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Honorable Paul R. Soglin  
Office of the Mayor  
210 Martin Luther King Jr. Blvd., Room 403  
Madison, WI, 53703-3345

Members of the City of Madison Common Council  
City-County Building  
210 Martin Luther King, Jr. Blvd, Room 417  
Madison, WI 53703

RE: Legistar ID #28723  
1360 MacArthur Road Conditional Use Permit Appeal

Dear Mayor Soglin and Members of the Common Council:

We have been asked by Kothe Real Estate Partners to review the Conditional Use Permit and subsequent appeal regarding the above-referenced project. In particular, we were asked to review the appeal for conformity with City of Madison Planning Documents, the City's usual and customary review and approval procedures and whether or not the unanimous decision by the City of Madison Plan Commission to grant the Conditional Use Permit on January 14, 2013 was appropriate.

After reviewing the documents contained in the City of Madison file, we believe the Conditional Use Permit was granted fully consistent with the City of Madison approval procedures and is consistent with the Comprehensive Master Plan adopted by the City of Madison.

As we understand it, the proposal is for a 36-unit residential housing project with a daycare on the first floor. The Eagle Harbor Apartments will be designated for Affordable Workforce Housing utilizing Section 42 WHEDA Housing Tax Credits. It appears quite clear that this is a need within the community and within the particular neighborhood in question. In particular, the City of Madison Comprehensive Master Plan recommends low density residential uses for this area while the specific Carpenter-Hawthorne-Ridgeway-Sycamore-Truax Neighborhood Plan has no specific recommendation. This site appears to have easy vehicular access from East Washington Avenue and its family occupancy appears consistent with the Comprehensive Master Plan and the capacity of public schools as identified by the Madison Metropolitan School District.

In reviewing the appeal documents for the Conditional Use Permit, it is unclear what the basis of the appeal is. The appeal only references the standards which appellants believe were not met. The specific facts underlying this appeal are not known at this time. For that reason alone, the Council may wish to find that the Plan Commission which conducted its in depth review,

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Mayor Paul R. Soglin  
Members of the City of Madison Common Council  
February 22, 2013  
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approval, and public hearing process was, in fact, justified in finding that the CUP was properly issued and that the standards were met.

Based on the foregoing, we believe that no facts have been alleged that could serve to undermine the conclusion by the City of Madison Plan Commission that the issuance of the Conditional Use Permit for the Eagle Harbor Apartments is appropriate. In making this conclusion, we note that both the City Planning and Economic Development staff, as well as the City Attorney, have concluded that the issuance of the CUP was appropriate.

Please let me know if you have any questions.

Sincerely,

**MICHAEL BEST & FRIEDRICH LLP**

  
William F. White

cc: Steven R. Cover  
Heather Slouder  
Josh Wilcox, AIA  
Kothe Real Estate Partners, c/o Kevin Page  
Landgraf Construction  
Care Net Pregnancy Center of Dane County, c/o Liz Osborn  
Members of the City of Madison Plan Commission  
Alder Joe Clausius

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