).

By signing this petition I am acknowledging that I am appealing the Action of the City Plan Commission which has erroneously approved the conditional use permit request for 1360 MacArthur Road. I am requesting that the Secretary of the Plan Commission transmit this appeal to the City Clerk who shall file the appeal with the Common Council.

<u>Address</u>	<u>Name</u>	<u>Signature</u>	<u>Date</u>
1. 1369 MacArthur	Martin Griffin III	<i>Martin Griffin III</i>	1/16/13
2. 1365 MAC ARTHUR RD	HAROLDE FORBES	<i>Harold E. Forbes</i>	1/16/13
3. 1361 MACARTHUR RD	MARY PIERICK	<i>Mary Pierick</i>	1-16-13
4. 1353 MacArthur RD	Hilton Jones	<i>Hilton Jones</i>	1-19-2013
5. 1353 MacArthur Rd	Heidi Jones	<i>Heidi Jones</i>	1-19-2013
6. 1409 MacArthur Rd	Don E. Fjelstad	<i>Don E. Fjelstad</i>	1-19-2013
7. 1329 LARSON CT	CINDI ERICKSON	<i>Cindi Erickson</i>	1/19/2013
8. 1326 MacArthur Rd	Kathryn Schaefer	<i>Kathryn Schaefer</i>	1-19-2013
9. 1329 MACARTHUR RD	CATHERINE THOMPSON	<i>Catherine Thompson</i>	1-19-2013
10. 1337 MacArthur Rd	Melinda J. Smith	<i>Melinda J. Smith</i>	01/19/13
11. <del>1309</del> 1309 Ellenwood	Oliver Therven Spencer	<i>Oliver Therven Spencer</i>	1/20/13
12. 1351 MacArthur Rd	Charles D. Probst	<i>Charles D. Probst</i>	1/20/13
13. 1307 Ellenwood Dr	Theodore Edgerton	<i>Theodore Edgerton</i>	1-20-13
14. 1351 MACARTHUR RD	MARYLEE WESCHMID	<i>Marylee Weschmid</i>	1-20-13
1351 MacArthur Rd	Mary Jo Wschmid	<i>Mary Jo Wschmid</i>	1-20-13

1360mr 081033208085  
Location: 1360 MacArthur Rd  
CARE NET PREGNANCY CENTER  
OF DANE COUNTY INC  
1360 MACARTHUR RD  
MADISON WI 53714

1360mr 081033208126  
Location: 1350 MacArthur Rd  
CARE NET PREGNANCY CENTER  
OF DANE COUNTY INC  
1350 MACARTHUR RD  
MADISON WI 53714

1360mr 081033208093  
Location: 1414 MacArthur Rd  
COMMUNITY LIVING ALLIANCE  
INC  
PO BOX 8028  
MADISON WI 53708

1360mr 081033204174  
Location: 1307 Ellenwood Dr  
EDGEComb JR, THEODORE  
1307 ELLENWOOD DR  
MADISON WI 53714

1360mr 081033208019  
Location: 1329 Larson Ct  
ERICKSON, CINDI  
1329 LARSON CT  
MADISON WI 53714

1360mr 081033204281  
Location: 1409 MacArthur Rd  
FJELSTAD, DON E & SONJA A  
1409 MAC ARTHUR RD  
MADISON WI 53714

1360mr 081033204257  
Location: 1365 MacArthur Rd  
FORBES, HAROLD E.  
1365 MAC ARTHUR RD.  
MADISON WI 53714

1360mr 081033204265  
Location: 1369 MacArthur Rd  
GRIFFIN III, MARTIN R  
5305 VALLEY DR  
MCFARLAND WI 53558

1360mr 081033204231  
Location: 1353 MacArthur Rd  
JONES, HILTON  
& HEIDI HARMS  
1353 MACARTHUR ROAD  
MADISON WI 53714

1360mr 081033208077  
Location: 1326 MacArthur Rd  
OCCUPANT  
1326 MacArthur Rd  
MADISON WI 53714

1360mr 081033204207  
Location: 1329 MacArthur Rd  
OCCUPANT  
1329 MacArthur Rd  
MADISON WI 53714

1360mr 081033204223  
Location: 1351 MacArthur Rd  
OCCUPANT  
1351 MacArthur Rd  
MADISON WI 53714

1360mr 081033204223  
Location: 1351 MacArthur Rd # 1  
OCCUPANT  
1351 MacArthur Rd # 1  
MADISON WI 53714

1360mr 081033204223  
Location: 1351 MacArthur Rd # 2  
OCCUPANT  
1351 MacArthur Rd # 2  
MADISON WI 53714

1360mr 081033204231  
Location: 1353 MacArthur Rd  
OCCUPANT  
1353 MacArthur Rd  
MADISON WI 53714

1360mr 081033204257  
Location: 1365 MacArthur Rd  
OCCUPANT  
1365 MacArthur Rd  
MADISON WI 53714

1360mr 081033204265  
Location: 1369 MacArthur Rd  
OCCUPANT  
1369 MacArthur Rd  
MADISON WI 53714

1360mr 081033204273  
Location: 1401 MacArthur Rd  
OCCUPANT  
1401 MacArthur Rd  
MADISON WI 53714

1360mr 081033204281  
Location: 1409 MacArthur Rd  
OCCUPANT  
1409 MacArthur Rd  
MADISON WI 53714

1360mr 081033208093  
Location: 1414 MacArthur Rd  
OCCUPANT  
1414 MacArthur Rd  
MADISON WI 53714

1360mr 081033208093  
Location: 1414 MacArthur Rd # 106  
OCCUPANT  
1414 MacArthur Rd # 106  
MADISON WI 53714

1360mr 081033208093  
Location: 1414 MacArthur Rd # 107  
OCCUPANT  
1414 MacArthur Rd # 107  
MADISON WI 53714

1360mr 081033208093  
Location: 1414 MacArthur Rd # 110  
OCCUPANT  
1414 MacArthur Rd # 110  
MADISON WI 53714

1360mr 081033208093  
Location: 1414 MacArthur Rd # 136  
OCCUPANT  
1414 MacArthur Rd # 136  
MADISON WI 53714

1360mr 081033208093  
Location: 1414 MacArthur Rd # 306  
OCCUPANT  
1414 MacArthur Rd # 306  
MADISON WI 53714

1360mr 081033208093  
Location: 1414 MacArthur Rd # 311  
OCCUPANT  
1414 MacArthur Rd # 311  
MADISON WI 53714

1360mr 081033204249  
Location: 1361 MacArthur Rd  
PIERICK, MARY JO  
1361 MACARTHUR RD  
MADISON WI 53714

1360mr 081033204223  
Location: 1351 MacArthur Rd  
PROBST, CHARLES D  
& M & M ULSCHMID  
1351 MAC ARTHUR RD  
MADISON WI 53714

1360mr 081033208077  
Location: 1326 MacArthur Rd  
SCHUELER, KATHRYN L  
1326 MAC ARTHUR RD  
MADISON WI 53714

1360mr 081033204215  
Location: 1337 MacArthur Rd  
SMITH, MELINDA J  
1337 MACARTHUR RD  
MADISON WI 53714

PC = 14 JANUARY 2013