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Richland Center Planning Commission
450 South Main Street
Richland Center, WI 53581

RE: Consideration of Conditional Use Permit for Guru Ramdas Shaa, LLC

Dear Commission Members:

I have reviewed the applicable ordinance and relevant documentation regarding this matter and my conclusion remains that there is no way to both adhere to the zoning ordinance and grant the conditional use permit ("CUP"). Therefore, I must recommend that the CUP be denied. To do otherwise is inconsistent with your responsibility as public officials, especially since you also hold the power to remedy the situation should you choose to do so.

You will recall that the crux of the issue is that the application submitted to the Zoning Department indicated the intended use of the property was for an automotive repair facility, which had been the previous use of the building. During Council consideration of the CUP application, the property owner indicated that the automotive repair taking place on the property was incidental to its primary use as the base of operations for his tree service. This discrepancy led the Council to refer the matter back to the Planning Commission for further information gathering and review.

The property is zoned Commercial-General ("C-G"), governed by Sec. 408.04 of the Richland Center Code of Ordinances ("408.04"). 408.04 does allow the operation of an automotive repair facility, but not a tree service. 408.04 does allow "[s]imilar commercial uses, provided the structure in which the use is carried out shall not be within one hundred (100) feet of any [Residential] District," and a tree service could be reasonably interpreted to fall within that definition. However, the structure is within 100 feet of a residential district, and thus a permit is still not allowed.

While my recommendation is denial of the application, that need not be the end of the matter. I have not found, and cannot come up with, a logical reason for the 100-foot limit imposed on uses so similar to others allowed with no such restriction. Thus, a change in the ordinance may be in order. That would certainly be within the Planning Commission's power to recommend for Council consideration. The alternative is to ignore the direct statements of the landowner and grant the permit for the originally proposed use, which would be allowed without revision of the Code. Doing so, however, puts the landowner at risk of future violations and/or enforcement action if it is found that he is making the stated use of the building, rather than the one reflected in his application. While this may resolve the situation in the short-term, I believe it will create a situation ripe for issues to arise later on.

I am happy to attend a future meeting if there are additional questions or concerns about this matter.

Sincerely,

/s/

Michael S. Windle
City Attorney