



**Town of Surfside  
Zoning Code Workshop – Single Family Area  
MINUTES  
February 4, 2021  
6 p.m.**

**1. Opening**

**A. Call to Order**

Mayor Burkett called the meeting to order at 6:00 p.m.

**B. Roll Call of Members**

Town Clerk McCready called the roll with the following members present:

Present: Mayor Charles Burkett, Vice Mayor Tina Paul, Commissioner Charles Kesl (arrived at 6:06 pm), Commissioner Eliana Salzhauer (arrived at 6:03 pm), and Commissioner Nelly Velasquez (arrived at 6:24 pm).

Also present were Town Manager Andrew Hyatt, Town Attorney Lillian Arango and Town Attorney Tony Recio.

**2. Introductory Statement and Background**

Mayor Burkett gave an introductory statement and provided a background of the zoning code workshop.

Commissioner Salzhauer stated that she shares the vision of protecting Surfside from over development and disagrees that this was a unanimous vote on spending over \$100,000 on a new zoning code.

Mayor Burkett addressed the comments made by Commissioner Salzhauer and he said that he would go back to the votes on that subject and they are there to improve the code.

Commissioner Kesl stated that he would like to keep this simple and he would like to see what the issues are.

Vice Mayor Paul commented on the vote and the changes being unclear and spoke regarding the 2006 code and is not sure if she could support this.

**3. Proposed Process**

**4. Overview of Code Layout**

**5. Presentation of Draft Code's Regulations Affecting Single Family**

**A. Lot Coverage**

Town Attorney Recio gave a presentation on the proposed zoning code and its changes for the residential portion for lot coverage. He spoke regarding the practical difficulty variance and its limitations for existing homes. He discussed the H30B district as it pertains to lot coverage.

**B. Height**

Town Attorney Recio gave a presentation on the proposed zoning code and its changes for the residential portion for height. He stated that the height is measured from the crown of the road abutting the property to the roof. He spoke regarding the difference in measuring height as it pertains to a flat roof and a pitched roof. He stated not to discourage pitched roof. He stated the height limit being 30 feet and some pressures that might be considered. He discussed certain elevations in measuring crown of road.

Town Attorney Recio spoke regarding H30A, H30B and H30C height modifications and gave examples of cupolas, chimneys, flagpoles and similar architectural features.

**C. Setbacks**

Town Attorney Recio explained the setbacks and the amount of setback for the structures for the front and the rear. He discussed how it currently is written in the current code and this rewrite of the code has been made to simplify it.

**i. Average Setbacks**

Town Attorney Recio explained the average setbacks and lot coverage examples and this is discouraged in this code for typical interior lots.

**ii. Encroachments**

Town Attorney Recio discussed the setback encroachments in connection with single family and duplexes. He discussed that the Planning and Zoning Board has considered potential 24" encroachment be allowed for eaves of flat roofs provided they are no more than 6" vertical thickness, to maintain appropriate scale. He stated that George Kousoulas suggested side steps be allowed to project no more than 3 feet into a setback and no more than 18" above grade. He discussed the projections and encroachments on setback areas. He spoke regarding side yard steps and what the code currently allows.

**D. Special Situations**

Town Attorney Recio spoke regarding the special situations of the front of the lots and its impact on what your setbacks would be.

**i. Corner Lots**

Town Attorney Recio spoke regarding the special situations involving corner lots and their setbacks.

**ii. Waterfront**

Town Attorney Recio spoke regarding special situations on the waterfront lots and what Section 90-179(c) in the H30A district.

**E. Accessory Structures**

Town Attorney Recio spoke regarding the accessory structures and the key for this is the percentage of 20% in H30B of the area and goes up to 30% in H30A. He spoke regarding pools and sheds. He stated that this does not exempt the structure from other requirements.

**F. Accessory Uses**

Town Attorney Recio spoke regarding the accessory uses and home offices. He stated that it is unclear as to what the difference is from an

office to a den in your home. The current code allows a work vehicle. He spoke regarding commercial uses not being allowed in residential area.

#### **G. Fences**

Town Attorney Recio spoke regarding the fences and the maximum height and allowable capacity. He spoke regarding the street side yards and extend into the right of way.

#### **H. Car Canopies**

Town Attorney Recio spoke regarding the car canopies and if one wants them there is a process in order to have them approved and there is a height requirement.

#### **I. Landscaping and Permeability**

Town Attorney Recio spoke regarding the landscaping permeability, the impervious area, drainage and stated that the landscape code has been extensively revamped.

#### **J. Nonconformities**

Town Attorney Recio spoke regarding the nonconformities and explained what those are. He stated that is how they deal with the properties that do not meet the current requirement. He spoke regarding structures and those that are abandoned.

#### **K. Lot Splitting and Lot Aggregation**

Town Attorney Recio spoke regarding lot splitting, platted lots, and the unity of title as well as density.

#### **L. Zoning Approval Procedures**

Town Attorney Recio spoke regarding the four major portions of this code and stated that the Planning and Zoning Board required for all new construction and additions with minor exceptions for accessory structures.

**i. Design Review**

Town Attorney Recio discussed the design review and how it pertains to the Planning and Zoning Board.

**ii. Variance**

Town Attorney Recio discussed the three (3) types of variances and the approval would be valid for 12 months and may be extended by Town Commission for an additional 12 months for good cause.

**iii. Special Exception**

Town Attorney Recio discussed the nonconforming use and special exceptions and those not listed in the code. He discussed that approval needs to be a super majority and is valid for 12 months.

**iv. Conditional Use**

Town Attorney Recio spoke regarding the conditional use and the main ones are canopies in front of the houses.

**M. Architecturally Significant Buildings**

Town Attorney Recio spoke regarding the architecturally significant buildings and the designation of certain buildings.

**N. Temporary Signs**

Town Attorney Recio spoke regarding the provisions on construction in the single-family area and the concept was based on the City of Coral Gables and if the Commission does not like these they could go back.

Town Attorney Recio stated that they are not changing anything in the Short-Term Rentals except for this provision which entailed a registration period for short term rental properties. He stated that if they change the code, they will not open that new window.

Commissioner Eliana Salzhauer stated that at times they assume they have information and knowledge on areas they might not have expertise on. She spoke regarding lot coverage and she would like 40% lot coverage.

Commissioner Kesl commended Town Attorney Recio and stated that it should be the Town Planner addressing the Commission with the changes on the code. He spoke regarding the Town Charter and the requirements for density and intensity.

Commissioner Velasquez asked regarding the fences and are they only for the corner lots.

Town Attorney Recio stated that they are intended to be for corner lots.

Commissioner Velasquez asked regarding splitting of lots and can they turn the lots into two lots.

Town Attorney Recio stated that they could as long as it was plotted that way.

Commissioner Velasquez asked regarding the pet store and it would have to be a majority vote.

Town Attorney Recio stated that they have to go through an ordinance because there is no code pertaining to that specific subject to not have to change the code.

Commissioner Velasquez asked regarding the historic provision and she would prefer it to be for a certain area and not the entire town.

Commissioner Velasquez asked if there is an amount of time that the construction signs can stay on the property.

Town Attorney Recio stated that there is a provision that the signs do have to come down after a certain amount of time. He said it is 72 hours before the final inspection.

Commissioner Velasquez thanked Town Attorney Recio for the presentation and would like to meet with him before the next meeting to discuss her questions.

Vice Mayor Paul thanked Town Attorney Recio for his presentation and said that she did not see green initiatives or incentives for homeowners.

Town Attorney Recio answered Vice Mayor Paul regarding incentives and how to incentivize people and how it could be done.

Vice Mayor Paul stated that in the past they offered a waiver for the permitting fees for Photovoltaic Systems. She asked regarding the different types of variances.

Town Attorney Recio explained the different variances and what they apply to and that there is a beneficial aspect to the variance.

Mayor Burkett discussed the size of the lots, lot coverage and commented on stripping beautiful houses in the neighborhood to become large homes. He spoke regarding green initiatives and if Vice Mayor Paul believed that they were already there and asked Town Attorney Recio if they were removed.

Town Attorney Recio stated that they were not intentionally removed from the old code.

Mayor Burkett stated that they used the old code and the new code and worked to improve the current code.

## **6. Public Comment**

The following individuals from the public spoke:

Judith Frankel, Chair of the Planning and Zoning Board, went over different topics of the presentation and provided the outlook of the Board members from the Planning and Zoning Board.

Horace Henderson, Board Member of the Planning and Zoning Board, encouraged the Commission to push forward and discuss the difference of the two codes and all politics should be set aside and get this done.

James MacKenzie, Board Member of the Planning and Zoning Board, spoke regarding the process and he sees a lot of things that come before them and what strikes them the most is the new code and old code and 80% of the homes that originally were here and most of them are one story. He stated that the lots on the interior are small and spoke regarding the setbacks.

Jeff Rose spoke regarding the 2006 code and stated that workshops should have been back and forth from residents and spoke regarding lot coverage.

Joseph Sartiano spoke regarding fences, hedges and accessory swimming pools.

George Kousoulas spoke regarding the code and that it needs to be tailored.

Joshua Epstein spoke against this code and the process has been horrible.

Eli Ginsburg asked if they could get a copy of the presentation.

Jeff Rose spoke regarding multiple workshops.

Judith Frankel spoke regarding the corner lots and the rules that are in place, that the Town Planner should give his input and spoke regarding the signs

Horace Henderson spoke regarding the workshop and becoming familiar with the zoning code and the changes proposed.

George Kousalous spoke regarding the language of the zoning code and spoke regarding the building code as a companion commentary.

Eli Ginsburg stated that the presentation would be on the website and would suggest having the presentation in advance. He spoke regarding sea level rise. Joshua Epstein spoke regarding the changes on the zoning code and the hedges.

Joseph Sartiano spoke regarding corner lots.

Debbie Cimadevilla spoke regarding corner lots.

Horace Henderson spoke regarding conforming to the two codes.

Jeff Rose spoke regarding the importance of the zoning code.

Joshua Epstein addressed the money spent on this zoning code rewrite and the zoning in progress.

George Kousoulas spoke regarding the H30 zoning, the single-family code and how it relates to the new code and the old code.

Joseph Sartiano commented on driveways and landscaping and would like clarification on the regular landscaping on homes and what he needs to do in submitting plans in redoing the driveway and private area.

Jordan Wachtel spoke regarding the change of the code and the time it takes to obtain a permit and there should be a faster way.

Joshua Epstein spoke regarding Mayor Burkett muting speakers.

Jeff Rose stated that it is inappropriate in muting speakers. He asked Commissioner Velasquez and Commissioner Kesl in spending the money on the rewrite on the zoning code.

Horace Henderson spoke regarding the time to review the zoning changes and asked for them to get it done.

Eli Ginsburg spoke regarding the zoning in progress and the impact it has had on the residents.

Town Planner Keller addressed the comments made by public speaker Sartiano.

## **7. Question & Answer (based on public comment)**

Commissioner Salzhauer addressed comments made by the public and believes they should go through the entire document line by line and for everyone to be able to understand and possibly this is an opportunity to simplify the code for everyone to understand. She would like to remove any workaround and the Commission should not have the ability to designate historical homes.

Commissioner Kesl spoke regarding the proposed process and spoke regarding being able to see an outline and having green initiatives and stated that they have to make it easier to understand.

Commissioner Velasquez stated that she believes that they need more than one workshop to be able to understand the changes and doing it step by step. She spoke regarding incentives of people coming to Florida for tax breaks and it only applies if this is your homestead. She stated that they need to have more workshops and be more direct on each section of the code.



Vice Mayor Paul thanked the Planning and Zoning Board Members but would like to hear from the Town Planner. She asked regarding lot splitting, the 3 zoning zones and why in two of the codes you could split the lots and the other code does not allow that to be done. She spoke regarding historically preserving older homes.

Mayor Burkett spoke regarding hedges and he does not think that it would be bad for the homes on the corner lots. He spoke regarding the setbacks and fencing. He stated regarding the lot aggregation and if someone wants to buy both lots and build a beautiful home, he does not have a problem with that but for those to come to maximize their investment and subdividing he does not agree.

Commissioner Salzhauer stated that she cannot understand why they are doing this and believes that they should've looked at what was wrong with the code and go from there to correct it.

Commissioner Kesl stated that at times they need to be lighthearted and spoke regarding the changes on the code and the new concepts and they need to look into the master plan.

Vice Mayor Paul stated that she would yield her time to the Town Planner and agreed with Chair Judith Frankel on how confusing the changes of the code are.

Town Planner Keller spoke regarding the zoning code changes and the issues revolving the zoning in progress and stated that the landscape code is very weak.

Commissioner Velasquez spoke regarding the zoning in progress and stated that individuals need to get together and read the zoning code and stop pointing the finger and fix what needs to get fixed.

Mayor Burkett addressed the comments made by Commissioner Salzhauer when it relates to flat roofs and the equipment are hidden on the flat roofs. He addressed comments made by the Town Commission and asked if they had a chance to read the zoning code.

Mayor Burkett asked Town Attorney Arango if he directed the Town Attorney to spend money to draft this code.

Town Attorney Arango addressed the comments and stated that the zoning in progress came up in three (3) different meetings and they have been taking direction from everyone and this has been going on since April.

Town Attorney Recio spoke regarding the zoning in progress language pertaining to the zoning repeal and voting on the zoning in progress has taken place three (3) times. He addressed the green initiatives and it is still in design progress.

Commissioner Kesl commented on the everyday activity of the Town and believes the systems should be better. He spoke regarding the process being challenging and the interpretation of the two codes.

Commissioner Salzhauer commented on overdevelopment, special groups, hedges and the new code being more restrictive on the residential portion.

Vice Mayor Paul spoke regarding the time line of the zoning changes, zoning in progress and spoke regarding taking the best of the 2006 code and adding that to the current code. She spoke regarding no resolution approving the expenditure for this zoning rewrite. She stated that she would like Town Planner Keller's opinion on the zoning codes.

Commissioner Velasquez spoke regarding the complaints from the public on the proposed changes of the code, the privacy of those on the corner lots and those having a personal vendetta against the Mayor.

Mayor Burkett addressed the comments made by Commissioner Salzhauer and spoke regarding the insults from other Commissioners insulting the Town Manager who quit and the insults on the Town Planners who also quit due to Commissioner Salzhauer comments, complaints and insults.

Mayor Burkett stated for everyone to submit their comments to the Town Attorneys and then they will have another workshop for the residential portion and those comments will be addressed. He stated that they will continue to have the workshops to address the comments. He commented on the areas that needed to be addressed on the code in the commercial and residential area.

Commissioner Salzhauer stated that this has been a one-man crusade by the Mayor and how she can propose the change for the zoning and the methods of the way the Mayor would like to implement these changes are horrible.

Commissioner Kesl stated that he would like to move things forward and get things done.

Vice Mayor Paul spoke regarding certain things on the code that needs to be changed and does not think they should continue doing the zoning in progress.

Commissioner Velasquez commented on the constant arguing and nothing gets done. She stated that she wants to get this fixed.

Mayor Burkett stated that they were all put there for a job and everyone is responsible. He addressed comments made by other Commissioners. He stated that they should call it a night and continue with scheduling another workshop.

Commissioner Kesl commented on several things discussed that haven't been on the table and adopting more public spaces.

Vice Mayor Paul addressed the comments made by Commissioner Velasquez and Mayor Burkett and would like to move forward and would like Town Planner Keller to move forward with the code and making sure the residents are being satisfied.

Mayor Burkett asked Town Planner Keller if there is something to do to help the resident.

Town Planner Keller stated that fences are something that people have been asking him about and discussed the difference between both codes.

Town Attorney Arango stated what changes they would like to see for the fences.

Vice Mayor Paul stated that Town Planner Keller stated 6-foot fences.

Town Planner Keller stated that 6-foot fences would be better.

Mayor Burkett asked the Commissioner if Town Attorney Recio could change it to 6-foot fences.

Commissioner Salzhauer stated that they cannot piece meal this.

Mayor Burkett stated that Commissioner Salzhauer does not agree with the process.

Mayor Burkett asked Town Attorney Arango if they could direct Town Attorney Recio to make those changes.

Town Attorney Arango stated that by consensus they could make those changes.

Commissioner Salzhauer asked if it needs to be publicly noticed for the zoning in progress.

Town Attorney Arango stated that they will address the notice issue with the changes on the zoning in progress.

Town Planner Keller stated that many of the applications coming in are coming in incomplete. He spoke regarding the zoning reviews that don't have to go before the Planning and Zoning Board and many take an old survey and draw on it and things have to be in a certain way before it can be reviewed and approved.

Building Official Fernandez stated that he does not see a problem with the permitting process but does see an issue with the review of the zoning plans. He stated that when he goes to the office, he will review the pending plans that need to still be reviewed.

Vice Mayor Paul asked if the applicants are given guidelines as to the requirements.

Building Official Fernandez stated that they do give the information to the applicants to assist them.

Commissioner Kesl commented on the process and the challenges being faced and correcting an issue the Town Planner is experiencing.

Commissioner Salzhauer stated that it is not correct to sensor the public and stated that they voted to work with the new Town Planner to make changes to the code.

Commissioner Velasquez commented on moving forward and making the changes.

Mayor Burkett stated moving the ball forward and suggested everyone to submit the changes they suggest and address it at the next workshop. He spoke regarding sea level rise and raising homes and putting the ideas together.

Commissioner Kesl asked Town Attorney Recio if there is a clear list of bullet points of things that are unresolved.

Commissioner Velasquez spoke regarding the comments made by Commissioner Salzhauer regarding the \$100,000 spent on the zoning amendments. She commented on going through the code and explain it to the residents.

Further discussion took place among the Commission regarding the possible zoning code change, and the funding expended for this zoning code rewrite.

Vice Mayor Paul spoke regarding the next zoning meeting and going over the different changes on the proposed zoning code.

Town Attorney Arango stated that they are in a very difficult position and they have bent over backwards in doing what they have been requested to do. She stated that they have been through three (3) different planners and needs clear direction on what legal are to do from now on.

Mayor Burkett asked for consensus to put a list of 50 items that are significant changes on the code, send to the commissioners and have the commission add their changes.

Commissioner Salzhauer asked what the red line version would look like.

Town Attorney Recio stated that the red line version is very confusing and addressed the changes on the new code.

Mayor Burkett asked Town Attorney Recio and for the Commission to work with that draft in order to move the ball forward.

Commissioner Salzhauer would like Town Planner Keller to look at the current code and they are trying to prevent over development and what are the changes that they need to make.

**8. Adjournment**

The workshop adjourned at 10:23 p.m.

Accepted this 11<sup>th</sup> day of May, 2021.

  
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Charles W. Burkett, Mayor

Attest:

  
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Sandra N. McCreedy, MMC  
Town Clerk