

**City of Coral Gables
Virtual Commission Meeting
May 12, 2020
405 Biltmore Way, Coral Gables, FL**

City Commission

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

City Staff

**City Manager, Peter Iglesias
City Attorney, Miriam Ramos
City Clerk, Billy Urquia
Planning and Zoning Director, Ramon Trias**

Public Speaker(s)

Mark Trowbridge

Agenda Item E-9

An Ordinance of the City Commission of Coral Gables, Florida, providing for text amendments to the City of Coral Gables Zoning Code, by amending Article 4, “Zoning Districts,” Section 4-402, “Prohibited uses, certain streets,” Article 5, “Development Standards,” Division 7, “Distance Requirements,” and Article 8, “Definitions,” to create provisions and clarity for retail vape shops; providing for repealer provision, severability clause, codification, and providing for an effective date (02-12-2020 PZB recommended approval, Vote 7-0)

Mayor Valdes-Fauli: And now Ramos Trias was to speak and wasn’t available.

City Attorney Ramos: E-9 – I’ll read it into the record. E-9 is an Ordinance of the City Commission of Coral Gables, Florida, providing for text amendments to the City of Coral Gables Zoning Code, by amending Article 4, “Zoning Districts,” Section 4-402, “Prohibited uses, certain streets,” Article 5, “Development Standards,” Division 7, “Distance Requirements,” and Article 8, “Definitions,” to create provisions and clarity for retail vape shops; providing for repealer

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provision, severability clause, codification, and providing for an effective date. This is a First Reading item. Mr. Trias.

Planning and Zoning Director Trias: Mayor, the request for the Commission, staff has prepared an amendment that has three sections. One section outlaw vape shops in a very specific area for a Miracle Mile, Giralda and Ponce de Leon. Then the second section establishes distance requirements; a thousand feet among different vape shops. Also, a thousand feet from religious institutions, pools and city parks. And then, finally the third section has definition for vape shops and also the vapor generated electronic devices. Basically the in the definitions they deal with the area that the amount of the area that could be used for vape retail which, is 25 percent and also the amount of income with this is 49 percent, that could be from those...[Inaudible]... Planning and Zoning revealed this and recommended approval and staff recommends approval.

Mayor Valdes-Fauli: Any comments?

Commissioner Keon: I'll move it.

Vice Mayor Lago: Second.

City Clerk Urquia: This is a public hearing item and there is a member of the public that wishes to speak.

Mayor Valdes-Fauli: Okay.

City Clerk Urquia: Mr. Mark Trowbridge has requested to speak on this item.

Mayor Valdes-Fauli: Mr. Trowbridge.

Mr. Trowbridge: Thank you. Mr. Mayor, Commissioners. Thank you very much for this opportunity. I know that there was a discussion several months ago about putting a moratorium into place and I assume that now this is the action item that has come from that moratorium. So, I just wondered in Ramon's good work and others what we had found out in that six to eight-month period this relation to coming to the ordinance today.

Planning and Zoning Director Trias: What kind of information are you thinking?

Mr. Trowbridge: Well, I guess, just you know, some of the anecdotal commentary. I know that the B.I.D., I don't think they're on the call today, but I know that their board opined on it, our board had a discussion which was rather quick in nature, which was you know, let's see what happens over the intervening months and what the city comes back. I think the way the ordinance is written it does pretty much limit any area where you can have a shop like this just given the thousand feet. We have lots of schools and daycares and other types of facilities that would preclude that. So, have you identified where that is?

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Planning and Zoning Director Trias: I agree on. That was the nature of the discussion that took place on the Planning and Zoning that there was an interest in limiting activity and certainly many of the other requirements that are proposed are relatively difficult to implement in terms of certainly, they tend to limit this opportunities for the vape shop, but that seems to be the policy requirements of the Commission and also this question during the Planning and Zoning.

Mr. Trowbridge: I'll hear the Commission's commentary as well. And I appreciate you know, you are your work on this. I don't know, at a follow-up conversation with the B.I.D., I know that they agreed at the time, I think, to support the pause, if you will, in review or where they have come back, because it does specifically delineate much of your district with regard to Miracle Mile, Giralda and parts of Ponce de Leon, but obviously from the Chamber perspective, we look at the city in its totality, including parts of the, the south part of the Gables, especially the businesses that are there, but there are even schools in that area. There's a language school. So, I think the thousand feet will preclude even that area. Maybe it will be more, you know, noteworthy and notable in the sort of industrial area that is closer to Merrick Park, but just wandered, the Chamber typically, you know, shares that we don't like to see a lot of limitation on business or imposing on landlords, but I certainly understand that this is a sensitive topic, but a growing industry that we have, no pun intended, a growing industry that we keep a careful eye on. So that's just my kind of, I'd love to hear what the Commission has to offer and Ramon, I appreciate you leading the way on this, it's not an easy ordinance to draft.

Commissioner Mena: May I add some comments and questions as well. I don't necessarily recall what the nexus of this discussion was or sort of how it started or why exactly. I have a lot of reservations about this ordinance as a whole frankly, and certainly in terms of how restrictive it is. I'm not sure why we're looking to face this kind of restriction on the market particularly right now with a looming sort of economic downturn or you know, we don't know that for sure, but certainly not looking good right now, given the circumstances, we want to place some very bare-bones restrictions on these type of shops so they're not overly proliferated, that's one thing, but this seems extremely restrictive, you know. You can there's nothing precluding us from buying a cigarette or cigar in these areas. Why are vape shops so all of a sudden where we draw that line and I'll just say, you know, one of the reasons why we can buy those other things just because we're preempted by state law and this is exactly the type of issue, you know, we complain when we get preempted by state legislature, but this is exactly the type of issue that sometimes will be weight into and we get overly restrictive on and we and we pinpoint a specific industry and that's the type of thing that leads to state-level legislation that preempts us from being able to do that. You know, I know that the CBD topic has been sort of bifurcated off, but it's sort of related. To me the restrictions as currently drafted, I don't even know if there would be anything left in downtown with the thousand-foot thing from schools and religious institutions. I'm not sure frankly, why we treat Ponce and Giralda and Miracle Mile differently on this type of restriction, you know, if I'm a property owner there and I want to have a tenant who has this type of shop. Why am I being prohibited from doing that and then a block away, hypothetically, somebody can have one? I don't know. I'm personally a little uncomfortable with this. I don't really, maybe I'm missing something but I'm not totally

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understanding what the impulses for doing this. So, I'm happy to hear discussion from my colleagues, but that's that was my, sort of thoughts about it.

Mayor Valdes-Fauli: I'm going to give it a try. I think the industry is harmful. I think that they came because cigarettes were so harmful that this something they tried as an alternative. A lot of people die from it. A lot of people have lung problems from it. And the more we get it away from schools the better it is, and we also forbid liquor stores and liquor stores sell all sorts of other things that that liquor. Liquor stores from a thousand feet from churches or more important schools. I'm all for this. I think it's a hurtful industry and I am for getting it away from schools and away from a downtown, because I think it would soil or downtown. That's my opinion.

Commissioner Mena: Now. I understand that that's a stated opinion, I guess again, you know, you could buy cigarettes, you can buy cigars, you can go to a bar or you can buy wine. You can buy liquor.

Mayor Valdes-Fauli: Not close to schools.

Commissioner Mena: No, but in the areas, we're talking about on Miracle Mile you can do all those things.

City Attorney Ramos: Commissioner Mena, I know that there was a concern about the fact that these products specifically have been marketed to kids because of their flavor etcetera, more than maybe cigarettes or cigars have in recent history. The impetus for schools, I think, came from that.

Commissioner Mena: For what it's worth, I'm all for some kind of legislation that prohibits marketing these things to children, but we're talking again about -- I appreciate the answer as to why the school's part, and I'm not necessarily against the school's part. I don't know where the thousand feet comes from. But my point is, these this industry should be legislated on a broad level, but for us to be deciding you can have this type of shop and not that type of shop. I think it's a little bit of overreach on our part personally, but that's okay.

Commissioner Keon: I'm sorry.

Commissioner Fors: No, very briefly. You know, I tend to agree with Commissioner Mena. I'm not a fan of the ordinance. You know, on top of the fact that we can still have, the way it's written, we could still have people selling vape paraphernalia so long as you know, according to that are less of their profit comes from a...[Inaudible]...25 foot comes from...so I think you are going to have sale of it, with it, areas that we are trying to prevent sale of it. What we are really doing is just restricting a particular business from dedicating itself to this. I understand the concerns with it. I'm just generally not a fan with targeting a specific business, especially when we haven't really seen those yet. So, it's not like we're in response to a problem that we might be over-reaching. I wouldn't be opposed to some kind of legislation that's a little more narrowly tailored, but

Commissioner Keon: Today cigarettes are sold behind counters. They're not just readily available on a shelf for, you know, people that are not supposed to be buying cigarettes to pick up. You know, we also know that there's been so much, so many class action suits against the tobacco industry because of the dangers of tobacco so it's not I don't want to...[Inaudible]...prohibitive, but I it certainly wouldn't be something I would encourage. You know, I've never been in a vape shop. So, you'd have to tell me about a vape shop. I mean, I'm assuming that it's being as there are other paraphernalia besides just the thing you put in your mouth and vape shops or what it what is it. You know, is it is it something you walk into and you can like, you know stroll through like, you know, you're in a Home Goods fine plates. I mean, what do you -- what is the you know. Vaping has been proved to be very dangerous...[Inaudible]...that smoking does, but it in the industry has really tailored toward young people with all of the different flavors that they have used. So, you know, I don't, I've never bought one. I've never used one, never been in a vape shop. I do think that something that is the is of harm as much as cigarettes are, so I mean, I don't know. I never wanted to like a cigarette store that had something like...[Inaudible]... so I don't really know what a vape shop is. Can somebody tell me what's a vape shop, what is it?

Commissioner Fors: The one I've been inside of, if I could make it analogous statement, is almost like a cell phone store where there's a counter, vape mechanisms and vape, just whatever liquid you put in them when you buy the...I guess.

Commissioner Keon: I mean, so I think if it's something that you know, it's something that you know, and I think my concern probably is more with young people is, you know that you can walk in and you kind of stroll around and you can like, you know pick up, I don't know one piece...

Commissioner Mena: They're not selling like bongos and Rasta shirts, you know what I mean? Like they're very, they're very...

Vice Mayor Lago: Listen.

Commissioner Mena: They're very like what commercial, like sort of what Commissioner Fors said, they're very commercial in nature. The cell phone store is actually I think a pretty decent comparison.

Vice Mayor Lago: Commissioner, Commissioner, I was...

Commissioner Keon: [Inaudible]...and whatever, so. In a vape shop, is only the product you buy, sort of behind a counter, so you ask somebody, Oh, could I see this, or could I see that? – or is it a browsing opportunity?

Mayor Valdes-Fauli: What difference does that make?

Vice Mayor Lago: Yeah, I don't...

Commissioner Keon: Well, it does sort of because it's how its...[Inaudible]...gas station, you have to go to the counter, and behind the counter you can buy cigarettes. If you go into a grocery store

you have to go to the counter and behind the counter, you have to ask for cigarettes. I'm asking you and I'm saying to you. I don't know a lot about this. I don't know about this.

Mayor Valdes-Fauli: [Inaudible]

Commissioner Mena: I'll just say, respectfully I would just say the fact that we don't know a lot about it is probably, in my opinion, all the more reason not to ban something that we're not really familiar with and that is not really our province or expertise. If we want to do it, fine. I'm not for it. But you know, there's a lot of things that are bad for your health in this world that have been proven unhealthy, but I'm not about to go tell Hillstone how much butter they can put on my food because, you know, obesity leads to heart disease.

Vice Mayor Lago: Listen, you can buy, since we're talking about what you can buy this over the counter or not. It's kind of glass case. It's really meaningless, in my opinion, because you can buy alcohol from anybody. You don't have to ask the clerk at the store to be able to buy the alcohol and bring it to the counter and then you purchase it. It has a legal age. It has a legal age just like cigarettes and vaping do. Now, Commissioner let me finish, one second. So, go ahead.

Commissioner Keon: No, go ahead. I said they have conditions also.

Vice Mayor Lago: Yeah, but it's not behind a counter. It's located in a freezer. You can just grab it and – that to me doesn't really play into my decision. I was in favor. I was in favor of this ordinance, but after obviously listening to Commissioner Mena and Fors, you know, they've sparked my concern about just targeting one business, one issue. Obviously, do I want young people to use vaping equipment, obviously not. The health hazards associated with it are growing every day. But if you look at alcohol use, how many people are affected by alcohol use, even people in adversity are affected, along with cigarettes and they're still legal. So, if we're going to come out against vaping, I think that we need to do a little bit more research before we just come out there and say, ban, ban vaping. Because I mean, everybody knows that cigarettes were catered, I mean for how many years and years and years and its proven after lawsuits, like you mentioned class action lawsuits where Camel, Marble were basically marketing to young people throughout the world. So, I just, I don't feel really comfortable right now on voting on this, because I think it's just, it doesn't really accomplish the goal.

City Attorney Ramos: Ramon currently if someone came in for a vape shop, they would be considered retail, or they wouldn't be permitted?

Vice Mayor Lago: You can buy it. You are you going to do, for example, what do you do about gas stations?

City Attorney Ramos: They wouldn't fall under the threshold in this ordinance.

Vice Mayor Lago: But you have a gas station on Andalusia. You have a gas station on Andalusia, you have a gas station on Ponce.

City Attorney Ramos: If Vapor Shark or whatever it's called, came into the city, would we just treat them as retail at the moment?

Planning and Zoning Trias: Yes. And the ordinance as proposed only deals with the principal use in vaping. So, an accessory use wouldn't be regulated by this ordinance, less than 25 percent of the area.

City Attorney Ramos: So, I just want the Commissioner to understand, if we do nothing, they're just going to be treated like regular retail, like our general retail category.

Planning and Zoning Director Trias: Yes, that's correct.

Vice Mayor Lago: So, what about cigar stores for example?

City Attorney Ramos: They are retail.

Vice Mayor Lago: Okay, they're retail, but they sell, certain cigar stores sell vaping equipment.

Planning and Zoning Director Trias: And they could under the proposed ordinance as long as it's less than 25 percent of the area and less than 49 percent of the other retail sales. We could still do that.

Vice Mayor Lago: I think this is this is legislating just to legislate. I'm not in favor of this.

Mayor Valdes-Fauli: Would you make a motion?

Commissioner Keon: I'd like to make...[Inaudible]... Could we wait a little bit to deal with this and put it off a little bit? I would go visit one. I don't know. I don't know that this time.

Commissioner Mena: I have no problem with this, but look, we can always revisit it. I have no problem with revisiting it, but that sort of that's just where I'm at with it today. Maybe look, maybe there is, maybe you want to limit how close they can be to each other, so you don't have, you know, they'll be on one block hypothetically, type of thing, but we can we can have that discussion. But overall, I'm just, I don't know. I've already said what...[Inaudible]...

City Attorney Ramos: [Inaudible]...to consider it dead, what is the direction of the Commission?

Vice Mayor Lago: I think Commissioner Keon needs to do a field trip to a vape store.

City Clerk Urquia: Mr. Mayor, Mr. Trowbridge wanted to make a comment on this.

Vice Mayor Lago: You can visit a cigar store.

Commissioner Keon: I know a cigar store.

Mayor Valdes-Fauli: I'm not going to recognize you. Let's defer this to next meeting and you can comment also at the next meeting. Alright. I think the sense of the Commission is to defer this. Thank you very, very much.