

Introduced by: City Manager Nathan Mai-Lombardo  
of the City of Berkeley, MO

**A RESOLUTION AUTHORIZING CYMONE MCCLELLAN A SPECIAL USE PERMIT TO OPERATE A RESTAURANT BUSINESS AND NAME CHANGE LOCATED AT 8624 FROST AVE, IN THE CITY OF BERKELEY, ST. LOUIS COUNTY, MISSOURI**

**WHEREAS,** Cymone McClellan has applied to such City for the issuance of a Special Use Permit to operate a restaurant business and name change; 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 Cymone McClellan to operate a restaurant business and name change, located at 8624 Frost 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 (15) 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 November 07, 2022, 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:

- 1) Name of Business: *314 Kitchen, formerly Nephew’s Grill*
- 2) Hours of operation: 11:00 am until 9:00 pm, seven days a week. Any change of hours shall be approved by the City Council.
- 3) Operator shall adhere to all St. Louis County Health provisions while under COVID mandate.
- 4) Liquor will not be sold or consumed on premises.
- 5) Outdoor bistro seating allowed between April – October each year.
- 6) Grease contains shall be emptied every 30-days and not allowed to overflow into the roadway or spill into the public sewers.
- 7) Occupant shall provide trash can at rear and front of property and install enclosure if access is allowed. Permit is required for erecting an enclosure.
- 8) Trash collection shall be done twice (2x) a week for the life of this permit.
- 9) Deliveries, loading and unloading shall not occur between 6am-9am and 3pm-6pm (school buses and rush hour).
- 10) The owner shall submit renovation plans to the Building Commissioner for approval.
- 11) The owner shall repair, seal and re-strip asphalt parking lot for mini-strip plaza no later than May 1, 2022.
- 12) 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.

- 13) Unless noted as a non-conforming condition or noted herein, building and site shall comply with all applicable health, safety, building and sign code standards as required by the City of Berkeley.
- 14) *Security cameras* shall always be installed at perimeter and interior of space and monitored by the business operator at-all-times. Security cameras system is required and must meet the City Camera Registration Program. An after-hour contact must be included with the Camera Registration filed with the Police Department. An alarm system and panic button are required to be installed.
- 15) Buildings and site conditions in need of repair shall be repaired or replaced per the approval of the Building Commissioner.
- 16) 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. Permit required.
- 17) 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. No overgrowth around the fence line.
- 18) Signs are *prohibited* in the right-of-way. A sign permit is required for wall/window signs. Banners, pennants, festoons, searchlights, or human signage directing patrons are *prohibited*. No banners, balloons, flags or festoons, snipe signs or directional signs in the city's public right-of-way without the City Council Approval. Business signage shall be limited to no more than 10% of window space. Or ten (10) square feet in area, whichever is the smaller of the dimension. Business signage shall be limited to no more than twenty-five (25) square feet. The petitioner will be permitted one exterior wall mounted sign at the front wall of the business. No metal bars, mesh, or other durable material shall be installed over any portion of the frontage window or frontage opening in commercial buildings.
- 19) The premise shall be subject to adherence to City of Berkeley annual fire inspections and life safety plans.
- 20) The interior shall 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.
- 21) 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.
- 22) 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.
- 23) 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.
- 24) 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.

- 25) 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.
- 26) 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**        **2022**

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

ATTEST:

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

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

Final Roll Call:

Councilwoman Verges	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Williams	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Anthony	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hindeleh	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman-at-Large Crawford-Graham	Aye ___	Nay ___	Absent ___	Abstain ___
Mayor Deinbo	Aye ___	Nay ___	Absent ___	Abstain ___