

Introduced by: City Manager Debra M. Irvin
of the City of Berkeley, MO

A RESOLUTION AUTHORIZING KIMBERLEY HENDERSON, A SPECIAL USE PERMIT TO OPERATE A CONVENIENCE STORE, LOCATED AT 8351 FROST AVENUE IN THE CITY OF BERKELEY, ST. LOUIS COUNTY, MISSOURI

WHEREAS, Kimberley Henderson, has applied to such City for the issuance of a Special Use Permit to operate a Convenience Store; 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 recommended the issuance of a Special Use Permit to Kimberley Henderson, to operate a Convenience Store, located at 8351 Frost Avenue; 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 September 21, 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.

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) Business Name – Kay’s Korner
- b) Hours of operation: 11:00 am – 7:00 pm Monday – Saturday. Any change of hours shall be approved by the City Council.
- c) Security cameras shall always be installed at perimeter and interior of space and monitored by the business operator at all times; registration is required to be filed with Police Department.
- d) An alarm system and panic button are required to be installed.
- e) An after-hour contact must be included with the Camera Registration.
- f) A sign permit is required. Banners, pennants, festoons, human sign, searchlights are prohibited. Business signage shall be limited to no more than
- g) No metal bars, mesh, or other durable material shall be installed over any portion of the frontage window or frontage opening in commercial buildings.
- h) Sale of pre-packaged food is acceptable. Cooking and selling hot foods are prohibited. Not approved for a kitchen.
- i) No sale of package liquor, single cigarettes, or medical marijuana.
- j) Install “No Loitering” and “No Loud Music” signs at entrance wall.
- k) The exterior area shall be maintained and kept free and clear of any debris or trash or weeds. All plants/trees/bushes and landscaped material will be properly maintained along Airport Road.

- l) Buildings and site conditions in need of repair shall be repaired or replaced per the approval of the Building Commissioner.
- m) 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.
- n) 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.
- o) Only 10% of windows space shall be used for window signage. The petitioner will be permitted one exterior wall mounted sign at the front wall of the business.
- p) The premise shall be subject to adherence to City of Berkeley annual fire inspections and life safety plans.
- q) All required inspections by the city are required before issuance of occupancy permit or business license.
- r) 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.
- s) 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.
- t) 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.
- u) Any violations can be a reason for the City to revoke this permit, according to the City's current regulations. To occupy the building and facilities the applicant must comply with all the applicable rules and regulations pertaining to health and safety for vehicular and pedestrian traffic, zoning, building, sign codes, fire and safety protection standards as required by the City Fire Department, City of Berkeley, St. Louis County, State of Missouri, and Federal rules and regulations.
- v) 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.
- w) 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.
- x) 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 Virtual 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	___