



Town of Surfside Beach
115 US Hwy. 17 North, Surfside Beach, SC 29575
(843)913-6111

**PLANNING COMMISSION REGULAR MEETING
TOWN COUNCIL CHAMBERS
Tuesday, June 7, 2016 at 6:00PM**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. AGENDA APPROVAL
4. MINUTES APPROVAL – May 3, 2016
5. DISCUSSION ITEMS
 - (1) Limited/Light Industry District
 - (2) Business Committee Consensus Items for Sign Ordinance Changes
 - (3) Reed vs. Town of Gilbert
 - (4) Rezoning of the Pier area
6. PUBLIC COMMENTS – General Comments.
7. BOARD COMMENTS
8. ADJOURNMENT



SURFSIDE BEACH PLANNING & ZONING COMMISSION
TOWN COUNCIL CHAMBERS
May 3, 2016 ♦ 6:00 P.M.

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1. CALL TO ORDER. Chairman Pruitt called the Planning & Zoning Commission meeting to order at 6:00 p.m. Commission members present: Chairman Pruitt, Vice Chairman Abrams and members Elliott, Johnson, Lauer, and Lowery. One seat is vacant. A quorum was present. Others present: Town Clerk Herrmann, Planning Director Morris, and Executive Assistant Messall.

2. PLEDGE OF ALLEGIANCE. Chairman Pruitt led the Pledge of Allegiance.

3. AGENDA APPROVAL. Ms. Abrams moved to approve the agenda with an amendment to allow public comments on agenda items only just prior to business. Ms. Johnson second. All voted in favor. **MOTION CARRIED.**

4. MINUTES APPROVAL. Ms. Johnson moved to approve the March 1, 2016 meeting minutes as submitted. Ms. Lowery second. All voted in favor. **MOTION CARRIED.**

PUBLIC COMMENTS- Agenda Items. There were no public comments on the agenda items.

5. BUSINESS.

a) Article III, Table 17-303 to allow for two single family residential structures to be located on one lot with a minimum of 6,000 square feet per lot. Ms. Morris gave a brief presentation explaining that the property in question was zoned R2 and located near Melody Lane between Lakeside Drive and Poplar. Code currently allows a single family house or a duplex. The owner is requesting that two single family dwellings be allowed on the one lot and he is calling them a duplex, because they will be Units A and B. The town is required to adhere to the International Building Code (IBC) states that a duplex shall have either a shared wall or a shared floor with a not-less than one hour fire resistant rating wall. This commission has no authority to change the IBC. The current land use map identifies the areas in which various types of construction are allowed. Just in the section where the lot is located there are 39 or more duplexes. That number does not include Ocean Pines, which is a planned development district. Although the change was requested by one property owner, it will affect many others. There are over 970 parcels in the R2 zoning district. By allowing the two separate homes to be located on the one parcel, you will ultimately allow infringement of R3 into the R2 medium density zoning district. The primary purpose of zoning is to segregate uses that are thought to be incompatible. In practice, zoning is also used to prevent new development from interfering with existing uses and/or to preserve the character of the community. This particular street, 15th Avenue South, and most of the others in the R2 district, is a well-established family neighborhood. Each resident has a minimum of 6,000 square feet per lot, and housing is only one structure per lot. Residents that she spoke with said one of the main reasons they chose this neighborhood was the zoning protection, density restraints, setback requirements, limited traffic, and prohibition of short term rentals. All of these restrictions establish the quality of the neighborhood, which must be maintained. The future land use map clearly shows the area is to remain medium density residential, which currently allows one building per 6,000 square foot lot. A photograph of a duplex located on the same street was shown, and Ms. Morris said her inspector did not realize the home was a duplex, because of its design. This duplex is three houses down from the subject lot. The town's Comprehensive Plan would also have to be revised, if this change is adopted. Ms. Morris said that during a previous meeting public comment section it was said that no one builds duplexes anymore. According to the Census Bureau, duplexes, or two family dwellings, increased in the Town of Surfside Beach 3.2-percent from 2000 to 2010. In 2012, there was a total of 328 duplexes in the town and the department has issued permits for more duplexes since then.

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54 Mr. Lauer asked what the real difference would be between allowing two standalone houses and
55 a duplex. Ms. Morris said impacts were: 1. Impervious/pervious calculations. A duplex would provide
56 much more green space; 2. Parking, and 3. Density; a duplex would prohibit the maximum number of
57 bedrooms, because of the green space calculations. A single family house could have up to seven
58 bedrooms.

59
60 Ms. Abrams asked if recommended changes would be for all 970 parcels in the zone or if it would
61 only affect the one lot. Ms. Morris said it would affect all parcels.

62
63 Chairman Pruitt said to make this allowable, the definition of duplex would have to be changed or
64 the square footage required would have to be reduced. Ms. Morris said two single family residents would
65 have to be allowed. The definition of duplex cannot be changed, because the IBC defines duplex.

66
67 Ms. Lowery said she visited the area today. The building described to the commission would not
68 be compatible with the surrounding buildings, which appear to be single family homes that span the
69 entire lot. She did not see any construction like the owner wants to build until she was much closer to
70 the beach. The subject property has been cleared. There appear to be stakes set, but only for one
71 building. She did not think the building would be compatible with the other structures in that immediate
72 area. Ms. Lowery asked if the zoning had changed since the property was purchased. Ms. Morris said
73 the property was purchased recently, but she did not have the exact date. Zoning was R2, and has not
74 changed.

75
76 Ms. Abrams said Section 17-202 states the reasons the town might want to change the zoning
77 ordinance. One part is "Where public necessity, convenience, general welfare or good zoning practice
78 justify such action." Based on comments, this change would only benefit the owners of one parcel out of
79 almost 1,000.

80
81 Ms. Elliott asked when the current zoning was enacted that requires a duplex to have a solid wall
82 or floor in between the buildings. There some closer to the beach that are connected by 5-foot sections.
83 Ms. Morris said closer to the beach is the R3 district that allows townhouses. This property is R2 and has
84 been in place since the IBC was adopted at least 20 years ago.

85
86 Mr. Lauer said there were really only a couple of reasons to change an ordinance. One was the
87 change would benefit the town in some way. Number two is that the change would benefit the people or
88 the property itself. He was looking for a benefit that this might have, because if there are no benefits to
89 the town, there would be no reason to change. Ms. Morris said some of the neighborhood property
90 owners were present, but in speaking with them previously, they do not want the change. The only
91 benefit to the town that she was told was higher taxes would be paid. She personally did not believe the
92 taxes would be enough to offset changing the character of the entire neighborhood. Mr. Lauer said
93 aesthetically it was very hard for him to image the buildings as they are proposed to be constructed
94 looking very good on that property.

95
96 Ms. Johnson said she personally dislikes two dwellings on one lot in the R3, so she was not in
97 favor of expanding anything to allow more of it.

98
99 Chairman Pruitt said since there was no significant benefit for the town and based on the
100 members' comments, he so no reason to move forward with this item.

101
102 Ms. Abrams moved to recommend denial business items a) and b), which is a request to allow
103 two single family structures and allowing two principal buildings per lot in R2. Ms. Johnson second. All
104 voted in favor. **MOTION CARRIED TO DENY.**

107 **b) Article IV, Section 17-404 One Principle Building per lot.** This item was not
108 specifically addresses since the previous item was denied.

109
110 **6. DISCUSSION ITEMS.** Chairman Pruitt explained that the discussion items were all deferred
111 until the June meeting.

112
113 **7. PUBLIC COMMENTS - General.**
114

115 Mr. Troy Berry, 16th Avenue South. I've been vacationing here for 35 years and have been a
116 permanent resident in a single family home for 13 years. I am the applicant and the land owner for this
117 particular situation. I am somewhat confused, because item 5 on the agenda is the business item to
118 address a) and b) that y'all just discussed among yourselves as board members. But, I'm the applicant
119 for the business item agenda, but I didn't get to state my case.

120
121 Chairman Pruitt: That's actually why the board added public comments prior to business. I'm
122 pretty sure you were here for that.

123
124 Mr. Berry: I thought [Ms. Abrams] was talking about the last meeting's minutes.

125
126 Chairman Pruitt: Well, we just added a public comment section before business.

127
128 Mr. Berry: I was confused about what that was. Were you talking about the meeting from two
129 months ago or this meeting? So, that's why I didn't get up and speak, because I thought I was going to
130 speak when we got to item 5.

131
132 Chairman Pruitt: Well, go ahead and make your case, if you want, now. We heard you a little
133 bit two months ago, and we know a little bit about your situation. So, why don't you go ahead and tell
134 us. Give us your pitch. That's actually what we were looking for when we had the public comments prior
135 to the business.

136
137 Mr. Berry: That's where I'm confused. Why would public comments be moved up before the
138 business item was up?

139
140 Chairman Pruitt: So we can hear from the public.

141
142 Mr. Berry: I think Ms. Herrmann, if I may I ask the town clerk, when the meeting has a business
143 item agenda, you've gotta follow the agenda. Then all of sudden, you moved the public comments, just
144 general public comments, it wasn't just public comments specifically to the business item.

145
146 Chairman Pruitt: Actually, it was. If you go back and read the minutes, it was for business
147 items.

148
149 Mr. Berry: So, do I even need to say anything, because y'all just voted (**). We had a
150 discussion for about 15 minutes the first week of March, is that correct?

151
152 Chairman Pruitt: Yeah.

153
154 Mr. Berry: About 15 minutes in general public comments at the very end of the meeting. I was
155 sat through two hours of a smell ordinance...

156
157 Chairman Pruitt: If you want to use the rest of your time to discuss public comments, we can.
158 But, you have about two and a half minutes left.
159

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160 Mr. Berry: So, I don't have but five minutes total to present my business case?

161

162 Chairman Pruitt: Let's go ahead and start over. We'll give you five minutes. *(Laughter)*

163

164 Mr. Berry: I'm concerned why some people are laughing. Do I need to be sworn in? I know I
165 was sworn in by the zoning board on Thursday night.

166

167 Chairman Pruitt: No, sir.

168

169 Mr. Berry: I guess my time is starting now. I'm here to talk about the business item which is on
170 the agenda tonight, item number 5, sections a) and b) regarding the duplex issue. As the record will
171 state, I guess there was some change to the agenda before this meeting ever started to move any public
172 comments in general up before this business item was ever addressed. Let me clarify, so if I'm speaking
173 now on this business item agenda tonight, what you all just voted on without my ever addressing my
174 business item as the applicant before this committee, what difference does it make regardless of what I
175 am gonna say. You just voted on it without any comments from me.

176

177 Chairman Pruitt: There's plenty of time left in the universe, so. There's no telling where this
178 item will go. We'd love to hear your opinion about it. Please, go ahead.

179

180 Mr. Berry: But, it will not be tonight then?

181

182 Ms. Herrmann: Mr. Chairman? Chairman Pruitt: Yes. Ms. Herrmann: Mr. Berry, *Roberts Rules*
183 *of Order* will allow the commission to reconsider their motion and their action, if you provide the kind of
184 information they need to hear that would convince them to change their mind. So, please state your
185 case, and then if the board feels like the case is made, they can repeal the motion and bring a different
186 motion forward. I'm not saying that they will, but that is allowed.

187

188 Mr. Berry: Okay. I respect that from the town clerk, Debra Herrmann, which has been of great
189 service to this town from all manner of actions over the past five months. So, I am gonna state my
190 business item case here now, and I would request from this committee to reverse your decision you
191 made five or ten minutes ago without ever hearing any facts from me. I wrote down eight notes of all
192 the board members' discussion. Thank you Mr. Chairman Pruitt, and all the committee members for your
193 service. We are all citizens here tonight. The R2 zoning has 39 duplexes according to Ms. Morris with a
194 total of 970 parcels in R2 in this particular area where this lot is located. He requested the total number
195 of single family permits and duplex permits for new construction over the past five years, because it was
196 available electronically.

197

198 Ms. Morris: Our program only shows whether the permit is residential or commercial. It does
199 not separate single family from duplex.

200

201 Mr. Berry: Isn't staff required by the National Homebuilders Association and the State of South
202 Carolina to track whether it is a single family home, an apartment building complex, a commercial
203 structure, duplex; you have no breakdown of your building permits for new construction?

204

205 Mr. Morris: We have commercial (**).

206

207 Mr. Berry: Do you have the numbers on the 5 years of single family new homes that I requested
208 from your office?

209

210 Ms. Morris: No.

211

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212 Mr. Berry: I'm asking a very simple request as to why I didn't get it from the staff to be
213 prepared for tonight. If I don't have the numbers, I can't speak to the facts.
214

215 Chairman Pruitt: Well, I mean, the numbers would matter, but we would love to hear from you,
216 if you want to continue.
217

218 Mr. Berry: There are a number of items, but this was item number 1 that I'm talking about. I
219 don't have the numbers. But, y'all should have the numbers over the last five years of how many new
220 single family homes have been built in R2 in this particular area and how many duplex homes have been
221 built. It would be an important item for you to consider. Item number two which was mentioned was
222 regarding the character of the community in that these two single family homes would be incompatible
223 with the character of the community. I'd requested from Ms. Morris about three weeks ago for a copy of
224 the staff report that would be given to the commission, since I'm the applicant so I can be better
225 prepared and understand what the staff's and town's position. That was never delivered to me. The first
226 time I saw it was when I got a copy from Ms. Herrmann at approximately 5:55 today. That's a concern
227 to me when I cannot get the facts from the town as to the town's and staff's position. I want to address
228 the six points the board members brought up, and then I will present my final pitch. I believe [Mr.
229 Lauer] was trying to visualize what the two single family homes would look like on the lot. Mr. Berry
230 distributed copies of a survey showing the houses for the members' review. As you can see, this lot used
231 to be around 69 to 70 foot in width on the front. As the official survey done January 29th states right
232 now, it's somewhere around approximately 68 foot in width. This is the site survey that's part of my
233 permit application for Unit A only. I cancelled Unit B for right now. (Mr. Berry proceeded to describe
234 how the homes would be placed on the lot.) As the two single family townhomes would exist on the lot
235 they meet all town of Surfside building and zoning requirements. There is no violation of any
236 requirement (**) side setbacks.
237

238 Chairman Pruitt: Individually.
239

240 Mr. Berry: Individually, yes. If you also note, up the top left hand corner, item 5, the building
241 and zoning R2 requirements, which is required, it's got proposed on there. This lot is approximately
242 7,500 square foot in size. The town requires 6,000 minimum in R2. Officially for the record, it is 7,460
243 square feet officially in size. There's 10 foot on the side setbacks. There's 10 foot clearly in between the
244 homes, which meets all IRC building code standards. So, there's no International Residential Building
245 Code 2012 violations. It meets all the front setbacks. It meets all the rear setbacks. So, there's no
246 zoning; there's no building code issues with this site plan. To specially address Mr. Lauer's question
247 about how the buildings would look on the lot, I've ridden around Surfside for the past three months.
248 I've got about 100 photographs of different projects over the past 1 to 5 years. I wish I had provided
249 this to Ann earlier so she could make you some slides, but I'm sure y'all've road around and looked at
250 some of the duplexes built 30 to 40 years ago and some built 15 years ago. Duplexes are not very
251 aesthetically pleasing, because you have two homes slid together with no windows on the [connecting
252 wall.] There is only a one hour fire wall, so if one unit catches on fire that will only allow time to escape.
253 Both units would be destroyed, which makes an insurance risk.
254

255 Chairman Pruitt: Mr. Berry, we've heard a lot about one unit. What you're proposing is two
256 units.
257

258 Mr. Berry: Correct.
259

260 Chairman Pruitt: So, your arguments aren't really valid, and what I would like for you, I'll give
261 you a few more minutes to answer this question, "Why are two houses on a normal size lot beneficial for
262 Surfside?" If it is, we'll consider it. If it is not, which is what we currently think, we will not consider it.
263

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264 Mr. Berry: Okay. Since I'm very limited on time to present my case, to talk about his aesthetics
265 to close that issue out, two single family duplex homes 10 feet apart will look much better than two
266 homes slammed together with just a one hour fire wall. You're gonna have more green space. You have
267 all the parking requirements in that. There's four parking spots clearly for each unit as noted on the site
268 survey plan. So parking is not an issue. You have more green space. You have more landscape. A
269 duplex has a higher pitch roof, because it's gotta span a much wider building area and go up higher on
270 the roof. There is a duplex to the right of this lot that was built approximately 15 years ago. It's a fairly
271 nice duplex unit, but it is a Unit A, Unit B two single family Unit A, Unit B homes that are duplexes with
272 the one hour fire wall. These two homes are gonna look much more aesthetically pleasing. And, may I
273 state for the record also that I am a custom homebuilder. I'm not a tract home builder. I'm not a
274 production home builder. I build in Columbia, South Carolina and I'm desiring to build in Surfside for
275 clients. Let me digress for one minute. I have turned down four clients over the past two and a half
276 years to build exactly what I'm proposing here tonight. When it comes to this fourth client from
277 Charlotte, they live just five homes down. Ann Patterson and Brian Patterson, they sold their home at
278 329 15th Avenue South approximately two months ago just to build this Unit A. I am contracted under
279 them as of January of this year to build this structure for them. They own their one half of the lot. I
280 used to own the entire lot, which I purchased in 2006. This is their retirement home. They're from
281 Charlotte, and they used to live down here for eight years. So, keep that in mind. When you talk about
282 people, how does it benefit people and clients? This is people. People are clients. People that are
283 looking to have new homes. From the real estate standpoint, and also for the official record, I may
284 disclose that I am a licensed realtor in the State of South Carolina. I work for Keller Williams Realty,
285 Myrtle Beach South Office. I've been a real estate broker 15 years. Over the past ten years, all the
286 clients and people in the market place for new homes, they do not want duplex homes anymore. For the
287 record, also; I'm just doing Cliff Notes here, because I'm very limited on time. There's been
288 approximately 25 to 30 duplex homes available in this general area of R2 and the specific site area, town
289 of Surfside that have taken at least two and a half to three years to sell, and they sell for 30-percent less
290 than a detached single family home. I've built 48 custom homes in the past 14 years. I am also a
291 former engineer. These homes are going to provide 30- to 40-percent more value than a duplex homes.
292 So it adds more value; adds a higher tax base, and it looks more aesthetically pleasing. What does it do
293 for the people and the town? It provides a higher tax base and it's gonna have a value of 30- to 40-
294 percent more than duplexes. I wish I could have had time to go through all the records, but there's five
295 duplexes within one block, or two blocks of the site area that have been on the market for three years
296 and have not sold. One in particular is around 14th Avenue South near Lakeside that has three units.
297 Duplexes can have three or four units. I am only looking to build one Unit A single family town home
298 detached, one Unit B single family home. Under duplex guidelines as the ordinance was put in 35 years
299 ago to address the question to one of the board members, it went into the books approximately 30 or 35
300 years ago. I have not been able to get from staff the official date as to when the ordinance was
301 adopted. It has not been amended since then, over 30 to 35 years. So, yes, it's a higher tax base of
302 approximately 30- to 40-percent. It's gonna look much better and it provides the homes that people are
303 looking for in the market place. As I have stated, I have turned down ...

304
305 Chairman Pruitt: Mr. Berry, you have about, we have about a minute and a half left and I've
306 heard you, some of your arguments, and the two that seem most valid to me are they sell for higher
307 price and they provide a larger tax base for the town of Surfside.

308
309 Mr. Berry: And, they're gonna look much better.

310
311 Chairman Pruitt: Now, how does that compare with, how valuable is that compared to the
312 increased density in those areas, in R2? Like, you could potentially have twice as many homes in R2,
313 twice as many bedrooms, so the quality of living in Surfside could possible go down if we do this. What
314 would your argument be against that? That's the last point we're gonna make here tonight.

315

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316 Mr. Berry: My argument to you, Chairman Pruitt, on your specific point is that this is a four
317 bedroom, three bath home. Excuse me, four bedroom, three and a half bath. There's a half bath on the
318 main level. There are three bedrooms up. There's master bedroom on the down level at the back, and
319 it's approximately 2,000 square feet. It's a raised beach home; meets all building code requirements;
320 meets all height requirements. It's under 35 feet in height. If I went to a duplex, I could not build it,
321 because it goes above the 35 foot requirements. So, I cannot technically build a duplex, because you
322 have a law (***) for 35 foot height requirement. The roof would go up too high, because you have a roof
323 pitch requirement. To specifically answer your question, when it comes to the green space or impervious
324 [sic] area, you get more with this here. You get 10 foot of nice landscaping in between the two homes.
325 We're adding as part of my landscaping plan that will be submitted with the building permit, eight new
326 trees to this lot. A minimum of eight; four Palm trees at each house, four Crepe Myrtle trees.
327

328 Chairman Pruitt: Palm trees don't have much benefit for erosion, or other things, just so you
329 know.
330

331 Mr. Berry: This site plan has already passed the stormwater. So, there's no issue with the
332 building permit. As far as the building permit package goes, unless I'm not aware of anything from [Ms.
333 Morris's] office, there's been one item over the past three or four days that [Mr. Farria] wanted adjusted
334 on some engineering notes and details, it's passed all building requirements for Unit A. So, if it passes
335 Unit A, it will pass Unit B, because they are both on the same site plan on the entire lot. The final points
336 of two other items the committee members made. Good zoning practices. Why would we want to
337 change this here? Well, laws are made to be changed. Ordinances are made to be amended. This has
338 been on the books for over 30 or 35 years. I am requesting that y'all just visit this and review it to
339 possibly (*time ended*) amend it to allow single family duplexes so it is a good zoning practice...
340

341 Chairman Pruitt: (***two speaking at once*) Alright, Mr. Berry, thank you for telling us your plans
342 and your sharing with us your point of view, and we appreciate it. This might come up again in the
343 future. As of right now, your only recourse would be to ask Town Council to amend some ordinances for
344 you. We voted against it. Like I said, it's possible it might come back up in the future. But I do
345 appreciate your time this evening and your time over the last couple of weeks, and that's all we need to
346 hear about.
347

348 Mr. Berry: (***two speaking at once*) May I make the official request that as [Ms. Herrmann]
349 stated that this committee make a motion to possibly reconsider and entertain questions as I've
350 presented my case now so that we have discussion among the board members.
351

352 Chairman Pruitt: Ms. Abrams.
353

354 Ms. Abrams: I would like to hear any other public comments before we think about
355 reconsidering.
356

357 Chairman Pruitt: Thank you, Mr. Berry. Are there any other public comments from anyone in
358 the audience? Regarding anything actually, we're in the general comments section. I'll give you guys
359 five minutes. Mr. Berry, you had about 15 minutes.
360

361 Ms. Debbie Scoles, 15th Avenue South. I live next to Mr. Berry's lot. I agree with the board here
362 tonight. I don't feel that we need any more density in that area, and what that's gonna do when we
363 change it from R2 to R3, we're gonna end up having weekly, monthly rentals on that street. It's a very
364 nice developed neighborhood, and I would like to see it stay that way. I don't have a problem with him
365 building on that lot and building a duplex, you know, if he can do that, but I do not want to see that go
366 to R3. I just purchased my home in November of last year there and I researched to make sure I was
367 moving into an R2 district where there would not be a weekly rental and people coming and going. So, I
368 appreciate your consideration of the neighbors on that street. Thank you.

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369
370 Ms. Morris read a letter from Ms. Wanda Burgess who could not attend the meeting. The letter is
371 attached to these minutes.

372
373 Chairman Pruitt: So we've heard both sides of the coin here tonight. Any other public
374 comments?

375
376 Mr. Bill Goddard, 15th Avenue South: We agree with [Ms. Burgess.] He says this complies with
377 all the regulations, but last week before the zoning board, I wish you'd read those minutes, because he
378 was asking for variances for height and variances for setback. So, it's, it ain't over till it's over, and I
379 suggest that you watch this guy real close, because he cleared the lot. He took, somebody took the sign
380 down, if there was a meeting, and somebody was moving boundary stakes. I don't know who. But,
381 somebody did it. Somebody that had an interest. Thank you.

382
383 Chairman Pruitt: Any other public comments regarding anything at all? We've already heard
384 from you, Mr. Berry. (**Mr. Berry speaking from audience.) That's okay. We're gonna move on to the
385 board comments.

386
387 Mr. Berry: So I'm not allowed to provide my public comments?

388
389 Chairman Pruitt: No, we've heard 15 minutes of it. Thank you very much. So we're gonna
390 move on to board comments.

391
392 Mrs. Johnson: We've already heard your comments.

393
394 Mr. Berry: So, I can't respond to the three people that ... I respect my citizens. The three
395 neighbors that spoke. I want to address their items ... (**two speaking at once.)

396
397 Chairman Pruitt: Mr. Berry.

398
399 Ms. Abrams: Public comments are not a debate.

400
401 Mr. Berry: So, when may I have this as a business agenda item to address these facts again?
402 I'm trying to address the citizens' facts; the residents that surround this property. I want to address
403 them. I want to work with them.

404
405 Ms. Johnson: Well, maybe you should call them personally.

406
407 Chairman Pruitt: They're your neighbors.

408
409 Mr. Berry: That's right. I want to work with them.

410
411 Chairman Pruitt: You don't have to talk to them in this room. You can talk to 'em anywhere.

412
413 Ms. Elliott: Like one of the neighbors said, we meet out in the street and we discuss. Maybe you
414 should meet them there also.

415
416 Mr. Berry: Correct. I walked the street last Saturday, this past Saturday at ten o'clock and I was
417 very cold-hearted in the middle of the street. Scolded for two or three minutes... (**two speaking at
418 once.)

419
420 Ms. Abrams: Mr. Berry, I think you've had more than your turn to speak.

421

422 Mr. Berry: ... (**) by a neighbor. I said let me know your concerns and I'll be happy to work
423 with you.

424
425 Chairman Pruitt: (***two speaking at once*) And we appreciate you coming to speak your views
426 here tonight. It's not a completely dead issue, we voted against it, and we're gonna go ahead and move
427 on to the board comments.

428
429 Mr. Berry: One of the points I want to make is (***two speaking at once*.)

430
431 Chairman Pruitt: We have to keep moving along our agenda. You've had 15 minutes.

432
433 Ms. Elliott: Mr. Berry, this is not a personal thing against you. We have to look at the whole
434 area, which is 970 parcels, and for you to build two separate homes on one lot means possibly someone
435 can come in buy one of their homes, knock it down, put two houses up and we could have 1,840 homes
436 in that area renting.

437
438 Mr. Berry: And I respect that. That's (***two speaking at once*.) I'm not asking you to make that
439 rental...

440
441 Ms. Elliott: (***two speaking at once*.) ... We're not just against you, you're not being turned
442 down just because it's personal. We don't like Mr. Berry, we don't want you to build. We have to look at
443 the town as a whole and the benefit to the town.

444
445 Mr. Berry: And I'm not requesting this be a rental district. I do not want this a rental district.

446
447 Ms. Herrmann: Mr. Berry, excuse me, Mr. Berry, the Chairman has said that they're moving to
448 board comments. Parliamentary Rules ...

449
450 Mr. Berry: I will stop my public comments.

451
452 Ms. Herrmann: Thank you.

453
454 Ms. Abrams: Thank you.

455
456 **11. COMMISSION COMMENTS.**

457
458 Ms. Abrams: I have heard nothing that causes me to want to reconsider my previous motion and
459 vote.

460
461 Ms. Johnson: I haven't heard anything either, and I, there are many, many duplexes, two story
462 duplexes in the town that meet the height requirement. So, him stating the case that he couldn't do this
463 because of the height requirement, I don't understand why not, because there are many already in the
464 town that do meet the height requirement.

465
466 Ms. Lowery: My concern is that a single lot apparently has been divided without actually being
467 divided into two areas, and the sale would have been at a time when there should have been no
468 expectation of two single buildings. So, I'm concerned about that. But at this time, I really have not
469 heard anything that would change my mind. I'm not saying that that might not happen in the future, but
470 at this time, I have to continue to vote against it.

471
472 Ms. Elliott: I have no reason to change my vote. There are 970 parcels out there and this could
473 affect several people.

474

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May 3, 2016

475 Mr. Lauer: I agree. It just doesn't seem to make any sense to change it where it's going benefit
476 seriously one person. If we're gonna change an ordinance, it better benefit an awful lot of people.
477 Thanks.

478
479 Chairman Pruitt: Yeah, I agree with those comments, and I would encourage you, Mr. Berry, to
480 think of the near endless configurations of a house you could put there that would already be legal. You
481 know, there are some very talented engineers and you, yourself, could probably do it. There are many,
482 many, many configurations that are acceptable to go ahead and put on that lot. So, why would you
483 continue to waste your efforts on trying to get a law changed when you could move forward with your
484 plans to build a house and live in Surfside? So, that's just my comment.

485
486 **12. ADJOURNMENT.** Ms. Lowery moved to adjourn at 6:48 p.m. Mr. Lauer second. All voted
487 in favor. **MOTION CARRIED.**

488

Prepared and submitted by,

489

490

Debra E. Herrmann, CMC, Town Clerk

491

492

Approved: June 7, 2016

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494

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497

Mikey Pruitt, Chairman

498

499 Clerk's Note: This document constitutes action minutes of the meeting that was digitally recorded, and
500 not intended to be a complete transcript. Appointments to hear recordings may be made with the town
501 clerk; a free copy of the audio will be given to you provided you bring a flash drive. In accordance with
502 FOIA, meeting notice and the agenda were distributed to local media and interested parties via the
503 town's email subscription list. The agenda was posted on the entry door at Town Council Chambers.
504 Meeting notice was also posted on the Town marquee.

ISSUE PAPER FOR PLANNING COMMISSION CONSIDERATION

Meeting Date: June 7, 2016

Prepared by: Sabrina Morris

Subject: Limited/Light Industry District – with corrections as requested

BACKGROUND:

The Planning Commission has reviewed the proposed new zoning district regulations a few times and at the March 1, 2016 meeting requested that staff make corrections/amendments to the proposed district to simplify and make the ordinance clearer. Staff has made those corrections and request a final review tonight.

ATTACHMENTS:

Proposed zoning district guidelines with minutes from the March 1, 2016 meeting.



**SURFSIDE BEACH PLANNING & ZONING COMMISSION
TOWN COUNCIL CHAMBERS
MARCH 1, 2016 ♦ 6:00 P.M.**

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1. **CALL TO ORDER.** Chairman Pruitt called the Planning & Zoning Commission meeting to order at 6:00 p.m. Commission members present: Chairman Pruitt, Vice Chairman Abrams and members Crone, Elliott, Johnson, Lauer, and Lowery. A quorum was present. Others present: Town Clerk Herrmann and Planning Director Morris.

2. **PLEDGE OF ALLEGIANCE.** Chairman Pruitt led the Pledge of Allegiance.

3. **AGENDA APPROVAL.** Ms. Crone moved to approve the agenda with an amendment to delete the public hearing. Ms. Abrams seconded. All voted in favor. **MOTION CARRIED.** Chairman Pruitt said the public hearing would be held at a later date; however the discussion would be held.

4. **MINUTES APPROVAL.** Ms. Johnson moved to approve the January 5, 2016 meeting minutes as submitted. Ms. Crone seconded. All voted in favor. **MOTION CARRIED.**

5. **PUBLIC HEARING** – Hearing cancelled, see #3 Agenda Approval.

6. **BUSINESS**

Establish a new zoning district LI (Limited Industrial) within the town by amending Article Division 1, Section 17-301 to add (10) LI (Limited Industrial District) to the zoning ordinance. Section 17-303 District Dimensional Standards to include LI (Limited Industrial) with dimensional standards. Division 11 Light Industrial District amend Section 17-393 to include intent; Section 17-394 to include uses; Section 17-395 to include minimum lot size; Section 17-396 to include minimum lot width at the building line; 17-397 for yard setbacks; 17-398 for maximum building height; Section 17-39 Reserved. Renumber the existing Division 11 to coincide with current amendments. Amend Use Charts to include LI (Limited Industrial Uses) with permitted uses and conditional uses noted. Amend the Use conditions section of Warehousing/storage facility subsections (a) and (b). Add under conditional uses Manufacturing/Industrial Uses and number Section accordingly. Add subsections (a), (b), (c), and (d) under the new Manufacturing/Industrial Uses. Amend Table 17-420 Parking Chart to include "I", "U" and "V" for parking space requirements. Amend Section 17-007 to include additional definitions for Custom Manufacturing, High Technology, Light Industrial, and Wholesaling, storage, and distribution. Amend Sign Provisions Chart 17-622(c) to include allowed signage for LI (Limited Industrial District) with size and number requirements. Amend Section 17-644 (a) and (b) to include Signs Permitted in Light Industrial District and guidelines. Amend Section 17-652 to include Section 17-644 and add Section (6) (a) – (d) and Section 17-703 (b) to include the new Limited Industrial District with requirements for landscaping.

Ms. Morris said the advertisement for the public hearing was not published, but that was good, because the commission needs to make sure the ordinance is right before a limited industrial district is established. She received several email comments about the code. Town Council must create the limited industrial district before property could be rezoned. The business committee recommended that Sandy Lane be the designated light industrial district, which conforms to future land use in the Comprehensive Plan. The commission discussed the proposed changes at length and made changes set out below. This topic will be discussed again at the next meeting.

17-396.44 a. **Odor.** Ms. Morris said of the three municipalities that address odor, the codes were vague. Those municipalities did not have any tool with which to measure odor. Ms. Lowery said Line 2 was confusing. Ms. Abrams was concerned because the code is saying you cannot reach an odor threshold, but how do you define and measure that. Ms. Lowery said Line 3 seemed redundant. Ms. Abrams said an ordinance stating don't emit offensive odors was about as vague as saying don't store

58 junk. Odor should be mentioned, but it would have to be vague. Ms. Elliott asked how a paint company
59 would control and treat emissions to protect its employees and the public. Ms. Morris said those
60 protections were controlled by the building and fire codes. She did not know about cleaning the
61 emissions. Number 1 states "The outside boundary of the immediate space occupied," so it should not be
62 smelled beyond the property line. Mr. Lauer believed noxious odors should be addressed and should not
63 extend beyond the property line. The term "odor threshold" should be removed; there is no way to define
64 odor threshold. Ms. Lowery suggested "No use may generate any noxious odor beyond the property line"
65 to simplify the code. Ms. Abrams suggested the statement "No use may generate any offensive order."
66 Ms. Crones believed the word "noxious" should be used instead of "offensive," which is subjective. The
67 odor code should apply to all uses, not just LI. That can be added to the C1 code. **Consensus: take out
68 threshold comments; add "No use may generate any noxious odor," which should apply to
69 C1 and LI.**

70
71 ***Pets 17-396.1 and .2 and Use Classifications in Table 17-395 (Continued)***
72 ***Commercial Offices and Professional Uses.*** Ms. Elliott referred to animal hospitals, veterinarian
73 clinics, pet boarding facilities, and retail pet shops that are permitted and said that under "Use
74 Classifications" the list has retail pet shops, pet grooming, pet training, *no boarding*. Ms. Morris
75 explained that C2 allows pet shops, but they do not want boarding in that district, which is the mixed use
76 area. Boarding is allowed as a conditional use in C1, which is Highway 17. Boarding would be permitted
77 in the LI. The "no" would be removed from the description for the LI. Ms. Abrams said the code should
78 be "scrubbed for inconsistencies."

79
80 ***17-395 Use Chart, Bakery listed three times:*** Mr. Lowery said bakeries were listed under
81 Entertainment, Recreation and Dining Uses showing not allowed; under retail businesses showing
82 bakeries where products are consumed on site are allowed, and Wholesale Bakeries as a conditional use in
83 LI. Ms. Morris said the business committee recommended allowing bakeries of any type in the LI. Ms.
84 Abrams did not see why not. Ms. Crone said an eat-in bakery would create traffic. She asked if LI should
85 be quasi-retail. Ms. Lowery said other uses in LI allow retail sales. Ms. Lowery said there were not many
86 light industrial businesses in town. If retail were included in the district, it might limit that development.
87 Ms. Abrams asked if retail would drive out the light industrial. Chairman Pruitt said there were currently
88 many places available for retail shops along Highway 17. Mr. Lauer said safety issues were created by
89 traffic, limited parking and pedestrian traffic. Ms. Abrams asked if Ms. Morris had any feel for the
90 business committee's intentions regarding too much retail or traffic safety. Ms. Morris said the business
91 committee did not discuss traffic safety issues. Retail was discussed and she believed the committee did
92 not want to limit the uses to just industrial uses, just in case someone wanted to open a retail shop. But,
93 the commission members were right, there are many vacant retail buildings on Highway 17. Ms. Johnson
94 said someone may want to open a wholesale bakery. Ms. Morris said that could be allowed. Ms. Crone
95 said that was fine, but once you get into retail, you're inviting a problem.

96
97 ***Limited Industrial versus Light Industrial.*** Chairman Pruitt pointed out that both names
98 were used throughout the code. The words have significantly different meanings. Limited allows specific
99 uses while prohibiting other uses. Light industrial is a generic term for warehouse type facilities, car
100 shops, electricians, and other types of workshops. He asked what the town was trying to create on Sandy
101 Lane. There are existing businesses. Do we want more of the same or is the plan to transform that area
102 into something else? Ms. Abrams said if the commission was not going to get into the business of
103 directing traffic, then there were several types of retail businesses that should be allowed, i.e. a
104 dressmaker or seamstress. Ms. Morris agreed with that, but said the planning commission is charged
105 with traffic counts and numbers that come up in new zoning districts or any other plan that comes into
106 effect. The commission needs to address that. Chairman Pruitt said a warehouses, car repairs, or
107 contractors will have deliveries by big trucks. Combining those delivery trucks with commuter vehicles
108 will be an issue to consider. Ms. Abrams said then any business that would draw traffic would be a
109 concern. She thought the commission should decide to "go left or right."

110
111 Ms. Crone suggested light industrial because (a) it generates incomes; (b) gives a location out of
112 the mainstream so the business will not be on Highway 17, and (c) there are places for retail on Highway
113 17 that includes dressmakers. She thought the commission should encourage some of the smaller places
114 locating in the areas where there would be similar businesses around them. Ms. Lowery was concerned

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March 1, 2016

115 with pet boarding, because people would constantly be dropping off and picking up their pets, and there
116 are so few places for people can board their animals. Ms. Abrams was concerned that under retail
117 businesses the allowable uses would generate a lot of traffic, i.e. grocery, shoe, and clothing stores. Ms.
118 Crone suggested totally eliminating retail from the LI. Ms. Abrams said the two paragraphs citing
119 allowable retail uses were "wide open." She could understand not allowing a grocery store, but in her
120 opinion a seamstress could be allowed. Ms. Abrams was concerned about over-regulation.

121
122 Chairman Pruitt said businesses currently on Sandy Lane include a karate dojo, a gymnastics
123 studio, an electrical shop, car repair, wholesale boat soap shop, the town's public works department, and
124 some mini warehouses. The karate and gymnastics studios serve as after-school care facilities. Ms.
125 Morris said the businesses already in place would be grandfathered, but would not be able to reopen if
126 they were abandoned.

127
128 Chairman Pruitt said the bigger question had not been answered. What does the commission
129 want to see on Sandy Lane? A medical research facility or a retail shop that cannot afford to open on
130 Highway 17 were the two extremes. Ms. Abrams thought the code should zero in on the two allowed areas
131 of retail. Ms. Lowery favored light industrial uses. There are other places in Surfside where retail
132 businesses can locate. Ms. Abrams asked what happened if light industrial did not develop and we end up
133 with vacant stores. Ms. Lowery said there were vacant stores now, if the light industrial zone is not
134 created, the spaces will be absorbed into something. Chairman Pruitt asked if anyone had an idea of what
135 type real estate the town needs. There are open business spaces, so he did not think it needed more retail.
136 Ms. Elliot asked if the plan was to have light industrial. She said light industrial does not encompass a
137 customer walking in buying a dozen bagels. Chairman Pruitt said he envisioned Sandy Lane like Scipio
138 Lane off Holmestown Road where there is a government building, a school, and a clothing printing shop.
139 Sandy Lane already has businesses similar to that. Mr. Lauer agreed to prohibit retail from the LI. Ms.
140 Johnson asked what would be done about the pet boarding facilities. Mr. Lauer said if it did not work, it
141 could be changed later. He thought it would be good to carve this district out and advertise it. Chairman
142 Pruitt said there might be some favorable tax laws. Ms. Morris said the animal hospital, vet clinics, pet
143 boarding facilities are being taken out. Ms. Johnson the pet boarding facility should be allowed, because
144 that would not create a lot of traffic. The hospital, clinic, or pet shop certainly should be taken out.

145
146 Ms. Abrams asked what would happen if a light industrial manufacturer sold its merchandise
147 from the location, i.e. air conditioner parts. Chairman Pruitt said like a company store would sell. Ms.
148 Johnson said that would be wholesale if the air conditioner repair man purchased parts to resell to his
149 customers. Chairman Pruitt believed wholesale would be fine. Ms. Johnson agreed. Ms. Abrams
150 preferred to encourage light industrial without prohibiting retail. Ms. Morris explained that if a retail
151 business was allowed, and someone wants to open a computer shop or a pawn shop, it would have to be
152 allowed. If the business was listed, it had to be allowed. Wholesale bakeries were allowed, so wholesale
153 for other manufacturers should also be considered. Businesses set up only for retail sales should not be
154 allowed. Several members agreed that wholesale sales would be fine.

155
156 Ms. Johnson asked again about animal boarding facilities. There was disagreement as to whether
157 animal boarding was considered retail. Ms. Crone's argument was that it was a service industry that
158 customers walked in to off the street. Chairman Pruitt said it was rare to have a facility that just offered
159 boarding. Usually boarding facilities were in conjunction with a veterinary office. Several area boarding
160 facilities were mentioned. Several members supported pet boarding facilities. Ms. Lowery said there was
161 not that much traffic. Owners would drop off their pets and return a few days later.

162
163 Ms. Abrams was concerned that prohibiting retail would bar anyone from selling anything. One
164 of the approved uses was boat sales and services. She asked if there was there any way to discourage or
165 prohibit a business whose only purpose was retail sales. Ms. Morris said some businesses were
166 specifically listed as being allowed in that district so they would be allowed. If the commission wanted to
167 remove certain items, then it would have to be classified separately to specifically state the use. For
168 instance, plumbing shops, a customer could go there to buy pipes. Ms. Abrams thought the ordinance was
169 "down in the weeds."

171 Ms. Lowery asked if the high traffic businesses could be eliminated, i.e. establishments selling
172 commodities in small quantities to the consumer; department stores, grocery stores, discount stores,
173 general merchandise, etc. Ms. Morris asked if the low traffic stores should be allowed. Ms. Lowery said
174 that seemed to be the type stores that should be allowed in LI.
175

176 Ms. Abrams said this situation just came up at 3rd Avenue South. The list of approved businesses
177 was so specific that reasonable businesses could not open there. Yes, the business committee wants to
178 encourage light industrial. But the town at large might disagree if a gift shop or a seamstress was
179 prohibited. Ms. Lowery said a seamstress in LI would be logical. Ms. Abrams said it was already
180 prohibited. Ms. Lowery said when there are other places zoned for retail, she didn't understand how
181 anybody could be upset.
182

183 Mr. Lauer said the area just did not draw shoppers. If they go, they have a specific reason. Retail
184 is looking for a space that can be seen as you are driving by.
185

186 Ms. Johnson said parking was very limited in the area. Ms. Morris said parking requirements
187 would restrict uses.
188

189 Ms. Abrams suggested that because of the lot sizes and limited parking in the area, these things
190 are not allowed. Ms. Johnson suggested changing from retail to wholesale businesses. Chairman Pruitt
191 said eliminate retail businesses high traffic and include wholesale businesses low traffic, i.e. restaurant
192 supply stores.
193

194 Ms. Morris believed a line with wholesale businesses, low traffic, would cover the intent for the LI.
195

196 **Retail Pet Shops, Pet Grooming, & Pet Training.** Chairman Pruitt asked if a new column
197 should be added to show pet boarding is permitted in LI. Several asked about retail sales in the boarding
198 facility. Chairman Pruitt believed that selling shampoos, combs, collars, etc. should be allowed. That
199 would be considered wholesale, low traffic. Ms. Morris said it would be a secondary use for that property.
200 Ms. Crone said the problem with boarding was that the animals had to be walked. Ms. Lowery said there
201 may be some actual ground space in that area for that type facility. Mr. Lauer said the boarding place he
202 takes his dog has an interior play area, and a small outside area where the dog can go for short periods of
203 time. That facility does not sell anything; it's simply boarding. Several members said that sounded fine.
204

205 **17-396.44 Noise.** Mr. Lauer referred to paragraph c, and said 60 decibels between the hours of
206 7:00 a.m. and 7:00 p.m. On the documents sent out the town ordinance had 55 decibels for that time
207 period. That number should be changed to be consistent.
208

209 **17-396.43 Warehouses and Mini-Storage Facilities.** Mr. Lauer felt there was no
210 particular order to this section. He thought it should be set up so the information he needed was first, and
211 he had rewritten the section, if Ms. Morris would review it. Ms. Morris said that would be good. Mr.
212 Lauer said the first statement should be that warehouses and mini-storage is allowed, and then conditions
213 should be set forth and the qualifiers that no business shall operate out of the building for any of the
214 following purposes, which were listed. Ms. Abrams asked if junk storage was addressed. Mr. Lauer said
215 that "junk" was omitted, and "no open storage was allowed" was added. Ms. Morris said that was perfect.
216

217 **Signs.** Ms. Morris said initially road signs were being allowed, but the planning commission
218 asked that that be removed, because there would be billboards on Sandy Lane. Roof signs are not allowed
219 in C1. The sign codes for L1 mirror C1, because they did not want to limit anything. Signs are based on
220 the linear frontage. The minimum lot width on Sandy Lane is 50-feet, so the maximum sign size for that
221 lot is 50-square feet. If someone purchased three 50-foot lots, the sign could be 150-square feet. Signs
222 would have to be designed by an engineer.
223

224 Ms. Abrams referred to Section 17.652, number 4 in the narrative under wall signs and said the
225 last sentence said "the projecting sign may not extend above the roof line at distance greater than six feet."
226 Mr. Morris said that should be removed, because the sign should not project at all.
227

228 Mr. Lauer referred to Section 17-644(a) (1) and asked if the freestanding sign would be
229 illuminated with a spot light. Ms. Morris said it could be illuminated from the ground or with interior
230 lights; it did not specify. The overlay states that lights could be interior or if it is up-lit, it has to be on the
231 sign only to address the traffic concerns. That language could be included in this section for clarity.
232

233 Ms. Elliott said a business could have a 10- x 20-foot sign, 200 square feet maximum. Ms. Morris
234 said it was based on the linear lot frontage. If your lot frontage was 50-feet, you could have a 50-square
235 foot sign. If you combine four 50-foot lots, you could have a 200-square foot sign. That is the same code
236 as is in the C1 Highway Commercial zone. The LI district should not be limited any more than C1 as far as
237 advertising.
238

239 **Lot Frontage & Setbacks.** Ms. Elliott asked how a lot with 50-foot frontage would allow 20-
240 feet for the fire apparatus on one side, and a 20-foot setback, because that only leaves 10-feet for the
241 building. Ms. Morris said at least one side yard has to be 20-feet so the fire department can go all the way
242 around the building. The requirement is either 20-feet or a combination of 10- and 10-per neighboring
243 business. Ms. Elliott asked how a building could be built. Ms. Morris said that is the current
244 requirement, so that was a great question. She will speak with the fire department about this. Ms. Elliott
245 did not believe 20-feet was sufficient because of the ladders and fire apparatus. Ms. Morris said most of
246 the town's two lane roads were only 20-feet wide.
247

248 **17-396.44, paragraph d. Prohibited.** Chairman Pruitt asked why some of those businesses
249 were prohibited, particularly soap, etc. Ms. Morris said the business committee reviewed several
250 ordinances and chose this one. The commission may amend it. Ms. Abrams wanted to ensure the
251 business committee understands that there are issues such as parking safety that have to be considered.
252 She did not think the commission was being arbitrary, but was trying to help them. Ms. Morris said she
253 attends the business committee meetings now, so she will let them know. She would review this
254 paragraph with the business committee before it comes back to the planning commission. Chairman
255 Pruitt said he could envision someone opening a boutique paper production shop. Ms. Morris thought the
256 committee was thinking more in line with the paper mill. Chairman Pruitt also saw no problem with
257 rubber or leather goods. He asked what "except fixed ammunition" meant; was that assembling bullets?
258 He saw no problem with that. Ms. Morris said she would have to ask the committee. Chairman Pruitt
259 said manufacturing gun powder and explosives were not acceptable. Mr. Lauer believed assembling
260 bullets was dangerous. Chairman Pruitt believe soap makers, and storage of rawhide were acceptable,
261 because someone might make custom boots. Ms. Abrams said regardless of the various categories, the
262 planning commission was trying to prohibit high traffic shops, because the area cannot handle it.
263 Chairman Pruitt added dangerous enterprises should be prohibited. Several members agreed.
264

265 Ms. Lowery asked for an explanation of dead storage. Ms. Abrams said it was a place where
266 people were not in and out all the time. Chairman Pruitt asked for a definition of lamp black. He believed
267 Ms. Abrams said it correctly. It is hard to have a list of businesses that could exist. How many
268 combinations of businesses could be in the district? Ms. Morris said the ordinance states at the beginning
269 of the uses that the planning director or the zoning administrator has the right if the business fits in the
270 use category to approve the use, even if the business is not specifically listed. The business could be
271 allowed if it falls in low traffic category. Ms. Lowery said they did not want to keep someone from opening
272 a business that could actually use the space, but at the same time we don't want to make exceptions. Ms.
273 Abrams asked if they were more worried about high traffic than about retail. Chairman Pruitt said the
274 two go hand-in-hand.
275

276 **Section 17-007 Definitions.** Ms. Crone said new definitions were added for ceramic studios,
277 craft making, candle making, custom jewelry manufacturers, glass blowers; those businesses seem to be
278 artisans. She asked if that was what the commission wants in LI. Mr. Lauer said dress makers fit in that
279 category nicely. Chairman Pruitt thought these businesses would be great. He thought the production
280 studios would be good in the LI with wholesales; but their retail stores would have to be elsewhere.
281 Chairman Pruitt said glass manufacturing is one of those businesses that is "right on the line of yes or no."
282 There is no clear cut answer. Ms. Lowery said she would love to artisan businesses on 3rd Avenue South.
283 Ms. Crone thought the artisan businesses would benefit the community, but should they be located in LI,
284 and should they be prohibited from having retail sales, if they are located there. Chairman Pruitt

285 suggested that the question be answered with a square footage percentage be allowed for retail sales of
286 their products. Ms. Abrams still wanted to discourage any business whose primary purpose was retail
287 sales. If the primary purpose was producing crafts or boarding dogs, let them sell some of their products,
288 but it should be a secondary use. Ms. Lowery asked if "primary use" could be added to the description.
289 Chairman Pruitt believed that would clear up the question.
290

291 Ms. Abrams believed this ordinance needed one more "scrub" before it was ready to present,
292 because there were so many changes. Ms. Morris said the commission could review it again at the next
293 meeting, because they want to have to right. The public hearing did not have to be held next month.
294

295 Chairman Pruitt asked Ms. Morris if she had a grasp of the commission's collective mind. Ms.
296 Morris thought so. Mr. Lauer was going to furnish his rewrite, and she thought she could get it together.
297 Ms. Lowery asked if a final review of the proposal could be done before the public hearing. Ms. Morris
298 said yes.
299

300 Ms. Crone asked what would be done with taxidermy, or butchers, or wholesale butcher and
301 storage businesses. Chairman Pruitt said those were prohibited under tanning, curing or storing of
302 rawhides, skins, leather, or hair. Ms. Abrams asked if Ms. Crone was talking about a slaughter house. Ms.
303 Crone said perhaps a hunter brought in a deer that he wanted stuffed, and the meat prepared and stored
304 for later delivery. Several members agreed that meat processing and storage should be prohibited.
305

306 **Limited Industrial or Light Industrial.** Chairman Pruitt asked again if the district would
307 be call Light Industrial or Limited Industrial. Ms. Abrams believed limited might be better based on the
308 discussions. Ms. Crone suggested Limited Light Industrial. (*Laughter.*)
309

310 **6. PUBLIC COMMENTS - General.**

311
312 Mr. Cabell Young, 15th Avenue South. I've been sitting in on the business committee meetings
313 with Ms. Morris. She looked back at me a couple of times. I think what the committee meant, and I may
314 be stepping out here, but I'm going to say this, what they're looking for is diversity. That's the key word
315 right there. They're not looking, and you handled it perfectly on the retail end of it, but when you're
316 having discussions with the Economic Development Corporation in Myrtle Beach and there's
317 opportunities, we're just trying to prepare. That's all they're doing. Chairman Pruitt asked Mr. Young if
318 there were any specific things left out. Mr. Young answered from the audience not at this point.
319

320 Mr. Troy Berry. I've lived here in Surfside for 13 years; from Columbia and Surfside here. I am a
321 full time realtor with Keller Williams Realty and I am a custom homebuilder in Columbia and in Surfside.
322 So, I'm here to talk about something a lot more fun than odor and (**). I'm here to talk about something
323 that all y'all live in. You live in a home. As I said, I'm a customer homebuilder. I've been working with
324 [Ms. Morris] for about the past four to five weeks. We've exchanged emails and had some conversations.
325 What I'm looking to do, this is a site location. I own this lot. I bought this lot five years ago to build my
326 personal home on here, and another client's home. This lot is at 319 15th Avenue South. It's four lots up
327 from Lakeside on 15th Avenue South; 319 is the address. Of course, this is in the R2 district. What I am
328 looking to do, and what I've been looking to do for three years, I'm looking to build two typical raised
329 beach homes that will be 2,400 square foot heated, with parking under, and storage building at the back
330 on the ground level. But, it's two units that are 10-foot in between. Let me show you this, [Ms. Morris]
331 has already seen this. (*Showed a plan to the members.*) (**) But, here's the concern that [Ms. Morris]
332 had and that is why she wanted me to approach y'all tonight and get your blessing on this here. As I said,
333 this is in R2. There's no building issues with here, and there's no fire issues with the 10-foot space
334 between Unit A and Unit B, two single family homes that look exactly alike. They would just be different
335 colors, whatever. I have a client that's from Charlotte. They have lived here in Surfside, and I can send
336 [Ms. Morris] the email that they sent me here. They've lived in Surfside for four years. They recently sold
337 their home, and they've been looking to build for six months in Surfside. One thing they were looking at
338 when they sold their existing little small 1,100 square foot bungalow cottage, it was on 15th Avenue South.
339 Their address was 329 15th Avenue South, south this is just five lots away. They are Brian Patterson and
340 Ann Patterson. And like I said, they're residents of Surfside also. But, I'm looking to build their home as
341 Unit A. My personal home will be Unit B on the same lot. So, there's no building issues. There's no fire

342 code issues, because I checked with [Chief Otte], the fire chief as [Ms. Morris] had recommended to make
343 sure the 10-foot space is suitable, and it is, and there's no issues there. The only problem is currently the
344 way the zoning code works for the R2 district is, and what [Ms. Morris] has illustrated to me in some
345 conversation that in order to have a Unit A and a Unit B single family home as the planning commission
346 has it right now, the two units much be attached, and the clients don't want that. I don't want that. Like I
347 stated earlier, I am a realtor with the Keller Williams Myrtle Beach South office, and I do a lot of business
348 in the Surfside area and all in the Market Common area. You look at what's going on in the Market
349 Common area for the past three to four years, it is blowing up with single family detached homes. Nobody
350 wants the old typical 1970's, 1980's duplex units or condos or townhome units. There's a flood of those on
351 the market that you can't sell. Examples right here in Surfside. There was one home to the right of this
352 lot. It was the old building built about 15 years ago and it was a duplex unit with the two units attached.
353 Unit B, I'm talking about 319, it's 321, that address is 321 15th Avenue South, the lot to the right. It just
354 recently sold about a year ago. People from Pennsylvania bought that. The point I want to make is that
355 unit, your typical duplex, single family Unit A and Unit B, which was attached with a common wall, it sat
356 there for three and a half years. It had to have an \$80,000 price reduction, and sold well below market
357 value, just to get it sold. The main reason that realtor, the listing agent, it wasn't me, but was another
358 realtor, Surfside Realty, they had that property and it went to two or three different agencies. I never
359 represented that property. But, the point is, it sold for \$80,000 less, and the point I'm trying to make is
360 what do we want the vision of Surfside to be within the R2 district? Primarily from Lakeside moving
361 closing to Hollywood area. Do we want the existing kind of vague as Ms. Abrams over here said earlier
362 when she was making some comments about your previous discussion, she said we don't want to over
363 regulate. Well, right now, the code is kind of over regulating and it won't allow this here, and that's why
364 [Ms. Morris] needs your blessing as a committee in order to issue the building permit. That's kind of a
365 summary of what I'm looking to do. End of the day there will be two single family homes with a 10-foot
366 space in between. I can address a little bit more. The clients do not want a duplex unit. I don't want that,
367 because what it is you have no windows. You have that fire wall in between. You have no windows on the
368 side of your property where you can look out. There's an insurance issue. There is a fire risk, even though
369 you have a fire wall. That's just a one hour fire wall. Once it burn downs one unit, you have to tear down
370 the whole complex that is on that lot, Unit A and Unit B. There's a privacy issue. There's a noise issue.
371 This would be two very beautiful, Unit A and Unit B, and I have the plans here. I can show you what it'll
372 look like. *(Held up plans showing front and back.)* Like I said, it's going to look very great. It's going to
373 appeal and be an attractive residence in Surfside. These people want it to be their retirement home. They
374 are from Charlotte, and they're professionals. Like I said, they just recently sold their home a week ago,
375 and they've been ready to build this with me as the builder. Like I said, I live here in Surfside and I'm a
376 custom home builder. I've been a builder for 14 years; previous engineer. But, we can't get the building
377 permit issued unless we get your blessing from this committee for [Ms. Morris] to go ahead and process
378 the building permit paperwork with the 10-foot space between Unit A and B.

379
380 Ms. Abrams did not believe the commission had the authority to approve spot zoning or to direct
381 Ms. Morris to issue a permit. She would like to see a discussion of R2 in general on the next meeting
382 agenda. Ms. Morris said perhaps Mr. Berry did not explain it correctly. She and Mr. Berry disagree on
383 interpretation of the ordinance as it is written. The ordinance says R2 allows for single family and
384 duplexes. His lot is not large enough for it to be split for two single family residences. So, he can either
385 build one residential home or he can build a duplex. The ordinance also says you can only have one
386 principle building per lot. That means the duplex has to be connected and have a fire wall. That is why
387 when he submitted the plans, he said A and B were a duplex. That is not the way it is interpreted and is
388 not the way the ordinance was written. Ms. Abrams said the planning commission could discuss it and
389 considering rewriting the ordinance. Mr. Berry said the lot is 70 feet wide and the houses would be 19.5
390 feet wide. He was not asking the commission to issue the permit, but he was asking for an amendment to
391 the existing ordinance for R2. This type construction cannot be done now, and there were many clients
392 that wanted to build this type houses. A builder has not built a duplex unit in the past ten years in town.
393 No one would build a duplex, because you cannot sell them, unless you want to sell them at a \$100,000
394 loss. Because the code states there can only be one primary structure on a lot, you can't build separate
395 units A and B with a 10-foot space in between.

396
397 Chairman Pruitt asked Mr. Berry what his timeline was. Mr. Berry said he'd been waiting
398 patiently for six weeks. I just have to have the blessing of this committee. What I'm asking for is to

399 amend. Just add a line to the existing code and just say, you don't have to change the existing code the
400 way it's written. The planning is the one that makes these codes, just amend and add (**). Chairman
401 Pruitt said it would be a lengthy process to get that changed. Mr. Berry said he just wants an amendment
402 to allow two single family units on his property. Ms. Lowery explained that even if the commission
403 approved an amendment at this meeting, it would still be a while before the ordinance was adopted. Ms.
404 Morris said at least two months. Mr. Berry asked the commission if they would consider the amendment
405 and send it to council for approval. Mr. Lauer and Ms. Lowery did not mind adding the discussion to the
406 next agenda.

407
408 Ms. Morris said the R2 district would be added to the next agenda. Mr. Berry asked if there were
409 concerns that he could address at this time. Ms. Abrams said an amendment would affect many areas.
410 She personally did not want to see Surfside Beach developed like Market Common. Mr. Berry said his
411 comment was to state that duplex units were not being built in Market Common. He could actually build
412 three units on this lot. Mr. Lauer asked Ms. Morris if there were negative impacts that might occur as a
413 result of changing the code. Ms. Morris said a duplex is defined as having a fire wall. She said for the
414 record that she had issues a few duplex permits in the last year or two. So, they are still being built.
415 Currently, you cannot have but one principle building anywhere in town on one lot, unless it is in R3 and
416 you have an acre. She thought it was an issue green space, and several things. Ms. Abrams, Ms. Johnson
417 and other members said they needed to review the entire R2 district codes before making comments. Ms.
418 Abrams said changing one phrase for one lot sounded simple, but it could have unintended consequences.
419 Mr. Berry said this design would add green space, because there would be more landscaping.

420
421 Chairman Pruitt said it sounded like Mr. Berry just wanted the duplex structure to be changed to
422 allow separate buildings. Mr. Berry said correct. Chairman Pruitt personally did not see any problems
423 with that. He said it would be added to the next meeting agenda, and Ms. Morris could provide the
424 ordinances. Mr. Berry was invited to attend the meeting. Chairman Pruitt reminded Mr. Berry that it was
425 a lengthy process to change any ordinance. He appreciated Mr. Berry bringing the question to the
426 commission.

427
428 Ms. Debra Herrmann, North Cedar Drive, said her property was in R2 and there were two
429 separate houses on the lot. She asked if she could rebuild if something happened. Ms. Morris explained
430 that the houses were grandfathered and the houses could be rebuilt in the same footprint.

431
432 **8. COMMISSION COMMENTS.**

433
434 Ms. Lowery was happy to see people attending the meeting.

435
436 Ms. Elliott said thank you for coming.

437
438 Mr. Lauer said he was glad Ms. Herrmann could stay in her house. *(Laughter.)*

439
440 **12. ADJOURNMENT.**

441
442 Ms. Johnson moved to adjourn at 7:26 p.m. Mr. Lauer seconded. All voted in favor. **MOTION**
443 **CARRIED.**

444
445 Prepared and submitted by,

446
447 Approved: April 4, 2015.

448 _____
449 Debra E. Herrmann, CMC, Town Clerk

450
451 _____
452 Mikey Pruitt, Chairman

453
454 Clerk's Note: This document constitutes action minutes of the meeting that was digitally recorded, and not intended to be a complete transcript.
455 Appointments to hear recordings may be made with the town clerk; a free copy of the audio will be given to you provided you bring a flash drive. In
456 accordance with FOIA, meeting notice and the agenda were distributed to local media and interested parties via the town's email subscription list. The
agenda was posted on the entry door at Town Council Chambers. Meeting notice was also posted on the Town marquee.

DISCUSSION ITEM #1
PROPOSED LIMITED/LIGHT
ZONING DISTRICT
REGULATIONS

DIVISION 1. DISTRICTS IN GENERAL

SECTION 17-300. APPLICATION OF REGULATIONS

Except as may be otherwise provided in this chapter, no building or land shall hereinafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations specified in this article for the district in which it is located.

SECTION 17-301. ESTABLISHMENT OF DISTRICTS

For the purpose of this chapter, the town is hereby divided into nine (9) zoning districts as follows:

- (1) R-1 low density residential district.
- (2) R-2 Medium density residential district.
- (3) R-3 high density and accommodations residential district.
- (4) C-1 highway commercial district.
- (5) C-2 central business district (commercial).
- (6) C-3 amusement commercial district.
- (7) MU mixed use district
- (8) PD planned development district.
- (9) MP manufactured home park district.
- (10) LI limited light industrial district**

The individual districts may be cited by full title, e.g. R-1 low density residential district, or by abbreviated reference, e.g. R-1 district.

Area Ratio								
<p>Table Notes:</p> <ol style="list-style-type: none"> (1) The dimensional standards illustrated in Table 17-303 are the minimum standards for the above districts. Where the text of this chapter provides more restrictive dimensional standards than those summarized above, the more restrictive standard shall apply. (2) Dwelling groups in the R-3, C-1, and C-3 district are subject to the conditional use standards of §17-396.20. (3) The side yard setback is five (5) feet for single family detached buildings up to fifty-five feet (55) high and ten (10) feet for all other uses. (4) The greater area and yard requirements apply to those lots fronting on the U.S. 17 Highway Corridor (including frontage roads). Access to the rear of buildings for fire and garbage trucks by a drive aisle or an unobstructed side yard setback of at least twenty (20) feet shall be provided in the C-1 highway commercial district except where the property is strictly developed for single-family and two-family buildings. The code enforcement official may reduce the side yard requirement to ten (10) feet when a combined unobstructed side yard of (20) feet is provided by two abutting property owners. (5) Corner and double frontage lots are subject to the special setback standards of §§ 17-402 and 17-403. Semi-attached single-family dwelling units are exempt from one (1) side yard setback. Attached single family dwelling units are exempt from side yard setbacks subject to the provisions of § 17-396.36. (6) Maximum floor area ratio requirements apply only to two-family residential dwelling units (duplex) in the R-2 district. (7) The side yard setback is five (5) feet for single family detached buildings and ten (10) feet for all other uses. (8) The PD and MH districts are subject to the dimensional standards required by Divisions 9 and 10 of this article, respectively. (9) Access to the rear of buildings for fire and garbage trucks by a drive aisle or an unobstructed side yard setback of at least twenty (20) feet shall be provided in the LI limited industrial district. The code enforcement official may reduce the side yard requirement to ten (10) feet when a combined unobstructed side yard of (20) feet is provided by two abutting property owners. 								

SECTIONS 17-304 and 17-305. [RESERVED]

DIVISION 11. LIMITED LIGHT INDUSTRIAL DISTRICT

SECTION 17-393 INTENT

It is the intent of the provisions of this division to provide areas for light industrial uses, such as manufacturing, processing, repairing of goods, wholesaling, storage, packaging, distribution and retailing while ensuring adjacent and nearby properties are not adversely impacted.

SECTION 17-394 USES

Uses are allowed by right, are allowed as conditional uses, may be permitted as special exceptions, or are prohibited in the LI district in accordance with the Use Regulations of Division 12 of the article.

SECTION 17-395 MINIMUM LOT SIZE

The minimum size of lots in the LI Light Industrial district is ten thousand (10,000) square feet.

SECTION 17-396 MINIMUM LOT WIDTH AT THE BUILDING LINE

The minimum width of lots at the building line in the LI Light Industrial district is fifty (50) feet.

SECTION 17-397 YARD SETBACKS

(a) The yard setback requirements in the LI Light Industrial district are as follows:

- (1) Front yard setback: Twenty five (25) feet.
- (2) Rear yard setback: Twenty (20) feet.
- (3) Side yard setback: Twenty (20) feet.

Access to rear of buildings and uses by a drive aisle or an unobstructed side yard setback of at least twenty (20) feet shall be provided on all lots in the Light Industrial district. The code enforcement official may reduce the side yard requirement to ten (10) feet when a combined unobstructed side yard of twenty (20) feet is provided by two abutting property owners.

SECTION 17-398 MAXIMUM BUILDING HEIGHT

The maximum building height in the LI Light Industrial district is fifty-five (55) feet.

SECTION 17-399 [RESERVED]

SECTION 17-394. USE TYPES

Within each zoning district, a use is either a Use Permitted by Right, a Conditional Use, a Special Exception, or a Use Not Allowed:

- (1) **P USES PERMITTED BY RIGHT.** A “P” in the zoning district column of Table 17-395 indicates that a use is permitted in the respective zoning district, subject to compliance with the applicable regulations of this chapter.
- (2) **C CONDITIONAL USES.** A “C” in the zoning district column of Table 17-395 indicates that a use is allowed in the respective zoning district only if it complies with use-specific conditions and all other applicable regulations of this chapter. A cross-reference to the use-specific conditions can be found in the “Special Standards” column of Table 17-395.
- (3) **S SPECIAL EXCEPTION USES.** An “S” in the zoning district column of Table 17-395 indicates that a use is allowed in the respective zoning district only if reviewed and approved in accordance with the special exception approval procedures of this chapter. In addition, these uses must comply with the general and use-specific conditions of this chapter and other conditions which may be imposed by the board of zoning appeals in the granting of a special exception permit. A cross-reference to the use-specific conditions can be found in the “Special Standards” column of Table 17-395.
- (4) **USES NOT ALLOWED.** A blank cell in the zoning district column of Table 17-395 indicates that a use is not allowed in the respective zoning district, unless said use is otherwise expressly allowed by other provisions within this chapter.

SECTION 17-395. USE TABLE

Uses are allowed by right, may be allowed as a conditional use or special exception, or are prohibited within the zoning districts of this chapter in accordance with Table 17-395 “Use Chart”.

Table 17-395 USE CHART											
USE CLASSIFICATIONS	Districts									SPECIAL STANDARDS	PARKING CODE
	R-1	R-2	R-3	C-1	C-2	C-3	MU	MP	LI		
Residential Uses											
Single Family, detached	P	P	P	C		C	P			§17-396.32	E
Single Family, semi-attached		C	C	C		C	C			§17-396.32 §17-396.37	E
Single Family, attached			C	C		C	C			§17-396.32 §17-396.36	E
Two-Family (duplex), accessory dwellings, efficiency units		P	P	C		C	P			§17-396.32	D, E
Multi-family			P	C		C	C			§17-396.32 §17-367(2)	E
Dwelling Group			C			S				§17-396.20 §17-201(c)	D, E
Manufactured Home								C		§17-391	P
Manufactured Home Park								P			P
Mobile Homes										PROHIBITED	N/A
Residential Related Uses											

Agriculture and horticulture (noncommercial), excluding the keeping of poultry and livestock	P	P	P	P		P	P				N/A
Home Occupations	P	P	P			P	P	P			

Accommodation Uses

Hotels, motels, tourist courts			C	P		P				§17-396.23	H
Resort accommodations, 25 or more units			C	C		C				§17-396.33	H
Transient short term rental units and boarding houses			P	P		P					D,E

Civic, Governmental, and Institutional Uses

Assembly halls, gymnasiums, and similar uses				P							B
Churches and other religious uses	S	C	C	P	P		P			§17-396.12	B
Hospitals	S	S	S	P						§17-396.22	G
Libraries	S	C	C	P	P		P			§17-396.24	B
Lodges, fraternal organizations				P	P						C
Museums and similar cultural activities	S	C	C	P	P		P			§17-396.24	B
Parks, neighborhood and community (public)	S	P	P	P	P		P				B
Public Buildings and uses	S	S	C	P	P		P	P		§17-396.26	B
Public Safety including Police and Fire Station				P	P		P	P			B
Public buildings and uses including courts of law, correctional institutions or jails, parole or probation offices, rehabilitation centers				S				P		§17-396.1	R
Public, private, trade, and vocational schools	S	C		P	C					§17-396.30	O

Entertainment, Recreation, and Dining Uses

Amusement Park										PD Only	L
Arcades						P					S
Bakery				P	P	P		P			L
Billiard parlors					P	P					R, S (C-3)
Bowling alleys, skating rinks, water slides, and similar forms of indoor recreation				C		P				§17-396.1	L
Café and Coffee Shop				P	P	P	P				L
Golf driving range, par-3, tennis courts and similar outdoor recreation				P							L
Health clubs, gyms, fitness centers, dance studios				P	P						L

Ice Cream Shop				P	P	P	P				L, S (C-3)
Restaurants with drive-in or drive-up facilities				P							M
Restaurants and other dining establishments without lounges (Indoor only)				P	P	P	C			§17-367	M S (C-3)
Restaurants and other dining establishments with open or outdoor dining				C	C	C	S			§17-367 §17-396.1- §17-396.34	M S (C-3)
Restaurants, taverns, bars, nightclubs or other places where alcohol is consumed* (Indoor except is noted*)				C	P	P				§17-396.1 §17-396.34* §17-396.35	M S (C-3)
Shooting galleries							P				L
Theaters				C	C	C				§17-396.39	B
Theaters, drive-in				C						§17-396.1 §17-396.39	R

Note*: Restaurants and other dining establishments, defined as “bona fide engaged primarily and substantially in the preparation and serving of meals” by Title 61, Chapter 6 of the Code of Laws of South Carolina, may include outdoor dining in the C-1, C-2, and C-3 districts subject to the conditional use standards of §17-396.34.

Commercial, Office, and Professional Uses

Animal hospitals, veterinarian clinics, pet boarding facilities, retail pet shops				C						P	§17-396.1 §17-396.2	J or L (pet shops and boarding)
Auto/truck sales, service, repair and/or washing				C						C	§17-396.1 §17-396.44	A
Auto Service Station				C							§17-396.1 §17-396.3	F
Banks, loan agencies, and other financial institutions				P	P							K
Barber or Beauty Shops	S	S	C	P	P	C	C				§17-367 §17-396.4	K, S (C-3)
Boat sales and service				C						C	§17-396.1 §17-396.44	N
Body Piercing				C							§17-396.1 §17-396.11	
Building supplies and equipment sales				P						C	§17-396.1 §17-396.44	Q
Charitable Institution (office)				P	P							L
Cold storage, freezer locker				P						P		R
Communication towers				C						P	§17-396.1 §17-396.13	R
Day care centers				C		C	C				§17-367 §17-396.1 §17-396.19	See §17-238-19
Dressmaker, seamstress, tailor				P	P		C			P	§17-367	K
Electrical appliances and equipment, sales and repair				P	P	P				P		N S (C-3)
Fabricating shops, e.g. cabinet or upholstery				C						C	§17-396.1 §17-396.44	I

Fuel or chemical storage, excluding incidental or accessory storage				S					C	\$17-396.21 \$17-396.44	R
Funeral Homes and mortuaries				P							B
Laundry and dry cleaning				P	P				C	\$17-396.44	L
Wick up stations											
Laundromats				P	P						L
Lawn and garden equipment sales and service				C					C	\$17-396.1 \$17-396.44	N
Liquor sales				P	P	P					I, S (C-3)
Lumber yards and sales				C					C	\$17-396.1 \$17-396.25 \$17-396.44	Q
Medical and dental offices (clinics)				P	P	P	C			\$17-367	J
Nail Salon				P	P		P				L
Offices; business, professional, and governmental				P	P	P	C			\$17-367	K
Parking lots			P	P	P						
Pharmacy				P	P		P				L
Piers						P					L
Electrical Shops				P					P		
Plumbing shops				P					P		Q
Produce markets and stands				P			S				L
Radio/Television station				C	C				C	\$17-396.1 \$17-396.31 \$17-396.44	K
Repair shops, excluding auto				P	P				C	\$17-396.44	A
Retail Businesses (low traffic) including specialty establishments selling primarily one (1) product line, including stores selling appliances, radios, televisions, floor coverings, furniture, home furnishings, antiques, automobiles and accessories, motorcycles, auction houses, business machines, computers, lawn shops, office equipment, restaurant equipment, secondhand items, bicycles, guns, light fixtures, tackle shops, and other similar uses.				P	P	P			P		N S (C-3)
Retail Businesses (high traffic) and establishments selling commodities in small quantities to the				P	P	P	C		P	\$17-367	L S (C-3)

consumer, usually low bulk
comparison items,
including department

Table 17-395 (Continued)
USE CHART

USE CLASSIFICATIONS	Districts									SPECIAL STANDARDS	PARKING CODE	
	R-1	R-2	R-3	C-1	C-2	C-3	MU	MP	LI			
Stores, supermarkets, discount stores and stores selling general merchandise, variety merchandise, foods including bakeries where products are consumed onsite, shoes, millery, clothing, jewelry, books, flowers, gifts, music, cameras, stationary, watches, art supplies, hobby supplies, stamps and coins, furs, leather goods, records, savings stores, and similar uses.												
Retail pet shops, pet grooming, pet training – No boarding				P	P		P			P	§17-396.1 §17-396.2	L
Pet Boarding only										C	§17-396.44	
Sexually oriented businesses				C							Article IV, Division 3	§17-435(a)
Sheet metal/machine shop				C						P	§17-396.1	I
Shopping center				C	P	P					§17-396.1	L
Tanning Salon				P	P		P					L
Taxi stands					P							R
Water tower/public utilities	C	C	C	C	C	C	C	C	C	C	§17-396.42	R
Manufacturing/Industrial Uses												
Assembly of electronic instruments and devices such as computer hardware and software, audio and video business										C	§17-396.44	V
Building Supply Lumber Yard										C	§17-396.44	U
Custom Manufacturing										C	§17-396.44	N
Genetic Research Institutions										C	§17-396.44	
High Technology Industry										C	§17-396.44	N
Industrial service establishments sales that supply other businesses, industries or individuals										C	§17-396.44	V
Laundry and Linen Supply Service										C	§17-396.44	L
Microbrewery										C	§17-396.44	N

Manufacturing, processing, packaging, and distribution of measuring, analyzing and controlling instruments; medical and optical instruments, photographic equipment (excluding film and chemicals); ceramic instruments and components; magnetic media; and small electronic components									C	§17-396.44	V
Manufacturing, processing, assembling, packaging and distribution establishments									C	§17-396.44	V
Metal Shops									C	§17-396.44	
Research facility									C	§17-396.44	N
Science Laboratory									C	§17-396.44	N
Warehouse/storage facility									P	§17-396.43	R
Welding Shop									C	§17-396.44	V
Wholesale Bakeries									C	§17-396.44	V
Wholesaling, storage & Distribution (light)									C	§17-396.44	U
Wholesale Business establishments for selling bulk goods or commodities, but not toxic chemicals									C	§17-396.44	V

Table Notes: The "Special Standards" column of this table is a cross-reference to use specific standards that apply to conditional and special exception uses. The "Parking Code" column establishes the parking requirement (key) for specific uses and is to be used with Table 17-420 in Article IV of this chapter.

SECTION 17-396. USE CONDITIONS

Sec. 17-396.43 Warehouse/storage facility.

Warehouse facilities and Mini-Storage units are allowed in the LI district subject to the following conditions:

- a. No business or proxy shall operate out of the building, nor shall a warehouse or mini-storage unit be used for any of the following purposes:
 - i. Auctions, commercial, wholesale, retail, miscellaneous or garage sales;
 - ii. The servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment.
 - iii. The operating of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment.
- b. Expressly prohibited from storage of flammable or hazardous chemicals, explosives and containers of such materials.
- c. Any use that is noxious or offensive because of odor, dust, noise, fume or vibrations shall be prohibited.
- d. Open storage of any item including but not limited to boats, vacant trailers, and recreation vehicles, automobiles, or any other type of motorized vehicle shall be prohibited.

17-396.44 Manufacturing/Industrial Uses

1. Odor. No use may generate any odor that is noxious reaches the odor threshold, measured at either
 - a. The outside boundary of the immediate space occupied by the enterprise generating the odor, or
 - b. The property line of the enterprise generating the odor is the only enterprise located on the property.

c. No use within the Limited Industrial District shall generate any odor that reaches the odor threshold at or beyond any property line.

d. Adequate ventilation shall be provided for each permitted use.

2. Air & Water Pollution. No use is permitted which entails the use of a potential source of air contaminant (i.e. boilers, incinerators, and furnaces) or which entails the discharge of industrial wastewater or industrial stormwater until the appropriate governmental agency has certified to the Planning Director:

a. That the appropriate permits have been received by the developer, or

b. That the proposed use does not require such permit.

3. Noise. No use may generate noise that tends to have an annoying or disruptive effect upon uses located outside the immediate space occupied by the use. The maximum permissible noise level shall be 55 dB (A) between the hours of 7:00a.m. and 7:00p.m. and 50 dB(A) between 7:00p.m. and 7:00a.m.

4. Prohibited. The manufacturing of acid, ammonia, aniline colors or dyes, lime and sulfates, coal tar products, fertilizer, glue, gelatine, industrial poisons or chemicals, lampblack, matches, oil clothes or linoleum, paper or pulp, printing ink, pyroxylin or celluloid products, rubber or leather goods, tar, or waterproofing products, abattoirs or slaughter houses, rolling mills and coke ovens, and the and the manufacture of gunpowder, fireworks, or other explosives or explosive substances, except fixed ammunition. The distilling or grinding of coal, wood, bones, or shells. The manufacture, renderings or refining of fats, soap, tallow, grease, or lard. The manufacture of refining of asphalt. Iron or steel foundry or works. The tanning, curing or storing of raw hides or skins, leather, or hair; meat processing. The manufacture of disinfectants or insecticides.

**Table 17-420
PARKING CHART**

PARKING CODE (1)	PARKING SPACES REQUIRED
A	One (1) space for each regular employee, plus one (1) space for each 250 square feet of floor space used for repair work.
B	One (1) space for each four (4) seats.
C	One (1) space for each three hundred (300) square feet of floor space over 1,000 square feet.
D	One and one-half (1 ½) spaces for each efficiency unit.
E	One (1) space per bedroom.
F	Two (2) spaces for each bay or similar facility, plus one (1) space for each employee.
G	One (1) space for each two (2) staff or visiting doctors, plus one (1) space for each two (2) employees and one (1) space for each four (4) beds, computed on the largest number of employees on duty at any time.
H	One (1) space for each accommodation, plus one (1) space for each four (4) employees computed on the largest number of employees at any time. In addition, hotels, motels and tourist courts which have restaurants and/or lounges must add one (1) space for each one hundred (100) square feet of floor space devoted to the restaurant and/or lounge.
I	One (1) space for each three (3) employees computed on the largest number of employees at any period of time.
J	Five (5) spaces for each doctor or dentist.
K	One (1) space for each four hundred (400) square feet of floor space.
L	One (1) space for each two hundred (200) square feet of floor area devoted to patron use.
M	One (1) space for each two (2) employees, plus one and one-half (1 ½) spaces for each one hundred (100) square feet of floor area devoted to patron use.
N	One (1) space for each five hundred (500) square feet of floor area.
O	One (1) space for each faculty member, plus one (1) space for each four (4) pupils except in elementary or junior high.
P	Two (2) spaces for each manufactured home space.
Q	One and one-half (1½) spaces per employee during maximum seasonal employment, with a minimum of four (4) required.
R	One (1) space for each employee, plus one (1) space for each 250 square feet of floor space.
S	Number of spaces shall be at least 80% of the potential spaces for each parcel/business. Any lot(s) containing parking areas for existing businesses relinquish the right to develop the area devoted to parking until such time as parking is provided elsewhere by the business/property owner meeting the requirements of this chapter.
T	One (1) space per 1500 square feet of gross floor area
U	One (1) space per 1000 square feet of gross floor area
V	One (1) space per 250 square feet of gross floor area

Figure Notes:

- (1). The parking code assigned to the various uses is provided in Table 17-395.
- (2). In cases of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- (3). Where a fractional space results, any fraction less than one-half may be dropped and any fraction of one-half or more shall be counted as one parking space.
- (4). If parking requirements for a specific or similar use are not provided in this or subsequent sections, then the parking requirement shall be one (1) space for each employee, plus one (1) space for each 250 square feet of floor area (Parking Code R).

SECTION 17-007. DEFINITIONS

Add:

Custom Manufacturing Custom manufacturing refers to the on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools, individually powered tools or domestic mechanical equipment and the incidental sale of these goods directly to consumers. Typical uses include ceramic studios, custom cabinet making, craft making, candle making, custom jewelry manufacturers, woodworks, custom furniture craftsmen, metal craftsmen, blacksmiths and glass blowers.

High Technology (Hi-Tech) Industry research, development and controlled production of high-technology electronic, industrial or scientific products. Typical uses include biotechnology firms and computer component manufacturers.

Light Industrial Production processes which use already manufactured components to assemble, print or package a product such as cloth, paper, plastic, leather, wood glass or stones, but not including such operations as paper, saw or mills, steel, iron or other metal works, rolling mills, or any manufacturing uses involving primary production or commodities from raw materials. Typical uses include apparel manufacturing, paper products finishing, furniture production and production of fabricated metal products.

Wholesaling, storage and distribution. Wholesaling, storage and distribution use type refers to establishments or places of business primarily engaged in wholesaling, storage and bulk sale distribution including but not limited to, air handling of material and equipment other than live animals and plants.

DIVISION 1. SIGN PROVISIONS

Chart 17-622C

Summary of Light Industrial District Sign Standards

✓ = Allowed (No Permit Required) ☑ = Allowed (Permit Required)

Sign Type	Allowed	Illumination	Size Limit	Height Limit	Display Limit	Front Setback	Special Standards
SIGNS PERMITTED IN LIMITED INDUSTRIAL DISTRICT							
Freestanding Sign	☑	YES	One (1) square foot of sign area per every one lineal foot of lot frontage (200 square feet maximum)	Thirty-five (35) feet	One (1)	Ten (10) feet	§17-644(a)
Wall Sign	☑	YES	1.25 square feet per lineal foot of frontage (150 square feet maximum)	No more than six (6) feet above height of roof line (roof sign)	Two (2)	Not applicable	§17-651 §17-652
Electronic Messages Boards	No						
Wall Sign (Three or more businesses in common structure)	☑	YES	1.25 square feet per lineal foot of frontage (50 square feet maximum)	Not Applicable	One per business with principal entrance	Not applicable	§17-644(a)(3) §17-652
(Temporary – Special Event Signs)	NO						
Directional Signs (Freestanding)	☑	NO	Four (4) square feet per sign	Four (4) feet	Four (4)	five (5) feet	§17-644(4)
Portable Signs	NO						
Billboards	NO						

17-644 SIGNS PERMITTED IN LIGHT INDUSTRIAL DISTRICTS

(a) The following types of signs are permitted in the Light Industrial zoning district:

- (1) Each occupied lot shall be allowed one (1) freestanding sign, which may be illuminated. The allowable sign area will be calculated as one (1) square foot of sign area per lineal foot of lot frontage on a public street (lot frontage is determined based upon the location of the principal entrance to the premises), with a maximum sign area of two hundred (200) square feet. The freestanding sign shall not exceed thirty-five (35) feet in height above ground level. The freestanding sign must be set back no less than ten (10) feet from any street or public right-of-way.
- (2) In addition to the sign allowed under subsection (a) immediately above, each occupied lot shall be allowed no more than two (2) wall signs which shall be mounted on a building. The allowable aggregate sign area will be calculated as 1.25-square foot of sign area per lineal foot of building frontage, with a maximum aggregate sign area of one hundred fifty (150) square feet. The wall signs must comply with the requirements set forth in section 17-652.
- (3) Notwithstanding the limitations imposed by part (2), in structures containing three (3) or more businesses, where each business has a separate principal entrance, one (1) additional wall sign may be permitted for each business, with a separate principal entrance. In such cases, the wall sign(s) permitted by this subsection may be illuminated. The allowable aggregate sign area will be calculated as 1.25-square foot of sign area per lineal foot of building frontage, with a maximum aggregate sign area of fifty (50) square feet.
- (4) In addition to the signs allowed under parts (1), (2), and (3) immediately above, each occupied lot shall be allowed four (4) parking area directional signs. Each such sign may not exceed four (4) square feet in area and shall not exceed four (4) feet in height.
- (6) One (1) additional sign shall be allowed during construction. The construction sign shall not exceed twenty (20) square feet in area and shall not exceed five (5) feet in height above ground level. The construction sign is temporary and shall be removed within five (5) days of the issuance of a certificate of occupancy.

(b) In the Limited Light Industrial District signs exempt from permitting by section 17-621 are allowed subject to the limitations imposed by this section, section 17-621, section 17-622, chart 17-622A, and sections 17-630 through 17-633.

(c) Electronic message boards are expressly prohibited.

DIVISION 5. REQUIREMENTS BY SIGN TYPE

SECTION 17-651. [RESERVED]

SECTION 17-652. WALL SIGNS

To the extent permitted by section 17-641 and 17-644, signs on the walls of a building, including signs attached flat against the wall, painted wall signs, projecting signs and signs painted on windows or glass both inside and outside, shall meet the following requirements:

- (1) The total area of signs on the exterior front surface of a building shall not exceed twenty (20) percent of the front surface of a building, so long as the figure does not exceed the total sign area permitted within the zoning district where the sign or signs are to be located.
- (2) The total area of signs on a side or rear surface of a building shall not exceed twenty-five (25) percent of the exterior side or rear surface of a building respectively, so long as this figure does not exceed the total sign area permitted within the zoning district where it is located.
- (3) The combined sign area of the front, side, and rear surface of a building must not exceed the total sign area permitted within the zoning district where the sign or signs are to be located.
- (4) Wall signs attached flat against a wall may extend not more than twenty-four (24) inches from the wall. Signs projecting from a wall may extend outward from the wall of a building not more than five (5) feet. ~~A projecting sign may not extend above the roofline a distance greater than six (6) feet.~~
- (5) In no case shall signs project beyond property lines provided signs projecting over the public right-of-way are permissible only in the C-2 central business district. Projecting signs in the C-2 central business district shall have a minimum height above grade or sidewalk level of no less than ten (10) feet and shall not extend over a public right-of-way a distance greater than three (3) feet. Any projection over or upon a public right-of-way shall require the written authorization and consent of the right-of-way's maintaining authority (town, county, or state) prior to the issuance of a permit.
- (6) Two (2) wall signs are permitted on each premise that include mini storage/warehouse unit(s) in the LI district with the following conditions:
 - a. The location of the wall sign(s) shall be on the mini storage unit(s).
 - b. Wall sign(s) shall face the direction of the public street.
 - c. The total combined area of the wall sign(s) shall be no larger than twenty-five (25) square feet or 10% of the mini storage/warehouse unit(s) face where the sign is attached, whichever is less.
 - d. The content of the wall sign(s) shall be limited to business name, phone number and or/email address.

SECTION 17-703. AREA REQUIRED TO BE LANDSCAPED

(a) In the commercial zones [districts] at least ten (10) percent of total lot square footage shall be landscaped.

(b) In the LI Limited Light Industrial zone [district] at least ten (10) percent of total lot square footage shall be landscaped.

(c) In the R-1 low-density residential district at least fifty (50) percent of total lot square footage shall be landscaped and at least twenty (20) percent of the required landscaping shall be located in the front yard.

(d) In the R-2 medium density residential district at least forty (40) percent of total lot square footage shall be landscaped and at least twenty (20) percent of the required landscaping shall be located in the front yard.

(e) In the R-3 high density residential and accommodations district at least twenty (20) percent of total lot square footage shall be landscaped and at least forty (40) percent of the required landscaping shall be located in the front yard.

(f) In the MU mixed use district at least thirty (30) percent of the total lot square footage shall be landscaped and at least thirty (30) percent of the required landscaping shall be located in the front yard.

DISCUSSION ITEM #2
BUSINESS COMMITTEE
CONSENSUS ITEMS FOR SIGN
ORDINANCE CHANGES

ISSUE PAPER FOR PLANNING COMMISSION CONSIDERATION

Meeting Date: June 7, 2016

Prepared by: Sabrina Morris

Subject: Business Committee Consensus Items for Sign Ordinance changes

BACKGROUND:

The Business Committee is currently reviewing the town's sign ordinance and will be making recommendations for changes. They hope to mirror as much as the Isle of Palms sign ordinance as possible. In March 2016 the business committee agreed on consensus items and Ms. Fellner, the Town Administrator requested I present those items to you.

The committee is still actively working on the full ordinance.

ATTACHMENTS:

March 1, 2016 business committee meeting consensus items for consideration.

Business Committee Meeting Consensus Items

March 1, 2016

The Business Committee requests that Attorney Large work with Director Morris to simplify the signage section, including the applicable overlay, in Chapter 17 of the existing code. The Committee would like for the Planning Commission to review and consider the resulting simplified version for recommendation to Town Council, along with the following possible ordinance alterations.

1. No grandfathering for signage and 90 days to come into compliance.
2. Leave all code with regard to permanent signage as is.
3. Define definitions of window and wall.
4. Exclude interior walls from the exterior square footage calculation.
5. Change the window signage allowed to 25% per window or pane.
6. Charge a flat fee of \$50 for window signage per address.
7. Allow an "OPEN" sign with a maximum size of 20" X 37".
8. No trailers or trailer signs shall be allowed.
9. All vehicles with signage shall ...
 - a. be used for another business purpose other than signage.
 - b. be operable.
 - c. be professionally designed.
 - d. have a current SC license plate affixed.
 - e. have a current SC registration.
 - f. have current SC vehicle insurance coverage.

DISCUSSION ITEM #3
REED VS. TOWN OF GILBERT

ISSUE PAPER FOR PLANNING COMMISSION CONSIDERATION

Meeting Date: June 7, 2016

Prepared by: Sabrina Morris

Subject: Reed vs. Town of Gilbert

BACKGROUND:

See attached letter to Planning Commission

ATTACHMENTS:

Court case

PowerPoint to be presented at meeting

MAYOR
Robert "Bob" Childs

TOWN ADMINISTRATOR
Micki Fellner

CLERK
Debra Herrmann



Mayor Pro Tem
Ron Ott

Town Council
Timothy Courtney
Mark L. Johnson
David L. Pellegrino
Randle M. Stevens

**TOWN OF SURFSIDE BEACH
PLANNING, BUILDING & ZONING**

To: Planning Commission Members

Date: May 20, 2016

Re: Supreme Court Case Ruling – Reed vs. Town of Gilbert

A ruling earlier this year by the U.S. Supreme Court dramatically changes the way all local governments must now regulate signs. Previously, most federal courts ruled that cities could enforce a limited number of content-based regulations on signs – regulations relating to the actual content of a sign's message – provided such standards were not intended to censor or restrict speech. In *Reed v. Gilbert*, the U.S. Supreme Court ruled that if a sign has to be read in order to determine if a certain regulation applies, then that regulation is content-based and presumed to be unconstitutional.

The case involved a sign ordinance from the Town of Gilbert, Arizona. The town's ordinance exempted several categories of signs from permitting requirements, including political signs, ideological signs, and temporary directional signs. The town did not prohibit any of these signs but it did enforce different regulations for each separate category.

A local church in Gilbert did not have a permanent location and rented space for services in various community facilities such as schools. To inform people of their services and locations the church placed temporary signs advertising religious services throughout the town for a period of approximately 24 hours before each service. The town cited the church for violations of their sign ordinance since the time period the church's signs were posted exceeded that allowed under their sign ordinance for temporary directional signs.

The church eventually sued Gilbert claiming violations of the free speech and free exercise clauses of the First Amendment to the U.S. Constitution. In the U.S. Supreme Court's decision, all nine justices agreed that the town's sign ordinance was unconstitutional, but they differed in their opinions as to why they ruled that way.

As a result of the court's decision, content-specific regulations within our sign ordinance are no longer enforceable. The town can no longer dictate what message signs may or may not contain. Sign regulations should only specify which types of signs are allowed, where they may be placed, and what size they can be, not what they say. Content-specific regulations should therefore be eliminated from throughout the town's sign ordinance.

Unfortunately, the town's sign ordinance contains many similar if not identical regulations to those in Gilbert's code that were struck down. Many of our current sign regulations require a sign to be read in order to determine what regulations apply and are therefore considered content-based because of this

ruling. Here are just a few of the standards currently in our sign ordinance that could be considered content-based due to the Reed ruling:

- Applying different standards to various temporary signs based on what they advertise, i.e. real estate signs, political signs, residential yard sale signs, signs indicating the address and/or name of residential occupants of the premises, and other similar noncommercial signs.
- Exempting flags emblems, and insignia of political, professional, religious, educational, or corporate organizations while prohibiting flags with commercial messages.
- Applying different standards include exempting various permanent signs based on what they advertise, i.e., product price signs for gasoline stations, menu boards for drive-through restaurants.

The Reed decision will have the most significant impact on the town's standards for temporary signs such as flags, banners, real estate signs, and political signs. The town's current regulations are entirely content specific – staff must read a sign to determine if it's a real estate sign, a political sign, etc., or to ensure flags or pennants don't contain a commercial message.

Current language in the town's sign ordinance contains content-based exemptions from permit requirements for house nameplates, real estate signs, political and/or election signs, garage sale signs, "holiday displays," etc. Our current ordinance also categorize temporary signs by content, and then regulates them differently; for example a construction sign can be bigger than a "real estate" sign, however a construction sign must be removed within five (5) days of a certificate of occupancy. These requirements will need to be either significantly revised or eliminated. This will require a substantial re-writing of the town's sign ordinance.

The town should instead draft uniform regulations for all temporary signs based on where they are placed and how they are built, and not on what they say. Different standards could apply whether temporary signs are placed in a designated sign area along a commercial corridor or if they are placed in a residential neighborhood. A maximum number of temporary signs that are allowed will need to be determined based either on a set number per lot, a property's linear feet of street frontage, or some other standard. Maximum size and height standards should also be required.

Adopting uniform standards for all temporary signs will obviously be controversial. Many people will want to strictly limit (or even prohibit) temporary signs allowed for businesses, but not restrict how many signs a homeowner may place in their front yard during an election or when they're selling their home.

Flags are also going to be a difficult issue. They are currently defined and allowed only as symbols for public institutions (governments, schools, armed services, etc.) or noncommercial entities. They are essentially exempted from regulation; there are no existing requirements applicable to flags other than for wind load capacity and pole anchoring. Unfortunately the town can no longer rely on the existing definition that prohibits flags with commercial messages. Adopting any kind of standards for flags will no doubt be extremely unpopular, but due to the Reed decision there may be no feasible alternative.

Murals will be another problem. The town can no longer rely on the current content-based definition of a "mural" as a type of decorative artwork with no commercial message or that doesn't identify an eligible advertiser, thereby exempting them regulation. Specific standards may need to be adopted if the town wants to allow murals without undue restrictions. Otherwise, murals could fall under the regulations for signs. If treated as signs many of these artworks would technically be prohibited as most could not meet existing standards.

There are certain steps the town should take in light of the Reed decision. First, staff should thoroughly review the sign ordinance and identify any regulations that are content-based. These would include any regulations that are based on the content or subject of the message, the person and/or group delivering the message, or an event(s) taking place.

Once identified new or amended regulations should then be drafted that are as content-neutral as possible, while accepting that, if the regulations are not entirely content-neutral, there will be some legal risk that could otherwise be avoided.

All temporary signs and signs that are exempt from permitting requirements should also be identified. The number of exceptions from permitting and separate categories for signs should be reduced, eliminating as many of both as possible.

A substitution clause should be added to the sign ordinance that allows any sign permitted under the ordinance to contain either a commercial or a non-commercial message. The severability clause contained within the adopting ordinance language should also be added as a part of the actual sign ordinance text.

Due to the complicated nature of the Reed decision, staff will be working with surrounding municipalities along with the beautification committee and planning commission to share ideas and strategize to ensure the ordinance passes strict scrutiny as required by the U.S. Supreme Court. The town attorney may be asked to review the proposals many times before final submittal to the planning commission and ultimately town council for approval to ensure compliance.

Respectfully submitted,



Sabrina Morris
Planning, Building & Zoning Director

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

REED ET AL. *v.* TOWN OF GILBERT, ARIZONA, ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 13–502. Argued January 12, 2015—Decided June 18, 2015

Gilbert, Arizona (Town), has a comprehensive code (Sign Code or Code) that prohibits the display of outdoor signs without a permit, but exempts 23 categories of signs, including three relevant here. “Ideological Signs,” defined as signs “communicating a message or ideas” that do not fit in any other Sign Code category, may be up to 20 square feet and have no placement or time restrictions. “Political Signs,” defined as signs “designed to influence the outcome of an election,” may be up to 32 square feet and may only be displayed during an election season. “Temporary Directional Signs,” defined as signs directing the public to a church or other “qualifying event,” have even greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the “qualifying event” and 1 hour after.

Petitioners, Good News Community Church (Church) and its pastor, Clyde Reed, whose Sunday church services are held at various temporary locations in and near the Town, posted signs early each Saturday bearing the Church name and the time and location of the next service and did not remove the signs until around midday Sunday. The Church was cited for exceeding the time limits for displaying temporary directional signs and for failing to include an event date on the signs. Unable to reach an accommodation with the Town, petitioners filed suit, claiming that the Code abridged their freedom of speech. The District Court denied their motion for a preliminary injunction, and the Ninth Circuit affirmed, ultimately concluding that the Code’s sign categories were content neutral, and that the Code satisfied the intermediate scrutiny accorded to content-neutral regulations of speech.

Held: The Sign Code’s provisions are content-based regulations of

Syllabus

speech that do not survive strict scrutiny. Pp. 6–17.

(a) Because content-based laws target speech based on its communicative content, they are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *E.g.*, *R. A. V. v. St. Paul*, 505 U. S. 377, 395. Speech regulation is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g.*, *Sorrell v. IMS Health, Inc.*, 564 U. S. ___, ___. And courts are required to consider whether a regulation of speech “on its face” draws distinctions based on the message a speaker conveys. *Id.*, at ___. Whether laws define regulated speech by particular subject matter or by its function or purpose, they are subject to strict scrutiny. The same is true for laws that, though facially content neutral, cannot be “‘justified without reference to the content of the regulated speech,’” or were adopted by the government “because of disagreement with the message” conveyed. *Ward v. Rock Against Racism*, 491 U. S. 781, 791. Pp. 6–7.

(b) The Sign Code is content based on its face. It defines the categories of temporary, political, and ideological signs on the basis of their messages and then subjects each category to different restrictions. The restrictions applied thus depend entirely on the sign’s communicative content. Because the Code, on its face, is a content-based regulation of speech, there is no need to consider the government’s justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny. Pp. 7.

(c) None of the Ninth Circuit’s theories for its contrary holding is persuasive. Its conclusion that the Town’s regulation was not based on a disagreement with the message conveyed skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government’s benign motive, content-neutral justification, or lack of “animus toward the ideas contained” in the regulated speech. *Cincinnati v. Discovery Network, Inc.*, 507 U. S. 410, 429. Thus, an innocuous justification cannot transform a facially content-based law into one that is content neutral. A court must evaluate each question—whether a law is content based on its face and whether the purpose and justification for the law are content based—before concluding that a law is content neutral. *Ward* does not require otherwise, for its framework applies only to a content-neutral statute.

The Ninth Circuit’s conclusion that the Sign Code does not single out any idea or viewpoint for discrimination conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints

Syllabus

is a “more blatant” and “egregious form of content discrimination,” *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829, but “[t]he First Amendment’s hostility to content-based regulation [also] extends . . . to prohibition of public discussion of an entire topic,” *Consolidated Edison Co. of N. Y. v. Public Serv. Comm’n of N. Y.*, 447 U. S. 530, 537. The Sign Code, a paradigmatic example of content-based discrimination, singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter.

The Ninth Circuit also erred in concluding that the Sign Code was not content based because it made only speaker-based and event-based distinctions. The Code’s categories are not speaker-based—the restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. And even if the sign categories were speaker based, that would not automatically render the law content neutral. Rather, “laws favoring some speakers over others demand strict scrutiny when the legislature’s speaker preference reflects a content preference.” *Turner Broadcasting System, Inc. v. FCC*, 512 U. S. 622, 658. This same analysis applies to event-based distinctions. Pp. 8–14.

(d) The Sign Code’s content-based restrictions do not survive strict scrutiny because the Town has not demonstrated that the Code’s differentiation between temporary directional signs and other types of signs furthers a compelling governmental interest and is narrowly tailored to that end. See *Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett*, 564 U. S. ___, ___. Assuming that the Town has a compelling interest in preserving its aesthetic appeal and traffic safety, the Code’s distinctions are highly underinclusive. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town when other types of signs create the same problem. See *Discovery Network, supra*, at 425. Nor has it shown that temporary directional signs pose a greater threat to public safety than ideological or political signs. Pp. 14–15.

(e) This decision will not prevent governments from enacting effective sign laws. The Town has ample content-neutral options available to resolve problems with safety and aesthetics, including regulating size, building materials, lighting, moving parts, and portability. And the Town may be able to forbid postings on public property, so long as it does so in an evenhanded, content-neutral manner. See *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U. S. 789, 817. An ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—e.g., warning signs marking hazards on private property or signs directing traffic—might also survive strict scrutiny. Pp. 16–17.

Syllabus

707 F. 3d 1057, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, ALITO, and SOTOMAYOR, JJ., joined. ALITO, J., filed a concurring opinion, in which KENNEDY and SOTOMAYOR, JJ., joined. BREYER, J., filed an opinion concurring in the judgment. KAGAN, J., filed an opinion concurring in the judgment, in which GINSBURG and BREYER, JJ., joined

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF
GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE THOMAS delivered the opinion of the Court.

The town of Gilbert, Arizona (or Town), has adopted a comprehensive code governing the manner in which people may display outdoor signs. Gilbert, Ariz., Land Development Code (Sign Code or Code), ch. 1, §4.402 (2005).¹ The Sign Code identifies various categories of signs based on the type of information they convey, then subjects each category to different restrictions. One of the categories is “Temporary Directional Signs Relating to a Qualifying Event,” loosely defined as signs directing the public to a meeting of a nonprofit group. §4.402(P). The Code imposes more stringent restrictions on these signs than it does on signs conveying other messages. We hold that these provisions are content-based regulations of speech that cannot survive strict scrutiny.

¹The Town’s Sign Code is available online at <http://www.gilbertaz.gov/departments/development-service/planning-development/land-development-code> (as visited June 16, 2015, and available in Clerk of Court’s case file).

Opinion of the Court

I

A

The Sign Code prohibits the display of outdoor signs anywhere within the Town without a permit, but it then exempts 23 categories of signs from that requirement. These exemptions include everything from bazaar signs to flying banners. Three categories of exempt signs are particularly relevant here.

The first is “Ideological Sign[s].” This category includes any “sign communicating a message or ideas for noncommercial purposes that is not a Construction Sign, Directional Sign, Temporary Directional Sign Relating to a Qualifying Event, Political Sign, Garage Sale Sign, or a sign owned or required by a governmental agency.” Sign Code, Glossary of General Terms (Glossary), p. 23 (emphasis deleted). Of the three categories discussed here, the Code treats ideological signs most favorably, allowing them to be up to 20 square feet in area and to be placed in all “zoning districts” without time limits. §4.402(J).

The second category is “Political Sign[s].” This includes any “temporary sign designed to influence the outcome of an election called by a public body.” Glossary 23.² The Code treats these signs less favorably than ideological signs. The Code allows the placement of political signs up to 16 square feet on residential property and up to 32 square feet on nonresidential property, undeveloped municipal property, and “rights-of-way.” §4.402(I).³ These signs may be displayed up to 60 days before a primary election and up to 15 days following a general election. *Ibid.*

²A “Temporary Sign” is a “sign not permanently attached to the ground, a wall or a building, and not designed or intended for permanent display.” Glossary 25.

³The Code defines “Right-of-Way” as a “strip of publicly owned land occupied by or planned for a street, utilities, landscaping, sidewalks, trails, and similar facilities.” *Id.*, at 18.

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The third category is “Temporary Directional Signs Relating to a Qualifying Event.” This includes any “Temporary Sign intended to direct pedestrians, motorists, and other passersby to a ‘qualifying event.’” Glossary 25 (emphasis deleted). A “qualifying event” is defined as any “assembly, gathering, activity, or meeting sponsored, arranged, or promoted by a religious, charitable, community service, educational, or other similar non-profit organization.” *Ibid.* The Code treats temporary directional signs even less favorably than political signs.⁴ Temporary directional signs may be no larger than six square feet. §4.402(P). They may be placed on private property or on a public right-of-way, but no more than four signs may be placed on a single property at any time. *Ibid.* And, they may be displayed no more than 12 hours before the “qualifying event” and no more than 1 hour afterward. *Ibid.*

B

Petitioners Good News Community Church (Church) and its pastor, Clyde Reed, wish to advertise the time and location of their Sunday church services. The Church is a small, cash-strapped entity that owns no building, so it holds its services at elementary schools or other locations in or near the Town. In order to inform the public about its services, which are held in a variety of different loca-

⁴The Sign Code has been amended twice during the pendency of this case. When litigation began in 2007, the Code defined the signs at issue as “Religious Assembly Temporary Direction Signs.” App. 75. The Code entirely prohibited placement of those signs in the public right-of-way, and it forbade posting them in any location for more than two hours before the religious assembly or more than one hour afterward. *Id.*, at 75–76. In 2008, the Town redefined the category as “Temporary Directional Signs Related to a Qualifying Event,” and it expanded the time limit to 12 hours before and 1 hour after the “qualifying event.” *Ibid.* In 2011, the Town amended the Code to authorize placement of temporary directional signs in the public right-of-way. *Id.*, at 89.

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tions, the Church began placing 15 to 20 temporary signs around the Town, frequently in the public right-of-way abutting the street. The signs typically displayed the Church's name, along with the time and location of the upcoming service. Church members would post the signs early in the day on Saturday and then remove them around midday on Sunday. The display of these signs requires little money and manpower, and thus has proved to be an economical and effective way for the Church to let the community know where its services are being held each week.

This practice caught the attention of the Town's Sign Code compliance manager, who twice cited the Church for violating the Code. The first citation noted that the Church exceeded the time limits for displaying its temporary directional signs. The second citation referred to the same problem, along with the Church's failure to include the date of the event on the signs. Town officials even confiscated one of the Church's signs, which Reed had to retrieve from the municipal offices.

Reed contacted the Sign Code Compliance Department in an attempt to reach an accommodation. His efforts proved unsuccessful. The Town's Code compliance manager informed the Church that there would be "no leniency under the Code" and promised to punish any future violations.

Shortly thereafter, petitioners filed a complaint in the United States District Court for the District of Arizona, arguing that the Sign Code abridged their freedom of speech in violation of the First and Fourteenth Amendments. The District Court denied the petitioners' motion for a preliminary injunction. The Court of Appeals for the Ninth Circuit affirmed, holding that the Sign Code's provision regulating temporary directional signs did not regulate speech on the basis of content. 587 F.3d 966, 979 (2009). It reasoned that, even though an enforcement

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officer would have to read the sign to determine what provisions of the Sign Code applied to it, the “kind of cursory examination” that would be necessary for an officer to classify it as a temporary directional sign was “not akin to an officer synthesizing the expressive content of the sign.” *Id.*, at 978. It then remanded for the District Court to determine in the first instance whether the Sign Code’s distinctions among temporary directional signs, political signs, and ideological signs nevertheless constituted a content-based regulation of speech.

On remand, the District Court granted summary judgment in favor of the Town. The Court of Appeals again affirmed, holding that the Code’s sign categories were content neutral. The court concluded that “the distinctions between Temporary Directional Signs, Ideological Signs, and Political Signs . . . are based on objective factors relevant to Gilbert’s creation of the specific exemption from the permit requirement and do not otherwise consider the substance of the sign.” 707 F. 3d 1057, 1069 (CA9 2013). Relying on this Court’s decision in *Hill v. Colorado*, 530 U. S. 703 (2000), the Court of Appeals concluded that the Sign Code is content neutral. 707 F. 3d, at 1071–1072. As the court explained, “Gilbert did not adopt its regulation of speech because it disagreed with the message conveyed” and its “interests in regulat[ing] temporary signs are unrelated to the content of the sign.” *Ibid.* Accordingly, the court believed that the Code was “content-neutral as that term [has been] defined by the Supreme Court.” *Id.*, at 1071. In light of that determination, it applied a lower level of scrutiny to the Sign Code and concluded that the law did not violate the First Amendment. *Id.*, at 1073–1076.

We granted certiorari, 573 U. S. ____ (2014), and now reverse.

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II

A

The First Amendment, applicable to the States through the Fourteenth Amendment, prohibits the enactment of laws “abridging the freedom of speech.” U. S. Const., Amdt. 1. Under that Clause, a government, including a municipal government vested with state authority, “has no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *Police Dept. of Chicago v. Mosley*, 408 U. S. 92, 95 (1972). Content-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *R. A. V. v. St. Paul*, 505 U. S. 377, 395 (1992); *Simon & Schuster, Inc. v. Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 115, 118 (1991).

Government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g.*, *Sorrell v. IMS Health, Inc.*, 564 U. S. ___, ___–___ (2011) (slip op., at 8–9); *Carey v. Brown*, 447 U. S. 455, 462 (1980); *Mosley*, *supra*, at 95. This commonsense meaning of the phrase “content based” requires a court to consider whether a regulation of speech “on its face” draws distinctions based on the message a speaker conveys. *Sorrell*, *supra*, at ___ (slip op., at 8). Some facial distinctions based on a message are obvious, defining regulated speech by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose. Both are distinctions drawn based on the message a speaker conveys, and, therefore, are subject to strict scrutiny.

Our precedents have also recognized a separate and additional category of laws that, though facially content neutral, will be considered content-based regulations of speech: laws that cannot be “justified without reference to

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the content of the regulated speech,” or that were adopted by the government “because of disagreement with the message [the speech] conveys,” *Ward v. Rock Against Racism*, 491 U. S. 781, 791 (1989). Those laws, like those that are content based on their face, must also satisfy strict scrutiny.

B

The Town’s Sign Code is content based on its face. It defines “Temporary Directional Signs” on the basis of whether a sign conveys the message of directing the public to church or some other “qualifying event.” Glossary 25. It defines “Political Signs” on the basis of whether a sign’s message is “designed to influence the outcome of an election.” *Id.*, at 24. And it defines “Ideological Signs” on the basis of whether a sign “communicat[es] a message or ideas” that do not fit within the Code’s other categories. *Id.*, at 23. It then subjects each of these categories to different restrictions.

The restrictions in the Sign Code that apply to any given sign thus depend entirely on the communicative content of the sign. If a sign informs its reader of the time and place a book club will discuss John Locke’s *Two Treatises of Government*, that sign will be treated differently from a sign expressing the view that one should vote for one of Locke’s followers in an upcoming election, and both signs will be treated differently from a sign expressing an ideological view rooted in Locke’s theory of government. More to the point, the Church’s signs inviting people to attend its worship services are treated differently from signs conveying other types of ideas. On its face, the Sign Code is a content-based regulation of speech. We thus have no need to consider the government’s justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny.

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C

In reaching the contrary conclusion, the Court of Appeals offered several theories to explain why the Town's Sign Code should be deemed content neutral. None is persuasive.

1

The Court of Appeals first determined that the Sign Code was content neutral because the Town "did not adopt its regulation of speech [based on] disagree[ment] with the message conveyed," and its justifications for regulating temporary directional signs were "unrelated to the content of the sign." 707 F. 3d, at 1071–1072. In its brief to this Court, the United States similarly contends that a sign regulation is content neutral—even if it expressly draws distinctions based on the sign's communicative content—if those distinctions can be "justified without reference to the content of the regulated speech." Brief for United States as *Amicus Curiae* 20, 24 (quoting *Ward, supra*, at 791; emphasis deleted).

But this analysis skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of "animus toward the ideas contained" in the regulated speech. *Cincinnati v. Discovery Network, Inc.*, 507 U. S. 410, 429 (1993). We have thus made clear that "[i]llicit legislative intent is not the *sine qua non* of a violation of the First Amendment," and a party opposing the government "need adduce 'no evidence of an improper censorial motive.'" *Simon & Schuster, supra*, at 117. Although "a content-based purpose may be sufficient in certain circumstances to show that a regulation is content based, it is not necessary." *Turner Broadcasting System, Inc. v. FCC*, 512 U. S. 622, 642 (1994). In other words, an

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innocuous justification cannot transform a facially content-based law into one that is content neutral.

That is why we have repeatedly considered whether a law is content neutral on its face *before* turning to the law's justification or purpose. See, e.g., *Sorrell*, *supra*, at ____–____ (slip op., at 8–9) (statute was content based “on its face,” and there was also evidence of an impermissible legislative motive); *United States v. Eichman*, 496 U. S. 310, 315 (1990) (“Although the [statute] contains no explicit content-based limitation on the scope of prohibited conduct, it is nevertheless clear that the Government’s asserted *interest* is related to the suppression of free expression” (internal quotation marks omitted)); *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U. S. 789, 804 (1984) (“The text of the ordinance is neutral,” and “there is not even a hint of bias or censorship in the City’s enactment or enforcement of this ordinance”); *Clark v. Community for Creative Non-Violence*, 468 U. S. 288, 293 (1984) (requiring that a facially content-neutral ban on camping must be “justified without reference to the content of the regulated speech”); *United States v. O’Brien*, 391 U. S. 367, 375, 377 (1968) (noting that the statute “on its face deals with conduct having no connection with speech,” but examining whether the “the governmental interest is unrelated to the suppression of free expression”). Because strict scrutiny applies either when a law is content based on its face or when the purpose and justification for the law are content based, a court must evaluate each question before it concludes that the law is content neutral and thus subject to a lower level of scrutiny.

The Court of Appeals and the United States misunderstand our decision in *Ward* as suggesting that a government’s purpose is relevant even when a law is content based on its face. That is incorrect. *Ward* had nothing to say about facially content-based restrictions because it involved a facially content-*neutral* ban on the use, in a

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city-owned music venue, of sound amplification systems not provided by the city. 491 U. S., at 787, and n. 2. In that context, we looked to governmental motive, including whether the government had regulated speech “because of disagreement” with its message, and whether the regulation was “justified without reference to the content of the speech.” *Id.*, at 791. But *Ward’s* framework “applies only if a statute is content neutral.” *Hill*, 530 U. S., at 766 (KENNEDY, J., dissenting). Its rules thus operate “to protect speech,” not “to restrict it.” *Id.*, at 765.

The First Amendment requires no less. Innocent motives do not eliminate the danger of censorship presented by a facially content-based statute, as future government officials may one day wield such statutes to suppress disfavored speech. That is why the First Amendment expressly targets the operation of the laws—*i.e.*, the “abridg[ement] of speech”—rather than merely the motives of those who enacted them. U. S. Const., Amdt. 1. “The vice of content-based legislation . . . is not that it is always used for invidious, thought-control purposes, but that it lends itself to use for those purposes.” *Hill, supra*, at 743 (SCALIA, J., dissenting).

For instance, in *NAACP v. Button*, 371 U. S. 415 (1963), the Court encountered a State’s attempt to use a statute prohibiting “improper solicitation” by attorneys to outlaw litigation-related speech of the National Association for the Advancement of Colored People. *Id.*, at 438. Although *Button* predated our more recent formulations of strict scrutiny, the Court rightly rejected the State’s claim that its interest in the “regulation of professional conduct” rendered the statute consistent with the First Amendment, observing that “it is no answer . . . to say . . . that the purpose of these regulations was merely to insure high professional standards and not to curtail free expression.” *Id.*, at 438–439. Likewise, one could easily imagine a Sign Code compliance manager who disliked the Church’s

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substantive teachings deploying the Sign Code to make it more difficult for the Church to inform the public of the location of its services. Accordingly, we have repeatedly “rejected the argument that ‘discriminatory . . . treatment is suspect under the First Amendment only when the legislature intends to suppress certain ideas.’” *Discovery Network*, 507 U. S., at 429. We do so again today.

2

The Court of Appeals next reasoned that the Sign Code was content neutral because it “does not mention any idea or viewpoint, let alone single one out for differential treatment.” 587 F. 3d, at 977. It reasoned that, for the purpose of the Code provisions, “[i]t makes no difference which candidate is supported, who sponsors the event, or what ideological perspective is asserted.” 707 F. 3d, at 1069.

The Town seizes on this reasoning, insisting that “content based” is a term of art that “should be applied flexibly” with the goal of protecting “viewpoints and ideas from government censorship or favoritism.” Brief for Respondents 22. In the Town’s view, a sign regulation that “does not censor or favor particular viewpoints or ideas” cannot be content based. *Ibid.* The Sign Code allegedly passes this test because its treatment of temporary directional signs does not raise any concerns that the government is “endorsing or suppressing ‘ideas or viewpoints,’” *id.*, at 27, and the provisions for political signs and ideological signs “are neutral as to particular ideas or viewpoints” within those categories. *Id.*, at 37.

This analysis conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints—or the regulation of speech based on “the specific motivating ideology or the opinion or perspective of the speaker”—is a “more blatant” and “egregious form of

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content discrimination.” *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). But it is well established that “[t]he First Amendment’s hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic.” *Consolidated Edison Co. of N. Y. v. Public Serv. Comm’n of N. Y.*, 447 U. S. 530, 537 (1980).

Thus, a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter. *Ibid.* For example, a law banning the use of sound trucks for political speech—and only political speech—would be a content-based regulation, even if it imposed no limits on the political viewpoints that could be expressed. See *Discovery Network, supra*, at 428. The Town’s Sign Code likewise singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter. Ideological messages are given more favorable treatment than messages concerning a political candidate, which are themselves given more favorable treatment than messages announcing an assembly of like-minded individuals. That is a paradigmatic example of content-based discrimination.

3

Finally, the Court of Appeals characterized the Sign Code’s distinctions as turning on “the content-neutral elements of who is speaking through the sign and whether and when an event is occurring.” 707 F. 3d, at 1069. That analysis is mistaken on both factual and legal grounds.

To start, the Sign Code’s distinctions are not speaker based. The restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. If a local business, for example, sought to put up

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signs advertising the Church's meetings, those signs would be subject to the same limitations as such signs placed by the Church. And if Reed had decided to display signs in support of a particular candidate, he could have made those signs far larger—and kept them up for far longer—than signs inviting people to attend his church services. If the Code's distinctions were truly speaker based, both types of signs would receive the same treatment.

In any case, the fact that a distinction is speaker based does not, as the Court of Appeals seemed to believe, automatically render the distinction content neutral. Because “[s]peech restrictions based on the identity of the speaker are all too often simply a means to control content,” *Citizens United v. Federal Election Comm’n*, 558 U. S. 310, 340 (2010), we have insisted that “laws favoring some speakers over others demand strict scrutiny when the legislature’s speaker preference reflects a content preference,” *Turner*, 512 U. S., at 658. Thus, a law limiting the content of newspapers, but only newspapers, could not evade strict scrutiny simply because it could be characterized as speaker based. Likewise, a content-based law that restricted the political speech of all corporations would not become content neutral just because it singled out corporations as a class of speakers. See *Citizens United*, *supra*, at 340–341. Characterizing a distinction as speaker based is only the beginning—not the end—of the inquiry.

Nor do the Sign Code’s distinctions hinge on “whether and when an event is occurring.” The Code does not permit citizens to post signs on any topic whatsoever within a set period leading up to an election, for example. Instead, come election time, it requires Town officials to determine whether a sign is “designed to influence the outcome of an election” (and thus “political”) or merely “communicating a message or ideas for noncommercial purposes” (and thus “ideological”). Glossary 24. That obvious content-based

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inquiry does not evade strict scrutiny review simply because an event (*i.e.*, an election) is involved.

And, just as with speaker-based laws, the fact that a distinction is event based does not render it content neutral. The Court of Appeals cited no precedent from this Court supporting its novel theory of an exception from the content-neutrality requirement for event-based laws. As we have explained, a speech regulation is content based if the law applies to particular speech because of the topic discussed or the idea or message expressed. *Supra*, at 6. A regulation that targets a sign because it conveys an idea about a specific event is no less content based than a regulation that targets a sign because it conveys some other idea. Here, the Code singles out signs bearing a particular message: the time and location of a specific event. This type of ordinance may seem like a perfectly rational way to regulate signs, but a clear and firm rule governing content neutrality is an essential means of protecting the freedom of speech, even if laws that might seem “entirely reasonable” will sometimes be “struck down because of their content-based nature.” *City of Ladue v. Gilleo*, 512 U. S. 43, 60 (1994) (O’Connor, J., concurring).

III

Because the Town’s Sign Code imposes content-based restrictions on speech, those provisions can stand only if they survive strict scrutiny, “which requires the Government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest,” *Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett*, 564 U. S. ___, ___ (2011) (slip op., at 8) (quoting *Citizens United*, 558 U. S., at 340). Thus, it is the Town’s burden to demonstrate that the Code’s differentiation between temporary directional signs and other types of signs, such as political signs and ideological signs, furthers a compelling governmental interest and is narrowly tai-

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lored to that end. See *ibid.*

The Town cannot do so. It has offered only two governmental interests in support of the distinctions the Sign Code draws: preserving the Town's aesthetic appeal and traffic safety. Assuming for the sake of argument that those are compelling governmental interests, the Code's distinctions fail as hopelessly underinclusive.

Starting with the preservation of aesthetics, temporary directional signs are "no greater an eyesore," *Discovery Network*, 507 U. S., at 425, than ideological or political ones. Yet the Code allows unlimited proliferation of larger ideological signs while strictly limiting the number, size, and duration of smaller directional ones. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town while at the same time allowing unlimited numbers of other types of signs that create the same problem.

The Town similarly has not shown that limiting temporary directional signs is necessary to eliminate threats to traffic safety, but that limiting other types of signs is not. The Town has offered no reason to believe that directional signs pose a greater threat to safety than do ideological or political signs. If anything, a sharply worded ideological sign seems more likely to distract a driver than a sign directing the public to a nearby church meeting.

In light of this underinclusiveness, the Town has not met its burden to prove that its Sign Code is narrowly tailored to further a compelling government interest. Because a "law cannot be regarded as protecting an interest of the highest order, and thus as justifying a restriction on truthful speech, when it leaves appreciable damage to that supposedly vital interest unprohibited," *Republican Party of Minn. v. White*, 536 U. S. 765, 780 (2002), the Sign Code fails strict scrutiny.

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IV

Our decision today will not prevent governments from enacting effective sign laws. The Town asserts that an “absolutist” content-neutrality rule would render “virtually all distinctions in sign laws . . . subject to strict scrutiny,” Brief for Respondents 34–35, but that is not the case. Not “all distinctions” are subject to strict scrutiny, only *content-based* ones are. Laws that are *content neutral* are instead subject to lesser scrutiny. See *Clark*, 468 U. S., at 295.

The Town has ample content-neutral options available to resolve problems with safety and aesthetics. For example, its current Code regulates many aspects of signs that have nothing to do with a sign’s message: size, building materials, lighting, moving parts, and portability. See, e.g., §4.402(R). And on public property, the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner. See *Taxpayers for Vincent*, 466 U. S., at 817 (upholding content-neutral ban against posting signs on public property). Indeed, some lower courts have long held that similar content-based sign laws receive strict scrutiny, but there is no evidence that towns in those jurisdictions have suffered catastrophic effects. See, e.g., *Solantic, LLC v. Neptune Beach*, 410 F. 3d 1250, 1264–1269 (CA11 2005) (sign categories similar to the town of Gilbert’s were content based and subject to strict scrutiny); *Matthews v. Needham*, 764 F. 2d 58, 59–60 (CA1 1985) (law banning political signs but not commercial signs was content based and subject to strict scrutiny).

We acknowledge that a city might reasonably view the general regulation of signs as necessary because signs “take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation.” *City of Ladue*, 512 U. S., at 48. At the same time, the presence of certain

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signs may be essential, both for vehicles and pedestrians, to guide traffic or to identify hazards and ensure safety. A sign ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—such as warning signs marking hazards on private property, signs directing traffic, or street numbers associated with private houses—well might survive strict scrutiny. The signs at issue in this case, including political and ideological signs and signs for events, are far removed from those purposes. As discussed above, they are facially content based and are neither justified by traditional safety concerns nor narrowly tailored.

* * *

We reverse the judgment of the Court of Appeals and remand the case for proceedings consistent with this opinion.

It is so ordered.

ALITO, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF
GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE ALITO, with whom JUSTICE KENNEDY and
JUSTICE SOTOMAYOR join, concurring.

I join the opinion of the Court but add a few words of
further explanation.

As the Court holds, what we have termed “content-
based” laws must satisfy strict scrutiny. Content-based
laws merit this protection because they present, albeit
sometimes in a subtler form, the same dangers as laws
that regulate speech based on viewpoint. Limiting speech
based on its “topic” or “subject” favors those who do not
want to disturb the status quo. Such regulations may
interfere with democratic self-government and the search
for truth. See *Consolidated Edison Co. of N. Y. v. Public
Serv. Comm’n of N. Y.*, 447 U. S. 530, 537 (1980).

As the Court shows, the regulations at issue in this case
are replete with content-based distinctions, and as a result
they must satisfy strict scrutiny. This does not mean,
however, that municipalities are powerless to enact and
enforce reasonable sign regulations. I will not attempt to
provide anything like a comprehensive list, but here are
some rules that would not be content based:

Rules regulating the size of signs. These rules may
distinguish among signs based on any content-neutral
criteria, including any relevant criteria listed below.

Rules regulating the locations in which signs may be

ALITO, J., concurring

placed. These rules may distinguish between free-standing signs and those attached to buildings.

Rules distinguishing between lighted and unlighted signs.

Rules distinguishing between signs with fixed messages and electronic signs with messages that change.

Rules that distinguish between the placement of signs on private and public property.

Rules distinguishing between the placement of signs on commercial and residential property.

Rules distinguishing between on-premises and off-premises signs.

Rules restricting the total number of signs allowed per mile of roadway.

Rules imposing time restrictions on signs advertising a one-time event. Rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed.*

In addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech. See *Pleasant Grove City v. Summum*, 555 U. S. 460, 467–469 (2009). They may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots.

Properly understood, today's decision will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives.

*Of course, content-neutral restrictions on speech are not necessarily consistent with the First Amendment. Time, place, and manner restrictions "must be narrowly tailored to serve the government's legitimate, content-neutral interests." *Ward v. Rock Against Racism*, 491 U. S. 781, 798 (1989). But they need not meet the high standard imposed on viewpoint- and content-based restrictions.

BREYER, J., concurring in judgment

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF
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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
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[June 18, 2015]

JUSTICE BREYER, concurring in the judgment.

I join JUSTICE KAGAN’s separate opinion. Like JUSTICE KAGAN I believe that categories alone cannot satisfactorily resolve the legal problem before us. The First Amendment requires greater judicial sensitivity both to the Amendment’s expressive objectives and to the public’s legitimate need for regulation than a simple recitation of categories, such as “content discrimination” and “strict scrutiny,” would permit. In my view, the category “content discrimination” is better considered in many contexts, including here, as a rule of thumb, rather than as an automatic “strict scrutiny” trigger, leading to almost certain legal condemnation.

To use content discrimination to trigger strict scrutiny sometimes makes perfect sense. There are cases in which the Court has found content discrimination an unconstitutional method for suppressing a viewpoint. *E.g.*, *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 828–829 (1995); see also *Boos v. Barry*, 485 U. S. 312, 318–319 (1988) (plurality opinion) (applying strict scrutiny where the line between subject matter and viewpoint was not obvious). And there are cases where the Court has found content discrimination to reveal that rules governing a traditional public forum are, in fact, not a neutral way of fairly managing the forum in the interest of all

BREYER, J., concurring in judgment

speakers. *Police Dept. of Chicago v. Mosley*, 408 U. S. 92, 96 (1972) (“Once a forum is opened up to assembly or speaking by some groups, government may not prohibit others from assembling or speaking on the basis of what they intend to say”). In these types of cases, strict scrutiny is often appropriate, and content discrimination has thus served a useful purpose.

But content discrimination, while helping courts to identify unconstitutional suppression of expression, cannot and should not *always* trigger strict scrutiny. To say that it is not an automatic “strict scrutiny” trigger is not to argue against that concept’s use. I readily concede, for example, that content discrimination, as a conceptual tool, can sometimes reveal weaknesses in the government’s rationale for a rule that limits speech. If, for example, a city looks to litter prevention as the rationale for a prohibition against placing newsracks dispensing free advertisements on public property, why does it exempt other newsracks causing similar litter? Cf. *Cincinnati v. Discovery Network, Inc.*, 507 U. S. 410 (1993). I also concede that, whenever government disfavors one kind of speech, it places that speech at a disadvantage, potentially interfering with the free marketplace of ideas and with an individual’s ability to express thoughts and ideas that can help that individual determine the kind of society in which he wishes to live, help shape that society, and help define his place within it.

Nonetheless, in these latter instances to use the presence of content discrimination automatically to trigger strict scrutiny and thereby call into play a strong presumption against constitutionality goes too far. That is because virtually all government activities involve speech, many of which involve the regulation of speech. Regulatory programs almost always require content discrimination. And to hold that such content discrimination triggers strict scrutiny is to write a recipe for judicial management

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of ordinary government regulatory activity.

Consider a few examples of speech regulated by government that inevitably involve content discrimination, but where a strong presumption against constitutionality has no place. Consider governmental regulation of securities, *e.g.*, 15 U. S. C. §78l (requirements for content that must be included in a registration statement); of energy conservation labeling-practices, *e.g.*, 42 U. S. C. §6294 (requirements for content that must be included on labels of certain consumer electronics); of prescription drugs, *e.g.*, 21 U. S. C. §353(b)(4)(A) (requiring a prescription drug label to bear the symbol “Rx only”); of doctor-patient confidentiality, *e.g.*, 38 U. S. C. §7332 (requiring confidentiality of certain medical records, but allowing a physician to disclose that the patient has HIV to the patient’s spouse or sexual partner); of income tax statements, *e.g.*, 26 U. S. C. §6039F (requiring taxpayers to furnish information about foreign gifts received if the aggregate amount exceeds \$10,000); of commercial airplane briefings, *e.g.*, 14 CFR §136.7 (2015) (requiring pilots to ensure that each passenger has been briefed on flight procedures, such as seatbelt fastening); of signs at petting zoos, *e.g.*, N. Y. Gen. Bus. Law Ann. §399–ff(3) (West Cum. Supp. 2015) (requiring petting zoos to post a sign at every exit “strongly recommend[ing] that persons wash their hands upon exiting the petting zoo area”); and so on.

Nor can the majority avoid the application of strict scrutiny to all sorts of justifiable governmental regulations by relying on this Court’s many subcategories and exceptions to the rule. The Court has said, for example, that we should apply less strict standards to “commercial speech.” *Central Hudson Gas & Elec. Corp. v. Public Service Comm’n of N. Y.*, 447 U. S. 557, 562–563 (1980). But I have great concern that many justifiable instances of “content-based” regulation are noncommercial. And, worse than that, the Court has applied the heightened

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“strict scrutiny” standard even in cases where the less stringent “commercial speech” standard was appropriate. See *Sorrell v. IMS Health Inc.*, 564 U. S. ___, ___ (2011) (BREYER, J., dissenting) (slip op., at ___). The Court has also said that “government speech” escapes First Amendment strictures. See *Rust v. Sullivan*, 500 U. S. 173, 193–194 (1991). But regulated speech is typically private speech, not government speech. Further, the Court has said that, “[w]hen the basis for the content discrimination consists entirely of the very reason the entire class of speech at issue is proscribable, no significant danger of idea or viewpoint discrimination exists.” *R. A. V. v. St. Paul*, 505 U. S. 377, 388 (1992). But this exception accounts for only a few of the instances in which content discrimination is readily justifiable.

I recognize that the Court could escape the problem by watering down the force of the presumption against constitutionality that “strict scrutiny” normally carries with it. But, in my view, doing so will weaken the First Amendment’s protection in instances where “strict scrutiny” should apply in full force.

The better approach is to generally treat content discrimination as a strong reason weighing against the constitutionality of a rule where a traditional public forum, or where viewpoint discrimination, is threatened, but elsewhere treat it as a rule of thumb, finding it a helpful, but not determinative legal tool, in an appropriate case, to determine the strength of a justification. I would use content discrimination as a supplement to a more basic analysis, which, tracking most of our First Amendment cases, asks whether the regulation at issue works harm to First Amendment interests that is disproportionate in light of the relevant regulatory objectives. Answering this question requires examining the seriousness of the harm to speech, the importance of the countervailing objectives, the extent to which the law will achieve those objectives,

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and whether there are other, less restrictive ways of doing so. See, e.g., *United States v. Alvarez*, 567 U. S. ___, ___–___ (2012) (BREYER, J., concurring in judgment) (slip op., at 1–3); *Nixon v. Shrink Missouri Government PAC*, 528 U. S. 377, 400–403 (2000) (BREYER, J., concurring). Admittedly, this approach does not have the simplicity of a mechanical use of categories. But it does permit the government to regulate speech in numerous instances where the voters have authorized the government to regulate and where courts should hesitate to substitute judicial judgment for that of administrators.

Here, regulation of signage along the roadside, for purposes of safety and beautification is at issue. There is no traditional public forum nor do I find any general effort to censor a particular viewpoint. Consequently, the specific regulation at issue does not warrant “strict scrutiny.” Nonetheless, for the reasons that JUSTICE KAGAN sets forth, I believe that the Town of Gilbert’s regulatory rules violate the First Amendment. I consequently concur in the Court’s judgment only.

KAGAN, J., concurring in judgment

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF
GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE KAGAN, with whom JUSTICE GINSBURG and JUSTICE BREYER join, concurring in the judgment.

Countless cities and towns across America have adopted ordinances regulating the posting of signs, while exempting certain categories of signs based on their subject matter. For example, some municipalities generally prohibit illuminated signs in residential neighborhoods, but lift that ban for signs that identify the address of a home or the name of its owner or occupant. See, *e.g.*, City of Truth or Consequences, N. M., Code of Ordinances, ch. 16, Art. XIII, §§11–13–2.3, 11–13–2.9(H)(4) (2014). In other municipalities, safety signs such as “Blind Pedestrian Crossing” and “Hidden Driveway” can be posted without a permit, even as other permanent signs require one. See, *e.g.*, Code of Athens-Clarke County, Ga., Pt. III, §7–4–7(1) (1993). Elsewhere, historic site markers—for example, “George Washington Slept Here”—are also exempt from general regulations. See, *e.g.*, Dover, Del., Code of Ordinances, Pt. II, App. B, Art. 5, §4.5(F) (2012). And similarly, the federal Highway Beautification Act limits signs along interstate highways unless, for instance, they direct travelers to “scenic and historical attractions” or advertise free coffee. See 23 U. S. C. §§131(b), (c)(1), (c)(5).

Given the Court’s analysis, many sign ordinances of that kind are now in jeopardy. See *ante*, at 14 (acknowledging

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that “entirely reasonable” sign laws “will sometimes be struck down” under its approach (internal quotation marks omitted)). Says the majority: When laws “single[] out specific subject matter,” they are “facially content based”; and when they are facially content based, they are automatically subject to strict scrutiny. *Ante*, at 12, 16–17. And although the majority holds out hope that some sign laws with subject-matter exemptions “might survive” that stringent review, *ante*, at 17, the likelihood is that most will be struck down. After all, it is the “rare case[] in which a speech restriction withstands strict scrutiny.” *Williams-Yulee v. Florida Bar*, 575 U. S. ___, ___ (2015) (slip op., at 9). To clear that high bar, the government must show that a content-based distinction “is necessary to serve a compelling state interest and is narrowly drawn to achieve that end.” *Arkansas Writers’ Project, Inc. v. Ragland*, 481 U. S. 221, 231 (1987). So on the majority’s view, courts would have to determine that a town has a compelling interest in informing passersby where George Washington slept. And likewise, courts would have to find that a town has no other way to prevent hidden-driveway mishaps than by specially treating hidden-driveway signs. (Well-placed speed bumps? Lower speed limits? Or how about just a ban on hidden driveways?) The consequence—unless courts water down strict scrutiny to something unrecognizable—is that our communities will find themselves in an unenviable bind: They will have to either repeal the exemptions that allow for helpful signs on streets and sidewalks, or else lift their sign restrictions altogether and resign themselves to the resulting clutter.*

*Even in trying (commendably) to limit today’s decision, JUSTICE ALITO’s concurrence highlights its far-reaching effects. According to JUSTICE ALITO, the majority does not subject to strict scrutiny regulations of “signs advertising a one-time event.” *Ante*, at 2 (ALITO, J., concurring). But of course it does. On the majority’s view, a law with an exception for such signs “singles out specific subject matter for

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Although the majority insists that applying strict scrutiny to all such ordinances is “essential” to protecting First Amendment freedoms, *ante*, at 14, I find it challenging to understand why that is so. This Court’s decisions articulate two important and related reasons for subjecting content-based speech regulations to the most exacting standard of review. The first is “to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail.” *McCullen v. Coakley*, 573 U. S. ___, ___–___ (2014) (slip op., at 8–9) (internal quotation marks omitted). The second is to ensure that the government has not regulated speech “based on hostility—or favoritism—towards the underlying message expressed.” *R. A. V. v. St. Paul*, 505 U. S. 377, 386 (1992). Yet the subject-matter exemptions included in many sign ordinances do not implicate those concerns. Allowing residents, say, to install a light bulb over “name and address” signs but no others does not distort the marketplace of ideas. Nor does that different treatment give rise to an inference of impermissible government motive.

We apply strict scrutiny to facially content-based regulations of speech, in keeping with the rationales just described, when there is any “realistic possibility that official suppression of ideas is afoot.” *Davenport v. Washington Ed. Assn.*, 551 U. S. 177, 189 (2007) (quoting *R. A. V.*, 505 U. S., at 390). That is always the case when the regulation facially differentiates on the basis of viewpoint. See *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). It is also the case (except in non-public or limited public forums) when a law restricts “discussion of an entire topic” in public debate. *Consolidated*

differential treatment” and “defin[es] regulated speech by particular subject matter.” *Ante*, at 6, 12 (majority opinion). Indeed, the precise reason the majority applies strict scrutiny here is that “the Code singles out signs bearing a particular message: the time and location of a specific event.” *Ante*, at 14.

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Edison Co. of N. Y. v. Public Serv. Comm'n of N. Y., 447 U. S. 530, 537, 539–540 (1980) (invalidating a limitation on speech about nuclear power). We have stated that “[i]f the marketplace of ideas is to remain free and open, governments must not be allowed to choose ‘which issues are worth discussing or debating.’” *Id.*, at 537–538 (quoting *Police Dept. of Chicago v. Mosley*, 408 U. S. 92, 96 (1972)). And we have recognized that such subject-matter restrictions, even though viewpoint-neutral on their face, may “suggest[] an attempt to give one side of a debatable public question an advantage in expressing its views to the people.” *First Nat. Bank of Boston v. Bellotti*, 435 U. S. 765, 785 (1978); accord, *ante*, at 1 (ALITO, J., concurring) (limiting all speech on one topic “favors those who do not want to disturb the status quo”). Subject-matter regulation, in other words, may have the intent or effect of favoring some ideas over others. When that is realistically possible—when the restriction “raises the specter that the Government may effectively drive certain ideas or viewpoints from the marketplace”—we insist that the law pass the most demanding constitutional test. *R. A. V.*, 505 U. S., at 387 (quoting *Simon & Schuster, Inc. v. Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 116 (1991)).

But when that is not realistically possible, we may do well to relax our guard so that “entirely reasonable” laws imperiled by strict scrutiny can survive. *Ante*, at 14. This point is by no means new. Our concern with content-based regulation arises from the fear that the government will skew the public’s debate of ideas—so when “that risk is inconsequential, . . . strict scrutiny is unwarranted.” *Davenport*, 551 U. S., at 188; see *R. A. V.*, 505 U. S., at 388 (approving certain content-based distinctions when there is “no significant danger of idea or viewpoint discrimination”). To do its intended work, of course, the category of content-based regulation triggering strict scrutiny must

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sweep more broadly than the actual harm; that category exists to create a buffer zone guaranteeing that the government cannot favor or disfavor certain viewpoints. But that buffer zone need not extend forever. We can administer our content-regulation doctrine with a dose of common sense, so as to leave standing laws that in no way implicate its intended function.

And indeed we have done just that: Our cases have been far less rigid than the majority admits in applying strict scrutiny to facially content-based laws—including in cases just like this one. See *Davenport*, 551 U. S., at 188 (noting that “we have identified numerous situations in which [the] risk” attached to content-based laws is “attenuated”). In *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U. S. 789 (1984), the Court declined to apply strict scrutiny to a municipal ordinance that exempted address numbers and markers commemorating “historical, cultural, or artistic event[s]” from a generally applicable limit on sidewalk signs. *Id.*, at 792, n. 1 (listing exemptions); see *id.*, at 804–810 (upholding ordinance under intermediate scrutiny). After all, we explained, the law’s enactment and enforcement revealed “not even a hint of bias or censorship.” *Id.*, at 804; see also *Renton v. Playtime Theatres, Inc.*, 475 U. S. 41, 48 (1986) (applying intermediate scrutiny to a zoning law that facially distinguished among movie theaters based on content because it was “designed to prevent crime, protect the city’s retail trade, [and] maintain property values . . . , not to suppress the expression of unpopular views”). And another decision involving a similar law provides an alternative model. In *City of Ladue v. Gilleo*, 512 U. S. 43 (1994), the Court assumed *arguendo* that a sign ordinance’s exceptions for address signs, safety signs, and for-sale signs in residential areas did not trigger strict scrutiny. See *id.*, at 46–47, and n. 6 (listing exemptions); *id.*, at 53 (noting this assumption). We did not need to, and so did not, decide the

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level-of-scrutiny question because the law's breadth made it unconstitutional under any standard.

The majority could easily have taken *Ladue's* tack here. The Town of Gilbert's defense of its sign ordinance—most notably, the law's distinctions between directional signs and others—does not pass strict scrutiny, or intermediate scrutiny, or even the laugh test. See *ante*, at 14–15 (discussing those distinctions). The Town, for example, provides no reason at all for prohibiting more than four directional signs on a property while placing no limits on the number of other types of signs. See Gilbert, Ariz., Land Development Code, ch. I, §§4.402(J), (P)(2) (2014). Similarly, the Town offers no coherent justification for restricting the size of directional signs to 6 square feet while allowing other signs to reach 20 square feet. See §§4.402(J), (P)(1). The best the Town could come up with at oral argument was that directional signs “need to be smaller because they need to guide travelers along a route.” Tr. of Oral Arg. 40. Why exactly a smaller sign better helps travelers get to where they are going is left a mystery. The absence of any sensible basis for these and other distinctions dooms the Town's ordinance under even the intermediate scrutiny that the Court typically applies to “time, place, or manner” speech regulations. Accordingly, there is no need to decide in this case whether strict scrutiny applies to every sign ordinance in every town across this country containing a subject-matter exemption.

I suspect this Court and others will regret the majority's insistence today on answering that question in the affirmative. As the years go by, courts will discover that thousands of towns have such ordinances, many of them “entirely reasonable.” *Ante*, at 14. And as the challenges to them mount, courts will have to invalidate one after the other. (This Court may soon find itself a veritable Supreme Board of Sign Review.) And courts will strike down those democratically enacted local laws even though no

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one—certainly not the majority—has ever explained why the vindication of First Amendment values requires that result. Because I see no reason why such an easy case calls for us to cast a constitutional pall on reasonable regulations quite unlike the law before us, I concur only in the judgment.

DISCUSSION ITEM #4
REZONING OF THE PIER AREA