



8425 Airport Road

Berkeley Missouri 63134-2098

(314) 524-3313

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## NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** by the City Council of the City of Berkeley that a public hearing will be held at 7:00 pm on Monday, May 01, 2023 in the council chambers of 8425 Airport Rd, 63134 and via Zoom, for the purpose of considering the following proposition:

1. **Case #23-07:** Shall a request be granted from Kimistry Victorious for a Special Use Permit to operate a Candy, Convenience, and Confection Store known as Kay's Korner, located at 8351 Frost Avenue, Berkeley MO 63134.?
2. **Case #23-08:** Shall a request be granted from Vencentia Barber and Donna Smith for a Special Use Permit to operate an Adult Day Care business known as Genuine Adult Daycare Service LLC, located at located at 8650 Frost Avenue, Berkeley MO 63134?
3. **Case #23-09:** Shall the City of Berkeley rezone an area along Airport and North Hanley Roads, and Madison Avenue, from C-1 "Local Commercial", C-2 "General Commercial", and R-3 "Single Family", to DT-1 "Downtown Core", and DT-2 "Airport Frontage"?

All interested parties shall be afforded, at such public hearing, a reasonable opportunity to express their views regarding the item set forth above.

*Deanna L. Jones*

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Deanna L. Jones – City Clerk, MPCC/MMC

Zoom.us

Meeting ID: **830 0549 2632**

Pass code: **228925**

Posted: Monday, April 17, 2023

## STAFF REPORT

**CASE NUMBER:** 23-07

**DATE:** MAY 1, 2023

**PETITIONER:** Kimistry Victorious  
13054 Mystic Bend Lane  
Black Jack, MO 63033  
314-369-6350  
E-mail: [kayskorner83@gmail.com](mailto:kayskorner83@gmail.com)

**PROPERTY OWNERS:** Donna Peebles  
5276 Cheltenham  
Black Jack, MO 63033

**STORE OWNERS:** Kimistry Victorious

**REQUEST:** Transfer of Special Use Permit due to owner's name change

**LOCATION:** 8351 Frost Avenue

**SIZE:** N/A

**CURRENT ZONING:** C-1, Local Commercial District

**PROPOSED ZONING:** Zoning to remain the same

**EXISTING USE:** Candy and Convenience

**PROPOSED USE:** Same

**RECOMMENDATION:** Approve



## REPORT TO CITY COUNCIL

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**TO:** The Honorable Members of the City Plan Commission  
**THRU:** Nathan Mai-Lombardo, City Manager  
**FROM:** Elliot Liebson, Director of Planning and Development  
**DATE:** May 1, 2023

**SUBJECT:** Case # 23-07

A request for Transferring Special Use Permit Case #20-15 by Kimistry Victorious, for Kays Korner located at 8351 Frost Road, due to the owners name change.

### **RECOMMENDATION**

Staff recommends Approval of the Special User Permit transfer, with conditions of the Special Use Permit to remain unchanged, for an existing candy and convenience store at 8351 Frost Avenue, in the City of Berkeley, St. Louis County, Missouri.

### **BACKGROUND**

The current zoning of property is C-1 Local Commercial District. The properties to the north, east, and west are zoned R-1 Single Family Residential; the property to the south is zoned C-1 Local Commercial. The restaurant is a part of a commercial plaza and the total acreage of the plaza is about .80 acres. The building is approximately 7,100 square feet. This use is located on Frost Avenue and Midwood Avenue, which is a secondary intersection in our community. This intersection is zoned for commercial activity. The Applicant was granted a Special Use Permit on September 21, 2020 to operate this store by the Berkeley City Council.

*The Plan Commission reviewed this Case on April 12, 2023, and voted unanimously in favor of recommending approval.*

### **DESCRIPTION OF USE**

Kays Korner sells candy, convenience, and concessions, Tuesday through Saturday 12-6pm (Saturday 12-5pm). The use will remain unchanged.

### **STAFF ANALYSIS**

#### ***Compliance with Special Use Permit Considerations:***

The products sold at this store fall under the classification of a Special Use as listed in Section 400.130.D.1 of the Zoning Code, and will remain unchanged.

#### ***Compliance with Zoning Regulations***

In considering whether or not the application for a Special Use Permit should be granted, it shall be the duty of the Commission and the Council to give consideration to the effect of the requested use on the

health, safety, morals, and general welfare of the residents in the vicinity of the property in question and the residents of the City generally. In considering the Special Use, the Commission and the Council should consider the following criteria:

**1. *The compatibility with surrounding uses and compatibility with the surrounding neighborhood.***

This is an existing retail use in a commercially zoned shopping plaza, that fills a need for surrounding residents.

**2. *The comparative site, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding properties and neighborhood.***

See above; this use is within an existing structure.

**3. *The frequency and duration of various indoor and outdoor activities and special events and the impact of these activities on the surrounding area.***

Staff sees no impact from this use on it's surroundings.

**4. *The number of transit movements generated by the proposed use and relationship to the amount of traffic on abutting streets and on minor streets in the surrounding neighborhood, not in terms of the street's capacity to absorb the additional traffic, but rather in terms of any significant increase in hourly or daily traffic levels.***

Frost Avenue is large enough to handle modest commercial traffic, and as this is an existing use, the numbers will not change.

**5. *The capacity of adjacent streets to handle increased traffic in terms of traffic volume.***

See above; there will be no change in traffic volume.

**6. *The added noise level created by activities associated with the proposed use and the impact of the ambient noise level of the surrounding area and neighborhood.***

The noise level will not change.

**7. *In commercial districts, the negative impact on the economic viability of the commercial area of businesses with poor appearance due to type of goods or services offered; limited business hours or other evidence of limited use of building for commercial purposes; and interruption of the continuity of retail sales uses and walk-in customers in commercial areas predominately oriented to retail sales.***

The Applicant keeps this store well maintained, and the continuity of uses will not change.

**8. *The requirements for public services where the demands of the proposed use is in excess of the individual demand of adjacent land uses in terms of Police and fire protection, the presence of any potential or real fire hazards created by the proposed use.***

These will remain unchanged.

**9. *The general appearance of the neighborhood will not be adversely affected by the location of the proposed use on the parcel, nor will the materials used in the construction of the proposed buildings of the special use be greatly dissimilar, or that the general architecture of the building stand out or create a visual problem within the neighborhood.***

The neighborhood visual appearance will remain unchanged.

**10. *The impact of night lighting in terms of intensity and duration and frequency of use as it impacts adjacent properties and in terms of presence in the neighborhood.***

This will remain unchanged.

**11. *The impact of the landscaping of the proposed use in terms of maintained landscaped areas versus areas to remain in a natural state, openness of landscape versus the use of buffers and screens.***

The use is not new, so there is no change in landscaping.

**12. *The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas, and service areas in terms of noise transfer, water runoff and heat generation.***

This will not change.

**14. *The potential for the proposed use to remain in existence for a reasonable period of time and not become vacant, or unused. Consideration should also be given to unusual single purpose structures or components of a more temporary nature.***

Given that the Applicant has already been in business for three years, and thus survived the impact of Covid on retail in general, Staff is confident this business will remain operating for the foreseeable future.

### **SUPPORTING DOCUMENTS**

- Staff Report
- Special Use Application
- St. Louis County Aerial Property View
- Site Photographs
- Site Plan

### **PROCEDURE:**

The Commission may recommend modifications to the permit of approval as necessary to preserve the health, safety, general welfare, beauty, and tranquility of the City, and may recommend a specific expiration date of the permit. If no date is specified, the term shall be one year.

### **OPTIONS OF THE COUNCIL**

1. –Recommend approval of the applicant’s request.
2. –Recommend denial of the applicant’s request.

### **REQUESTED COUNCIL ACTION(S)**

Recommend to the Plan Commission **approval** of the transfer of Special Use Permit for Case #20-15, with the same conditions, for the owner of the candy, convenience, and concessions store located at 8351 Frost Avenue, Berkeley, MO 63134 in accordance with the City’s regulations.

The applicant will need to acquire all the necessary permits from the City of Berkeley and other jurisdictions, after obtaining City Council’s approval on this Special Use Permit.

### **SUMMARY AND DECISION**

The Board members can modify or add any other conditions with their recommendations to the City Council for this project.

### **CONDITIONS OF APPROVAL**

#### **CONDITIONS – CASE NO. 23-07 (from case 20-15)**

##### **Staff recommends approval with following conditions:**

1. Business Name – *Kay's Korner*
2. Hours as approved as requested, Monday - Saturday (11:00am – 7:00pm) any change of hours shall be approved by the City Council
3. Security cameras shall 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
4. An alarm system and panic button are required to be installed
5. An after hour contact my file with Camera Registration
6. A sign permit is required
7. Banners, pennants, festoons, human sign, searchlights are prohibited
8. Business signage shall be limited to no more than 10% of window space. The petitioner will be permitted one exterior wall mounted sign at the front wall of the business.
9. No metal bars, mesh, or other durable material shall be installed over any portion of the frontage window or frontage opening in commercial buildings.
10. Sale of pre-packaged food is acceptable
11. No sale of package liquor
12. No sale of single cigarettes
13. No sale of medical marijuana
14. Cooking and selling hot foods prohibited – not approved for kitchen
15. Install “No Loitering” and “No Loud Music” signs at entrance wall
16. 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. Commercial Occupancy Inspection is required.
17. 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 Rd
18. This Special Use Permit will be revoked if for any reason the applicant ceases operations and not complying with the City's Special Use Permit.
19. Prior to issuance of any Occupancy Permit, the above noted conditions shall be met.
20. 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.
21. The Special Use Permit take effect upon the approval by City Council.
22. This Special Use Permit shall not be assigned, or sold, or conveyed, without prior written approval from the City Council.

#### **OWNER SHALL MAKE THE FOLLOWING REPAIRS:**

##### **(from 20-15; for verification only)**

1. Structural safety of the roof as the top boards appears to be bowed down.
2. Replace broken slabs of concrete at rear of building
3. Façade repairs/paints, etc. Owner painted over bad wood – remove and replace wood
4. The fenced areas on the west side of this plaza are in need of repairs.
5. The parking needs asphalt overlay with proper parking markings and concrete wheel stoppers. The concrete aprons also need attention.

6. The total site needs to be cleaned and weeds/debris to be removed from side and rear of property.
7. Exterior shall be maintained and free of debris at all times

## 8351 Frost Rd



## Aerial Photo with parcel lines

