

LET'S HAVE A RATIONAL AND RESPECTFUL DISCUSSION ABOUT OUR HOMES

Dear friends and neighbors,

There has been a lot of chatter about the new proposed Charter Amendment that will limit FAR to 0.5 . As you are likely aware, I have been very vocal in trying to educate residents about the various unintended consequences of this new proposed regulation because I strongly believe that it poses significant financial risks for *both* new and long term homeowners. Thus, in an effort to encourage transparent and open dialogue I have put together some basic FAQ's which I hope you may find helpful in understanding what is at stake in next month's critical vote. I apologize in advance if I don't cover every issue.

1. Is the proposed Charter Amendment limiting FAR to 0.5 even legal?

Most likely, No.

According to Florida state law 163.3167(7),(8)(a), it is illegal to place zoning code in a Town Charter Amendment. This is not controversial and is the undisputed opinion of the top land use attorneys in the area that were consulted. Commissioner Vildostegui, a constitutional lawyer by training, told this to the commission at its public meeting. They ignored him even though they had no data or legal analysis to dispute him.

Residents are not going to take this lightly because their home values and ability to build suitable new homes will be dramatically impacted. They will have no choice but to sue if the Commission won't be reasonable. This will cost Surfside tax payers significant money and will pit neighbor against neighbor.

2. Why should I care that my home value has declined, or will decline, if the Charter Amendment passes?

While the Mayor has tried to pit “new” and “legacy” residents against each other by insinuating that new residents are “grifters” and are only “in it for the money” while older residents “don’t care” if the value of their homes decrease, is both dangerous and intellectually dishonest. The truth is, for the overwhelming majority of homeowners in the single family district, our homes are our *primary* assets and/or make up a significant portion of our net worth. We worked hard to scrape up the down payment, make our monthly mortgage payments, pay shockingly high insurance premiums, and property taxes. We did this because we love our homes and our families and want to protect our investment so we can retire comfortably or leave money to our children. It is frankly outrageous for the Commission to ignore the very severe financial impact that this new charter amendment poses for all residents.

UNFORTUNATELY, IT IS NOT THE SO-CALLED DEVELOPERS WHO WILL BE MOST IMPACTED BY THIS CHANGE. THEY CAN WEATHER IT AND MOST OF THEM ARE BUILDING ON WATERFRONT AND OVERSIZED LOTS THAT STILL ALLOW FOR LARGE HOMES EVEN WITH 0.5 FAR. IT IS THE SO-CALLED “LEGACY” HOME OWNERS WHO ONLY OWN ONE PIECE OF PROPERTY AND WORKED HARD TO ACQUIRE AND MAINTAIN IT WHO WILL TAKE THE BIGGEST HIT.

Reduced asset values can also make it harder to borrow money against your home for new business ventures, to pay medical bills, education costs, or renovate and maintain our homes.

Reduced property values will impact our children and grandchildren who will now inherit less valuable assets in the event our homes are part of our estate planning.

Of course, markets are finicky and sometimes property values decrease due to a myriad of factors such as interest rate spikes, high inventory, a reduction in foreign buyers and climate change risk. We all have to live through these ups and downs. WHAT

WE SHOULD NOT HAVE TO LIVE THROUGH BY CONTRAST IS A COMMISSION WHO PASSESS ILLEGAL LAWS THAT CAUSE PREVENTABLE, AND DRAMATIC DECLINES IN PROPERTY VALUES BECAUSE THEY FALSELY BELIEVE SURFSIDE OWNERS “DON’T CARE.”

3. WHAT ACTUALLY IS “FAR”?

FAR stands for **Floor Area Ratio**. Simply put, It is the % of your property’s lot that can serve as the building envelope of your home.

The standard surfside interior (non-waterfront) lot is 5,600 SF. Under an FAR of 0.5 (or 50%,) a new home can be 2,800 SF in size (=0.5 X 5,600).

4. What ELSE did Mayor Burkett & His Commission include in FAR that further limits interior living space?

There is a range of things that typically can count as part of a FAR. The Surfside Commission has taken the STRICTEST stance and included ANYTHING ELEVATED ABOVE GROUND as part of FAR, to penalize anyone wanting to build or add onto their home. **THEY ARE INCLUDING THINGS NO OTHER MUNICIPALITY INCLUDES** such as:

- Covered balconies,
- Steps to your house,
- Steps to a pool,
- A structural awning over your front porch,
- If the pool is at the first floor of your house, it is also included in FAR!

Anything else elevated above ground counts against your home’s allowable SF.

This makes the effective interior living space that a homeowner can build EVEN SMALLER than 0.5 FAR. It also makes it very difficult for residents who want to age in place, or have issues

with stairs. Best practices would encourage all living area and decks and pools to be level for both safety and practical issues. Notably, the COMMISSION DID NOT APPEAR TO CONSULT DESIGN PROFESSIONALS, BUILDERS OR ARCHITECTS IN COMING UP WITH THESE ARBITRARY DESIGN GUIDELINES. If they did, residents did not get the benefit of their thinking or reasoning in a public forum. That should be the bare minimum that the Commission should do to respect residents' right to be informed and before passing a law that will live in perpetuity.

5. Is a 2,800 SF home large enough for me and my family to live comfortably?

Because of the other (above) restrictions passed by the current Commission to restrict building, bedroom sizes will be very limited. The Town attorney publicly presented a slide show to help visualize the new code that depicted very oddly shaped ultra-modern homes that showed only 2-3 SMALL bedrooms on the second floor. These restrictions also make it DIFFICULT TO HAVE A FIRST FLOOR MASTER BEDROOM, HURTING OUR ABILITY TO AGE IN PLACE.

As I have written in previous letters, members of this same Commission vehemently argued at a public hearing mere months ago (10/8/2024) that 0.5 FAR WAS TOO SMALL.

As a compromise, they passed the current zoning code in October which is still very strict but allows houses of approximately 3,360 square feet and some important design flexibility without arbitrary deductions.

STATE LAWS REQUIRE GOVERNMENTS TO DELIBERATE PUBLICLY. This is referred to as the "Sunshine Law." WE WANT TO KNOW what happened BEHIND THE SCENES BETWEEN OCTOBER AND JANUARY that, at the Commission's January meeting, all Commissioners (other than Vildostegui) changed

their tune? Why, all of a sudden and without good explanation, are we now relegated to building what will look like townhouses?

6. How large are the current “original “ Surfside homes?

The average original 1-story Surfside home is approx 1,600 SF. This means the 0.5 FAR only permits another 1,200 SF which does not incentivize anyone to retrofit their homes for new flood and climate resilience.

7. Shouldn't I be happy that people will leave the original Surfside homes in place?

No, for the following reasons:

a) **Danger-** The original Surfside homes are NOT FLOOD RESILIENT! This is dangerous for residents living in these older homes.

b) **Insurance Rate Spikes and Denials-** Future storms and flooding will wreak havoc on Surfside residential streets and homes, insurance claims will go up and insurance rates will spike. Finally, if the town only allows 2,800 square feet homes, this may dramatically impact how much a resident will be paid out in the event of a major catastrophe like hurricane, flood, or fire.

c) **Tax Increases-** The reduction in construction will quickly create future budget deficits and tax increases when we need to fund flood reduction projects.

d) **Fundamental Fairness-** As discussed below, residents have a right to reasonable use of their most important asset and to protect their hard fought property values.

Residents may not like construction in their community. However, there are ways to reduce the disruption posed by new construction. Residents may also not like “big” homes next to

their “small” homes. There is no easy answer to this concern except to say that THE NEW ZONING CODE CHANGES PASSED in October 2024 ALREADY DRASTICALLY REDUCE HOME SIZES AND REQUIRE LARGER SETBACKS TO ADDRESS SOME OF THESE CONCERNS.

There has also been almost ZERO PUBLIC CONVERSATION among the Commissioners about the very real impact of the 50% FAR Rule. Even the FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) does NOT want residents in flood-prone areas like Surfside to merely remodel their homes. This may sound strange but FEMA WANTS TO INCENTIVIZE HOMEOWNERS TO COMPLETELY DEMOLISH & REBUILD THEIR HOMES AT A HIGHER ELEVATION.

FEMA rules STIPULATE that any homeowner who tries to spend more than 50% of their home’s appraised value on remodeling MUST ACTUALLY DEMOLISH the house or RAISE IT TO CURRENT FLOOD PLAIN REQUIREMENTS which is practically impossible with the original Surfside homes. As a result, it is very difficult for a homeowner in Surfside to do an addition to their home or a total rehab without running afoul of the 50% rule. For original Surfside homeowners, rebuilding will likely be their only option.

8. If my home is destroyed or damaged in a flood, can I rebuild what I already had?

The current commission has not honored prior approvals under the old zoning code. Under the new more restrictive code, you may not be able to rebuild what you currently have.

9. How will my homeowners insurance be impacted?

Homes are now worth less. Insurance companies will soon be insuring properties at these lowered appraised values. However, this will NOT LOWER YOUR PREMIUMS. Why not? Because the new zoning code and 0.5 FAR severely restricts home

renovation. As Surfside's housing stock continues to age and be vulnerable to extreme weather events, Surfside homeowners will have to file more claims. Insurance companies will take note that our zipcode's claims are rising and they will **CHARGE HIGHER PREMIUMS IN OUR ZIPCODE.**

So, all that this new proposed FAR does is **DECREASE INSURANCE PAYOUTS** in the event of a disaster such as a hurricane, flood or fire and **INCREASE OUR PREMIUMS**. Great deal for the insurance companies who frankly don't need any more favors!

10. If Miami Beach has a 0.5 FAR, why is it bad for Surfside to have a 0.5 FAR?

As with any comparison in life, one must adjust for contextual differences.

The area of Miami Beach that is comparable to Surfside has home lots that are 10,000SF, 18,000SF, and 30,000SF. These Miami Beach lots are more than **DOUBLE** the average Surfside lots. Applying a 0.5 FAR to these larger lots, still enables a comfortable decent-sized home. These homeowners in Miami Beach can build a 5,000SF-15,000SF home with a 0.5 FAR.

Meanwhile, at a 0.5 FAR, Surfside owners can now only build 2,800SF, which is very small for a home today. No owner will build a new house that is 2,800SF in size. That will look more like a townhouse than a home and **WILL MAKE OUR NEIGHBORHOOD LOOK VERY STRANGE.**

(SEE FOR YOURSELF in the Town Attorney's presentation with detailed mockups of homes built to a 0.5 FAR, presented in November 2024.)

11. What do professional architects, engineers, and insurance agents think about the new zoning code?

Frighteningly, many local professionals did not want their names used for fear that the Mayor will continue his unprofessional behavior by belittling and slandering their reputations publicly as he has done numerous times in his newsletters.

“If there is a major storm event and many homes in Surfside submit claims because they are older and sustained more damage, there could be a scenario where insurance rates INCREASE FOR CONDO ASSOCIATIONS.”

“It goes by zipcode. If insurance companies see more claims in your zipcode, they will INCREASE RATES for EVERYONE IN THAT ZIPCODE. This is true for condo unit owners, for cars, etc.

“Surfside is a flood zone. It’s getting more complicated every year. Small, old homes pay MUCH HIGHER PREMIUMS than similar-sized newer well-built homes. The older Miami homes have very few insurance options. The government insurance program- Citizens Insurance- will likely be their only coverage option and Citizens is very difficult to deal with.

I have signs 24x18 inches to Vote No for the .5 FAR Charter Amendment on April 1.

I can deliver and install them for you free of charge. Email me if you would like a sign. Stupel1@hotmail.com

Very truly yours,

Eric Stupel Surfside Resident since 1974