

RESOLUTION # 3560

AMEND

2020
2021

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

A RESOLUTION AUTHORIZING WILLIE & KIMBERLY KILPATRICK, A SPECIAL USE PERMIT TO OPERATE LADY'S KIM, A DINE-IN AND TAKE-OUT RESTAURANT, LOCATED AT 6130 MADISON AVE IN THE CITY OF BERKELEY, ST. LOUIS COUNTY, MISSOURI

WHEREAS, Willie & Kimberly Kilpatrick, has applied to such City for the issuance of a Special Use Permit to operate Lady's Kim, a dine-in and take-out restaurant; 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 Willie & Kimberly Kilpatrick, to operate Lady's Kim, a dine-in and take-out restaurant, located at 6130 Madison Ave; 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 December 07, 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) Name of Business: Lady Kim's Kitchen
- b) Hours of operation: 10:00 am – 10:00 pm Sunday – Saturday. Any change of hours shall be approved by the City Council.
- c) Shall be for the purpose of dine-in and carry-out food services.
- d) Liquor sales and/or consumption is prohibited under this Special Use Permit.
- e) Due to COVID-19, curbside delivery is permitted.
- f) Carryout food sales are permitted; however, no food shall be consumed on the parking lot.
- g) No parking lot dining. No human signs permitted directing patrons to the restaurant.
- h) No live entertainment in or outside of the building.
- i) Pick up litter around the premises at least two times a day.
- j) Deliveries, loading and unloading shall not occur between 6am-9am and 3pm-6pm (*school bus and rush hour*).
- k) Business owners shall change exterior color to earth tones, red trim is prohibited, section 400.370.
- l) Seal asphalt parking lot, red parking stripes shall be changed to yellow stripes after sealing.
- m) 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.
- n) An alarm system and panic button are required to be installed.

- o) An after-hour contact must be included with the Camera Registration.
- p) No metal bars, mesh, or other durable material shall be installed over any portion of the frontage window or frontage opening in commercial buildings.
- q) Install “No Loitering” and “No Loud Music” signs at entrance wall.
- r) Buildings and site conditions in need of repair shall be repaired or replaced per the approval of the Building Commissioner.
- s) 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.
- t) 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.
- u) Signs are prohibited in the right-of-way. A sign permit is required for new signs. Banners, pennants, festoons, human sign, searchlights are prohibited. No banners, balloons, flags or festoons, snipe signs or directional signs in the city’s public right-of-way. Business signage shall be limited to more than 10% of window space. Or ten (10) square feet in area, whichever is the smaller of the dimension. The petitioner will be permitted one exterior wall mounted sign at the front wall of the business.
- v) The premise shall be subject to adherence to City of Berkeley annual fire inspections and life safety plans.
- w) All required inspections by the city are required before issuance of occupancy permit or business license.
- x) 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.
- y) 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.
- z) 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.
- aa) 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.
- bb) 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.
- cc) 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.
- dd) 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 07th day of December 2020
APPROVED and PASSED AMENDMENT this ___ day of _____ 2021

ATTEST:

Mayor Babatunde Deinbo

Deanna Jones, City Clerk

Approved as to Form:
Donnell Smith, City Attorney

Final Virtual Roll Call:

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|------------------------------|---------|---------|------------|-------------|
| 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 ___ |