

Introduced by: City Manager  
of the City of Berkeley, MO

**A RESOLUTION AUTHORIZING KENDRICK EVANS, A SPECIAL USE PERMIT TO OPERATE A COMMUNICATIONS STORE (CELLULAR, CABLE, INTERNET), GIFT SHOP, AND CARRY-OUT FOOD, LOCATED AT 8200 Airport Road IN THE CITY OF BERKELEY, ST. LOUIS COUNTY, MISSOURI**

**WHEREAS,** Kendrick Evans, has applied to such City for the issuance of a Special Use Permit to operate a Communications Store (Cellular, Cable, Internet), Gift Shop, and Carry-Out Food; and

**WHEREAS,** in accordance with the applicable Ordinance of the City of Berkeley, such application was submitted to the City Plan Commission for its investigation and reports, and further, that such City Plan Commission has returned its final report and recommendation wherein it is **unfavorable** for the issuance of a Special Use Permit to Kendrick Evans, to operate a Communications Store (Cellular, Cable, Internet), Gift Shop, and Carry-Out Food, located at 8200 Airport Road, Lot 21 NorthPark One P.B. 355, PGs 941-947, 1.43 Acres; and

**WHEREAS,** due notice of the time, place and purpose of a virtual public hearing was published in two (2) consecutive issues of a newspaper of general circulation in the City or posted on the city’s website, the first notice being published at least ten (10) days prior to the date of the hearing, and written notices of said hearing were mailed to the last known places of abode of the owners of all property lying within one hundred eighty five (185) feet of all boundaries of the property under consideration for a Special Use Permit; and

**WHEREAS,** such virtual public hearing was duly held by the Council, on July 20, 2020, on behalf of the City of Berkeley, Missouri, in conformity with said public notice at which hearing the parties of interest were given an opportunity to be heard the appeal of the City Plan Commission’s denial. ***The applicant will need at least five (5) votes for this Resolution to be approved.***

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BERKELEY, MISSOURI AS FOLLOWS:**

**SECTION 1.** The City Council determines that the public health, welfare, and safety are adequately protected in view of the foregoing criteria, and the Special Use Permit shall be granted as the Council affirmatively finds as to the required criteria.

**SECTION 2.** The use of said tracts for the aforesaid purpose is granted subject to the following conditions:

- a) Consider one use, under the Special Use Process (SUP).
- b) No cooking of food of any kind.
- c) Hours of operation shall be Sun-Sat, 10am-8pm.
- d) No metal bars, mesh, or other durable material shall be installed over any portion of the frontage window or frontage opening in commercial buildings.
- e) Trash enclosure shall remain in place.
- f) All site fencing, including the trash enclosure, shall be repaired, or replaced if necessary.
- g) If site fencing is required to be replaced, all fencing shall be white vinyl.
- h) Install “No Loitering Signs” around the property.
- i) Install security camera’s around the building.
- j) Install motion lights at rear of the property.
- k) No live entertainment on parking lot.
- l) No food consumed on the parking lot.
- m) Pick up litter around the premises at least two time a day.

- n) Deliveries, loading and unloading shall not occur between 6am-9am and 3pm-6pm (school bus and rush hour).
- o) No snipe signs or directional signs in the Public Right of Way.
- p) The owner shall submit renovation plans to the Building Commissioner for approval.
- q) Building and site conditions in need of repair shall be completed per the approval of the Building Commissioner.
- r) The asphalt parking lot shall be sealed and restriped, for parking – must have at minimum of nine spaces.
- s) Proof of Retail Sales Tax License is required to sell tobacco products per Section 210.2130 and must be provided prior to securing a business/merchant's license from the City of Berkeley.
- t) Section 400.130 (K)(2) Noise: Every use shall be so operated that the maximum volume of sound or noise generated does not exceed forty (40) decibels at any point on the lot line of the lot on which the use is located. Outdoor loudspeakers and audible communication systems are not permitted within one thousand (1,000) feet of a residential district.
- u) Section 400.130 (2)(k) Parking: Retail store, personal service establishment or household service establishment, except as otherwise specified herein. One (1) parking space for each two hundred (200) square feet of floor area. (Total of 9-spaces needed).
  - 1. (2)(n) Physically handicapped. A minimum of one (1) parking space, plus one (1) for every twenty (20) parking spaces.
- v) Owner shall comply with Ordinance 4373 and install and maintain a commercial trash enclosure with dumpster. Proper trash enclosure doors with suitable hinges should be connected for smooth operations.
- w) The building, lot, landscaping, and yard areas shall be maintained and kept free and clear of any debris, trash, or weeds including maintenance of all landscaped areas.
- x) Window signage shall not exceed ten percent (10%) of the window area or ten (10) square feet in area, whichever is the smaller of the dimension.
- y) The premise shall be subject to adherence to City of Berkeley annual fire inspections and life safety plans.
- z) All required inspections by the city are required before issuance of occupancy permit or business license.
- aa) The interior will be thoroughly inspected by City's Building Commissioner and Fire Department, and any and all other jurisdictions, if applicable. All permits that are required by any of said mention must be received. Once, all required inspections are completed; apply for all necessary building/occupancy & fire safety permits from the City of Berkeley, and other jurisdictions, after obtaining City Council's approval on this Special Use Permit. Commercial Occupancy permit and Business License is required and shall be posted at all times.
- bb) In granting such special use permits, the City Council may provide that the permit be valid for a limited period of time not to exceed ten (10) years. Upon expiration of the time limit specified in the permit, the holder of the permit may request the permit be reviewed by the City Council, and the City Council may extend it for another limited period of time not to exceed ten (10) years. The City Council shall provide that the permit be exclusive only for the holder and non-transferable.
- cc) The Special Use Permit will be revoked if for any reason the applicant ceases operations and closes its doors to the public for a period of six (6) months or more, and not complying with the City's Special Use Permit. The Special Use Permit shall not be assigned, or sold, or conveyed, or operated by another without prior approval by the City Council and occupancy permit, building permit or business license shall be issued to such assignee until such approves is secured.
- dd) Any violations can be a reason for the City to revoke this permit, according to the City's current regulations. To continue occupying the building and facilities the applicant must comply with all the applicable rules and regulations of the City of Berkeley, St. Louis County, State of Missouri, and Federal rules and regulations.

- ee) Prior to issuance of an Occupancy Inspection and Permits, the above noted conditions, the conditions as described in the attached Report, and the inspections as part of the normal occupancy permit process shall be met, and as approved by the City Council. This Special Use Permit takes effect upon the approval by City Council.
- ff) The City Council may, in accordance with Section 400.580, institute a rezoning. The City Council, after a public hearing, may revoke a special use permit for failure of compliance with regulations and restrictions of this Chapter or the requirements of the special use permit.
- gg) If the City Council determines that the public health, welfare, and safety are adequately protected in view of the foregoing criteria, then the special use permit shall be granted; but if it is negative as to any of such paragraphs, then the special use permit shall be denied.

**SECTION 3.** The Department of Public Works shall be charged with responsibility for the enforcement of this Resolution and incorporated therein all necessary reports.

**SECTION 4.** This Resolution shall be in full force and effect from and after the date of its passage.

PASSED this \_\_\_\_\_ **day of** \_\_\_\_\_ **2020**

ATTEST:

\_\_\_\_\_  
Mayor Babatunde Deinbo

\_\_\_\_\_  
Deanna Jones, City Clerk

\_\_\_\_\_  
Approved as to Form:  
Donnell Smith, City Attorney

Final Roll Call:

Councilwoman Mitchell	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Williams	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Anthony	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hindeleh	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman-at-Large Greene	Aye ___	Nay ___	Absent ___	Abstain ___
Mayor Deinbo	Aye ___	Nay ___	Absent ___	Abstain ___