

City of Coral Gables City Commission Meeting
Agenda Item G-9
December 10, 2019
City Commission Chambers
405 Biltmore Way, Coral Gables, FL

City Commission

Mayor Raul Valdes-Fauli
Vice Mayor Vince Lago
Commissioner Pat Keon
Commissioner Michael Mena
Commissioner Jorge Fors

City Staff

City Manager, Peter Iglesias
Assistant City Manager, Ed Santamaria
City Attorney, Miriam Ramos
Deputy City Attorney, Cristina Suárez
City Clerk, Billy Urquia
Planning and Zoning Director, Ramon Trias

Public Speaker(s)

Agenda Item G-9 [3:05 p.m.]

A discussion of notice procedures applicable to conditional use permits for outdoor seating for nonrestaurant facilities.

(Sponsored by Commissioner Fors, Jr.)

(Sponsored by Vice Mayor Lago)

Mayor Valdes-Fauli: Another one.

Commissioner Fors: G-9.

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Agenda Item G-9 - Discussion of notice procedures applicable to conditional use permits for outdoor seating for nonrestaurant facilities.

Vice Chair Lago: G-9. Take it away, Commissioner.

Commissioner Fors: I added this onto the agenda, cosponsored by Vice Mayor Lago. A couple of months ago, we each sponsored and passed legislation permitting outdoor seating for nonrestaurant facilities as a conditional use. The amendment to the Zoning Code specified that these applications will be treated as all other conditional uses. I think there were some unintended consequences from that. Some have been resolved administratively. Another one that has -- that was voiced as a concern by certain businessowners who have tried to apply for this is that it -- the application requires notice to neighbors within a thousand-foot radius as well as a community meeting. I looked at it, frankly, I thought it was silly for somebody to have to send this much notice and hold a community meeting to put two tables and two chairs outside. In the case of the Miracle Mile area, an area where everybody has outdoor seating already, in the case of the commercial business district, an area where the two tables or whatever it may be are on their own private property, it's not only something that I believe is overly bureaucratic, but it also comes with a significant cost. Notice to a thousand square feet results in a cost of over \$1,000. You know, I think it was something that we should look at to see if in the context of outdoor seating for nonrestaurants, we specify in the Code that it won't be permitted. Keeping in mind, of course, that any of these applications are subject to final approval by the Commission.

Mayor Valdes-Fauli: Let me -- on the Miracle Mile, I disagree with you and I was a proponent in 1985 against the members of the City Commission then that we allow outdoor sitting for restaurants in Miracle Mile and it passed. There was a Thai restaurant in the north side of the street. But what if, you know, you have a smoke shop and you want to have outdoor seating or you have a barbershop and you want to have outdoor seating. I think that the neighbors should be notified that this is going to take place, and they should have the opportunity to object.

Vice Chair Lago: Well, it's my understanding the smoke shop and the barbershop wouldn't qualify. They have to have certain standards. Wouldn't they have to have some certain standards?

Planning and Zoning Director Trias: It's a conditional use. And you're correct. I mean, the process is complicated, but I understood that that was the intent.

Vice Chair Lago: Well, no. The intent wasn't...

Planning and Zoning Director Trias: Yeah.

Vice Chair Lago: To make it complicated. The intent was to make it possible. And I think...

Mayor Valdes-Fauli: It is possible, but you need to notify.

Vice Chair Lago: But -- no but I --but let me just finish one second. I think -- for example, when we started this process -- and we'll use Wolf Wine as an example. They came; their fees were over \$11,000. That was obviously...

Planning and Zoning Director Trias: And that's the...

Vice Chair Lago: Reviewed. That was reviewed and it was brought down to a nominal amount.

Planning and Zoning Director Trias: Right.

Vice Chair Lago: Which is more feasible. But I -- the idea of the outreach that's required for two tables and four chairs to me when all around you in Miracle Mile and there's people sitting down outside, I think it's just a little bit too heavy handed in my opinion. I think there has to be a tighter circle if we're going to require public notice, like Commissioner Fors mentioned, a thousand feet, I mean, the numbers are significant. This is a -- again, this is if you want to continue to have mom and pop stores on Miracle Mile. If we don't want to have mom and pop stores on Miracle Mile and we want to become a Lincoln Road, then that's a different story, where you have all these

giant chains, they have all the resources. But when you're talking about a mom and pop store that's been located in Miracle Mile for some time and is making an effort to again take advantage of the great weather here during certain times of the month. This process is not only painstaking, but it just takes too much time and is it really worth the effort.

City Attorney Ramos: Vice Mayor, I'd like the Deputy City Attorney to address the fee issue as well as some -- how we...

Vice Chair Lago: But your...

City Attorney Ramos: Can fix it going forward.

Vice Chair Lago: But the fee issue's been addressed already.

Deputy City Attorney Suárez: Yes.

City Attorney Ramos: Yes, but it wasn't a reduction.

Deputy City Attorney Suárez: I just want to clarify.

City Attorney Ramos: I just want to make it clear.

Deputy City Attorney Suárez: Right. It wasn't a reduction.

Vice Chair Lago: It was an error.

Deputy City Attorney Suárez: It was -- we were looking at it differently. So, a conditional use, as we are used to seeing it, oftentimes typically involves a site plan review. So, there is -- in our fee schedule, there is an administrative fee for conditional use applications. And then there's the

site plan review fee, which is the one that's upwards of \$11,000. We -- it was brought to our attention and we looked at it, and we looked at the Zoning Code and we interpreted that this really is a different process. It's a conditional use application, but it doesn't require a site plan review. So, we said only that administrative fee of a hundred and some dollars is what applies. So, it wasn't a reduction.

Vice Chair Lago: Answer...

Deputy City Attorney Suárez: Just to clarify.

Vice Chair Lago: Well, can I ask you a question? Okay, error. Thank you for the correction. It's not a reduction; it's a correction. At that point, what I would want from our team is to come to the Commission, come to the City Manager and say, before you bill this person \$11,000, say was this the Commission's intent? Was this their actual intent to come in and bill this person \$11,000 for two tables and four chairs?

Mayor Valdes-Fauli: But that was done.

Vice Chair Lago: No, no, no. I'm just saying. I'm just saying so that for future. Now we have a different issue. Now, it's -- we've crossed that hurdle and we're moving on to the notifications, like Commissioner Fors made. And I think that's just heavy handed. I think it's just...

Deputy City Attorney Suárez: So, right now, that's what the Code requires. If you all want to change it, give us different direction, we're happy to come back with the...

Vice Chair Lago: At the end of the day...

Deputy City Attorney Suárez: Code change.

Vice Chair Lago: It's a conditional use that comes before the Commission, where we should be able to have something as simple as a site plan or something as simple as a handwritten site plan that shows exactly what's going to be required. And you don't need to have a survey, you don't need to have an actual site plan designed by an architect or an engineer. Something simple that we can tie the process to what's going to be the final outcome.

Planning and Zoning Director Trias: That is what has been submitted, and that's what we reviewed. The problem is really the steps of the process, which is the conditional use. Conditional use is one process. Usually, it deals with big projects. It may be excessive or not. That's really up to you. That's a policy choice and that's, I believe, what Cristina was saying.

Vice Chair Lago: Thank you. No, I appreciate that.

Deputy City Attorney Suárez: So, if you give us direction, we're happy to draft and amendment.

Commissioner Fors: You know, I think we should -- it shouldn't be -- you know, I think there should be some due diligence required on the part of the applicant. But what I was envisioning was in the same amendment that permits it and states that it's going to file the conditional use -- special use application that it just specify except they shall not be held to the same notice requirements.

City Attorney Ramos: Notice requirements. So, we can make those two amendments because it's two different sections, but in the same ordinance.

Deputy City Attorney Suárez: It's one section -- it's one -- it's really -- it would be one -- I think it could come back as one ordinance.

City Attorney Ramos: Okay, so we could bring it back the first January meeting for first reading to change that.

Deputy City Attorney Suárez: So...

Vice Chair Lago: Let me ask you...

Deputy City Attorney Suárez: Do you want to just -- amending the notice provision or...

Vice Chair Lago: Yeah, but I want to ask Commissioner Fors -- we have two applicants that are basically hanging out there waiting for action. What can we do right now on the legal side to address this issue?

City Attorney Ramos: We can move forward with an ordinance in January.

Planning and Zoning Director Trias: No. I did get an email...

Vice Chair Lago: Yeah, we have no choice. That's fine.

Mayor Valdes-Fauli: (INAUDIBLE).

Planning and Zoning Director Trias: I did get an email from both applicants saying that they were going to send the letters, so that was the latest that I've seen.

Deputy City Attorney Suárez: So, they're going to give their notice. They're going to...

Planning and Zoning Director Trias: That's what I -- that's the latest, and I got that a couple days ago.

Mayor Valdes-Fauli: I am against this without requiring notice to the neighbors.

Vice Chair Lago: Okay.

Commissioner Keon: I have a problem. I have a concern about it, particularly on the Mile when it's not a restaurant because restaurants, they're staffed to be able to take care of the outside and to serve outside and to clean up outside and to remove glasses and to do those things, where you may have an individual shop of any sort that may decide they want a table outside and you can, especially if you're serving -- if there is food or if there's wine, even like Wolf's, that -- there has to be some other parameters in there with regard to your ability to ensure that it, you know, that things are not just left outside sitting on the table. So, that if somebody goes in and they get a glass of wine, because what I'm assuming is you would go into the shop, you would try a wine -- a glass of wine and you would go outside. You'd sit and drink it, you know, with the understanding that you're supposed to return the glass inside, so there's not glasses -- empty glasses sitting out on tables. Because you don't have people in a wine shop or in a beauty parlor or in the men -- gentlemen's grooming place generally that are servicing your tables outside. So, I would -- I don't want to see tables with, particularly glass, sitting out on the sidewalks...

Mayor Valdes-Fauli: That's (INAUDIBLE), Commissioner.

Commissioner Keon: And everything else. Well, that's what they're asking for.

Mayor Valdes-Fauli: Let's not revisit sitting outside on Miracle Mile once again.

Vice Chair Lago: I...

Commissioner Keon: Yeah. I don't...

Vice Chair Lago: I mean, I don't think anybody's going to -- who's a businessowner, allow garbage to accumulate in front of their...

Mayor Valdes-Fauli: They're not going to do that.

Vice Chair Lago: Business. It's, again, it's just...

Commissioner Keon: It already happens.

Vice Chair Lago: It's the...

Mayor Valdes-Fauli: No, it isn't.

Vice Chair Lago: It's the entrance to their business.

Mayor Valdes-Fauli: If it happens, it happens once every (INAUDIBLE).

Vice Chair Lago: It's the entrance to their business, and at the end of the day, you know, they want to have, you know, a business which appeals to the broader community for people to come in. They're not going to have garbage stacking up in the front and leaving it out there.

Commissioner Keon: That's not garbage. I don't want glasses left outside.

City Attorney Ramos: There's no -- I don't think there's unanimity for a change, so maybe we should make a motion to have us come back with a change.

Vice Chair Lago: I don't have a problem. Perfect. I don't have an issue with that. Commissioner, what do you think?

Commissioner Fors: A motion to come back with what?

City Attorney Ramos: With changes that eliminate the notice requirements is what I'm hearing.

Commissioner Fors: Right.

Vice Chair Lago: That's fine.

Deputy City Attorney Suárez: Okay, so removing all notice requirements. What about the community meeting or the workshop?

Mayor Valdes-Fauli: Is there a second to that motion?

Planning and Zoning Director Trias: May I raise an issue? It's not only the notice requirement. Cristina is actually saying the issue. There's also a requirement for a neighborhood meeting. There's a lot of process -- steps in the process that some people believe may be a little bit excessive.

Commissioner Fors: I would remove the community meeting and the notice. The community meeting that nobody's going to go to over two chairs being put outside.

Planning and Zoning Director Trias: Very likely.

City Attorney Ramos: It'll be all notice and outreach requirements. We'll look if there's any others.

Commissioner Fors: And look -- maybe before it comes back, look at what is silly and what is not in the context of this.

Planning and Zoning Director Trias: I mean, I think coming back with some proposals makes sense to me in the sense that I think that there should be a different process than the standard conditional use process if your intent -- if your policy intent is to encourage this.

Mayor Valdes-Fauli: And if it's two tables or two chairs with one table, but if it's 25 chairs and 20 tables, you know...

Vice Chair Lago: Yeah, that's...

Mayor Valdes-Fauli: If you minimize it enough, it won't...

Vice Chair Lago: I agree wholeheartedly with you. I mean, I think we're talking about...

City Attorney Ramos: And you would approve that ultimately and say not 25, but 2. I mean, that's up to you ultimately. Is there a second to Commissioner Fors' motion?

Vice Chair Lago: Second.

Mayor Valdes-Fauli: Will you call the roll, please?

Vice Chair Lago: Yes.

Commissioner Fors: Yes.

Commissioner Keon: Yes.

Mayor Valdes-Fauli: No.

(Vote: 3-1)

Mayor Valdes-Fauli: Alright, it fails.