



City of Coral Gables Planning and Zoning Staff Report

Applicant: City of Coral Gables
Application: **Zoning Code Text Amendment – Vape Shops**
Public Hearing: Planning and Zoning Board
Date & Time: **February 12, 2020; 6:00 – 9:00 p.m.**
Location: City Commission Chambers, City Hall,
405 Biltmore Way, Coral Gables, Florida 33134

1. APPLICATION REQUEST

The City of Coral Gables is requesting review and consideration of the following:

An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official 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.

2. BACKGROUND INFORMATION

On October 22, 2019, the City Commission approved a Zoning in Progress resolution for retail vape shops (Reso. No. 2019-322). In Section 3-701 of the Zoning Code, the Zoning in Progress requires Staff to prepare text amendments as necessary.

The proposed text amendments create provisions and clarity for the operation of retail businesses engaged in the sale of vape related products, incorporating the following:

- a. Prohibit vape shops or any retail business that sells vape-related products on Miracle Mile, Giralda Plaza, and Ponce de Leon, between Minorca and University Drive;
- b. Limit distance for Vape Shops or any retail business that sells vape-related products from each other, schools, or religious institutions; and
- c. Define Vape Shops.

The current distance requirement for the sale of alcoholic beverages and liquors in the Zoning Code allows approval by the Board of Adjustment if certain criteria is met. After researching the current school issues and effects of vaping, Staff is proposing to not allow a variance to be granted for the distance requirements.

3. PROPOSED ZONING CODE TEXT AMENDMENT

The proposed text amendment is provided as Attachment A in ~~striketrough~~/underline format.

4. FINDINGS OF FACT

In accordance with Section 3-1405 of the Zoning Code, the Planning and Zoning Board shall not recommend adoption of, and the City Commission shall not adopt, text amendments to these land Zoning Code unless the text amendment:

- A. Promotes the public health, safety, and welfare.
- B. Does not permit uses the Comprehensive Plan prohibits in the area affected by the district boundary change or text amendment.
- C. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property.
- D. Will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less the minimum requirements of the Comprehensive Plan.
- E. Does not directly conflict with an objective or policy of the Comprehensive Plan.

Staff finds that all five of these criteria are **satisfied**.

5. COMPREHENSIVE PLAN CONSISTENCY

In accordance with Section 3-1407 of the Zoning Code, the Planning and Zoning Board shall determine whether the Zoning Code text amendment is consistent with the Comprehensive Plan. Staff finds that the proposed text amendment **is consistent** with the Comprehensive Plan.

6. PUBLIC NOTIFICATION

The following has been completed to provide notice of the request:

| Type | Date |
|--------------------------------------|----------|
| Legal advertisement | 01.31.20 |
| Posted Staff report on City web page | 02.07.20 |

7. STAFF RECOMMENDATION

The Planning and Zoning Division recommends **approval**.

8. ATTACHMENTS

- A. Draft Ordinance.
- B. 01.31.20 Legal advertisement published.

Please visit the City’s webpage at www.coralgables.com to view all materials, notices, applicable public comments, minutes, etc. The complete background information also is on file and available for examination during business hours at the Planning and Zoning Division, 427 Biltmore Way, Suite 201, Coral Gables, Florida 33134.

Respectfully submitted,

Ramon Trias
Assistant Director of Development Services
for Planning and Zoning
City of Coral Gables, Florida

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA PROVIDING FOR TEXT AMENDMENTS TO THE CITY OF CORAL GABLES OFFICIAL 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.

WHEREAS, in 2016 the Surgeon General, U.S. Department of Health and Human Services, issued a report on "E-Cigarette Use Among Youth and Young Adults" and the Surgeon General has determined that tobacco use by youth and young adults in any form including e-cigarettes is not safe; and

WHEREAS, in accordance with the Surgeon General's report, use of e-cigarettes by youth and young adults has increased by an alarming rate and, indeed e-cigarettes are the most commonly used tobacco products among youth; and

WHEREAS, the Surgeon General found that e-cigarettes, which contain highly addictive nicotine, can harm brain development of youth and young adults in ways that may affect their health and mental health; and

WHEREAS, the report indicates that e-cigarette companies are promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to target youth and young adults; and

WHEREAS, the State of Florida has adopted a law effective January 1, 2020 restricting tobacco use to persons 21 age and over; and

WHEREAS, for the health, safety and welfare of the City's youth and young adults it is appropriate to establish standards for the location of stores that predominantly sell e-cigarettes to avoid areas where youth and young adults congregate; and

WHEREAS, at the recommendation of the City Commission, City Staff is proposing Zoning Code text amendments to create provisions and clarity for the operation of retail businesses engaged in the sale of retail products containing cannabidiol/CBD sold as a principal retail product within the City; and

WHEREAS, at the recommendation of the City Commission, City Staff is proposing Zoning Code text amendments to create provisions and clarity for the operation of retail vape shops within the City; and

WHEREAS, after notice was duly published, a public hearing was held before the Planning and Zoning Board on (month) (day), 2020, at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the Planning and Zoning Board was presented with text amendments to the Official Zoning Code, and after due consideration, recommended approval/denial (vote: _ to _) of text amendments until further review; and

WHEREAS, a public hearing for First Reading was held before the City Commission on (month) (day), 2020, at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the City Commission was presented with text amendments to the Zoning Code, and after due consideration and discussion, (approved/denied) the amendment on First Reading (vote: __ - __).

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

SECTION 1. The foregoing “**WHEREAS**” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The Official Zoning Code of the City of Coral Gables is hereby amended as follows¹:

ARTICLE 4 - ZONING DISTRICTS

Division 4. Prohibited Uses

Section 4-402. Prohibited uses, certain streets.

- A. Except as provided in Section 4-403(F), no service station, public garage, auto repair shop, machine shop, used car lot, or any business conducted outside a building shall be permitted on any lots or premises abutting Coral Way (a portion of which is known as Miracle Mile), or Biltmore Way, or upon lots or premises abutting Ponce De Leon Boulevard between Southwest 8th Street and Bird Road.
- B. No driveway for use by motor vehicles or any other purpose shall be permitted to be constructed across the sidewalks on properties abutting Miracle Mile from Douglas Road to LeJeune Road and/or on properties abutting Ponce de Leon Boulevard from Minorca Avenue to University Drive.

¹ Deletions are indicated by ~~striketrough~~. Insertions are indicated by underline.

- C. No off-street parking shall be permitted to be located on the grade level of buildings constructed on properties abutting Miracle Mile from Douglas Road to LeJeune Road and/or on properties abutting Ponce de Leon Boulevard from Minorca Avenue to University Drive.
- D. No driveway for motor vehicle purposes or any other purposes shall be constructed across the sidewalk or in such yard areas of property abutting both sides of Ponce de Leon Boulevard from Malaga Avenue to Bird Road; driveways existing as of February 26, 1981 may be permitted to remain.
- E. No Vape Shop or any retail business engaged in the sale of vape-related products shall be permitted on any properties abutting Miracle Mile, 100 Block of Giralda Avenue (known as Giralda Plaza), or Ponce de Leon Boulevard from Minorca Avenue to University Drive.

ARTICLE 5 – DEVELOPMENT STANDARDS

Division 7. Distance Requirements

Section 5-704. Vape shop and vape-related products.

- A. No Vape Shop or any retail business engaged in the sale of vape-related products shall be established or located within a distance of one thousand (1,000) feet from any other Vape Shop or retail business engaged in the sale of vape-related products.
- B. No Vape Shop or any retail business engaged in the sale of vape-related products shall be permitted upon premises closer than one thousand (1,000) feet from any religious institution or school.
- C. The distance shall be measured by following a straight line from the main entrance of the proposed establishment to the nearest point of the school grounds, religious institution, or main entrance of the nearest Vape Shop or any retail business engaged in the sale of vape-related products. There shall be no variances of the above distance requirements granted for any reason.

ARTICLE 8 - DEFINITIONS

Vape Shop means any business dedicated to or predominantly for the retail sale of vapor-generating electronic devices and components, parts, and accessories for vape-related products, such that fifty-one (51%) percent or more of the floor area dedicated for retail sales is occupied by

the display of vape-related products.

SECTION 3. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 5. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of Ordinance No. 2007-01 as amended and known as the “Zoning Code” of the City of Coral Gables, Florida, which provisions may be renumbered or re-lettered and the word ordinance be changed to “section”, “article”, or other appropriate word to accomplish such intention.

SECTION 6. If the Official Zoning Code of the City of Coral Gables Tables of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This ordinance shall become effective _____, 2020.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D. 2020.

APPROVED:

RAUL VALDES-FAULI
MAYOR

ATTEST:

BILLY Y. URQUIA
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

MIRIAM SOLER RAMOS
CITY ATTORNEY

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE:**

Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

**NOTICE OF PUBLIC HEARING
CITY OF CORAL GABLES - LOCAL PLANNING AGENCY /
PLANNING AND ZONING BOARD - FEB. 12, 2020**

in the XXXX Court,
was published in said newspaper in the issues of

01/31/2020

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Guillermo Garcia

Sworn to and subscribed before me this
31 day of JANUARY, A.D. 2020

(SEAL)

GUILLERMO GARCIA personally known to me



MARIA I. MESA
Notary Public - State of Florida
Commission # FF 935208
My Commission Expires Mar 4, 2020
Bonded through National Notary Assn.



**CITY OF CORAL GABLES, FLORIDA
NOTICE OF PUBLIC HEARING**

City Public Hearing Local Planning Agency / Planning and Zoning Board
Dates/Times Wednesday, February 12, 2020, 6:00 - 8:00 p.m.
Location City Commission Chambers, City Hall,
405 Biltmore Way, Coral Gables, Florida, 33134

PUBLIC NOTICE is hereby given that the City of Coral Gables, Florida, Local Planning Agency (LPA)/ Planning and Zoning Board (PZB) will conduct Public Hearing on the following:

1. An Ordinance of the City Commission of Coral Gables, Florida amending Ordinance No. 2015-08 (As amended), providing for a substitute public access easement and new conditions of approval with respect to the previously vacated alley located in the south half of Block 3, Industrial Section, Coral Gables, Florida; providing for a repealer provision, severability clause, codification, and providing for an effective date. (*Amending Ordinance 2015-08*)
2. An Ordinance of the City Commission of Coral Gables, Florida approving receipt of Transfer of Development Rights (TDRs) pursuant to Zoning Code Article 3, "Development Review", Division 10, "Transfer of Development Rights", Section 3-1006, "Review and approval of use of TDRs on receiver sites", for the receipt and use of TDRs for an Assisted Living Facility (ALF) referred to as "Belmont Village" on property zoned Industrial District (Section 4-303 C.2.), legally described as lots 12 to 31, Block 3, and the south 7.5 feet of lots 11 and 32, Block 3, Coral Gables "Industrial Section," together with that portion of 30 foot platted alley lying south of the north line of the south 7.5 feet of said lot 11 projected westerly and north of the south line of said Block 3 (4111 Salzedo Street) Coral Gables, Florida; including required conditions; providing for a repealer provision, severability clause, and providing for an effective date. (LEGAL DESCRIPTION ON FILE) (*Belmont Village - Receipt of Transfer of Development Rights*)
3. An Ordinance of the City Commission of Coral Gables, Florida granting approval of a proposed Planned Area Development (PAD) referred to as "Belmont Village" pursuant to Zoning Code Article 3, "Development Review," Division 5, "Planned Area Development (PAD)," for an Assisted Living Facility (ALF) referred to as "Belmont Village" on property legally described as lots 12 to 31, Block 3, and the south 7.5 feet of lots 11 and 32, Block 3, Coral Gables "Industrial Section," together with that portion of 30 foot platted alley lying south of the north line of the south 7.5 feet of said lot 11 projected westerly and north of the south line of said Block 3 (4111 Salzedo Street) Coral Gables, Florida; including required conditions; providing for a repealer provision, severability clause, and providing for an effective date. (LEGAL DESCRIPTION ON FILE) (*Belmont Village - Proposed Planned Area Development*)

City of Coral Gables - Local Planning Agency

4. A Resolution of the City Commission of Coral Gables, Florida granting Conditional Use approval pursuant to Zoning Code Article 3, "Development Review," Division 4, "Conditional Uses," for an Assisted Living Facility (ALF) referred to as "Belmont Village" on property zoned Industrial District (Section 4-303 C.2.), legally described as lots 12 to 31, Block 3, and the south 7.5 feet of lots 11 and 32, Block 3, Coral Gables "Industrial Section," together with that portion of 30 foot platted alley lying south of the north line of the south 7.5 feet of said lot 11 projected westerly and north of the south line of said Block 3 (4111 Salzedo Street) Coral Gables, Florida; including required conditions; providing for a repealer provision, severability clause, and providing for an effective date. (LEGAL DESCRIPTION ON FILE) (*Belmont Village - Conditional Use Approval*)
5. A Resolution of the City Commission of Coral Gables, Florida approving the Tentative Plat entitled "Coral Gables Industrial Section" pursuant to Zoning Code Article 3, Division 9, "Platting/Subdivision," being a re-plat of 61,589 square feet on the property legally as lots 12 to 31, Block 3, and the south 7.5 feet of lots 11 and 32, Block 3, Coral Gables "Industrial Section," together with that portion of 30 foot platted alley lying south of the north line of the south 7.5 feet of said lot 11 projected westerly and north of the south line of said Block 3 (4111 Salzedo Street) Coral Gables, Florida; including required conditions; providing for a repealer provision, severability clause, and providing for an effective date. (LEGAL DESCRIPTION ON FILE) (*Belmont Village - Approval of Tentative Plat*)
6. An Ordinance of the City Commission of Coral Gables, Florida providing for text amendments to the City of Coral Gables Official 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.

All interested parties are invited to attend and participate. Upon recommendation by the Board, the applications will be scheduled for City Commission consideration. Please visit the City webpage at www.coralgables.com to view information concerning the applications. The complete applications are on file and available for examination during business hours at the Planning and Zoning Division, 427 Biltmore Way, Suite 201, Coral Gables, Florida, 33134. Questions and written comments can be directed to the Planning and Zoning Division at planning@coralgables.com (FAX: 305.460.5327) or 305.460.5211.

Ramon Trias
Director of Planning and Zoning
Planning & Zoning Division
City of Coral Gables, Florida

Any person, who acts as a lobbyist pursuant to the City of Coral Gables Ordinance No. 2006-11, as amended, must register with the City Clerk prior to engaging in lobbying activities before City Staff, Boards, Committees or City Commission. A copy of the Ordinance is available in the Office of the City Clerk, City Hall. If a person decides to appeal any decision made by a Board, Committee or City Commission with respect to any matter considered at a meeting or hearing, that person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105). Any meeting may be opened and continued and, under certain circumstances, additional legal notice will not be provided. Any person requiring special accommodations in order to attend or participate in the meeting should contact the City's ADA Coordinator, Raquel Elejabarieta (Email: relejabarieta@coralgables.com), Telephone: 305-722-8686, TTY/TDD: 305-442-1600, at least three (3) working days prior to the meeting. All meetings are telecast live on Coral Gables TV Channel 77.