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December 5, 2019

Via Email Only

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RE: APPEAL BY AFFECTED PARTY
Kadassa Inc. ("Applicant") PZB 19-00500004: Conditional Use Permit

Dear Sirs:

We previously provided the required notice pursuant to Lake Worth Beach Code ("Code") Section 23.2-17 of an appeal to the City Commission by an Affected Party, Daniel W. Hiatt and Frederick Schmidt, Trustee, who are property owners of the adjacent properties located at 1847 and 1848 Aragon Avenue.

This letter is the basis for the appeal, which is required within 30 days of the written decision. The testimony provided at the City of Lake Worth Beach Planning and Zoning Board on October 2, 2019, along with the photographs which I provided are already part of the official record.

However, a summary of the basis of the appeal follows.

The application submitted by the Applicant was incomplete. The Applicant failed to meet its burden to show by substantial competent evidence that it meets all requirements for the granting of a conditional use as required by 23.2-29 of the Lake Worth Beach Code. In fact, although the Code requires that all requirements be met, in fact not even one single requirement has been met.

Competent substantial evidence is real, fact based, clear reliable evidence that proves the points that must be proven. Quite simply, Applicant has not met this burden. The application and justification response merely reiterate back the requirements that must be met. No substantial competent evidence was presented.

Pursuant to Code Section 23.2-29, the purpose and intent of the City's conditional use process is to ensure the appropriateness and compatibility of the use and to prevent or minimize adverse impacts to the surrounding area. The Code states that conditional uses are deemed to carry the potential for these adverse impacts, thus requiring findings of facts before an approval can be granted. In those instances when the decision-making authority, in this case the Planning and Zoning Board, determines that all findings have been met, then the Board shall approve the use.

The requirement of general findings under Section 23.2-29 (d)(1) includes the requirement that "the conditional use exactly as proposed will be in harmony with the existing uses". Section 23.2-29 (d)(2) requires that "the use is in harmony with the existing uses in the immediate area". Section 23.2-29 (d)(3) requires that "clearly no greater harm would result from a permitted use or some other conditional use." Section 23.2-29 (d)(4) requires the conditional use "will not result in more intensive development than approved by the future land use element of the comp plan." Thus, without any offering of any evidence at the hearing even attempting to show that even one has been met, all four of these general conditional use requirements clearly were not met.

Moreover, this use falls under Section 23.4-13 of the Code titled "Medium and high intensity conditional uses." When the proposed use carries the potential for substantial adverse impacts on neighboring properties, the use must also meet the additional standards of Section 23.4-13(7)(B)(1). These include: d) screening all outdoor storage and commercial vehicle parking; e) that all production and processing be restricted to an enclosed building; and f) increased buffering.

These three requirements were also not met. In fact, at the hearing, there was no evidence offered to show that they were met as the outdoor storage clearly is not screened, the building is not enclosed and there is no buffering whatsoever.

The Applicant was required at the hearing to demonstrate that they met or exceeded each and all of the requirements and to prove them each by substantial competent evidence. They did not meet this burden nor even come close. Since the Applicant did not meet the initial burden of showing by substantial competent evidence that its application met the statutory criteria for granting a conditional use, the decision made by the Planning and Zoning Board has no legal basis and cannot be upheld.

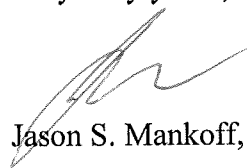
Our client reserves all rights on appeal to any and all matters which were presented at the Planning and Zoning hearing and is not limited to the matters mentioned in this summary letter explaining the basis for the appeal.

December 5, 2019

Page 3

Please confirm receipt of this letter and advise me as to the date that this appeal will be heard.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jason S. Mankoff', written over a horizontal line.

Jason S. Mankoff, Esq.

cc: Mr. Michael Bornstein, Town Manager (mbornstein@lakeworthbeachfl.gov)
Pam Ryan, Esq. (pryan@torcivialaw.com)
Ms. Sheri Coale, Board Secretary (scoale@lakeworthbeachfl.gov)
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