CAROLINA BEACH

Planning and Zoning Meeting Agenda
Thursday, July 11, 2019 @ 6:30 PM
Council Chambers
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

CAROLINA BEACH

Planning and Zoning Minutes
Thursday, June 13, 2019 @ 6:30 PM
Council Chambers
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

ASSEMBLY
The Town of Carolina Beach Planning and Zoning was held on Thursday, June 13, 2019 at 6:30 PM at Council Chambers.

PRESENT:	Keith Bloemendaal, Mike Hoffer, Jerry Kennedy, Wayne Rouse, and John Ittu
ABSENT:	Interim Town Manager Ed Parvin, Deb LeCompte and Melanie Boswell
ALSO PRESENT:	Director of Planning & Development Jeremy Hardison

. **CALL TO ORDER**
The meeting was called to order at 6.:30 p.m. by Chairman Bloemandaal .

. **APPROVAL OF MINUTES**
Planning & Zoning - April 11, 2019 Meeting Minutes.

a. Commissioner Ittu made a motion to approve the minutes.
Commissioner Rouse seconded, all were in favor (5-0).

. **STAFF REPORT ON RECENT COUNCIL MEETINGS**
Mr. Hardison reported on the recent Council Meeting held on June 11, 2019.
The meetings have been very budget heavy, they did approve as recommended by this commission to expand Superior Auto. They also tabled the appointees for the board committees but there was no explanation as to why but it will be on the July agenda.

. **STAFF REPORT ON RECENT DEVELOPMENTS**
Mr. Hardison reported on the recent activities in the Planning and Development Department.
Staff Update - June 13th, 2019

<u>Permitting</u>
78 Permits (renovation, repair, grading, additions)
11 Residential New Construction
3 Commercial New Construction
7 Demolition Permits
38 Certificates of Occupancy

Code Enforcement
42 Complaints Received
18 Town Observed
22 Resolved

New Businesses -

Publix – Opening Soon - they are putting the finishing touches on - target opening June 26th.

Demolition for 235 CBAN for Guy Johnson. One building on the north maybe salvageable and their short-term plans are oceanfront parking lot. Several private parking companies have approached the owner but they haven't made a decision yet on how they will be managing it. Chairman Bloemandaal asked although this is a non-agenda item have there been discussions on not allowing private party companies to run parking lots. Mr. Hardison replied we have worked with these companies to make sure they know and the people of the town know that our decals are not honored in their lots. In 2007 we did allow in the CBD only private parking lots for profit. This hasn't been revisited but this year we have the most we've had in the past. Commissioner Rouse asked if the town has had discussions with the owners on collaborating with the town. Mr. Hardison replied yes they have but not sure where those discussions are at this time.

Demolition – 1415 LPBS - they are looking to redevelop this property.

In the Michael's Seafood shopping center is Scoopin' Yummies ice cream.

Crush & Grind – Reopened from the storm!

LUP Steering Committee
•Public Open House:
•July 16th
•Town Council Chambers
•Website: •www.carolinabeachcamaupdate.com

Watershed Stakeholder Meeting
June 6, 2019
The North Carolina Coastal Federation hosted a stakeholder meeting for the Watershed plan they are working on with the Town.
It was attended by some public, staff, NCCF, CFCOG, and a watershed engineer consultant.

Special Events - July
Double Sprint Triathlon - Saturday 13th 7:00 AM – 10:30 AM
Got-Em-On King Mackerel Classic - July 12-14
CB Swim - Sunday 14th 8:00 AM – 10:00 AM - Starts at Alabama Ends at Hamlet

. **PUBLIC DISCUSSION**
Chairman Bloemandaal opened the public discussion and sworn in all to speak.

a. Conditional Use Permit: Consider a Conditional Use Permit for a 6-unit Planned Unit Development consisting of 3 two-family dwellings located at 409, 411 & 413 Carolina Beach Ave N. Applicant: Steve Shuttleworth

Mr. Hardison reported on the CUP for 409, 411, & 413 Carolina Beach Ave N.
The Previous use on this 22,000 250 square foot property was a hotel. The hotel was demoed a few years ago and the property has changed hands. This was subdivided into three lots and met the lot size in the T1 Zoning district. Two permits were issued for two of the units but the owner wanted to put in a pool which has specific setbacks from the property lines and structures cannot overlap the property line. This pool would extend past those lines. The approval process through the ordinance would be a plan unit development. This is going through a conditional use permit because of the change to remove the property lines and constructing a pool in the rear of the property. The adjacent uses East is the Beach House Inn which has a pool in the front. South is parking for the Beach House Inn. North is a four unit structure and to the West behind is a vacant and also a two family dwelling. T-1, Tourist District.
(1) Purpose. This district is established to provide land for the town's tourist industry, and as a complementary district to the CBD Central Business District.
(2) Intent. The primary land uses intended for this zoning district are moderate- to high-density residential development, as well as hotels, motels and restaurants.

The T-1 zoning district allows for single-family, two-family, multifamily, hotels and offices. This is the highest density of the zoning districts. The density allows for 29 units per acre. The size of this lot would yield 15 units which is 22,250 sq. but the applicant is only requesting six units.

Existing in this area are -
14 Single-family
7 Vacant lots
6 Multi-family
5 Motels
1 2-unit building

Specific Standards - Applicant must make provisions for:
(1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

The applicant is proposing a driveway off of Carolina Beach Ave N. for each town home.

(2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;

Each unit will have four parking spaces

(3) Refuse and service area, with particular reference to the items in (1) and (2) above;

The applicant is proposing roll-away trash containers.

(4) Utilities, with reference to locations, availability, and compatibility;

The stormwater runoff will be diverted to Carolina Beach Ave N.

(5) Screening and buffering with reference to type, dimensions, and character;

The applicant will be providing a 5' landscape buffer. Request to construct a 6 ft. fence along the side property lines in the front yard.

(6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

No signs are proposed.

(7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land; The required setbacks for the T-1 district is 20' front, 7.5' side, and 10' rear.

The applicant is meeting the setback requirements.

General Conditions -

(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;

The modification will have to meet all federal, state and local safety and regulatory requirements.

(2) That the use meets all required conditions and specifications;

The project meets the required setbacks, height and lot coverage requirements.

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and the project will be reviewed in accordance with all local, state, and federal regulations.

The project is consistent with the density in the area and with the adjacent uses in the area.

(4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies.

The project is in general conformity with the 2007 landuse plan and is consistent with the zoning ordinance. The desired Future Land Use of this area includes a future predominance of single-family and duplex units. A ratio of roughly two-thirds residential to one-third commercial is desired.

There were no questions for Mr. Hardison from the board.

Ned Barnes resides at 814 Carolina Beach Ave North, he represents ERS Investment, LLC. He spoke regarding the previous owner of the motel Shirley Roth and this property. The property was condemned by the town which went into foreclosure. He stated Mr. Hardison is correct that it is currently zoned and meets all the specific conditions and requirements of the town as well as meets the Four General Conditions. There is an issue raised regarding the pool Mr. Hardison stated that by right there could be three pools one for each lot. We are proposing one pool to service all of the units. There will be an owners association and he has discussed specific hours for the pool to be opened with the developer which would minimize the activity.

There were no questions for Mr. Barnes from the board.

Fred Holland resides at 412 Canal Drive Units A & B. He has a lot of concerns regarding this project which would be the noise level. Said he had receive a letter but stated there was no mention of a pool regarding this project especially the size of this one. Feels this was something he should have been made aware of from Mr. Shuttleworth who he had spoke with regarding the project. He and his neighbor that will be building at 415 Canal are both very concerned about the pool noise. There is already a motel across the street with a pool and the noise emanates from the pool but they do close it at nine o'clock. Stated when the Seagull (the former hotel) was in business the pool was in the front of the property. He would like the board to consider his concerns.

Commissioner Kennedy asked for confirmation on the fact if there were three pools in place would there be a requirement for an HOA.

Mr. Barnes replied there are no requirements for an HOA.

Chairman Bloemandaal made a motion to close the public hearing.
Commissioner Rouse seconded, all were in favor (5-0).

Chairman Bloemandaal agrees with Commissioner Kennedy and values Mr. Holland's concerns. He feels the contractor is doing something better than just make the biggest buck he could, he's only building three units with a pool and it could be 15 units combined. We are a recommending board we do not pass or fail these items.

Commissioner Rouse agrees and is very sympathetic to Mr. Holland's concerns and understands the issue with an HOA that there would be bring more comfort for the neighbors. But there are also other issues for the builder when it comes to having an HOA which Mr. Barnes maybe able to explain such issues.

Commissioner Ittu asked Mr. Hardison regarding the approval on the 4th general conditions, this would be IN harmony with the area. Mr. Hardison replied yes.

Commissioner Hoffer feels they have every right to build 3 duplexes without this process.

Mr. Holland asked Mr. Hardison will there be a fence behind the pool where the landscape will be located. Mr. Hardison replied yes they are proposing a 6' wood fence. They will also have to enclose the entire pool with an additional fence due to pool regulations.

Commissioner Kennedy for the record wanted to add there is a great concern about stormwater, pervious and impervious surfaces. She would like the developer to research the recycling of stormwater and pervious surfaces for their driveways.

ACTION: Chairman Bloemandaal made a motion that we approve the conditional use permit for a PUD consisting of 3 two family units two family dwellings located at 409, 411 and 413 Carolina Beach Avenue North. The use meets all required conditions and specifications, location and character of the use developed according to the plan as submitted and approved will be in harmony with the area in which is located and general conformity with the town land use plan and policies.

Commissioner Rouse seconded, all were in favor (5-0).

Vote: UNANIMOUS

. **DISCUSSION ITEMS**

Commissioner Rouse stated he will not be in attendance for the August P&Z Meeting, he will reply to the August agenda as such.

. **NON-AGENDA ITEMS**

Chairman Bloemandaal asked the commission if they would be opposed to revisiting how the parking lots are run in our town. He is not normally in favor as well as Mr. Hoffer, of telling people how to run their property but feels the conformity of our parking is difficult when you have so many new lots popping up and with different companies running them.

Commission Kennedy feels the emphasis needs to be on conformity so we don't get in a long detailed discussion of private property use, we need to be very direct.

Mr. Hardison replied we can bring back some options.

. **ADJOURNMENT**

Commissioner Kennedy made a motion that we adjourn this meeting.

Commissioner Rouse seconded, all were in favor (5-0).

AGENDA ITEM

Meeting: Planning and Zoning - 11 Jul 2019
Prepared By: Jeremy Hardison
Department: Planning

Consider a rezoning request from R-1 to R-3 to rezone 25 properties on the south side of Sumter Ave from the 400 block of Sumter Ave to the Sunny Point buffer, and to include 804 & 803 S. Sixth st and 804 S 4th st. Applicant: Karen Graybush

BACKGROUND:

The applicant, Karen Graybush applied to rezone 25 properties on the south side of Sumter Ave from the 400 block to the Sunny Point buffer area from R-1 to R-3. The rezoning also includes 804 & 803 S. Sixth St and 804 S 4th St. The town is divided into different zoning districts to regulate the height and size of buildings and to regulate the intensity of land usage, and the location of land uses. It is to provide for the improved environment; and to promote the health, safety and general welfare of its citizens.

The reasoning for the applicants proposed rezoning is to prohibit duplexes from being built in this area. If changed the area would only allow single-family dwellings. Below is a table of the dimensional requirements and allowable uses for each zone.

Dimensional Standards

Zoning District	Primary Permitted Uses	Min. Lot Size	Min. Lot Width 6	Min. Front Yard	Min. Rear Yard	Min. Side Yards * (Corner Lot—Min. 12.5 ft.)4	Residential Max. Density	Max. Height	Max. Lot Coverage
R-1	Single-Family Two-Family	5,000 sq. ft.	50 ft.	20 ft.	10 ft.	7.5 ft.	15 units/acre	50 ft.	40%
R-3	Single-Family	12,000 sq. ft.	80 ft.	25 ft.	10 ft.	7.5 ft.	3.6 units/acre	40 ft.	40%

The primary differences between the zoning districts is that R-1 has smaller minimum lot

size (5,000 sq. ft.) and allows two-family dwellings (duplexes). The R-3 district minimum lot size is 12,000 sq. ft. and only allows single-family dwellings. The other differences besides density and lot size is that R-1 has a 20' front setback vs R-3 with a 25' front setback requirement, and this section of R-1 is in a 45' height overlay district vs 40' height limit for R-3.

The area that is proposed to be rezoned currently has 16 single-family dwellings, 7 vacant lots, and one two-family dwelling. A building permit has recently been applied for to build duplexes on three of the vacant lots. The 25 lots in this area are owned by 22 different property owners. Ten properties meet the R-3 minimum lot size of 12,000 sq. ft. These properties have the potential to be subdivided to meet the R-1 5,000 sq. ft. minimum lot size. Fifteen of the properties meet the R-1 minimum lots size and would be nonconforming if they were rezoned to R-3. Nonconforming lots can still be developed, but must meet the setbacks for the zoning district.

The Landuse plan states that this area should **include** a predominance of single-family and duplex units. Density will be moderate with a minimum of 5,000 square foot lots and around 8.7 units per acre, with up to 15 units per acre allowed. Lot coverage will not be allowed to exceed 40%. New multi-family (3 units or more)residential development shall be prohibited.

COMMITTEE RECOMMENDATION:

COMMITTEE RECOMMENDATION/ACTION:

(1) Open the public hearing
(2) Close the public hearing
(3) Consider approval or denial of the proposal and make a motion according to the appropriate statement.

Approval – whereas in accordance with the provisions of the NCGS 160A-383, the Commission does hereby find and determine that the adoption of the following rezoning is consistent with the goals and objectives of the adopted Land Use Plan and other long range plans and in the public interest

Denial – based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long range planning documents and in the public interest.

STAFF RECOMMENDATION/ACTION:

The proposed rezoning is inconsistent with the 2007 land use classification map and plan.

ATTACHMENTS:

Application
Rezoning Map

Amendment Number: R19-01

PETITION FOR A ZONING MAP AMENDMENT

IMPORTANT: Supplementary information required as part of petition to be included:

Completed rezoning petition. For general use requests: The petition must be signed by the petitioner. Proof of compliance with GS 160A-383 regarding third party notification is required.

Adjacent Property Owners Map. A copy of the area as depicted on the Zoning Map which shows subject property (outlined in bold) and other surrounding properties within 100 feet of the subject property. Please label the names of the property owners directly affected by the zoning map amendment and those adjacent to or within 100 feet (excluding right-of-way) of the request.

This petition will be scheduled for the next possible meetings with the following boards: (1) Technical Review Committee, (2) Planning and Zoning Commission and (3) Town Council. The petitioner or representative should be present at all meetings to answer any questions. Contact the Department of Planning and Development for the schedule of meeting times and submittal deadlines. All meetings are held at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Petitioners will be informed of any changes in date, time, or location of meetings.

☐ Minor Rezoning ($350) — Rezoning of property less than 1 acre in size.
☒ Major Rezoning ($625) — Rezoning of property one acre or greater in size.

Petitioner

Petitioner's Full Name: Karen Drechsel Graybush Phone #: (732) 492-7643

Street Address: 518 Sumter Ave

City: Carolina Beach State: NC Zip: 28428

Email: Karengraybush@intracoastalrealty.com

Requested Zoning Map Change

Address(s) of Requested Site: 401, 407, 409, 411, 413, 417, 419, 501, 507, 509, 513, 517, 519 Property Identification Numbers (PIN): 04+803 6th Street / 601, 605, 607, 609, 613, 615, 617, 619, 706, 704 Sumter Ave See add'l form attached

Acreage/Sq. Ft: 6.743 acres / 293,750 sq ft Existing Zone: R1 Requested Zone: R3

Signature of Petitioner: Karen Drechsel Graybush Date: 5/28/19

PURPOSE OF ZONING DISTRICTS

The petitioner seeks to show that the fundamental purposes of zoning as set forth in the N.C. enabling legislation would be best served by changing the zoning classification of the property. Among the fundamental purposes of zoning are: (1) to lessen congestion in the streets; (2) to provide adequate light and air; (3) to prevent the overcrowding of land; (4) to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; (5) to regulate in accordance with a comprehensive plan; (6) to avoid spot zoning; and (7) to regulate with reasonable consideration to the character of the district, the suitability of the land for particular uses, the conservation of the value of buildings within the district and the encouragement of the most appropriate use of the land throughout the Town.

PETITION FOR A ZONING MAP AMENDMENT

PETITIONER'S STATEMENTS: This section is reserved for the petitioner to state factual information in support of the rezoning request. Any comments should be typed or written in block print on a separate piece of paper.

1. Please state the consistency of the proposed zoning map amendment with the Town's Land Use Plan and any other applicable *Town*-adopted plan(s).
2. Please describe the compatibility of the proposed rezoning with the *property* and surrounding area.
3. Please discuss the benefits and detriments of the proposed rezoning for the landowner, the immediate neighbors and the surrounding community.
4. Please explain the public need for additional land to be zoned to the classification requested.
5. Please discuss the impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc.
6. Please include a description of the existing zoning patterns (zoning districts including overlay districts) and existing built environment (densities, building heights, setbacks, tree cover, buffer yards).
7. Include any additional arguments on behalf of the map amendment requested.

REQUIRED OWNER INFORMATION

The following are all of the persons, firms, property owners, associations, corporations, entities or governments owning property adjacent to and within one hundred feet (excluding right-of-way) of the property sought to be rezoned. Please include New Hanover County PINs with names, addresses and zip codes. Indicate if property is owned by a condominium property owners association. Please complete ownership information in the boxes below. If you need additional space, please copy this form.

Name	Street Address	City/State/Zip	NHC PIN
Berry Lentz Deborah	601 Sumter Ave	Carolina Beach NC	R09009-009-008-000
West, Brian + Christine	609 Lake St	Carolina Beach NC	R09009-008-007-000

Please see attached.

PAID JUL 5 2019

2019 Submission Deadlines & Meeting Dates

Technical Review Committee		Planning & Zoning Commission		Town Council	
Submission	Meeting	Submission	Meeting	Submission	Meeting
Jan 7	Jan 22	Dec 27	Jan 10	Dec 27	Jan 8
Feb 4	Feb 18	Jan 31	Feb 14	Jan 30	Feb 12
Mar 4	Mar 18	Feb 28	Mar 14	Feb 27	Mar 12
Apr 1	Apr 15	Mar 28	Apr 11	Mar 27	Apr 9
May 6	May 20	Apr 25	May 9	May 1	May 14
June 3	June 17	May 30	June 13	May 29	June 11
July 1	July 15	June 27	July 11	June 26	July 9
Aug 5	Aug 19	July 25	Aug 8	July 31	Aug 13
Sept 2	Sept 16	Aug 29	Sept 12	Aug 28	Sept 10
Oct 7	Oct 21	Sept 26	Oct 10	Sept 25	Oct 8
Nov 4	Nov 18	Oct 31	Nov 14	Oct 30	Nov 12
Dec 2	Dec 16	Nov 26	Dec 12	Nov 20	Dec 10
Jan 6	Jan 20	Dec 19	Jan 9	Dec 31	Jan 14

Board	# Copies Full Size	# Copies Electronic	Recipients
TRC	9	1	1 Manager, 3 Planning, 1 Fire, 1 Police, 2 Operations, 1 Admin
P&Z	9	1	7 P&Z, 1 Manager, 2 Planning, 1 Secretary, 1 Island Gazette
Town Council	9	1	5 Town Council, 1 Manager, 1 Planning, 1 Clerk, 1 Island Gazette

Dear Neighbor, **URGENT – TIME SENSITIVE** May 27, 2019

My name is Karen Graybush, and I am your neighbor and live at 518 Sumter Ave, Carolina Beach. I am also a Real Estate Broker with Intracoastal Realty, but I am not working in this capacity at this time. **I am contacting you as a citizen of Carolina Beach and your neighbor only.**

Please COME to the TOWN COUNCIL MEETING JUNE 11, and the PLANNING ND ZONING MEETING JUNE 13, to be heard on this topic or to show support.

There are three lots for sale at 517 Sumter, 519 Sumter, and 803 S 6th Street.

These lots are under contract to a developer who plans to build duplexes.

There are not any duplexes on our street. Our street is a neighborhood of single family homes. Our street dead ends to Lake Park Boulevard at Third Street, and is quiet and private and full of mostly full time residents. **Current zoning divides our street down the middle, Sumter Ave, down the middle, allowing duplexes from Fourth Street to Eight Street, on the South side of the street. (see enclosed maps)**

I ran into the developer and builder this afternoon and had a chat with them. I request you all think upon the following as to possibly allowing the zoning to stay but changing "rules (covenants) that run with the land (meaning all who build must meet these rules as they are "attached t and run with" the land, regardless of who owns the land. The builder is local and thinking of building duplexes that look like those on Fourth Street between Sumter and Spartanburg on the west side of the street. (one has the garage in front of the home) Perhaps there can be some discourse during this process into not necessarily re-zoning, but in allowing duplexes that have covenants and/or HOA requirements that go with the development. Duplexes that look like homes, and have storage and/or garages, that allow for neat yards might be considered. Also, allowing owner occupied residents. There are builders that like to build with the interest of the town and neighborhoods at the forefront of designs and plans, and then there are builders that do not.

I am putting a zoning change request for all of the lots from Fourth to Eight on the south side (all of the odd numbered properties) I am proposing they move the zone line from the middle of Sumter Ave to the middle of the blocks between Sumter and Spartanburg, Spartanburg being a "drive through" street with heavier traffic. Or we can discuss the "covenants" idea. As we all know affordable housing on the island is at crisis.

The fee for this is $625. There are 38 owners of all of the properties on both sides of the street from Fourth to Eighth Streets. I am asking for $20 per owner to help in these fees. I would keep a list of the monies and refund monies if I received over the amount. $650 is a little much for my family alone to take on.

Please see the enclosed documents, dates, and schedules.

Please COME to the TOWN COUNCIL MEETING JUNE 11, and the PLANNING ND ZONING MEETING JUNE 13, to be heard on this topic or to show support.

JUNE 11	TOWN COUNCIL MEETING	submission date:	May 29, 2019
JUNE 13	PLANNING ND ZONING MEETING	submission date:	May 30, 2019
JUNE 17	TECHNICAL REVIEW MEETING	submission date:	June 3, 2019

PLEASE ANSWER QUESTIONS AND PLEASE RETURN TO ME ASAP!

I MUST HAVE THIS PAPERWORK IN MAY 29 BEFROE THE END OF BUSINESS! SO PLEASE RETURN THIS LETTER TO MY MAILBOX AT:

518 SUMTER AVENUE WITH: BEFORE 2 PM!!! MAY 29, 2019

PRINTED NAME _____

SIGNED NAME _____

PROPERTY ADDRESS _____

_____

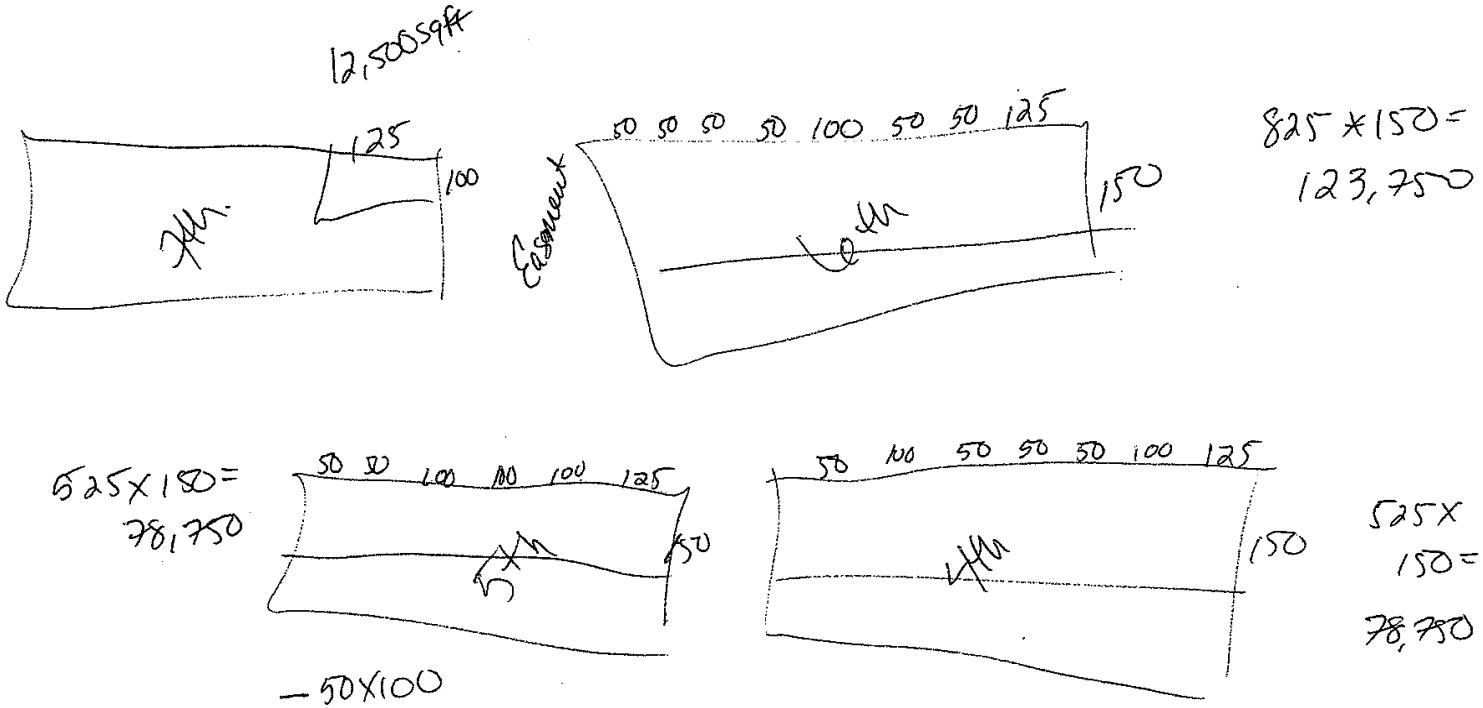
CIRCLE ONE ANSWER TO EACH QUESTION:

AGREE TO ZONING MAP AMENDMENT PROPOSAL ----------	YES	NO
WOULD CONSIDER MENTIONED COVENANTS ADDED TO CURRENT ZONING----	YES	NO
WILL ATTEND TOWN COUNCIL MTG JUNE 11----------	YES	NO
WILL ATTEND PLANNING AND ZONING MTG JUNE13 (if allowed)----------	YES	NO
WILL ATTEND TECHINCAL REVIEW MEETING JUNE 17 (if allowed)----------	YES	NO
WILL CONTRIBUTE $20 FOR THE ZONING MAP AMENDMENT FEE----------	YES	NO


- PROPOSED -
← extend R3 to RED LINE.
X-9999
R-1B
R-1
C
MX
NB
T-1


CURRENT
X-9999
R-1B
R-1
C
MX
NB
T-1

5/21/19 Karen Luckel Graybeal



7th 12,500

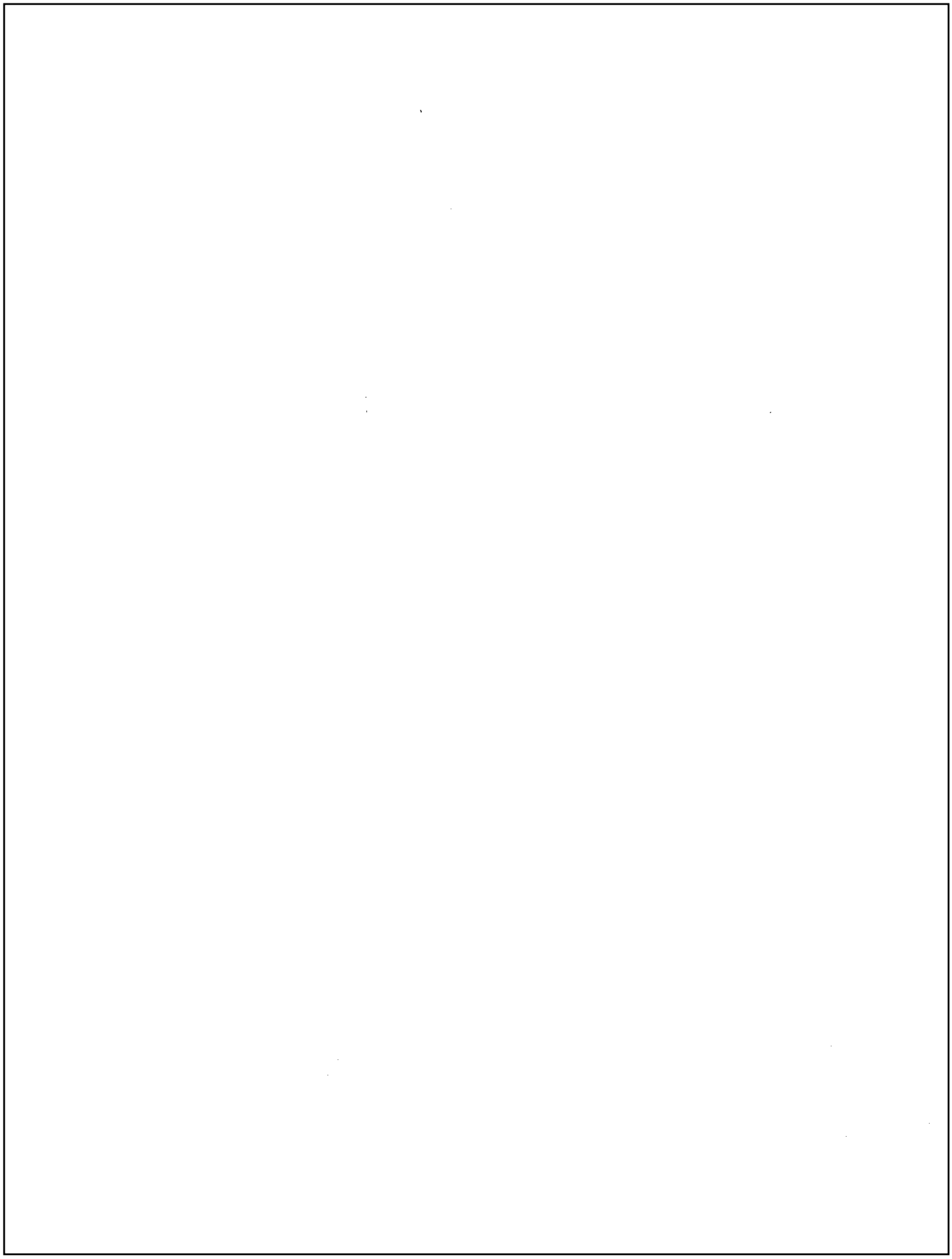
8th 123,750

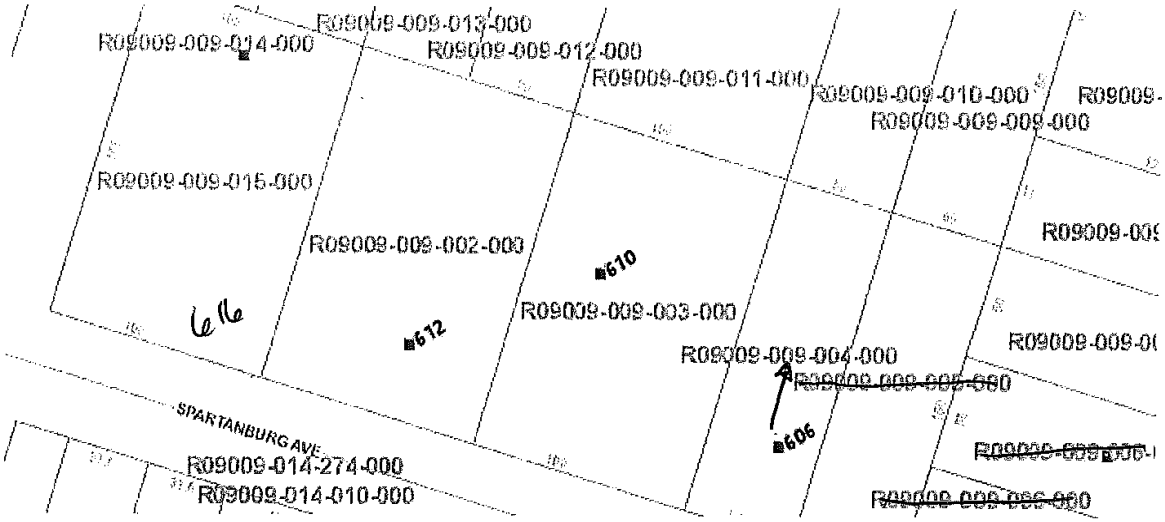
5th 78,750

4th 78,750

293,750 sq. ft total

43560 sq. ft/acre = 6.7435 acres.



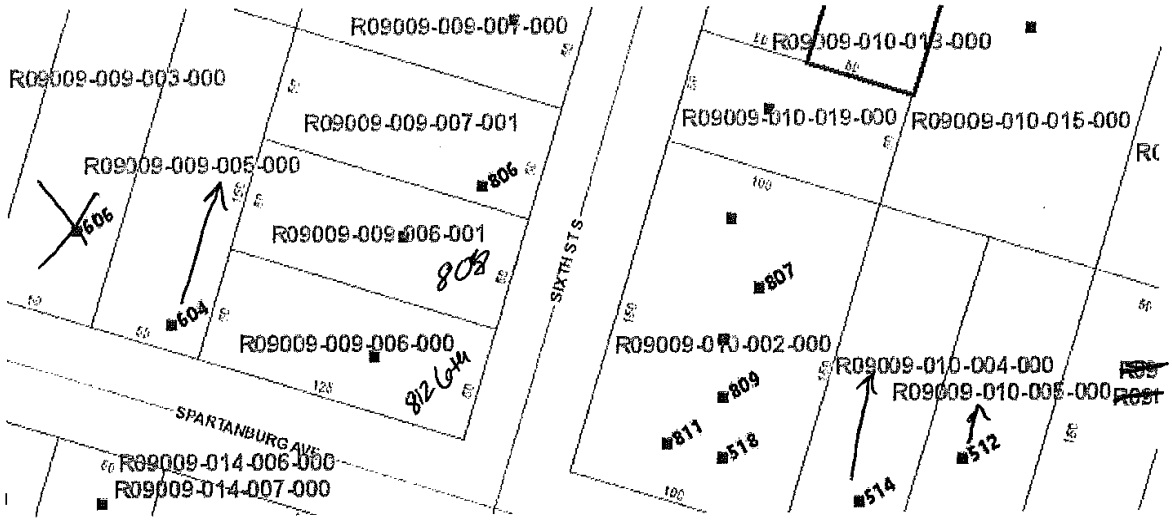


616 Spartanburg American Electrical Construction/Mai PO box 1681 Carolina beach NC, 28428 R09009-009-005-000

612 Spartanburg Bass, David + Pam PO box 1681 Carolina Beach NC 28428 R09009-009-002-000

610 Spartanburg Bass, David + Pam PO Box 1681 Carolina Beach NC 28428 R09009-009-003-000

606 Spartanburg Petty Joshua T R09009-009-004-000



604 Spartanburg Elkins David R09009-009-005-000

812 ~~6th~~ St. Sixth St. ~~Elkins David~~ Rice Timothy R09009-009-006-000
(also 604 Spartanburg) 115 Lake Ct Ave
Timberlake, Va. 24502

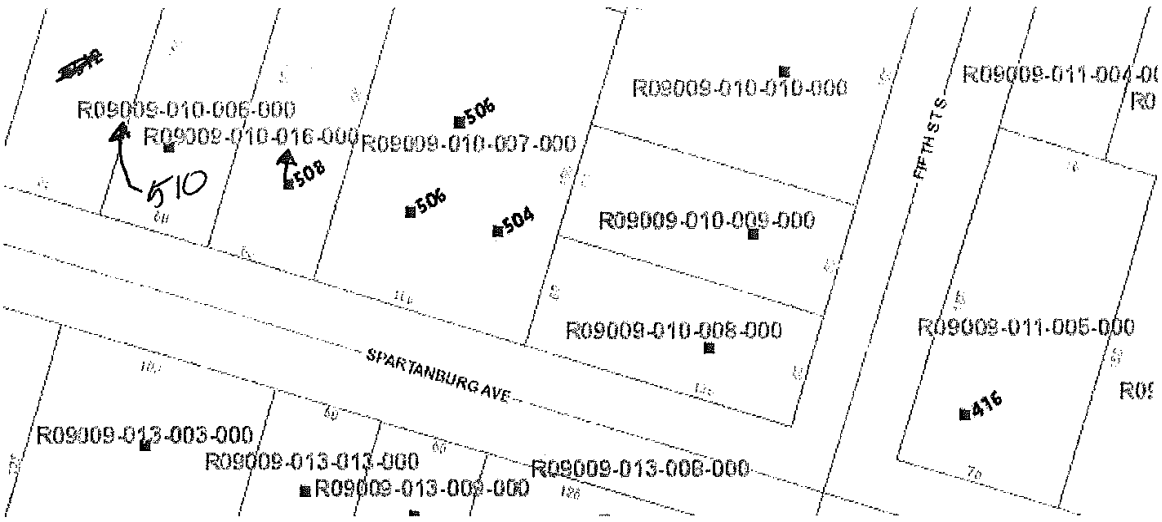
808 Sixth St Rice Timothy R09009-009-006-000

806 Sixth St. Lawless, David & Gina R09009-009-007-001

907 Sixth St. Yayac David J R09009-010-002-002
809 Sixth St
811 Sixth St
518 Spartanburg

514 Spartanburg ~~Blackwelder~~ Blackwelder, Harvey R09009-010-004-000
329 Southmont Pond Rd
Lexington NC 27292

[illegible] R09009-010-005-000



510 Spartanburg — Eng Robert C III
5224 Leisure Circle
Wilmington NC 28409
R09009-010-006-000

508 Spartanburg — Jennings Justin
49 Boom Lane Brick NJ 08723
R09009-010-016-000

506 Spartanburg — Sunberry Cottages Assn.
PO Box 1671 Carolina Beach NC 28428
R09009-010-007-000

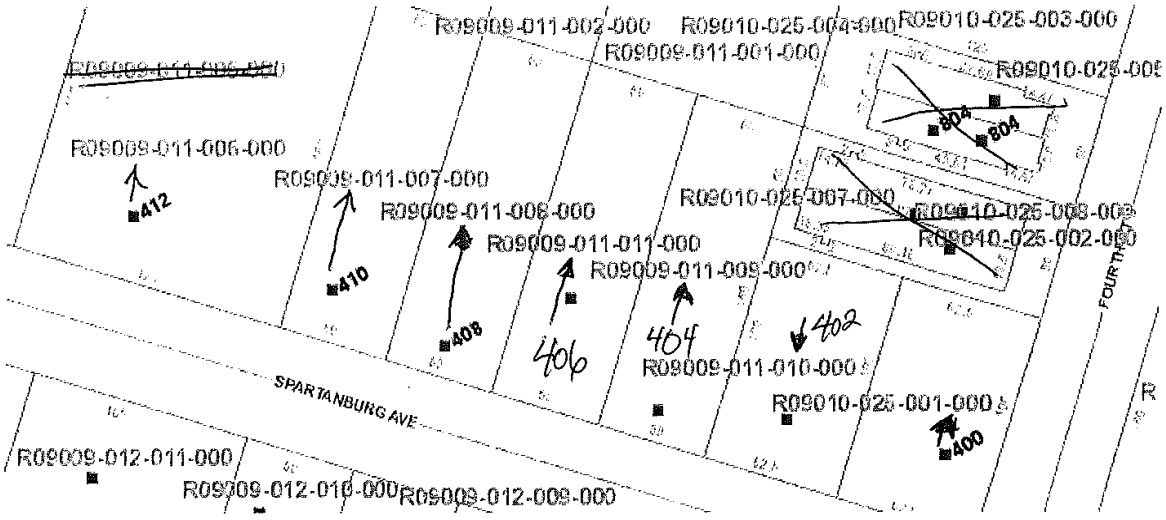
? 504 Spartanburg — "

812 Fifth St — Hobson, Stephen, Catherine
208 Marquesa Way
Kure Beach NC 28449
R09009-010-008-000

808 Fifth St — Phillips Mark Perry
R09009-010-009-000

804 Fifth St — Haydu, (McQueen) Lori
R09009-010-010-000

416 Spartanburg — Cole, Robert C
R09009-011-005-000



412 Spartanburg — Mcdonald, Melanie — R09009-011-006-000

410 Spartanburg — Riegler, Beth
1411 Foulkenberry Rd
Wilmington NC 28409 — R09009-011-007-000

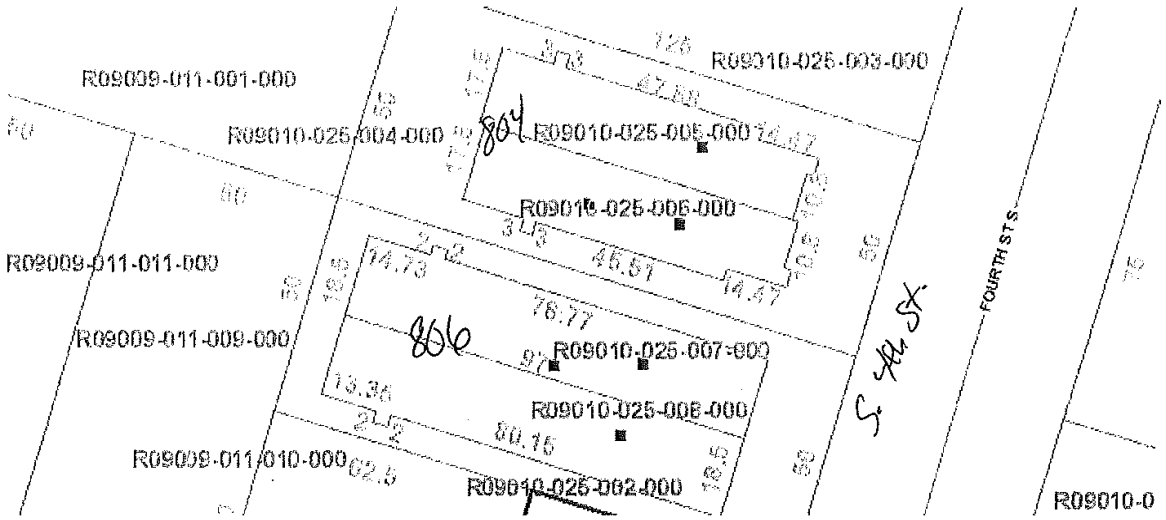
408 Spartanburg — Heid Allan, Kathyanne
5303 old Myrtle Grove Rd
Wilmington NC 28409 — R09009-011-008-000

406 Spartanburg — Bruce, John & Elizabeth — R09009-011-011-000

404 Spartanburg — Marcucilli Anthony
7753 Cypress Island Dr.
Wilmington NC 28412 — R09009-011-009-000

402 Spartanburg — Farmer, Golden Bernard
14 Astor Ct, Durham NC 27705 — R09009-011-010-000

400 Spartanburg — Marshall Justin + Amy — ~~R09009-0~~ R09010-025-001-000

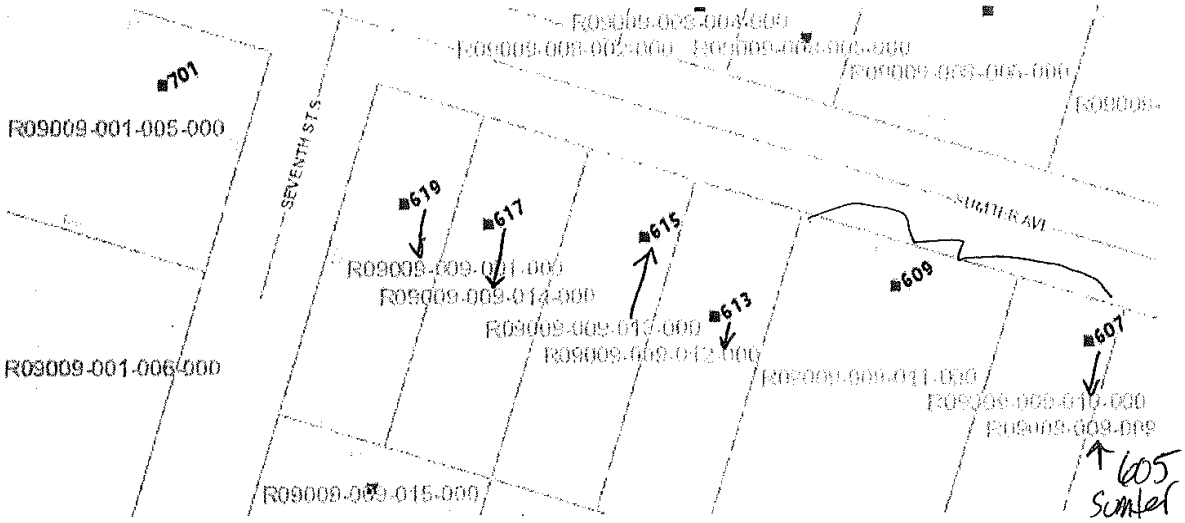


806 S fourth St (4th) McQueen Megan A R-09010-025-008-000

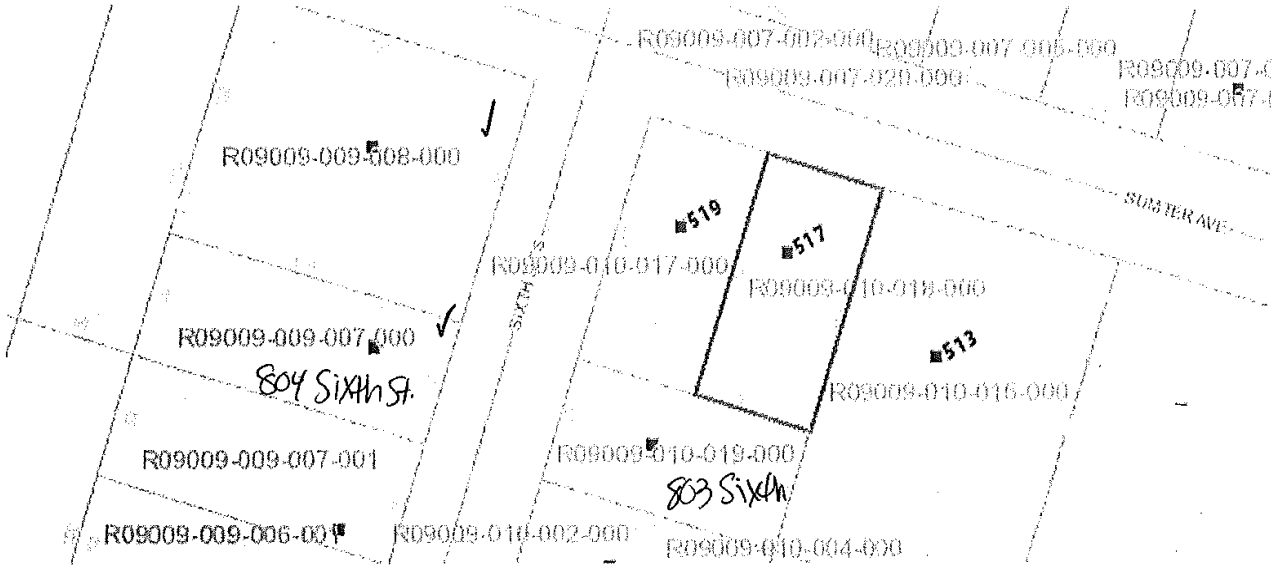
806 S. fourth St. (4th) Josephs Mary E. R-09010-025-007-000

804 S. fourth St (4th) } 804 South fourth Street + TOA (townhome owners association) { R-09010-025-006-000

804 S. fourth St (4th) } { R-09010-025-005-000



701 Sumter	Walters, Gary + Sharon	R09009-001-005-000
619 Sumter	Warren Diane G 2940 Fraternity Church Rd Winston Salem NC 27127	R09009-009-013-000
617 Sumter	Warren Diane G	R09009-009-014-000
615 Sumter	Pendrick James, Jetta	R09009-009-013-000
613 Sumter	Fleming, John + Sara	R09009-009-012-000
609 Sumter	Dyer Berry Felecia	R-09009-009-011-000
607 Sumter	Dyer Berry Felecia	R09009-009-010-000
605 Sumter	Scudder, April	R09009-009-009-000



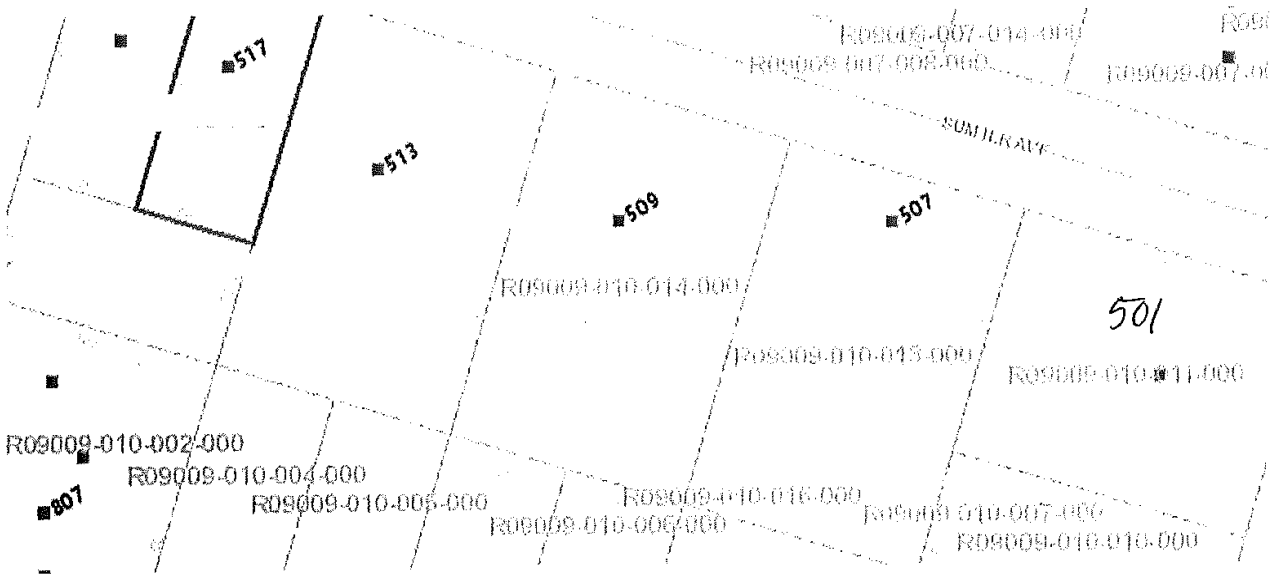
(601) Sumter Berry Lentz Deborah R09009-009-008-000

804' 6in (Sixth St) Wert, Brian + Christiana R09009-009-007-000

519 Sumter
517 Sumter
803 Sixth St
} Feldman, Joel + Nancy
Lots for sale
200 Chattolanee Hill Rd
Owings Mills, MD

R09009-010-018-000
R09009-010-017-000
R09009-010-019-000

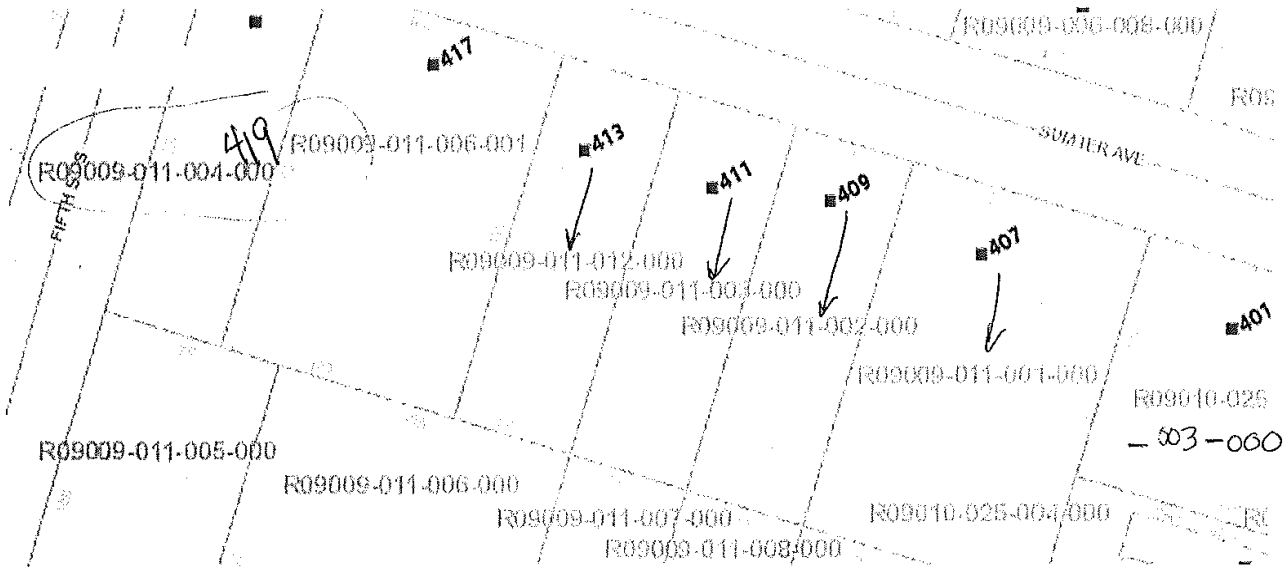
513 Sumter Mincher Thomas R09009-010-015-000
PO Box 10398
Greensboro, NC
27404



509 Sumter Holden Michael R09009-010-014-000

507 Sumter Dick Sharon Lynn R09009-010-013-000
88 Claremont Ave #7 Redwood City CA 94062

501 Sumter Trott Donad, Sheila R09009-010-011-000



419 Sumter Wayner Mark + Julie — R09009-011-004-000

417 Sumter Herron, Ursula Gail — R09009-011-006-001

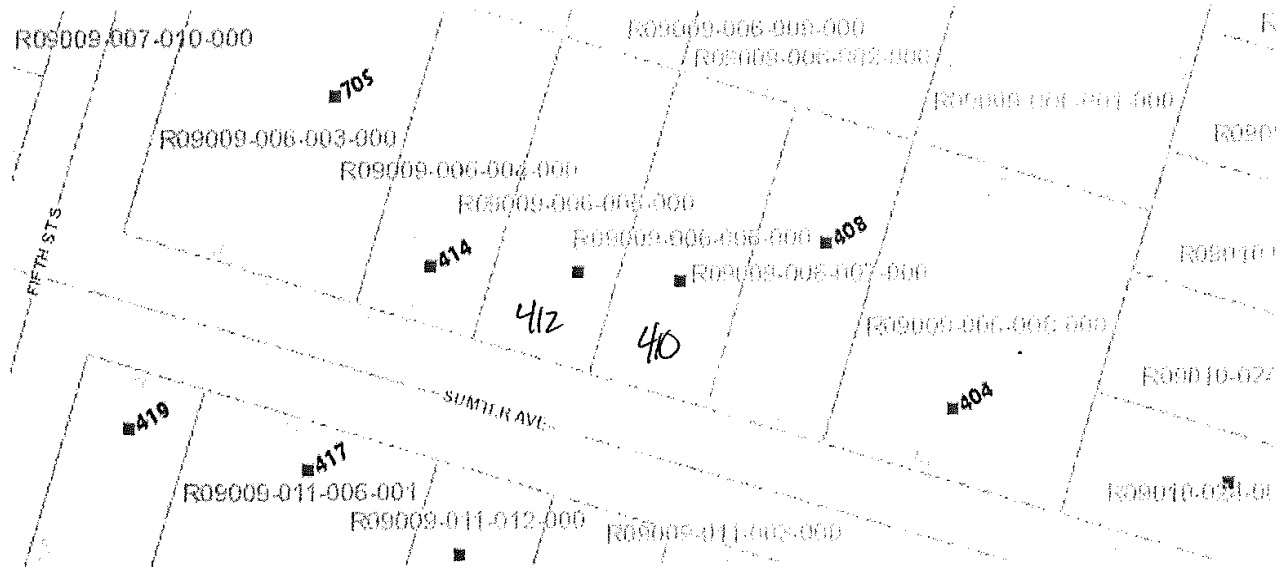
413 Sumter Wilson, Robert & Virginia — R09009-011-012-000

411 Sumter Sandlersky Alla — R09009-011-003-000
5462 Kipling Rd Pittsburg PA 15217

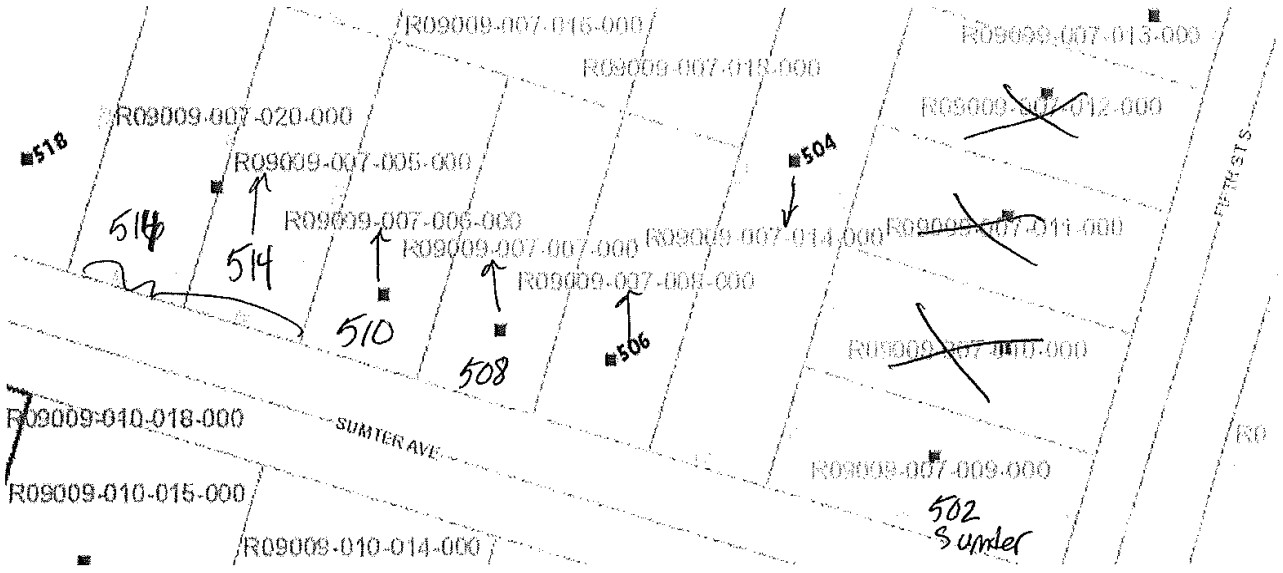
409 Sumter ~~McDaniel, George & Wilhelmina~~ — R09009-001-002-000
Dickter, Brian + Sandlersky Alla

407 Sumter King Eldred Daniel — R09009-011-001-000
PO Box 479, Carolina Beach, NC 28428

401 Fourth St. S. Swain, Walter Kevin — R09009-025-003-000



✓ 404 Sumter	Acker, Ronda George	no mail	R09009-006-008-000
✓ 408 Sumter	Acker, Ronda George	no mail	007-000
✓ 410 Sumter	Walker, Jay, Lori H		R09009-006-006-000
✓ 412 Sumter	Jacquelyn Sue Ott		R09009-006-005-000
✓ 414 Sumter	Morton, Donald 736 Quaterstaff Rd, Winston Salem, NC 27104		R09009-006-004-000
1 705 fifth St	Grinnell, Richard + Mary Catherine		R09009-006-003-000



502 Sumter Wagner, Thomas (501 Spartanburg Ave, CB, 28428) — R09009-007-009-000

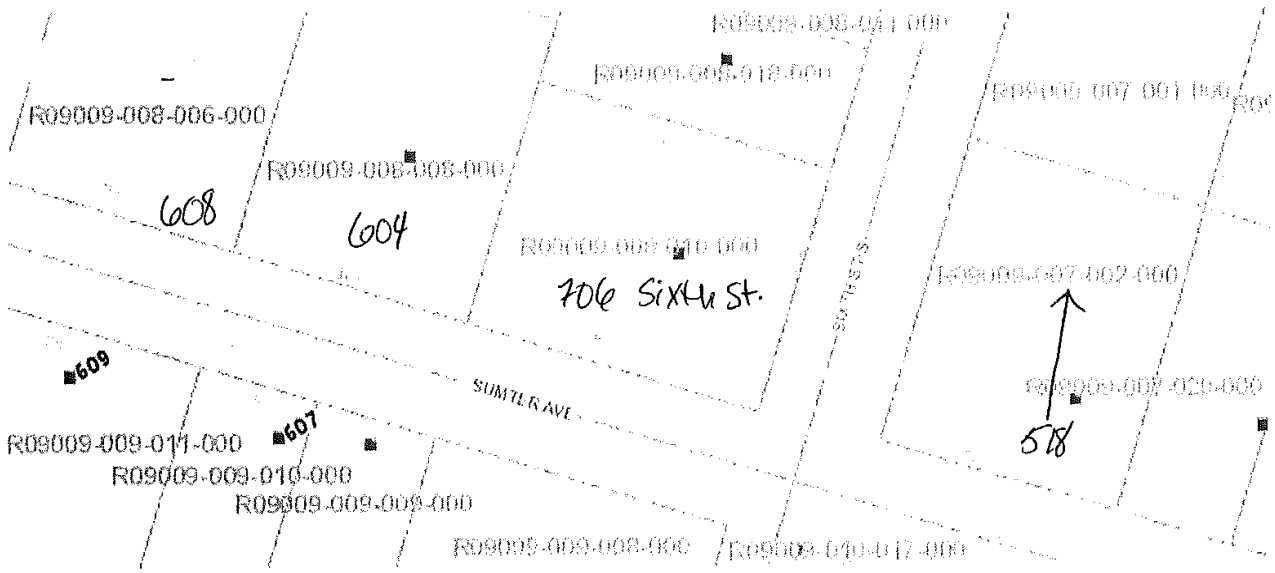
504 Sumter Faust, Brian 111 Keswick Ct, Advance NC 27006 — R09009-007-014-000

506 Sumter Rowan, Noell — R09009-007-008-000

508 Sumter Krzenski, Paul + Karen — R09009-007-007-000

510 Sumter Hamilton, Nancy 209 Currituck Lane, Durham, NC 27703 — R09009-007-006-000

514 Sumter Abernathy, James & Char — { R09009-007-005-000, R09009-007-020-000



✓ 518 Sumter - Graybush, Brian' Diechsel, Karen ——— R09009-007-002-000

706 Sixth St. Hart, Ronald d Sabrina PO Box 605, CB NC 28428 ——— R09009-008-010-000

604 Sumter Yerdon, Derek R, Amy ——— R09009-008-008-000

✓ 608 Sumter Lomax, Gwendolyn + Darrell ——— R09009-008-006-000

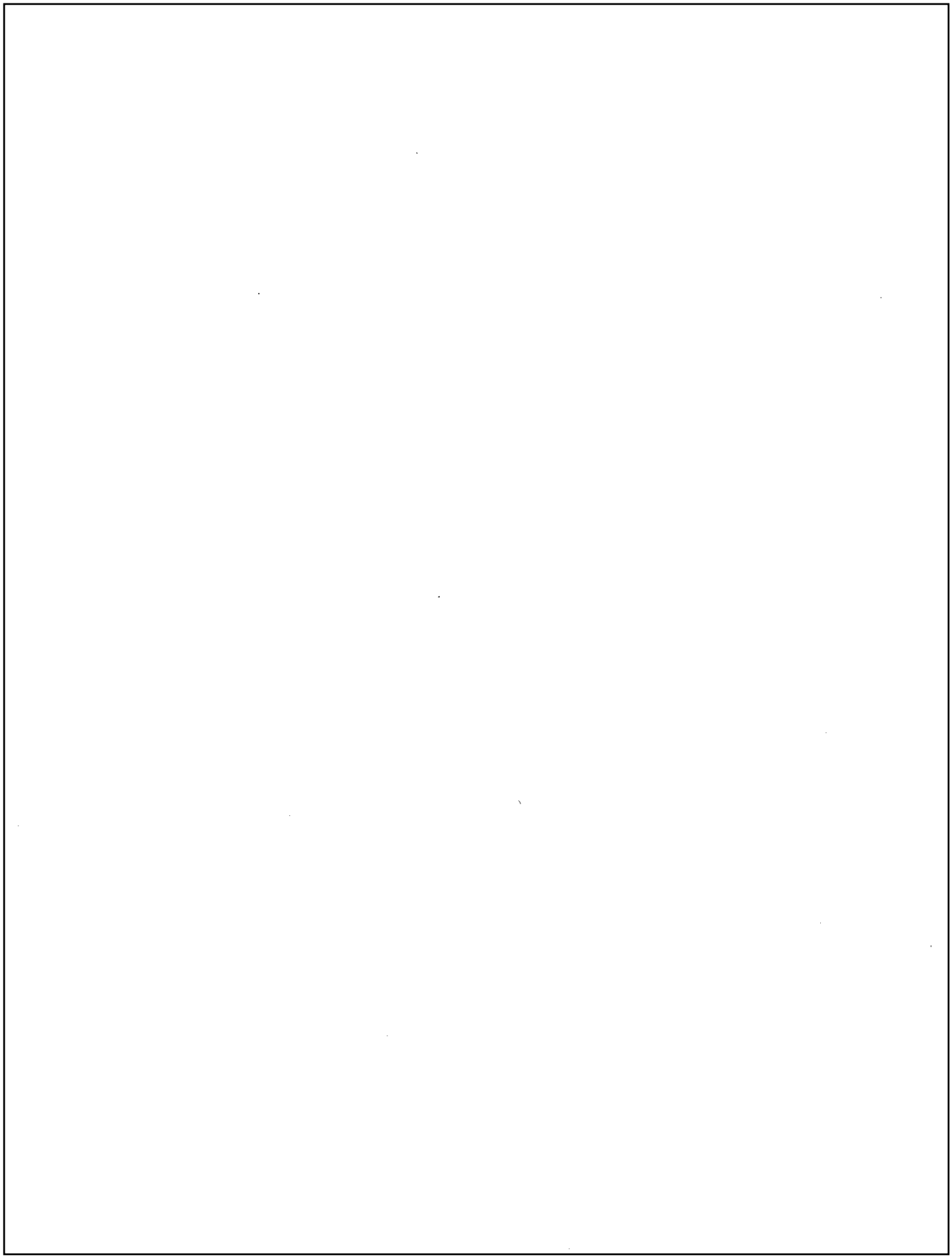
612 Sumter } Baker, Jacqueline } lots sold recently — R09009-008-005-000
Liv Trust

614 Sumter } sold to: Barbara Smith, K — R09009-008-004-000
4625 Springerly Lane
Raleigh NC 27612

616 Sumter — Dunbar Marlene Margaret — R09009-008-002-000

706 Sumter / (706 S Seventh St) } Miller, Jay V. — R09009-001-007-000
now: Hart, Ronald + Sabrina
PO Box 605 CB NC 28428

708 Sumter — Murphy, Michael / Nadia — R09009-001-008-000



Rezoning

Area proposed to be rezoned from R-1 to R-3

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

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

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.

[1] The 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).

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.*

---

[2]A "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.

[3]The 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.

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-

[4] The 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.

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

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.

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

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.

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

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

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

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

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

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

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-

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.

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

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.

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

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.

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 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

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

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. §78*l* (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

"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,

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.

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

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

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 nonpublic 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.

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

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

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

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.

Town of Carolina Beach
1121 N. Lake Park Blvd.
Carolina Beach, NC 28428
Tel: (910) 458-2999
Fax: (910) 458-2997

Text Amendment: To amend Chapter 40 Article VIII to comply with the 2015 Supreme Court Decision in Reed V. Town of Gilbert concerning content-based sign regulations

Background:

Staff has been asked by the Town Attorney to revise the current sign ordinance to come in line with a Supreme Court decision in 2015. The case in 2015 was related to how signs may be regulated in regards to content. Reed V. Town of Gilbert lead to a decision which determined that signs may be regulated on size, location, and other aesthetics, but cannot have content specific regulations imposed upon them. States, counties, and municipalities have been slowly coming into compliance with the new standard and Carolina Beach plans to be on the front end of the curve by eliminating any content based restrictions on signs which were previously in its ordinance.

Staff Recommendation:

Staff recommends that the new sign language be adopted as written with no additional changes or restrictions.

New Language:

ARTICLE VIII. - SIGN REGULATIONS

Sec. 40-227. - Purpose and intent.

(a) It is the intent of the town council to protect public interest, safety and welfare and, to that end, the purposes of this article are specifically declared to be as follows:

(1) To promote economic development while minimizing the negative impacts that signs may have on the visual appearance of the town;

(2) To provide orientation and guidance to our tourists and visitors and identification of public areas, natural resources, historical and cultural landmarks and places of interest and in so doing reduce confusion, traffic congestion and air pollution;

(3) To inform and educate visitors and residents of opportunities and events both commercial and noncommercial occurring on Pleasure Island; and

(4) To permit and regulate signs in such a way as to support and compliment land use objectives.

(b) It is not the purpose or intent of this article to regulate signage displayed for special occasions not associated with a business (i.e., balloons for birthday parties or birth of a baby, etc.).

(Code 1986, app. A, § 11.1; Ord. No. 10-825, 4-13-2010; Ord. No. 12-888, 6-12-2012)

Sec. 40-228. - Administration.

(a) *Permit issuance.* The Zoning Administrator or his designated representative shall be the administrator of this article.

(b) *Number of signs.* Unless otherwise stated, only one of each type of sign may be permitted per development site except for corner or double frontage lots. A second sign may be placed on corner or double frontage lots. Where two signs are allowed, one sign shall be adjacent to one public right-of-way and the second sign shall face the other public right-of-way. If signs are used on separate frontages, each sign may use the maximum size allowable. If the second sign is on a corner, then the total square footage of the two signs shall not exceed the maximum size allowance.

(c) *Permit required.* Except as otherwise provided, no sign shall be erected, altered, constructed, moved, converted or enlarged except in accordance with the provisions of this article and pursuant to issuance of a sign permit.

(d) *Process for issuance of a sign permit.* The process for issuing a sign permit is as follows:

(1) Completed application.

(2) A scaled drawing displaying the location of the sign on the associated property, the sign dimensions, construction, height, setbacks from all property lines, lighting, electrical and all other elements associated thereto.

(3) Payment of the permit fee.

(4) All permanent signs shall be designed and constructed to meet the requirements of the state building code. Depending on the type of sign construction, the Building Inspector may require engineered certified plans.

(5) Total number of signs existing on site, including the dimensions of each.

(e) *Signs not requiring a permit.* The following types of signs are exempt from permit requirements:

(1) Governmental signs.

(2) Window/door signs.

(3) Real estate/ off-site real estate signs.

(4) Political signs.

(5) Open signs.

(6) Patriotic and/or decorative flags.

(7) Any sign required by a government agency (i.e., address number sign).

(8) Any signage listed under Sec. 40-232 A

(f) *Exceptions.* Any sign that is not designed for view by vehicular traffic may be displayed for decorative, patriotic, or commercial purposes as long as the signage does not violate any of the prohibited sign regulations.

(g) *Size calculations.* The term "sign" shall include all structural members. A sign shall be constructed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without

organized relationship of the components, each such component shall be considered to be a single sign.

(1) *Sign area.*

a. *Attached.* The area of a sign composed in whole or in part of freestanding letters, devices or sculptured matter not mounted on a measurable surface shall be constructed to be the area of the least square, rectangle or circle that will enclose the letters, devices and/or sculptured matter.

b. *Freestanding.* All surface areas and any lettering or sculptured matter outside the sign surface area.

(2) *Sign height.* The height of a sign shall be computed as the distance from the base ground level to the top of the highest vertical attached component of the sign.

(3) *Sign face.* Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back-to-back and are at no point more than 1½ feet from one another.

(h) *Location.* No signage placed in any location that interferes within a sight distance triangle of motorists utilizing public or private roadways. A sight distance triangle shall be the visually unobstructed area of a street/driveway corner as determined by measuring a distance of 30 feet along the intersecting curb lines, or edges of pavement of the intersecting street/driveway if curbs are not present, and connecting the two points by a straight line to form a triangular shaped area over the corner.

(Code 1986, app. A, § 11.2; Ord. No. 10-825, 4-13-2010; Ord. No. 11-857, 1-11-2011; Ord. No. 12-888, 6-12-2012)

Sec. 40-229. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-frame sign means a temporary sign typically consisting of two sign faces attached back-to-back by top hinges.

Address number sign. See chapter 34, article IV.

Animated sign means any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Attached sign means any sign painted on, attached to and erected parallel to the face of, or erected and confined within the limits of, the outside facade of any building and supported by such building facade and which displays an advertising surface. Attached signs may also be located on porch railings and support posts.

Banner sign means a temporary suspended sign made of a flexible material such as canvas, sailcloth, plastic or waterproof paper that may or may not be enclosed or partially enclosed on a rigid frame (i.e., feather signs).

Billboard sign means a sign which advertises a business, product, organization, entertainment, event, person, place, or thing and which is located off-premises from the place of the advertised element(s).

Canopy/awning sign means any sign consisting of lettering and/or logos applied to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

Commercial banners means banners intended for commercial promotion and/or advertisement.

Commercial flags means flags intended for commercial promotion and/or advertisement.

Construction sign means a temporary sign that identifies on-site construction and future development to occur on the property and typically containing the names of contractors, architects, and lending institutions.

Decorative banners means colored banners only that contain no wording or pictures. These include banners that resemble patriotic flags (i.e., a blue and red banner with white stars).

Decorative flags means colored flags only that contain no wording or pictures.

Directional sign means a permanent sign for public direction or information containing no advertisement or commercial identification of any product or service. Typically, these signs consist of directional arrows, business names or logos, the words "entrance," "exit," "parking," etc.

Flags means flexible materials such as cloth, paper, plastic and typically displayed on a flag pole, or structure. Windsocks are interpreted to represent permitted flagging.

Flashing sign means a sign, which contains or uses, for illustration, any lights or lighting devices, which change color, flashes or alternates, shows movement or motion, or changes the appearance of said sign or part thereof automatically on a time interval of less than 20 seconds. Animated fading from one message to another message is permitted within a maximum fading period of two seconds.

Freestanding sign means a sign supported by structures or supports that are placed on, or anchored in, the ground and that is independent from any building or other structures.

Future development sign means a sign placed on vacant or developed property that advertises a future use that is currently allowed in the zoning district where the sign is located.

Governmental sign means a sign provided and erected by a governmental entity which typically promotes:

(1) The health and safety of the community;

(2) Town-sponsored events;

(3) A public way finding system; and

(4) Any other town activities as deemed appropriate by the Town Manager.

Human sign means costumes or signs worn, held or carried by individuals for the purpose of attracting attention to a commercial site.

Illegal sign means any sign that was in violation of the zoning ordinance at the time the sign was originally established.

Integral sign means memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials mounted on the face of a building.

Nonconforming sign means any sign which does not conform to the regulations of this article, but did conform when it was originally permitted.

Nonprofit sign means any sign promoting churches, schools and and/or other noncommercial institutions.

Obscene means material which depicts or describes sexual conduct that is objectionable or offensive to accepted standards of decency which the average person, applying contemporary community standards, would find, taken as a whole, appeals to prurient interests or material which depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, which, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Off-premises parking sign means a sign used to direct vehicular traffic onto the parking premises where it is displayed for a business or service activities at another location, but cannot impede the line of sight for traffic.

Off-site real estate sign means generic signs with display content limited to a directional arrow and/or one descriptive phrase of "open house" and allowed off the premises from where the real estate product is being offered.

Open sign means a sign or flag with a specific designated purpose of stating that a business is open or closed.

Patriotic flags means flags with only the insignia of governmental subdivisions, agencies, or bodies when displayed for patriotic purposes.

Permanent sign means all signs not designated as temporary.

Political sign means signs displaying political candidacy and/or messages as related to an election date and allowed only within a limited timeframe.

Portable sign means a temporary sign attached on support frame without lighting.

Projecting sign means a type of attached signage placed at a right angle to the facade of the associated structure.

Public information sign means a sign provided and erected by a governmental entity or nonprofit organization, which typically gives direction to governmental or community institutions, amenities, or displays regulations or notices.

Real estate sign means a sign that is used to offer for sale, lease, or rent the property upon which it is placed.

Roof sign means any sign erected or constructed upon the roof of any building and supported solely on the roof of the building.

Sign means any surface, fabric, device, or display which bears lettered, pictorial, or sculptured matter, including forms shaped to resemble any human, animal, or product, designed to convey information visually and which is exposed to public view.

Snipe sign means any sign of any material whatsoever that is attached in any way to a utility pole, tree, street sign or pole.

Special event sign means a sign advertising a special communitywide event such as community fishing tournaments, schools or civic events, and/or festivals.

Subdivision entrance sign means a sign identifying a development, located on site, and at the major entrance points to such development.

Temporary sign means any sign that advertises or directs attention to a product, event, election, activity, meeting, exhibition or performance of any kind where such sign is not permanently affixed, placed, attached or erected, and may have time limitations.

Tow truck sign. See chapter 16, article VII, wrecker/towing services and impoundment.

Vehicle/trailer sign means any temporary sign mounted on a vehicle, boat, or trailer and used for advertising or promotional purposes.

Window/door sign (interior/exterior) means a sign located within the interior or exterior of the transparent area of any window or door.

Yard sale sign. See sections 14-172 through 14-174.

(Code 1986, app. A, § 11.3; Ord. No. 10-825, 4-13-2010; Ord. No. 11-857, 1-11-2011; Ord. No. 12-888, 6-12-2012; Ord. No. 12-899, 8-14-2012)

Sec. 40-230. - Prohibited signs/displays.

The following signs are prohibited within the jurisdictional limits of the town:

(1) Billboard signs.

(2) Signs in disrepair, that are unsafe, which no longer can be easily recognized for their intended purpose due to disrepair or fading, or are no longer applicable to the associated property use.

(3) Strobe lights or any other type of flashing lighting or beacons. Exception: Flashing signs may be permitted in the central business district as long as they are not located adjacent to Lake Park Boulevard. Flashing signs may also be present in any commercial zone as long as they are not designed for vehicular traffic. This exception does not allow for strobe lights.

(4) Moveable, animated, flashing signs including balloons and human signs.

(5) Pennant or consecutively linked flagging or similar devices.

(6) Signs which resemble or are visibly similar to official governmental traffic signs or signals or employ lighting, or employ the words of official signs such as "stop," "caution," "danger," "slow," or "warning."

(7) Signs located within or protruding in public areas or rights-of-way, unless specifically permitted herein. Any person erecting a sign in a public area shall indemnify and hold harmless the town and its officers, agents, and employees from any claim arising out of the presence of the sign on town property or rights-of-way.

(8) Signs that make noise.

(9) Signs displaying or containing obscenities.

(10) Roof signs.

(11) Snipe signs.

(12) Handwritten messages on permanent signs.

(13) No sign shall block any vision clearance (i.e., a 30 by 30 site triangle at intersections and driveways).

(14) Any other sign not mentioned by this article.

(15) Vehicle/trailer signs.

(Code 1986, app. A, § 11.4; Ord. No. 10-825, 4-13-2010; Ord. No. 12-888, 6-12-2012)

Sec. 40-231. - Sign lighting.

(a) Interior sign lighting shall be shaded with an opaque sign face surface sufficient to reduce the glare on roadways and surrounding properties.

(b) Signs utilizing bare bulbs or neon type lighting shall be such that minimizes the glare on roadways and surrounding properties.

(c) Exterior flood or similar type sign lighting shall be directed on the sign only, minimizing reflective glare off the sign, and not reflect or glare onto roadways or adjacent properties.

(Code 1986, app. A, § 11.5; Ord. No. 10-825, 4-13-2010)

Sec. 40-232. - Allowable signs.

(a) Signage *permitted in all zoning districts without permits.* The following signs shall be permitted in all zoning districts and do not require a sign and/or building permit:

(1) Temporary non-commercial signage.

a. One temporary sign related to an activity or event may be placed on a parcel 30 days prior to said activity/event, remain up during said activity/event, and must be removed within 10 days of the conclusion of said activity/event.

b. This sign must be non-illuminated and may not exceed 20sqft or 5ft in height.

c. The person, party, or parties responsible for the erection or distribution of any such signs shall be jointly liable for the removal of such signs.

d. The property occupant or, in the case of unoccupied property, the property owner, shall be responsible for violations on a particular property.

e. No temporary signage is permitted in the public right-of-way.

f. Off-site directional signage must be related to an event, will only be permitted while the activity/event is on-going, and must be removed within 48 hours of the conclusion of said activity/event.

g. No commercial business or product shall be advertised on a residential property.

~~(1) *Construction sign/future development signs.*~~

~~a. Both types of signs may be allowed as temporary, non-illuminated signs not to exceed 20 square feet in area and five feet in height.~~

~~b. A construction sign and future development sign shall be removed within 30 days after the issuance of a certificate of compliance.~~

~~c. A construction sign shall only be allowed with a valid building permit. Where no building permit was required (i.e., painting a house) the construction sign shall be removed within 30 days after the work was completed. A future development sign may be allowed at any time after receiving a sign permit.~~

(2) *Governmental signs.* Size, location, and length of time of these signs shall be approved by the Town Manager or his designee.

(43) *Decorative flags or banners.* Decorative flags or banners may be displayed as freestanding or attached subject to the following specifications:

a. No more than one per 50 feet of road frontage shall be displayed.

b. Size shall be limited to a maximum of 24 square feet and 20 feet in height.

c. All decorative flags and/or banners shall remain within the boundaries of the property for which they are ~~permitted~~ associated.

~~(5) *Patriotic flags.*~~

~~a. Patriotic flags displayed shall not be limited in size or number.~~

~~b. All patriotic flags shall remain within the boundaries of the property for which they are permitted.~~

~~(6) *Real estate and off-site real estate signs.*~~

~~a. These signs shall be located on private property only with written permission of the applicable property owner.~~

~~b. The maximum size shall be calculated as six square feet for every 50 feet of road frontage, or six square feet per commercial and/or residential unit, whichever is greater. There shall be a maximum size of 36 square feet per development site.~~

~~c. Maximum sign height is five feet in height measured from the adjacent ground elevation to the uppermost portion of the sign.~~

~~d. All signs shall be freestanding on their own independent support posts/pole or attached to the building for sale or rent.~~

~~e. One off-site real estate sign shall only be allowed during open house hours while a real estate representative is on-site.~~

(4) *Subdivision entrance signs.* Two attached subdivision entrance signs or one monument or freestanding sign per principal entrance are allowed. Such signs shall designate the subdivision by name or symbol only and under all circumstances they shall be rigidly and securely anchored against movement. Such signs shall not exceed an area of 20 square feet per sign face and an aggregate area of 40 square feet if signs are multiple faced, nor shall they exceed a height of six feet if freestanding. They may be illuminated.

In addition to the allowances under this subsection (a), nonresidential uses that are existing or allowed in residential areas, but do not fall under the category of nonprofit, may also utilize the freestanding sign allowances as defined under subsection (b) of this section.

(b) *Special allowances for nonprofit signs in all zoning districts.*

(1) *Freestanding sign.* One sign shall be allowed that is no more than 20 square feet in area; ten feet in height; and is setback at least ten feet from all property lines.

(2) *Public information signs.* Permanent locations shall include public or private sites for standing meetings of clubs or property owned by a recognized church or denominational body. All directional or informational signs shall be subject to the following restrictions:

a. Signs shall not exceed six square feet in size nor eight feet in height (top of panel).

b. Signs shall not be illuminated.

c. Sign lettering shall not exceed four inches in height.

d. Sign content may include name and address of organization, logo, directional arrow, and meeting times. No commercial business or product shall be advertised.

e. These signs may be located off-site under the following provisions:

1. Signs shall only be allowed at major highway intersections and shall not be located in a public right-of-way or block visibility at any intersection.

2. Two public information sign panels (each for a different organization) may be placed on a single location.

~~(3) *Special event signs.*~~

~~a. The Town Manager and/or town council shall approve the location, number, and length of time the sign may be displayed.~~

~~b. Off-premises special event signs shall be allowed with the written consent of the property owner.~~

~~c. On-site or off-site special event signs shall be limited to 20 square feet.~~

~~d. An off-premises special event sign may be issued that has advertisements for local businesses as long as the sign is displayed in exchange for charitable contributions for the purposes of funding nonprofit initiatives (i.e., boardwalk makeover sign with advertisements for sponsors).~~

(c) *Permitted signage in all commercial zones which require a sign/building permit.* The following signs shall be permitted in all commercial zones (CBD, NB HB, MB-1, I-1, T-1, MF, and MX zoning districts):

(1) *Attached signs.*

a. Attached signs shall be allowed on all sides of a business. The total allowable building face signage shall not exceed 25 percent of the front building face and may be apportioned among any/all building faces. A building face shall be measured from ground level at the foundation to the roof overhang (or junction of roof and front wall line) and from side to side of building.

b. If utilized, projecting signage shall have a clearance of at least ten feet between the adjacent ground level and the lowest portion of the sign. No attached sign shall project more than four feet from the building facade. In the CBD, where buildings are adjacent to a right-of-way a projecting sign shall be allowed to encroach up to two feet.

c. Canopy/awning sign shall be considered as attached signs. In no instance shall a canopy/awning sign exceed the canopy awning area.

(2) *Construction signs.* Construction signs shall be permitted as described in subsection (a)(1) of this section with size limitations of 40 square feet in area and 15 feet in height.

(3) *Directional signs.*

a. *On-premises directional signs.*

1. On-premises directional signs shall be limited to four square feet and three feet in height.

2. Directional signs at shopping centers may contain the name of the shopping center but not the names of the individual businesses within the shopping center.

3. For every driveway cut, two directional signs shall be allowed on private property adjacent to the right-of-way.

b. *Off-premises parking signs.*

1. The maximum size shall be one foot by two feet.

2. Off-premises parking signs may only delineate the name of the business, logo, and distance the business is from the site of the sign, no other advertisement of products or services is permitted.

3. Off-premises parking signs shall not be lighted.

(4) *Permanent freestanding signs.*

a. Maximum size equals one-half a square foot of sign area per one linear foot of road frontage or 25 square feet per commercial and/or residential unit located on the development site, whichever is greater, but not to exceed the below requirements.

Type of Development	Max. Area Per Face
Multi-Family Residential	50

Nonresidential up to 2,500 sq. ft. of building area	50
Nonresidential 2,500 sq. ft. up to 15,000 sq. ft. of building area	64
Nonresidential greater than 15,000 sq. ft. of building area	100

b. Maximum height of 20 feet in the CBD, NB, MB-1, T-1, MF, and MX zoning districts.

c. Maximum height of 25 feet in the HB and I-1 zoning districts.

d. A permanent freestanding sign shall have a minimum setback of ten feet from all property lines.

(5) *Temporary attached and freestanding sign regulations.*

a. Each business shall be allotted one temporary freestanding or attached sign ~~yearround~~ year-round. Permits for temporary signage shall be issued annually with the following limitations:

1. A-frame signs not exceeding eight square feet per side in area with a maximum height of four feet.

2. Portable signs not exceeding ten square feet and five feet in height.

3. Banner signs not exceeding 24 square feet and 15 feet in height.

4. Commercial flagging shall be limited to 24 square feet and shall have the same height restrictions as permanent freestanding signs.

5. Future development signs shall be limited to 30 square feet and 15 feet in height.

b. Temporary signs may be placed on public sidewalks in the CBD. No temporary sign shall be placed where the unobstructed space for the passageway of pedestrians is reduced to less than 4½ feet.

(6) *Open signs.* Each business shall be allowed one attached open sign and one open flag. An attached open sign shall not exceed four square feet. Open flags shall not exceed 15 square feet.

(Code 1986, app. A, § 11.6; Ord. No. 10-825, 4-13-2010; Ord. No. 11-857, 1-11-2011; Ord. No. 11-866, 5-10-2011; Ord. No. 11-871, 7-12-2011; Ord. No. 12-888, 6-12-2012; Ord. No. 12-899, 8-14-2012)

Sec. 40-233. - Nonconforming signs, illegal signs, violations and penalties.

All signs shall be subject to article XIV of this chapter, nonconforming situations, and article XV of this chapter, administration, enforcement, and review.

(Code 1986, app. A, § 11.7; Ord. No. 10-825, 4-13-2010; Ord. No. 12-888, 6-12-2012)

Secs. 40-234—40-259. - Reserved.

Text Amendment:
Update Sign Ordinance
-
Reed V. Town of Gilbert 2015

JUNE 13TH, 2019

Background

- Sign ordinances are utilized primarily for aesthetical and economic purposes
- Free speech generally overrides any state, county, or local sign ordinance
- Sign ordinances may not be “content-based” in almost all circumstances

Supreme Court Decision

- In 2015 the Supreme Court heard the case of Reed V. Town of Gilbert
- The Town of Gilbert had a sign ordinance with 23 exempted categories and each category was treated differently based on the content

- The Ninth Circuit Court of Appeal initially upheld the exceptions
- The Supreme Court determined that the sign ordinance and its exceptions were based on the “face” since the content of the signs dictated their limitations

Local Ordinance Implications

- CB sign ordinance currently has 11 sign categories that are regulated individually and are based on content
  - Governmental
  - Window/door signs
  - Real Estate/off-site
  - Political
  - Open
  - Patriotic
  - Government required
  - Construction/Future Development
  - Subdivision
  - Nonprofits
  - Special events

Revisions

- Addition of location restriction to prevent traffic sight distance triangle obstructions
- Addition of a catch-all category for “temporary non-commercial signage” with regulations pertaining to aesthetics and time-frames only.
- Remove categories specifically regulating Construction, future development, political, patriotic, and real estate signs.
- Clarified/corrected language throughout Article 8

New Regulations for Signs Allowed without Permits

(1) Temporary non-commercial signage.

a. One temporary sign related to an activity or event may be placed on a parcel 30 days prior to said activity/event, remain up during said activity/event, and must be removed within 10 days of the conclusion of said activity/event.

b. This sign must be non-illuminated and may not exceed 20sqft or 5ft in height.

c. The person, party, or parties responsible for the erection or distribution of any such signs shall be jointly liable for the removal of such signs.

d. The property occupant or, in the case of unoccupied property, the property owner, shall be responsible for violations on a particular property.

e. No temporary signage is permitted in the public right-of-way.

f. Off-site directional signage must be related to an event, will only be permitted while the activity/event is on-going, and must be removed within 48 hours of the conclusion of said activity/event.

g. No commercial business or product shall be advertised on a residential property.

Amend Chapter 40, Article VIII Sign Regulations

(1) It is recommended that Planning and Zoning open the public hearing for comments.

(2) Close the public hearing

(3) Consider approval or denial of the proposal and make a motion according to the appropriate statement.

New Statutory Requirements

The General Assembly amended G.S. 153A-341 and 160A-383 to add more specificity to the law regarding the mandated plan consistency statements. The amended statute still requires approval of a statement and the statement still must describe plan consistency and explain why the proposed action is **reasonable and in the public interest.** However, the form of the required statement has changed. The statement must take one of these forms:

- A Statement of Approval – The Commission, whereas in accordance with the provisions of the NCGS 160A-383, does hereby find and determine that the adoption of a Text Amendment: To amend Chapter 40 Article VIII to update the sign ordinance to comply with the 2015 Supreme Court decision is consistent with the goals and objectives of the adopted Land Use Plan and other long range plans. (If applicable - List any recommended restrictions or requirements)

- A Statement of Denial – Town Council deny the adoption of the following ordinance amendment based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long range planning documents.

Stormwater Ordinance Proposals

1. ~~Driveways and parking cannot be impervious~~
    a. ~~Lot coverage/SW practices for all parcels shall remain the same~~
    b. ~~All driveways and parking associated with both residential and commercial development shall be required to be compromised of pervious materials.~~
2. Impervious surfaces are limited to 60%.
    a. Lot coverage will remain the same
    b. Impervious surfaces will be reduced to soft cap of 60% of a lot.
        i. This would provide 40% (zone depending) for structures and another 20% for driveways, sidewalks, patios, etc.
    c. Additional "hardscaping" could be completed only if:
        i. all stormwater from the development is contained onsite OR
        ii. Fee is $5.00/sqft for any development beyond the lots 60% soft cap OR
        iii. All is pervious
3. Lot Coverage and Impervious are the same limit
    a. Lot coverage and impervious surfaces will both be limited based on zoning district.
    b. Any additional hardscaping for driveways, sidewalks, or additional development is only permitted if:
        i. All stormwater can be retained onsite
        ii. If the materials utilized are permeable so that there is no additional runoff created.
4. Consider BMPs
    a. Downspout disconnections
    b. Rain barrels
    c. Other ideas?

1. Pawley's Island: .7mi^2 – 100 pop

2-47. *Impervious material:* Any material through which water cannot penetrate. Such material includes, but is not limited to principal dwelling units, accessory structures, swimming pools, covered porches, solid decks and concrete, asphalt or similar paving surfaces. Said paving surfaces specifically exclude gravel, shell, crushed stone, pervious concrete or a permeable paving system of concrete pavers or brick pavers as defined in [subsection] (A) below. Driveways and off-street parking surfaces are specifically prohibited from being constructed out of impervious material

(A) Also allowable is a permeable paving system, installed as specified, or with minimum two and three-eighths-inch concrete or brick pavers on a two-inch layer of permeable, open-graded crushed stone bedding (typically ASTM No. 8 stone), placed over an open-graded base (typically No. 57 stone six inches thick). Each individual paver shall not exceed 100 square inches in surface coverage and spacing between the pavers shall be three-eighths to one-half-inch filled with ASTM 8.89 or [No.] 9 stone in the joints. The installer should be one which has successfully completed pervious concrete or brick paver installations similar in design, materials and extent.

3-5.8 *Lot area coverage and FAR limits.* The following regulations shall apply to all zoning districts:

(A) Not more than 40 percent of the area of a lot shall be covered by impervious material, provided that this requirement shall not limit lot coverage to less than 1,000 square feet nor allow lot coverage to exceed 4,000 square feet.

(B) The floor area ratio (FAR) of a lot shall not exceed 40 percent of the area of a lot, provided that this requirement shall not limit the enclosed heated living space of a principal structure to less than 2,000 square feet nor allow such living space to exceed 4,000 square feet.

2. Bellevue, Washington: 33.46mi^2 – 150,000 pop

On-Site Stormwater Management (MR #5)

If the project triggers MR #5, on-site stormwater management BMPs must be implemented to infiltrate, disperse, and retain stormwater on-site. These on-site BMPs include Low Impact Development (LID) principles that mimic the site's natural hydrologic characteristics. LID features are preferable to more traditional stormwater management techniques. Integration of LID BMPs into the site design can also help eliminate or reduce the size of stormwater facilities needed to achieve MRs #6 and # 7, if flow control and water quality treatment are required. On-site BMPs are categorized in the SWES as follows:

- Tier 1 On-site BMPs— Minimize Runoff
- Tier 2 On-site BMPs— Retain Runoff On-site
- Tier 3 On-site BMPs— Infiltrate or Disperse Runoff Prior to Discharge

Figure 3 (Figure 6.1 of the SWES) provides selection guidance for on-site stormwater management facilities for SFR projects. The BMPs must be evaluated and implemented in the order presented within each of the three tiers. See guidelines for design, construction, inspection, and long-term maintenance of two types of BMPs that may be used on SFR projects, including pervious pavement (www.ci.bellevue.wa.us/.../SFR_Guidelines_ PerviousPave_FINAL.pdf) and compost amended soils (http://www.bellevuewa.gov/pdf/Utilities/ SFR_Guidelines_Amended_Soil_FINAL.pdf).

For any remaining impervious area not fully managed by on-site practices, stormwater outfalls must be connected as described in D4.04.11 of the SWES (Private Single Family Drainage Systems).

3. Atlanta, Georgia: 134mi^2 – 500,000 pop

V. Stormwater Management

- **1. Minimum Requirements-** For all projects, the following requirements must be adhered to when managing stormwater:
  a) Lots and buildings shall be developed in a manner to ensure that stormwater exiting individual parcels or lots under post-developed conditions does not adversely impact the adjacent parcels or lots as a result of concentrated flows, flooding, erosion, or deposits of silt or sediment.
  b) The stormwater discharge from a downspout, cistern, or any water collection device shall be located a distance of no less than ten feet from common property line and oriented so direction of concentrated flow is not toward the adjacent property line.
  c) Discharge from any downspout described in (a) must be dissipated, infiltrated, or diverted such that flows will not be concentrated.
  d) No person shall erect, construct, or otherwise permit any obstruction that prevents the natural or contained flow of water to any component of the stormwater system of the City of Atlanta, unless such obstruction is allowed as part of an approved permit.

- **2. Green Infrastructure Requirements-** Projects involving the construction of a new home or the creation, addition, or demolition and replacement of more than 1,000 ft^2 of impervious cover must capture the first 1.0" of runoff from the new or replaced impervious areas, and infiltrate, evapotranspire, or reuse this collected water in accordance with the City of Atlanta's Stormwater Guidelines: *Green Infrastructure for Single Family Residences*. Only the major impervious areas of the property need to be treated. This includes the rooftop of the main structure and garage, parking areas, and paved patio areas. It excludes minor out buildings, walkways, small miscellaneous paved areas, and the entry driveway leading from the road to parking and turn around areas.

4. Haddonfield, NJ: 2.824mi^2 – 12,000 pop

The Borough of Haddonfield requires all new major construction and any new construction that will increase the impervious surface coverage of a property 20 percent or greater to install a stormwater management system and the submission of a stormwater maintenance plan. Certification of maintenance is to be provided to the Director of Community Development on a biennial basis.

5. Nags Head, NC: 6.6mi^2 – 3,000 pop

Sec. 34-6. - General standards for residential or duplex development on individual lots.

(1) All runoff from the project's built-upon area shall be directed into an approved stormwater management system designed with a storage volume of 15 cubic feet for every 100 square feet of built-upon area.

(2) Stormwater control management (SCM) measures may include a variety of techniques used in combination to achieve the storage volume requirement. These include:

a. Rainwater harvesting to include cisterns and/or rain barrels;
b. Subsurface drainage systems to include dry wells, french drains and infiltration galleries/panels;
c. Permeable pavements;
d. Tree/open space preservation credits;
e. Bioretention or rain gardens;
f. Landscaped swales;

g. Infiltration basins;
h. Other methods as approved by the stormwater administrator.