

RESOLUTION NO. 9506

Introduced by Councilmen Shaw, Hull, Hoskins, Mathison, and Leonard

A RESOLUTION AUTHORIZING NASI POURDAVARANI D/B/A/ HONDA ACURA HOUSE A SPECIAL USE PERMIT UNDER PROVISIONS OF THE ZONING ORDINANCE OF THE CITY OF BERKELEY, MISSOURI, SECTION 23.19 AND PROVIDING THE CONDITIONS OF SUCH USAGE FOR AUTO BODY REPAIRS AT 5915 GARFIELD.

\* \* \* \* \*

WHEREAS, Section 23.12 of the Zoning Ordinance of the City of Berkeley, M-1 Industrial District, provides for use of property lying within M-1 Industrial Districts for public garages and related uses upon the issuance of a special use permit; and

WHEREAS, Nasi Pourdavarani d/b/a/ Honda Acura House, lessee of certain described property located within the M-1 Industrial District of the City of Berkeley, Missouri, has applied to the City for the issuance of a special use permit for the establishment of an automobile repair shop with automobile part sales to be located at 5915 Garfield; and

WHEREAS, in accordance with the applicable Ordinance of the City of Berkeley, application was submitted to the City Plan Commission (the "Commission") for investigation and report, and further, that the Commission has returned a final report recommending that a special use permit be issued to Nasi Pourdavarani for an auto body repair shop at 5915 Garfield; 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, the first notice being published at least fifteen (15) days prior to the scheduled date of the hearing, and written notices of the hearing were mailed to the last known residences of owners of all property lying within one hundred eight-five (185) feet of all boundaries of the property which is the subject of the proposed special use permit; and

WHEREAS, a public hearing was duly held in conformity with the notice of public hearing by the City Council on February 6, 1995 in the City Hall, 6140 North Hanley Road, Berkeley, Missouri 63134 at which the parties in interest were given an opportunity to be heard; and

WHEREAS, the City Council has found and considered the matters contained in Section 23.19 and the following matters contained in Section 23.19.6 of the Zoning Ordinance of the City:

1. The compatibility of the proposed use with surrounding uses and with the surrounding neighborhood.

2. The comparative size, floor area, and mass of the proposed structure in relation to adjacent structures and buildings on the surrounding properties and neighborhood.

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

4. The number of transit movements generated by the proposed use and the 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.

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

7. In commercial districts, the negative impact on the economic viability of the commercial area of businesses with poor appearance due to type or goods of 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 predominantly oriented to retail sales; and

8. The requirements for public services where the demand 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.

a. 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.

b. 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.

c. 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.

d. 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.

e. 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.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BERKELEY MISSOURI, as follows:

SECTION 1. The City Council hereby finds and determines with respect to the proposed use of property located at 5915 Garfield for automobile repairs and automobile part sales that the public health, welfare, and safety are adequately protected in view of the foregoing criteria, and that the Special Use Permit should be granted as the City Council affirmatively finds as to the above criteria.

SECTION 2. Subject to the conditions hereinafter set forth, a Special Use Permit for the use of property located at 5915 Garfield (the "Property") for automobile repairs and automobile part sales is hereby granted to Nasi Pourdavarani ("Applicant"):

- a. The fence codes shall be adhered to;
- b. Two (2) planters shall be placed in front of the office;
- c. Trash and overgrowth shall be eliminated;
- d. Back-light awning shall be installed; and
- e. All other requirements of the City's Municipal Code including the Zoning Ordinance and of applicable State and St. Louis County regulations shall be adhered to.

SECTION 3. This Special Use Permit shall be personal to Applicant and shall not be assigned or transferred nor used by another without prior approval of the City Council and no Occupancy Permit, Building Permit, or Business License shall be issued to any such assignee or transferee until City Council approval is granted.

SECTION 4. The Department of Public Works shall be charged with the responsibility for the enforcement of the Special Use Permit conditions and of this Resolution.

SECTION 5. The portions of this Resolution shall be severable. In the event that any term, phrase, sentence, or paragraph of this Resolution is found by a court of competent jurisdiction to be invalid, the remaining portions are valid,

unless the court finds the valid portions are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City Council would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

SECTION 6. This Resolution shall be in full force and effect from and after the date of its adoption.

ADOPTED this 6th day of February, 1995.

M. Jean Montgomery  
(Acting) Mayor of the City of Berkeley, Missouri

ATTEST:

Lorraine M. Bolton  
City Clerk

AGREEMENT TO SPECIAL USE PERMIT


CONDITIONS SET FORTH BY CITY

The undersigned Nasi Pourdavarani, d/b/a Honda Acura House, has applied to the City of Berkeley, Missouri for a Special Use Permit to operate the business of auto body repairs at 5915 Garfield Avenue, Berkeley, Missouri, and pursuant to such application, the City has approved such Special Use Permit under certain conditions, which are contained in Resolution No. 9506, adopted the 6th day of February 1995.

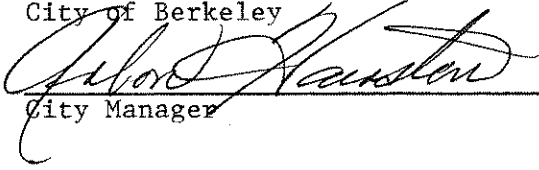
The undersigned fully understands such conditions and does hereby accept them as being reasonable and proper in connection with the operation of this Special Use Permit, and realizes that if he violates any of the conditions contained in Resolution No. 9506, the Special Use Permit can be revoked.

Executed this 22nd day of February, 1995.

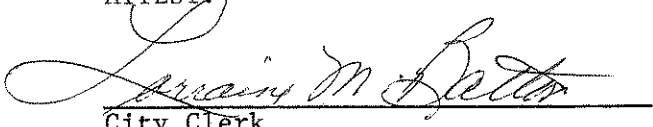
Nasi Pourdavarani  
d/b/a Honda Acura House

  
\_\_\_\_\_  
Applicant

City of Berkeley

  
\_\_\_\_\_  
City Manager

ATTEST:

  
\_\_\_\_\_  
City Clerk

OK W.E.,  
11-21-94  
*[Signature]*

STATE OF MISSOURI )  
(  
CITY OF BERKELEY )

DATE 11-16-94  
FEE \$50.00 *pd*

TO THE COUNCIL OF THE CITY OF BERKELEY  
STATE OF MISSOURI

APPLICATION FOR SPECIAL USE PERMIT

1. Now comes HONDA ACURA House, and  
Land, and state/s to the Council  
that he (she, it, they) has (have) the following interest in the tract  
of land located in the City of Berkeley, Missouri, described in Section  
A below. The legal interest is Leasehold.

A. Legal Description of property and address:

5915 - GARFIELD  
Berkeley, MO 63134

B. Legal description of portion for which application for special use  
permit is sought (if it differs from Section A):

SAME

Approved by the Council  
of the City of Berkeley,  
Missouri February 6, 1995.

*Lorraine M. Patton, CM*  
City Clerk

C. Survey or plat of property, showing nearest street intersection, dimensions of property, and north point. Building plans, showing the interior and exterior plans. Survey or plat and building plans must be attached to this application. (9 sets required)

II Your petitioner(s) further state(s) that the property hereinabove described is zoned as H-1 Zoning District, and that the deed restrictions, if any, for the property do not prohibit the special use herein requested.

The property herein is presently being used as follows:

STORAGE., and it is desired to use it for MINOR MECHANICAL & AUTO BODY REPAIR AND PART SALE

III Generally the method and operation of the special use herein requested, if so granted, is described as follows:

OPEN MON - SAT 8 to 5 PM  
MINOR MECHANICAL & AUTO BODY REPAIR  
AND PART SALES.

WHEREFORE, your petitioner(s) request(s) approval of the special use permit as hereinabove requested.

POURDAVARANI - NAFI

PETITIONER SIGNATURE

N P NAFI

ADDRESS

5915 - CARFIELD

BERKELEY, CA 94704

521-0002 W

836-6022 H

I (we) hereby certify that I (we) have a legal interest in the hereinabove described property, and that all information given herein is true and a statement of fact.

Pourdavarani-Nani  
N. P. Nani

I (we) hereby certify that I am (we are) the duly appointed agent of the petitioner(s), and all information given herein is true and a statement of fact.

Pourdavarani-Nani  
N. P. Nani

SUBSCRIBED and sworn to before me this 16<sup>th</sup> day of November, 1994.

NOTARY PUBLIC Christine James

CHRISTINE JAMES  
NOTARY PUBLIC STATE OF MISSOURI  
ST. LOUIS COUNTY  
MY COMMISSION EXP. JULY 17, 1998

My commission expires July 17, 1994.



FROM: HONDA ACURA house

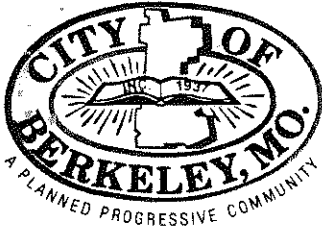
5915 GARFIELD.

BERKELEY, MO. 63134

TEL 314. 521-0002

BECAUSE OF NAME (HONDA ACURA) THE CITY  
 REQUESTED ME TO CHECK IF THERE IS ANY PROBLEM  
 WITH THE NAME. REFERED NUMBER BY MR CHARLES  
 POIK 314-751-<sup>4571</sup>~~8427~~. I CONTACT TO THIS NUMBER  
 AND MR JOE GARNET SAID THERE IS NO PROBLEM  
 BUT IN ORDER TO BE SURE. HE GAVE ME ANOTHER  
 NUMBER (751-8637). SO I CONTACTED. AND  
 MISS SHERON HANGES. OK THAT. AND SHE SAID  
 THERE NO PROBLEM IF I CHOSE (HONDA ACURA HOUSE)  
 AS A BUSINESS NAME. (11-30-90)

*N. P.*  
 12-7-1984



6140 North Hanley Road

Berkeley, Missouri 63134-2098

314-524-3313

February 14, 1995

Mr. Nasi Pourdavarani, Manager  
Honda Acura House  
5915 Garfield Avenue  
Berkeley, MO 63134

Dear Mr. Pourdavarani:

As you know, the Council of the City of Berkeley approved a special use permit, copy attached. Please review this document. Also attached is a form of agreement. Please sign the agreement form and return it to this office as soon as possible. Upon receipt of the signed form, the City can proceed to issue the Occupancy Permit, Business License, etc., as applicable. If the above mentioned applications have not been made as yet, you may wish to do so at an appropriate time to avoid unnecessary delays.

If you have any questions, or if ever I can be of assistance to you in any way, please do not hesitate to call.

Sincerely,

Lorraine M. Batton, CMC  
City Clerk

Attachments

cc: Joshua Richardson, Public Works Director  
Wade Ewing, Building Inspector  
Chris James, Secretary-Dept. of Public Works  
Joy Stock, Revenue Technician



6140 North Hanley Road      Berkeley, Missouri 63134-2098      314-524-3313

March 31, 1995

Mr. Nasi Pourdavarani, Manager  
Honda Acura House  
5915 Garfield Avenue  
Berkeley, MO 63134

RE: Special Use Permit

Dear Mr. Pourdavarani:

For your records, enclosed is a copy of Resolution No. 9506 and a copy of the approved Application for Special Use Permit. This was approved by the Council on February 6, 1995.

If you have any questions, or if we can be of assistance to you in any way, please do not hesitate to call.

Sincerely,

Lorraine M. Batton, CMC  
City Clerk

cj

Enclosures

cc: Arbon Hairston, City Manager  
Joshua Richardson, Director of Public Works  
Wade Ewing, Chief Code Enforcement Officer