

PROPOSED BY: Planning & Zoning Commission BILL NO. 23-3012

INTRODUCED BY: Alderman Osherow

ORDINANCE NO. 2998

**AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR OPERATION OF
RESTAURANT AT 12055 MANCHESTER ROAD TO
NEOM LLC d/b/a TIGER TEA**

WHEREAS, Section 404.055 of Appendix C. Zoning Regulations of the Municipal Code of the City of Des Peres (hereinafter referred to as the "Zoning Code") provides that the operation of a restaurant in the C-1 or C-2 Commercial Zoning Districts requires issuance of a Conditional Use Permit subject to approval under Section 408.010 of the Zoning Code; and

WHEREAS, Section 402.005 of the Zoning Code of the City of Des Peres defines a "Restaurant" as any establishment whose principal business is the preparation or sale of food, frozen prepared foods, frozen desserts or beverages for consumption either within the premises or for carryout to the general public. S402.005. Definitions of Zoning Code

WHEREAS, on August 17, 2023, NEOM LLC d/b/a Tiger Tea submitted a petition requesting issuance of a conditional use permit for operation of a limited-service restaurant to be located at 12055 Manchester Road within a multi-tenant retail center commonly referred to as Des Peres Shopping Center (addressed as 12011 thru 12085 Manchester Road); and

WHEREAS, at their meeting held September 13, 2023, the Planning & Zoning Commission recommended in favor of granting a conditional use permit to NEOM LLC d/b/a/ Tiger Tea for operation of a limited-service restaurant comprising of 1,356 square feet; and

WHEREAS, having first given fifteen (15) days' notice by posting in four (4) locations within the city; posting on the city website and by publication in a newspaper of general circulation, the Board of Aldermen held a Public Hearing on Monday, October 9, 2023 on the petition from Tiger Tea; and

WHEREAS, the Board of Aldermen has determined that the granting of a Conditional Use Permit for operation of a restaurant at the subject property would not be detrimental to the public safety, health or welfare of the community and hereby finds and concludes in accordance with Section 408.010(A)(6) of the Municipal Code as follows:

- a) That the proposed use is compatible with the surrounding areas and uses;
- b) That the comparative size, floor area and mass of the proposed use is appropriate (?) and reasonable in relation to adjacent structures on the surrounding property and surrounding neighborhoods;
- c) That the frequency and duration of various indoor and outdoor activities and special events associated with the proposed use will not have a deleterious impact on the surrounding area;
- d) That the streets adjacent to the proposed use have sufficient capacity to service any increased traffic volume associated with the proposed use while maintaining adequate and reasonable levels of service for the community;

- e) That the number of transit movements on abutting streets and minor streets in the neighborhood to be generated by or associated with the proposed use will not cause significant increases in hourly or daily traffic levels;
- f) That the added noise levels generated by activities associated with the proposed use will not adversely impact the ambient noise level of the surrounding area or neighborhood;
- g) That the activities associated with the proposed use will not generate obnoxious odors to the detriment of the surrounding areas;
- h) That the proposed use will not significantly increase demands on fire and police protection services in excess of the individual demands of adjacent land uses and that the proposed use will not present any real or potential fire or public safety hazard;
- i) That the proposed use will not adversely affect the general appearance of the neighborhood due to the location of the proposed use on the parcel of ground or due to the materials used in construction of any proposed buildings being greatly dissimilar to surrounding appearances of buildings, or due to the architecture of any proposed buildings being of such a nature as to create visual disharmony within the neighborhood;
- j) That the intensity, duration or frequency of lighting associated with the proposed use will not adversely impact the ambient light level of night light in the neighborhood;
- k) That the landscaping associated with the premises to be occupied by the proposed use is adequate in regard to the creation and maintenance of landscaped areas as opposed to areas to be left in a natural state and the use of buffers and screens as opposed to open land areas;
- l) That the proposed use will not adversely affect the neighborhood in terms of water runoff, noise, or transfer or heat generation due to a significant amount of hard surfaced areas for buildings, sidewalks, drives, parking and service areas.
- m) That the proposed use is likely to remain in existence for a reasonable length of time and not become vacant or unused and that the use proposed does not involve the presence of unusual single purpose structures or components of a temporary nature.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF DES PERES, MISSOURI, AS FOLLOWS:

SECTION ONE: A Conditional Use Permit is hereby granted for the operation of restaurant under Section 405.130 of the Municipal Code of the City of Des Peres at 12055 Manchester Road. Said permit shall be issued to NEOM LLC d/b/a/ *Tiger Tea* and may not be sold, transferred or assigned without prior consent of the Board of Aldermen and such consent shall not be unreasonable withheld.

On application of NEOM LLC and with consent of the property owner, the Director of Public Works, or his designated representative, shall be authorized to approve relocation of such restaurant to a similarly sized space within the same shopping center without amendment of transfer of this permit. Such authorization shall be in writing and a copy of same along with the application for change filed with the Board of Aldermen and City Clerk.

SECTION TWO: The authority and approvals embodied in this ordinance are granted subject to all ordinances of the City of Des Peres and the following additional conditions and restrictions:

- (A) Said restaurant shall be limited to no more than 1,360 square feet of gross leasable floor area.
- (B) Interior seating for said restaurant shall not exceed twenty (20) seats. Seating capacity may be increased with approval of the Director of Public Works subject to review of overall parking required for the tenant mix in the multi-tenant shopping center at that point in time.
- (C) Hours of operation shall be limited in accordance with the general provisions or any restrictions applicable to commercial districts in the Municipal Code.
- (D) No truck deliveries or trash collection shall be permitted between the hours of 6:30 P.M. and 6:30 A.M. except by temporary permit issued by the Director of Public Works due to unusual circumstances.
- (E) Trash containers of adequate size in an enclosed space shall be provided in a location in the rear of the building as approved by the Director of Public Works and shall be closed at all times except when loading or unloading. This provision may be accommodated by use of a single dumpster provided for all tenants in the center.
- (F) All signs shall conform to Chapter 10, Signs of the Municipal Code and to Uniform Sign Standards established by the Planning & Zoning Commission for Des Peres Shopping Center. No illuminated signs of any kind shall be installed within three (3) feet of any exterior door or window in such a manner as to be visible from outside the premises.

The restaurant shall be permitted temporary signs as approved by the Director of Public Works during a period one week prior to and one week following the date of the grand opening of the restaurant.

- (G) The holder of this permit shall at all times be current with all payment of sales taxes and other business licenses required by the City of Des Peres.
- (H) The premises shall at all times be maintained in a safe, clean condition free of all litter and debris.

SECTION THREE: This Conditional Use Permit shall expire one (1) year from the date of issuance of this permit unless the restaurant has commenced business or an extension of time has been granted by the Board of Aldermen. For purposes of this section, commencement of business shall require the issuance of a *Certificate of Occupancy* and a *Business License* by the City of Des Peres. Such permit shall also be deemed to be null and void if the use authorized herein is discontinued or abandoned for a period of twelve (12) consecutive months.

SECTION FOUR: The Director of Public Works or his designated representative shall be responsible for enforcement of the conditions of this Ordinance. Any person, firm or corporation violating any of the provisions of this Ordinance shall, upon conviction in Municipal Court, be subject to a fine of not more than One Thousand Dollars and No Cents (\$1,000.00) for each

violation. Each and every day of such violation shall be deemed to be a separate offense for purposes of this section. Failure to comply with any or all of the conditions of this permit shall be adequate cause, following hearing before the Board of Aldermen, for the revocation of this permit and termination of the use of the premises as permitted herein.

SECTION FIVE: This Ordinance shall be in full force and effect both from and after its passage and approval by the Mayor and Board of Aldermen

Voting in Favor: Barrett, Concagh, Fitzpatrick, Kleinschmidt, Osherow, Pound

Voting Against:

Absent:

This ordinance passed this 9th day of October, 2023.


Presiding Officer

ATTEST:


Amanda Hurley, City Clerk

This ordinance approved this 9th day of October, 2023.


Mark Becker, Mayor

ATTEST:


Amanda Hurley, City Clerk

1st Reading 09/25/2023
Public Hearing 10/09/2023
2nd Reading 10/09/2023