



## REPORT TO CITY COUNCIL

**TO:** Mayor and Members of the City Council

**FROM:** Debra M. Irvin, City Manager

**DATE:** July 9, 2021

**SUBJECT: Case No. 21-10:** A referral to the Plan Commission to amend Resolution No. 3417, a Special Use Permit to Donisha Russell for a Sports Bar and Restaurant at 8636 Frost Avenue in the City of Berkeley, St. Louis County, Missouri, located on Frost Avenue, south of the intersection of Frost Avenue and Larry Lane.

We have investigated the Subject item, above, and present the following as our findings:

### **RECOMMENDATION**

Staff recommends referral to City Plan Commission to consider amending the Special Use Permit issued to Donisha Russell.

### **BACKGROUND**

The property that is the subject of this report is located at the southern corner of Frost Avenue and Larry Lane. The property is zoned “C-1” Local Commercial District. The property to the west is “C-2”, Hanley Frost Liquor. The property to the east is “C-1”, Hunan Express. The property to the south is “R-4”, Frost Apartments and Windsor Town Homes. The properties to the north are “C-2”, Mobil gas station and “R-2”, residential single-family home.

### **JUSTIFICATION**

“C-1” zoning requirements:

- Front yard: Twenty-five (25) feet
- Side yard: Seven (7) feet
- Rear yard: Twenty-five (25) feet
- Landscaping: A planting strip of twenty (20) feet shall be established and maintained within the required front yard. The business is going into an existing building. There is no landscaping.
- Parking: Restaurant, tavern or ice cream parlor – one (1) parking space for each one hundred (100) feet of floor area.  
Staff Research - Area approximately 3600 square feet – 36 spaces required – mixed uses for entire strip mall-64 spaces
- Liquor License – no carry out liquor

### **SUPPORTING DOCUMENTS**

- Staff Report
- Resolution No. 3417

**Respectfully submitted,**

**RESOLUTION # 3417**

Introduced by: Council Members Present  
of the City of Berkeley, MO

**A RESOLUTION AUTHORIZING DONISHA RUSSELL A SPECIAL USE PERMIT TO OPERATE INCOGNITO SPORTS BAR & GRILL WITH A LIQUOR LICENSE LOCATED AT 8636 FROST AVE., IN THE CITY OF BERKELEY, ST. LOUIS COUNTY, MISSOURI**

**WHEREAS**, Donisha Russell, has applied to such City for the issuance of a Special Use Permit to Operate Incognito Sports Bar & Grill; 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 Donisha Russell, to operate Incognito Sports Bar & Grill, located at 8636 Frost Ave.; and

**WHEREAS**, due notice of the time, place and purpose of a 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 public hearing was duly held by the Council, on June 05, 2017, in the City Hall 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; and

**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) Age limit as provided by the applicant as 35 years and over.
- b) Hours of operation shall be from Monday – Sunday 12:00 pm until 1:30 am. Sunday hours of operation 12:00 pm until 12:30 am.
- c) Food and liquor will be sold and consume on premises.
- d) Carryout food sales are permitted.
- e) Occupant cannot purchase and sell food from neighboring business – Nephew's Grill.
- f) Carryout liquor sales are prohibited.
- g) Live music
- h) No outdoor music events.
- i) A commercial kitchen is required.
- j) Occupant shall provide trash can at rear of property and install enclosure, if access is allowed.

- k) The building, lot, landscaping, and yard areas shall be maintained and kept free and clear of debris or trash or weeds including maintenance of all landscaped areas.
- l) Buildings and site conditions in need of repair shall be repaired or replaced per the approval of the Building Commissioner.
- m) Sign permit is required for new wall / window signs.
- n) No banners, balloons, flags or festoons in right-of-way, unless approved by City Council.
- o) No human signs permitted directing patrons to the bar.
- p) Apply for Liquor License with State and Berkeley's Finance Office.
- q) Owner is to post the following 8" x 10" illuminated aluminum signs and posts in accordance to city ordinance: Noise Prohibited, No Overnight Parking, and No Littering.
- r) The entire interior will be thoroughly inspected by City's Building and Fire Departments, the St. Louis County Health Department, and any and all other jurisdictions, if applicable. All permits that are required by any of said mention must be received.
- s) This site shall comply with all the applicable 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, and St. Louis County.
- t) 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.
- u) 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, with a review by Plan Commission every 2 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.
- v) 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, not complying with the City's 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.
- w) Any violations can be a reason for the City to revoke this permit, according to the City's current regulations. The applicant will comply with all the City's rules and regulations.
- x) Prior to issuance of any Occupancy Permit, the above noted conditions, the conditions as described in the attached Report, the inspections as part of the normal occupancy permit process shall be met, and as approved by the City Council.


**SECTION 3** The Department of Public Works shall be charged with responsibility for the enforcement of this Resolution.

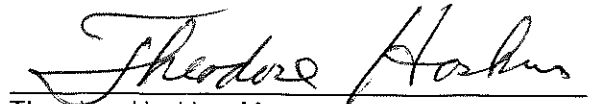
**SECTION 4** This Resolution shall be in full force and effect from and after the date of its passage.

PASSED this **5<sup>th</sup> day of June 2017**

ATTEST:

  
Deanna Jones, City Clerk

  
Approved As To Form:  
Donnell Smith, City Attorney

  
Theodore Hoskins, Mayor

Final Roll Call:

Mayor Hoskins	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Hoskins	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Kirkland	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Mathison	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilman-at-Large McDaniel	Aye <input type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input checked="" type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Mitchell	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>
Councilwoman Williams	Aye <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>	Absent <input type="checkbox"/>	Abstain <input type="checkbox"/>