1. Call to Order the Regular Session of the Yuma County Planning & Zoning Commission and verify quorum.

2. Pledge of Allegiance.

3. Approval of Planning and Zoning Commission regular meeting minutes of February 22, 2016.
4. **Minor Amendment Case No. 2016-MA-01:** John Sternitzke, agent for SJB Properties VI LLC, requests a minor amendment to change the land use designation of two parcels totaling 1.7 net acres in size from Medium Density Residential (R-MD) to Urban Density Residential (R-UD), Assessor’s Parcel Numbers 632-52-036 and -037 located at 2540 West 5th Street, Yuma, Arizona.

5. **Rezoning Case No. 16-01:** John Sternitzke, agent for SJB Properties VI LLC, requests the rezoning of two parcels totaling 1.7 net acres in size from Low Density Residential-8,000 square feet minimum (R-1-8) to High Density Residential (R-3), Assessor’s Parcel Numbers 632-52-036 and -037 located at 2540 West 5th Street, Yuma, Arizona.

6. **Request to initiate a text amendment to the Yuma County Zoning Ordinance, Article VIII—Signs, in light of Reed vs. Town of Gilbert.**

7. **Request to initiate a text amendment to the Yuma County Zoning Ordinance to amend Article II—Definitions and add a proposed new section, Section 1108.18—Community Gardens**

8. **Discussion by the Commission members and Planning Director of events attended, current events, and the schedule for future Planning Commission meetings.**

9. **Adjourn.**

**Note:** For further information about this public hearing/meeting, please contact Maggie Castro, Planning Director, phone number (928) 817-5000; or e-mail contactdds@yumacountyaz.gov or TDD/TTY (Arizona Relay Service): call in 1-800-367-8939, call back 1-800-842-4681. Individuals with special accessibility needs should contact the individual indicated above before the hearing/meeting with special need requirements.

**Note:** The Commission may vote to hold an Executive Session for the purpose of obtaining legal advice from the Commission’s attorney on any matter listed on the agenda, pursuant to A.R.S. §38-431(A)(3).
Yuma County Planning & Zoning Commission

March 28, 2016

Item No. 3
The Yuma County Planning and Zoning Commission met in a regular session on February 22, 2016. The meeting was held in Aldrich Auditorium at 2351 West 26th Street, Yuma, Arizona.

**CALL TO ORDER:** At 5:00 p.m. Chairman Wayne Briggs convened the Planning and Zoning Commission meeting. Commissioners present were: Wayne Briggs, Alicia Aguirre, Max Bardo, Tim Bowers, Michael Henry, and John McKinley. Commissioners Gary Black, Martin Porchas, Matias Rosales and Paul White were absent. Others present were: Planning Director Maggie Castro; Senior Planner Fernando Villegas; Deputy County Attorney Ed Feheley; and Executive Assistant Tricia Ramdass.

**PLEDGE OF ALLEGIANCE:** Chairman Briggs led the Pledge of Allegiance.

**ITEM No. 3: Approval of the Planning and Zoning Commission regular meeting minutes of January 25, 2016.**

MOTION (HENRY/BARDO): Approve as presented.

VOICE VOTE: The motion carried 6-0.

**ITEM No. 4: Presentation and discussion on possible text amendments to the Zoning Ordinance to address Community Gardens.**

Senior Planner Fernando Villegas informed the Commission the agenda item was a presentation and discussion carried forward from the January 25, 2016 regular meeting. The intent of the discussion was to consider adopting a new Section 1108.18 – Community Gardens into the Yuma County Zoning Ordinance (YCZO) to allow and regulate Community Gardens in Yuma County. Mr. Villegas presented information regarding the allowed districts and soil testing requirements of other municipalities, and possible use of retention basins as requested by the Commission at the previous meeting.

Mr. Villegas informed the Commission that they had the option of limiting community gardens to particular districts. In addition, they could remove the requirement for soil testing. His research revealed that the City of Yuma allows Community Gardens in residential, commercial, and industrial zoning districts, whereas, the City of Phoenix allows community gardens in commercial districts, but requires a Special Use Permit for use in residential districts. Neither city required soil testing as part of establishing a Community Garden. He also presented proposed text changes for signage requirements if the Commission decided to restrict allowable use to residential districts only.

Mr. Villegas addressed the use of retention basis for Community Gardens. He stated he checked with the Yuma County Flood Control District and was informed that the use would be possible with a permit from Flood Control as long as the garden would not interfere with the function of the basin. Additionally, Home Owners’ Associations (HOA)
control some retention basins so permission to use those basins would be obtained through the HOA.

Commissioners asked about type of soil beds with regard to soil testing requirements and cost of permitting. Commissioners also discussed whether soil testing should be mandated, which districts to allow Community Gardens as a use, types of structures requiring permits, and associated permit costs.

Mr. Villegas informed the Commission that the type of soil bed, e.g., raised or ground, would not be addressed in the YCZO. There would be no cost to obtain a permit to establish a Community Gardens; however, permits would be required for structures such as a storage shed.

Planning Director Maggie Castro provided clarification to the Commission by contrasting the steps to establish a Community Garden with and without an established use in the YCZO. She stated that if the Commission moved forward with the Commission Initiative, Community Gardens would be permitted as Mr. Villegas previously mentioned. If the Commission decided not to move forward with the initiative, anyone wishing to establish a community garden would need to obtain a Special Use Permit (SUP) with a non-refundable fee of $750.00 for Residential or $1500.00 for Commercial/Industrial districts. She also clarified that temporary shade/screen/netting structures for agricultural use were exempt from building code requirements.

Mr. Villegas informed the Commission that the SUP process did not require soil testing. He reiterated that the Commission had the option to remove soil testing from the proposed language.

MOTION (McKINLEY/BARDO): To move forward with a request for a Commission Initiative to adopt a new Section 1108.18 – Community Gardens into the Yuma County Zoning Ordinance to allow and regulate Community Gardens in Yuma County allowing use in all districts and removing the soil testing requirement.

ITEM No. 5: Presentation and discussion on possible text amendment to Article VIII-Signs of the Zoning Ordinance in light of Reed vs. Town of Gilbert.

Planning Director Maggie Castro informed the Commission the agenda item was a presentation and discussion carried forward from the January 25, 2016 meeting. Ms. Castro reviewed the changes and modifications requested by the Commission at the previous meeting. She also explained the court case prompting the proposed changes and stated that the Yuma County Zoning Ordinance currently had similar wording that was challenged in Reed vs. Town of Gilbert.

Commissioners asked if the proposed changes would put Yuma County in compliance with regard to sign regulations. The Commission also asked if regulations were in place
for maintaining the aesthetics of signs over time if there were no time limitations for all signs.

Deputy County Attorney Ed Feheley clarified the decision of the Supreme Court and what changes would be in compliance with the ruling for Reed vs. Town of Gilbert. He noted that some subdivisions could have CC&Rs that regulate signs further. Mr. Feheley said that decaying signs could be addressed under public safety and health or by the Yuma County Zoning Ordinance as junk. He also explained the process of moving forward with the Commission Initiative.

MOTION (HENRY/McKINLEY): To bring the item back as a request for a Commission Initiative for a text amendment to Article VIII-Signs at the next regular meeting.

VOICE VOTE: The motion carried 6-0.

**ITEM No. 6: Review and approval of the Calendar Year 2015 Annual Report:**
Planning Director Maggie Castro presented the Calendar Year 2015 Annual Report to the Planning and Zoning Commission pursuant to Section 5(B) of the Planning and Zoning Commission bylaws.

MOTION (BARDO/AGUIRRE): Direct staff to present the Calendar Year 2015 Annual Report as presented to the Board of Supervisors (BOS) at the next regular BOS meeting.

VOICE VOTE: The motion carried 6-0.

**ITEM No. 7: Discussion by the Commission members and Planning Director of events attended, current events, and the schedule for future Planning Commission meetings.**

There was no discussion by the Commission members and Planning Director.

There being no further business to come before the Commission, the Chairman adjourned the meeting at 5:51 p.m.

Approved and accepted on this 28th day of March, 2016.

Wayne Briggs, Chairman

**ATTEST:**

Maggie Castro, Planning Director
Yuma County Planning & Zoning Commission

March 28, 2016

Item No. 4
Information

1. REQUESTED ACTION:
Minor Amendment Case No. 2016-MA-01: John Sternitzke, agent for SJB Properties VI LLC, requests a minor amendment to change the land use designation of two parcels totaling 1.7 net acres in size from Medium Density Residential (R-MD) to Urban Density Residential (R-UD), Assessor’s Parcel Numbers 632-52-036 and -037 located at 2540 West 5th Street, Yuma, Arizona.

2. INTENT:
The applicant's intent is to change the land use designation from R-MD to R-UD to allow the construction of an apartment complex. The proposed land use designation will allow the property to be rezoned to R-3 which allows single, double and multiple family site built dwellings.

3. For detailed analysis see attached staff report

4. STAFF’S RECOMMENDATION:
Staff recommends approval of Minor Amendment Case No. 2016-MA-01.

Attachments
Staff Report
Vicinity Map
Site Plan
City of Yuma Resolution
REQUEST: Change the land use designation of two parcels totaling 1.7 net acres in size from Medium Density Residential (R-MD) to Urban Density Residential (R-UD), Assessor’s Parcel Numbers 632-52-036 and -037 located at 2540 West 5th Street, Yuma, Arizona.

APPLICATIONS: John Sternitzke, agent for SJB Properties VI LLC.

Application is within Supervisor District 1: Lenore Loroña Stuart; Commissioners Tim Bowers and Martin Porchas. Case prepared by Fernando Villegas, Senior Planner.

DIRECTIONS: From the intersection of Avenue B and 24th Street, travel north on Avenue B approximately 2½ miles. The subject properties are located on the northwest corner of the intersection of Avenue B and 5th Street, Yuma, Arizona.

INTENT:

To accommodate the rezoning of the parcels from Low Density Residential-8,000 square feet minimum (R-1-8) to High Density Residential (R-3) to allow the construction of an apartment complex. The R-3 zoning district allows single, double and multiple family site built dwellings. The intent of this district is for high density housing.

A.R.S. § 11-814(A) requires all zoning and rezoning ordinances, regulations, or specific plans to be consistent with and conform to the adopted county plan. The proposed zoning is not consistent with the plan. The existing land use designation is R-MD which does not support R-3 zoning. The R-3 zoning, however, is permitted within the R-UD land use designation. Therefore, a minor amendment to change the land use designation from R-MD to R-UD is required to allow the proposed zoning.

SITE CONDITIONS:

The subject parcels are part of Baird subdivision recorded in 1926. Parcel 36 was previously the location of a trailer park with 24 spaces and a site built home known as Valley Trailer Park. The trailers were removed in 2009 and the site built home was demolished in 2013. Currently, Parcel 36 is vacant. Parcel 37 is the location of a site built home built in 1950. Access to the subject parcels is from 5th Street, a paved road with 25 feet of dedicated right-of-way. A traffic impact study will be required to evaluate right-of-way dedications and access along 5th Street. The City of Yuma will provide water and sewer services to this proposed project.
**Current Land Use Classification**

**Medium Density Residential (R-MD):** This land use designation supports residential uses and densities that are urban in nature. The intent is to allow a density that falls between that found in neighborhoods with detached single family homes and the most dense forms of residential developments such as apartment complexes (4-12 du/acre).

**Zoning Districts Permitted within R-MD:** Low Density Residential-8,000 square feet minimum (R-1-8), Low Density Residential-6,000 square feet minimum (R-1-6), Manufactured Home Subdivision-8,000 square feet minimum (MHS-8), Manufactured Home Subdivision-6,000 square feet minimum (MHS-6), Manufactured Home Subdivision-4,500 square feet minimum (MHS-4.5), Recreational Vehicle Subdivision (RVS), Medium Density Residential (R-2) and Planned Development (PD).

**Proposed Land Use Classification**

**Urban Density Residential (R-UD):** This land use designation supports residential uses and densities that are urban in nature. Urban Density Residential allows the highest possible density of residential development. It is primarily characterized by multi-family dwelling units and recreational vehicle parks. Allows for dwelling units to be manufactured, site-built or recreational vehicles. (10-18 du/acre).

**Zoning Districts Permitted within R-UD:** High Density Residential (R-3), Medium Density Residential (R-2), Manufactured Home Park (MHP), Recreational Vehicle Subdivision (RVS) and Planned Development (PD).

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**Figure 1: View of Parcel 36 looking north from 5th Street**
1. Land Use Compatibility

Is the proposed change compatible with adjoining land use designations, existing land uses and zoning? Is the proposed change logical and harmonious with the land use pattern of the area in question? How would the amendment affect adjacent property owners?

The proposed change is compatible with adjoining land use designations, existing land uses and zoning. As stated in the tables below, the existing land use designation and zoning directly to the north is R-MD and R-3, respectively. The proposed change is logical and harmonious with the existing land use pattern of the area. Approval of this request will allow a continuation of existing development and adjacent property owners will not be negatively affected by this change.

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<td>North</td>
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<td>Manufactured Homes (Residential Development)</td>
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<td>Vacant Land and RV Park</td>
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<td>South</td>
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Key policies as outlined in the Plan that relate to the proposed amendment:

- **F.3: New residential development should be of a density that is compatible with the existing density of development in the Foothills area.**

  Changing the land use designation from R-MD to the R-UD land use designation would allow the construction of a new apartment complex and the use will be similar to uses on adjacent properties to the north and west, where apartments and recreational vehicle and manufactured home parks exist. The City of Yuma General Plan land use designation for the subject properties is High Density Residential (R-HD).

- **F.4: New residential development should occur in a manner that enhances park and recreation opportunities.**

  No parks or recreational areas are being proposed for this development. 5th Street is designated as a proposed bike route and Avenue B is designated as a proposed bike path in the City of Yuma Bikeway Location Plan. Additionally, the subject property is located approximately ½ mile from Joe Henry Park, which is classified as an Area Park in the City of Yuma General Plan.
• **F.6: Residential development should not outpace the development of infrastructure to support it.**

Currently, access to the area is from 5th Street. If improvements are needed to 5th Street all the improvements will be done by the developer. The City of Yuma will be providing water and sewer services to this proposed project.

2. **Natural Environmental Conditions**  
*Does the amendment adversely affect natural environmental conditions. If so, how will the effects be mitigated?*

The subject property is located within the Yuma PM10 Non-attainment Area. A non-attainment area describes a geographic area in which the level of specific airborne particulate matter exceeds federal air quality standards. An increase in PM10 pollutants is not anticipated since any future development will require construction of roads and parking areas to County standards based on a traffic impact study.

The soil on the subject property is classified as Torrifluvents, which range from sand to clay and are highly stratified. In some areas, this soil is good source of sand and gravel.

3. **Public Infrastructure, Facilities and Services**  
*Does the amendment adversely affect that portion of the planning area by requiring public expenditures for infrastructure improvements such as roads, sewer, or water systems needed to support the planned land uses?*

The proposed project will not require public expenditures for infrastructure improvements. Any public infrastructure improvements would be done at the developer's expense. The project will be served by the City of Yuma water service.

4. **Impact on Health, Safety, and General Welfare**  
*Does the amendment adversely affect the health or safety of present or future residents?*

The proposed development will likely increase demand for emergency services. The subject area will be served by the following public services:

- The Yuma County Sheriff’s Department, located two miles east of the subject properties at 160 South 3rd Avenue, provides law enforcement services.

- Rural Metro Fire Department Substation No. 5, located one and a half miles southwest of the subject properties at 3620 West 8th Street, provides the nearest fire protection services and emergency medical services.

5. **Additional Factors, Criteria, and Questions for Consideration**

- *Is the amendment an overall improvement to the Plan and not solely for the good or benefit of a particular landowner?*
The amendment would be an overall improvement to the plan since this will ensure development occurs in a coordinated, contiguous and comprehensive manner. Approval of this request will allow development of the subject property that is compatible with existing development to the north and west.

- Does the amendment address an oversight, inconsistency, or other land use related inequity in the Plan?

The subject property was designated as Medium Density Residential in the 2020 Comprehensive Plan. The City of Yuma has approved a land use change for Parcel 36 to High Density Residential. Parcel 37 was acquired by the applicant after the approval of the City of Yuma minor amendment.

- Is the existing Plan designation no longer appropriate due to other plan amendments that have changed the character of the area?

The proposed land use designation is appropriate when considering the existing and surrounding land uses and it will not have a negative impact on the elements of the plan.

SUMMARY NOTES:
SUPPORT STAFF SUMMARY: The application is on file along with the comments from Yuma County staff as follows: The Building Safety Division, Engineering Division, Flood Control District, Zoning Enforcement Section and Environmental Health Section all had no comment or concerns regarding the application.

LETTERS OF SUPPORT, OPPOSITION, AGENCY, MILITARY, SPECIAL INTEREST, ETC: No Comments.

PUBLIC INPUT: As of March 10, 2016, no other verbal or written comments have been received from the general public.

CHRONOLOGY:
02-16-16  Application received
03-11-16  Public notice published in the Yuma Sun for the P&Z Commission hearing
03-11-16  P&Z Commission public notice mailed to properties within 300 feet of the request, the City of Yuma, and all relevant stakeholders/agencies
03-28-16  P&Z Commission public hearing.

RECOMMENDATION:
Staff recommends approval of Minor Amendment Case No. 2016-MA-01 based on:

1. The amendment is consistent with the existing character of the Northwest Yuma Planning Area.
2. The amendment would be an overall improvement to the plan since this will ensure development occurs in a coordinated, contiguous and comprehensive manner.
3. The proposed amendment is in the character of existing land uses and policies of the plan to provide consistent land uses.
RESOLUTION NO. R2015-012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, Amending Resolution R2012-29, The City of Yuma 2012 General Plan, to change the land use designation from medium density residential to high density residential for approximately 1.5 acres located at 2540 W. 5th Street.

WHEREAS, the General Plan of the City of Yuma was adopted in 2012 by Resolution R2012-29 for the orderly and balanced development of lands through efficient and systematic land use planning; and,

WHEREAS, the General Plan provides a vision of development into the future based on the existing development, the needs of the community, and the desires of property owners; and,

WHEREAS, the City of Yuma Planning and Zoning Commission held public hearings on February 9, 2015 and February 23, 2015 for General Plan Amendment Case No. GP-7752-2014, regarding the request to amend the General Plan; and,

WHEREAS, due and proper notice of the public hearings were given in the time, form, substance and manner as provided by law, including publication of such notice in The Sun on January 24, 2015 and February 21, 2015; and,

WHEREAS, as the community grows and prospers, it may be necessary to amend the General Plan to reflect development trends and opportunities; and,

WHEREAS, the proposed General Plan Amendment meets the goals and objectives of the General Plan, and retains an adequate mixture and balances of land uses.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma as follows: that Resolution R2012-29, the City of Yuma 2012 General Plan, is amended to change the land use designation of the approximate 1.5 acres of real property depicted with crosshatching in Exhibit A, attached and by this reference made a part of this Resolution, from Medium Density Residential to High Density Residential.

Adopted this 18th day of March, 2015.

APPROVED:

Douglas J. Nicholls
Mayor

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Steven W. Moore
City Attorney
Yuma County
Planning & Zoning Commission

March 28, 2016

Item No. 5
Information

1. REQUESTED ACTION:

Rezoning Case No. 16-01: John Sternitzke, agent for SJB Properties VI LLC, requests the rezoning of two parcels totaling 1.7 net acres in size from Low Density Residential-8,000 square feet minimum (R-1-8) to High Density Residential (R-3), Assessor’s Parcel Numbers 632-52-036 and -037 located at 2540 West 5th Street, Yuma, Arizona.

2. INTENT:

The applicant’s intent is to rezone the subject properties to High Density Residential (R-3) to allow the construction of an apartment complex. The R-3 zoning district allows single, double and multiple family site built dwellings. The intent of this district is for high density housing.

3. For detailed analysis see attached staff report

4. STAFF’S RECOMMENDATION:

Staff recommends approval of this request subject to the Performance Conditions and Schedule for Development as listed in the staff report.

Attachments

Staff Report
Vicinity Map
Site Plan
City Resolution
Development Evaluation Checklist
Internal memos
STAFF REPORT TO THE COMMISSION

March 28, 2016

Rezoning Case No. 16-01

REQUEST: Rezone two parcels totaling 1.7 net acres in size from Low Density Residential-8,000 square feet minimum (R-1-8) to High Density Residential (R-3), Assessor’s Parcel Number 632-52-036 and -037 located at 2540 West 5th Street, Yuma, Arizona.

APPLICANT: John Sternitzke, agent for SJB Properties VI LLC.

Application is within Supervisor District 1: Lenore Loroña Stuart; Commissioners Tim Bowers and Martin Porchas. Case prepared by Fernando Villegas, Senior Planner.

DIRECTIONS: From the intersection of Avenue B and 24th Street, travel north on Avenue B approximately 2½ miles. The subject properties are located on the northwest corner of the intersection of Avenue B and 5th Street, Yuma, Arizona.

INTENT:

The applicant’s intent is to rezone the subject properties to High Density Residential (R-3) to allow the construction of an apartment complex. The R-3 zoning district allows single, double and multiple family site built dwellings. The intent of this district is for high density housing.

SITE CONDITIONS:

The subject parcels are part of Baird subdivision recorded in 1926. Parcel 36 was previously the location of a trailer park with 24 spaces and a site built home known as Valley Trailer Park. The trailers were removed in 2009 and the site built home was demolished in 2013. Currently, Parcel 36 is vacant. Parcel 37 is the location of a site built home built in 1950. Access to the subject parcels is from 5th Street, a paved road with 25 feet of dedicated right-of-way. A traffic impact study will be required to evaluate right-of-way dedications and access along 5th Street. The City of Yuma will provide water and sewer services to this proposed project.
Surrounding zoning and land uses: Parcel 112 to the north is zoned High Density Residential (R-3) and is the location of an apartment complex. Parcel 38 to the west is vacant land zoned Low Density Residential-8,000 square feet minimum (R-1-8). Parcels to the south are zoned Manufactured Home Park (MHP) and are the location of manufactured homes. The area to the east is the location of Hansberger subdivision and is zoned R-1-6 within the City of Yuma city limit.

The purpose of the High Density Residential zoning district is to permit single, double and multiple family site-built dwellings.

The subject property is located in the Northwest Yuma Planning Area of the 2020 Comprehensive Plan. The land use designation for the subject property is Medium Density Residential (R-MD), which supports a density that falls between that found in neighborhoods with detached single family homes and the most dense forms of residential development such as apartment complexes (4-12 du/acre). An amendment to the 2020 Comprehensive Plan is required since the request is not within the range of identified uses, densities and intensities of the Comprehensive Plan. Minor Amendment Case No. 2016-MA-01 is being processed concurrently with this rezoning case.
The subject property is within the Crane Elementary School District No. 13 and within the Yuma Union High School District No. 70. The Arizona School Facilities Board published an Average Daily Membership (ADM) yield factor based on Census 2010 data that can be used to calculate an approximation of student population generated by the proposed residential development. According to the ADM yield factor, the 30 unit apartment complex at build-out can potentially add 13 students to Crane Elementary School District No. 13 and five students to Yuma Union High School District No. 70. The applicant has not stated the total amount of dwelling units proposed for this project.

The subject property is within the six minute response time radius by Rural Metro Fire Department Substation No. 5, located 2½ miles southwest of the subject properties at 3620 West 8th Street and is within the ten minute response time radius by Yuma County Sheriff's Department, located two miles east of the subject properties at 160 South 3rd Avenue.

5th Street is designated as a proposed bike route and Avenue B is designated as a proposed bike path in the City of Yuma Bikeway Location Plan. Additionally, the subject property is located approximately ½ mile from Joe Henry Park, which is classified as an Area Park in the City of Yuma General Plan.

**CRITICAL ISSUES:**

Under the current zoning district of R-1-8, the potential maximum number of dwelling units is nine. The proposed R-3 zoning district could potentially allow the creation of 30 dwelling units. Access to the subject parcels is from 5th Street, a paved road with 25 feet of dedicated right-of-way.

The subject parcels are located within the Yuma PM$_{10}$ Non-attainment Area. A non-attainment area describes a geographic area in which the level of specific airborne particulate matter exceeds federal air quality standards. The PM$_{10}$ State Implementation Plan (SIP) specifically recommends that Yuma County limit the intensity of use of dirt roads. Yuma County has adopted Reasonable Available Control Measures (RACMs) for the purpose of reducing pollutant emissions resulting in improved air quality. The RACMs implemented include paving, stabilizing and/or reducing travel on unpaved streets, roads and unpaved areas. According to the Institute of Transportation Engineer’s Trip Generation Manual, approval of this request could potentially generate 210 vehicle trips per day. An increase in PM$_{10}$ pollutants is not anticipated since any future development will require construction of roads and parking areas to County standards based on a traffic impact study.

The subject properties are located in the Avenue B & C Colonia Project. The Yuma County Board of Supervisors, acting as the Improvement District Board of Directors, assisted in the development of the Avenue B & C Colonia Wastewater Project which ultimately improved the quality of life for the residents of the district by installing a sanitary sewer system. This relieved years of ongoing issues with septic systems, eliminated sewage cesspools and reduced groundwater contamination.

The soil type is Torrifluvents. This soil range from sand to clay and are highly stratified. In some areas this soil is good source of sand and gravel. Public water and sanitation services are available in the area of the subject properties. The City of Yuma will provide sewer and water services to the subject properties.

The subject properties are located in an area of relatively high groundwater. The depth of the ground water in the area of the subject properties is 12 to 14 feet. It is within the Yuma Valley, an area where the soil is
subject to liquefaction in the event of a substantial earthquake. Southwest Yuma County is prone to the effects of earthquakes due to its proximity to faults running from Mexico into California including the Algodones fault which crosses southwestern Yuma County. Development in an area prone to earthquakes and subject to soil liquefaction places people at an increased risk of hazard and injury and structures at an increased risk of damage.

**Ordinances, codes and regulations that pertain to the application:**

- Yuma County Zoning Ordinance
- Yuma County Subdivision Regulations
- Yuma County Comprehensive Building Code
- 2003 International Fire Code (IFC)
- Environmental Health Laws (ARS Titles 36 and 49)
- Yuma County Flood Control District
- Public Works Standards Volume I, Section 7.2.8 Driveway/Curb Cuts.

**SUMMARY NOTES:**

**SUPPORT STAFF SUMMARY:** The Building Safety Division, Zoning Enforcement Section, and Flood Control provided a “no comment” response.

**LETTERS OF SUPPORT, OPPOSITION, AGENCY, MILITARY, SPECIAL INTEREST, etc.:** The application is on file. Memos from, the Engineering Division, Environmental Health Section and Public Works Department are on file.

The Engineering Division provided the following comments:

- In accordance with the Yuma County Public Works Standards Volume I., Section 7.3 Guidelines for Traffic Studies, a traffic study will be required. All improvements required by the traffic study will be constructed.
- Access along 5th Street shall be in accordance with Public Works Standard Volume I, Section 7.2.8 Driveway/Curb Cuts.
- The owner shall dedicate any additional right-of-way subject to the Traffic Impact Study road requirements along 5th Street.
- The owner to dedicate the right-of-way as described in the improperly recorded document FEE#2006-42167.

The Environmental Health Section provided the following comments:

- City water and sewer.

The Public Works Department provided the following comments:

- Parcel 632-52-036 did not receive any connections and the septic tanks were not abandoned during the B & C Sewer Project Construction.
- It is necessary for the purchaser to contact the City of Yuma to determine the amount of Capacity Charges they will be required to pay for the commercial development.

**MCAS COMMENTS:** No Comments.
PUBLIC INPUT: As of March 10, 2016, no other verbal or written comments have been received from the general public.

DEVELOPMENT EVALUATION CHECKLIST: The Development Evaluation Checklist identifies the following Impact Categories: Conformance to Existing Plans; Land Use Compatibility; Natural Resources; Public Infrastructure; Natural Environmental Conditions; Manmade Environmental Conditions; and Health, Safety & Welfare. A point system is used to score whether a proposal should likely be approved or denied. Of a possible high score of 300, the total score for this proposal is 250. A score falling in this category represents a proposal that likely contains some redeeming qualities but is lacking in one or more areas. The proposal is likely to be in compliance with adopted land use plans, policies and objectives and is compatible with surrounding development.

The Development Evaluation Checklist score is less than 300 due primarily to the following factors: 1) The proposal is not consistent with the Yuma County 2020 Comprehensive Plan. 2) Project will result in an increase in traffic. 3) The right of way necessary to accommodate the development has not been dedicated. 4) A traffic Study has not been completed indicating the conclusion and recommendations for improvements.

CHRONOLOGY:

02-16-16 Application received
03-11-16 Legal ad appears in the Yuma Sun for the Planning Commission’s public hearing
03-11-16 Public notice mailed to properties within 300 feet of the request, the City of Yuma and all relevant agencies
03-11-16 Letter mailed informing applicant of item being placed on Planning Commission’s public hearing agenda
03-11-16 Property posted for the Planning Commission’s public hearing
03-18-16 Staff report mailed to applicant and/or agent
03-28-16 Planning Commission’s public hearing

RECOMMENDATION:

Staff recommends approval subject to the following Performance Conditions and Schedule for Development:

Performance Conditions. Within 60 days of approval by the Board of Supervisors:

1. A signed and notarized A.R.S. §12-1134 waiver shall be submitted to the Department of Development Services.

Schedule for Development. Within two (2) years of Board of Supervisors approval:

1. In accordance with the Yuma County Public Works Standards Volume I., Section 7.3 Guidelines for Traffic Studies, a traffic study will be required. All improvements required by the traffic study will be constructed.
2. The owner/applicant shall dedicate any additional right-of-way subject to the Traffic Impact Study road requirements along 5th Street.

3. Access along 5th Street shall be in accordance with Public Works Standard Volume I, Section 7.2.8 Driveway/Curb Cuts.

4. The owner to rededicate the right-of-way as described in the improperly recorded document FEE# 2006-42167.
CASE NO: RZ16-01
LOCATION: 2540 W. 5th Street
APN(s): 632-52-036 and 037

CASE PLANNER: Fernando Villegas
DATE DRAWN: 2-22-2016
REVIEWED BY: J. Barraza

SCALE: 1" = 200'

Legend
- 300' BUFFER
- SUBJECT PROPERTY
- Zoning Boundary
- City of Yuma

DEPARTMENT OF DEVELOPMENT SERVICES
PLANNING & ZONING DIVISION
2351 W. 26TH STREET
YUMA, AZ 85364

FOR INFORMATION ONLY - NO LIABILITY ASSUMED
RESOLUTION NO. R2015-012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING RESOLUTION R2012-29, THE CITY OF YUMA 2012 GENERAL PLAN, TO CHANGE THE LAND USE DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL FOR APPROXIMATELY 1.5 ACRES LOCATED AT 2540 W. 5TH STREET

WHEREAS, the General Plan of the City of Yuma was adopted in 2012 by Resolution R2012-29 for the orderly and balanced development of lands through efficient and systematic land use planning; and,

WHEREAS, the General Plan provides a vision of development into the future based on the existing development, the needs of the community, and the desires of property owners; and,

WHEREAS, the City of Yuma Planning and Zoning Commission held public hearings on February 9, 2015 and February 23, 2015 for General Plan Amendment Case No. GP-7752-2014, regarding the request to amend the General Plan; and,

WHEREAS, due and proper notice of the public hearings were given in the time, form, substance and manner as provided by law, including publication of such notice in The Sun on January 24, 2015 and February 21, 2015; and,

WHEREAS, as the community grows and prospers, it may be necessary to amend the General Plan to reflect development trends and opportunities; and,

WHEREAS, the proposed General Plan Amendment meets the goals and objectives of the General Plan, and retains an adequate mixture and balances of land uses.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma as follows: that Resolution R2012-29, the City of Yuma 2012 General Plan, is amended to change the land use designation of the approximate 1.5 acres of real property depicted with crosshatching in Exhibit A, attached and by this reference made a part of this Resolution, from Medium Density Residential to High Density Residential.

Adopted this 18th day of March, 2015.

APPROVED AS TO FORM:

Steven W. Moore
City Attorney

ATTESTED:

Lynda L. Bushong
City Clerk

APPROVED AS TO FORM:

Douglas J. Nicholls
Mayor

Adopted this 18th day of March, 2015.
## Yuma County 2020 Comprehensive Plan

### Development Evaluation Checklist

<table>
<thead>
<tr>
<th>Case No.: RZ16-01</th>
<th>Owner/Agent: John Sternitzke</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Zoning: R-1-8</td>
<td>Proposed Zoning: R3</td>
</tr>
<tr>
<td>Acreage: 1.7 net</td>
<td></td>
</tr>
</tbody>
</table>

#### IMPACT CATEGORY I.
**CONFORMANCE TO EXISTING PLANS**

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
<th>SCORE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The proposal is consistent with the Yuma County 2020 Comprehensive Plan, area plans, and other applicable county, state, or regional plans.</td>
<td>0</td>
<td>25</td>
</tr>
<tr>
<td>2</td>
<td>The proposed project reduces open space or rural preservation areas identified in the Yuma County 2020 Comprehensive Plan.</td>
<td>0</td>
<td>10</td>
</tr>
<tr>
<td>3</td>
<td>The proposed use is consistent and compatible with overlay zoning districts applicable to the subject parcel such as the Airport District, Gila Mountain, or Visual Corridor overlay zones.</td>
<td>10</td>
<td>0</td>
</tr>
</tbody>
</table>

#### IMPACT CATEGORY II.
**LAND USE COMPATIBILITY**

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
<th>SCORE</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>The proposed use is the same or similar to the uses in the surrounding vicinity.</td>
<td>25</td>
<td>0</td>
</tr>
<tr>
<td>5</td>
<td>The proposed density is the same or similar to the existing density in the surrounding vicinity.</td>
<td>25</td>
<td>0</td>
</tr>
<tr>
<td>6</td>
<td>The location of the project is appropriate considering proximity to existing transportation, shopping, services and employment.</td>
<td>25</td>
<td>0</td>
</tr>
</tbody>
</table>

#### IMPACT CATEGORY III.
**NATURAL RESOURCES**

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
<th>SCORE</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>The project, or a part of the project is located within the 100-year floodplain or floodway.</td>
<td>0</td>
<td>10</td>
</tr>
<tr>
<td>8</td>
<td>The subject parcel is located in an area of known high groundwater or a surface water source is present.</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>9</td>
<td>The project will result in the loss of prime and/or unique farmland.</td>
<td>0</td>
<td>15</td>
</tr>
</tbody>
</table>

#### IMPACT CATEGORY IV.
**PUBLIC INFRASTRUCTURE**

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
<th>SCORE</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Adequate improvements to the existing transportation system are proposed (i.e., intersection improvements, road widening, turn lanes, etc.) to accommodate the anticipated increase in traffic, or the development will not result in an increase in traffic.</td>
<td>15</td>
<td>0</td>
</tr>
<tr>
<td>11</td>
<td>Any public right-of-way necessary to accommodate the development has been or is proposed to be dedicated.</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Description</td>
<td>RZ16-01 Chklist.xls</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>--------------------------------------------------------------------------------------------------</td>
<td>---------------------</td>
<td>---</td>
</tr>
<tr>
<td>12</td>
<td>A traffic impact study is either not required, or if required has been completed indicating the conclusions and recommendations for improvements.</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>13</td>
<td>A public or private water system, or an on-site water source, will adequately serve the proposed development.</td>
<td></td>
<td>5</td>
</tr>
</tbody>
</table>

**IMPACT CATEGORY V. NATURAL ENVIRONMENTAL CONDITIONS**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>RZ16-01 Chklist.xls</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>The project site contains endangered or threatened animal or plant species, or contains ecologically sensitive land.</td>
<td></td>
<td>0</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>15</td>
<td>The project site contains earthquake fault lines, fissures, cracks, sinkholes, craters, or is within an earthquake liquefaction area.</td>
<td></td>
<td>0</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>16</td>
<td>Soils within the project area are stable and suitable for the proposed development.</td>
<td></td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>17</td>
<td>There are visual indications of previous slides, slumps or other soil problems (cracked walls and foundations, tilted trees or fences, settling, flooding, etc.) in the project area.</td>
<td></td>
<td>0</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>18</td>
<td>The site contains slopes of 12% or greater.</td>
<td></td>
<td>0</td>
<td>5</td>
<td>5</td>
</tr>
</tbody>
</table>

**IMPACT CATEGORY VI. MANMADE ENVIRONMENTAL CONDITIONS**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>RZ16-01 Chklist.xls</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>The site contains fossils, artifacts, relics, monuments, or structures of archaeological or cultural significance.</td>
<td></td>
<td>0</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>20</td>
<td>Given the existing noise and estimated future noise levels of the area, the site is appropriate for the proposed activities and facilities.</td>
<td></td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>21</td>
<td>The project will increase PM$_{10}$ (particulate matter 10 microns or less diameter) or other air pollution levels in the vicinity.</td>
<td></td>
<td>0</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>22</td>
<td>The proposed project will release emissions such as nitrates, sulfates, or organic carbons into the air, which may reasonable be anticipated to causes or contribute to regional haze or impairment of visibility.</td>
<td></td>
<td>0</td>
<td>15</td>
<td>15</td>
</tr>
</tbody>
</table>

**IMPACT CATEGORY VII. HEALTH, SAFETY, AND WELFARE**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>RZ16-01 Chklist.xls</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>23</td>
<td>Physical access to the site is traversable by a two-wheel drive passenger motor vehicle.</td>
<td></td>
<td>15</td>
<td>0</td>
<td>15</td>
</tr>
<tr>
<td>24</td>
<td>Access to or within the site is via a non-paved surface (which increases the amount of particulates such as soot or dust in the air).</td>
<td></td>
<td>0</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>25</td>
<td>Response time for emergency vehicles (Rural/Metro ambulance and fire) is 6 minutes or less, and 10 minutes or less for law enforcement (Sheriff's Dept.).</td>
<td></td>
<td>10</td>
<td>0</td>
<td>10</td>
</tr>
</tbody>
</table>
26. A legal public right of vehicular ingress and egress exists to and from the parcel.  

27. The proposed land use is an allowed use according to the Yuma County Zoning Ordinance Airport District Land Use Matrix.  

28. Elementary, middle, and high schools serving the subject property will be able to accommodate any projected enrollment increases within existing capacities.  

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>26</td>
<td>A legal public right of vehicular ingress and egress exists to and from the parcel.</td>
<td>10</td>
</tr>
<tr>
<td>27</td>
<td>The proposed land use is an allowed use according to the Yuma County Zoning Ordinance Airport District Land Use Matrix.</td>
<td>10</td>
</tr>
<tr>
<td>28</td>
<td>Elementary, middle, and high schools serving the subject property will be able to accommodate any projected enrollment increases within existing capacities.</td>
<td>10</td>
</tr>
</tbody>
</table>

**TOTAL SCORE**  
250

**MAXIMUM POSSIBLE SCORE**  
300

**HIGH SCORE**  
Total score is 275 to 300.  
A score falling in this category represents a proposal that likely should be approved.  
The proposal is likely to be in compliance with adopted land use plans, policies, and objectives, has good access, and is compatible with surrounding development.

**MODERATE SCORE**  
Total score is 250 to 274.  
A score falling in this category represents a proposal that likely contains some redeeming qualities but is lacking in one or more areas.  
Proposals within this score range typically should be more carefully considered.

**LOW SCORE**  
Total score is 249 or less  
A score falling in this category represents a proposal that likely should be denied.  
The proposal likely does not comply with several adopted land use policies, goals, or objectives, may not have physical or legal access, or may not be compatible with surrounding development.

Prepared by: Fernando Villegas
MEMORANDUM

TO: Fernando Villegas, Senior Planner

FROM: Arturo Alvarez, Land Development Engineer

SUBJECT: Rezoning Case # 16-01

DATE: March 04, 2016

Based on the Road Functional Classification System (RFCS). The following are current and recommended right of way width dedications:

<table>
<thead>
<tr>
<th>Parcel #632-52-037</th>
<th>Current Dedicated</th>
<th>RFCS ROW Dedication</th>
<th>Engineering Recommends</th>
<th>Existing Road Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>South (5th St.)</td>
<td>10'</td>
<td>25'</td>
<td>15'</td>
<td>paved roadway</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parcel #632-52-036</th>
<th>Current Dedicated</th>
<th>RFCS ROW Dedication</th>
<th>Engineering Recommends</th>
<th>Existing Road Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>South (5th St.)</td>
<td>10'</td>
<td>25'</td>
<td>*</td>
<td>paved roadway</td>
</tr>
</tbody>
</table>

The Engineering Division recommends the following:

- In accordance with the Yuma County Public Works Standards Volume I, Section 7.3 Guidelines for Traffic Studies, a traffic study will be required. All improvements required by the traffic study will be constructed.
- Access along 5th Street shall be in accordance with Public Works Standard Volume I, Section 7.2.8 Driveway/Curb Cuts.
- The owner shall dedicate any additional right of way subject to the Traffic Impact Study road requirements along 5th Street.
- * The owner to rededicate the right of way as described in the improperly recorded document FEE# 2006-42167
February 22, 2016

CASE NUMBER: Rezoning Case No. 16-01

CASE SUMMARY: Rezoning Case No. 16-01: John Sternitzke, agent for SJB Properties VI LLC requests the rezoning of two parcels totaling 1.7 net acres in size from Low Density Residential-8,000 square feet minimum (R-1-8) to High Density Residential (R3), Assessor’s Parcel Numbers 632-52-036 and 037 located at 2540 W. 5th Street, Yuma, Arizona.

The applicant is proposing an apartment complex.

Public Hearing: TBD

Comments Due: March 1, 2016

Please complete the comments section below and return or forward your comments via first class mail, fax, or e-mail. For additional information, please contact me at (928) 817-5181.

---

<table>
<thead>
<tr>
<th>XX</th>
<th>COMMENT</th>
<th>NO COMMENT</th>
</tr>
</thead>
</table>

Fernando, regarding the two parcels identified above, #63252037 was originally a residence that received a single family residence connection on 9/29/11, with one septic tank abandoned. The house service connection Capacity Charge was paid for this location only. It appears that these parcels (036 and 037) are being tied – is that and the apartments are being built on the newly tied parcel—is that correct? Parcel #63252036 did not receive any connections and the septic tanks were not abandoned during the B & C Sewer Project Construction. There was nothing to connect to so there were no capacity charges charged or paid for this location, and no septic tanks abandoned. We could have at least abandoned tanks, but legally were not able to do so as we never received any response from the owner after multiple attempts to contact him and get the Right of Entry signed. Without the signed Right of Entry, nothing can be done. They did receive a stub out at the front, east side of the property on 5th Street.

At this time, it is necessary for the purchaser to contact the City of Yuma to determine the amount of Capacity Charges they will be required to pay for the commercial development. They may speak with Connie Edwards at 373-4500 X3405 and she can help them with that. I do have a copy of the “As-Built” that might assist them in locating the stub-out when they are going into construction.

I also have a concern with apartments proposed at this location and the way they exit all out on 5th Street. Why can’t an exit be designed at the back of the apartments that would exit onto Avenue B? Maybe you remove the last building on the northeast end of the complex and provide more ingress and egress for the complex, alleviating some of the congestion you would have leaving it as it is. As it is, the Stop sign is right there on 5th making it difficult for a solo exit at this location and making it dangerous for any traffic entering and exiting.
Yuma County Planning & Zoning Commission

March 28, 2016

Item No. 6
1. REQUESTED ACTION:
Request to initiate a text amendment to the Yuma County Zoning Ordinance, Article VIII—Signs, in light of Reed vs. Town of Gilbert.

2. INTENT:
The intent of this request is to initiate a text amendment to the Zoning Ordinance, Article VIII-Signs. The Planning Commission held a discussion on the proposed amendment to the Zoning Ordinance on December 14, 2015, January 25, 2016, and February 22, 2016.

Synopsis of Reed vs. Town of Gilbert: Pastor Reed of Good News Community Church filed a lawsuit challenging the Town of Gilbert’s zoning sign ordinance. The Town of Gilbert imposed strict regulations on the church’s signs, demanding they be no larger than six square feet and stand for no more than 14 hours. Political, ideological, and other noncommercial signs can be up to 32 square feet in size and can stand for many months, sometimes indefinitely. Because the Town’s ordinance regulates signs based on their content, resulting in disfavored treatment of the church’s signs, the ordinance is unconstitutional.

Upon review of the Yuma County Zoning Ordinance, staff determined that Article VIII—Signs should be amended due to conflicts with the Supreme Court’s ruling in Reed vs. Town of Gilbert. Staff is proposing changes to Sections 800.09—Definitions, 810.00—Real Estate Signs, 810.02—Political Signs, 810.03—Banners, 810.04—Special Event or Yard/Garage Sale Signs, 810.05—Construction Signs, 810.06—Portable Signs, 810.07—Festoons, 810.08—Balloons, 810.09—Flags and Symbols, 810.10—Enforcement, Section 810.11—Project Information Signs, and Plate VIII-3: Temporary Signs—No Permits Required.

3. For detailed analysis see attached staff report

4. STAFF’S RECOMMENDATION:
Staff recommends the Planning Commission initiate a text amendment to the Zoning Ordinance, Article VIII--Signs, as presented.
Attachments

Staff Report
Reed v. Town of Gilbert
12-14-15 P&Z Commission minutes
01-25-16 P&Z Commission minutes
02-22-16 P&Z Commission minutes
MEMORANDUM

TO: Yuma County Planning & Zoning Commission

FROM: Maggie Castro, Planning Director

RE: Request to initiate a text amendment to the Yuma County Zoning Ordinance, Article VIII—Signs, in light of Reed vs. Town of Gilbert

DATE: March 14, 2016

Synopsis of Reed vs. Town of Gilbert: Pastor Reed of Good News Community Church filed a lawsuit challenging the Town of Gilbert’s zoning sign ordinance. The Town of Gilbert imposed strict regulations on the church’s signs, demanding they be no larger than six square feet and stand for no more than 14 hours. Political, ideological, and other noncommercial signs can be up to 32 square feet in size and can stand for many months, sometimes indefinitely. Because the Town’s ordinance regulates signs based on their content, resulting in disfavored treatment of the church’s signs, the ordinance is unconstitutional. The following is an example of the Town of Gilbert’s Sign Code requirements:
Upon review of the Yuma County Zoning Ordinance, staff has determined that Article VIII—Signs should be amended due to conflicts with the Supreme Court’s ruling in *Reed vs. Town of Gilbert*.

**Yuma County Zoning Ordinance Requirements for Temporary Signs**

<table>
<thead>
<tr>
<th>Banners in R-2, R-3, MHP, RVP, C-1, C-2, Li, Hi, Hi</th>
<th>60 sq. ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate signs in SR, SSB, R-1, MHS, RVS</td>
<td>4 sq. ft.</td>
</tr>
<tr>
<td>Special Event or Yard/Garage Sale Signs in any district</td>
<td>4 sq. ft.</td>
</tr>
<tr>
<td>Construction Signs in R-2, R-3, MHP, RVP, RC, &amp; C-1</td>
<td>32 sq. ft.</td>
</tr>
</tbody>
</table>

| Real Estate & Political Signs in rural, commercial, & industrial districts | 32 sq. ft. |
| Political Signs in Residential districts | 16 sq. ft. |
| Banners in rural districts | 16 sq. ft. |

Staff is proposing changes to Sections 800.09—Definitions, 810.00—Real Estate Signs, 810.02—Political Signs, 810.03—Banners, 810.04—Special Event or Yard/Garage Sale Signs, 810.05—Construction Signs, 810.06—Portable Signs, 810.07—Festoons, 810.08—Balloons, 810.09—Flags and Symbols, 810.10—Enforcement, 810.11—Project Information Signs, and Plate VIII-3: Temporary Signs—No Permits Required.
STAFF’S PROPOSED CHANGES TO THE ZONING ORDINANCE

ARTICLE VIII--Signs

Section 800.00--General Sign Regulations

800.09--Definitions:

Sign, Political: A temporary sign used in connection with a local, state or national election or referendum.

Sign, Portable: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

Sign, Temporary: A sign displayed for a period of not more than thirty (30) days and which sign is: 1) not constructed according to the requirements of the Yuma County Comprehensive Building Code; and, 2) shall not be considered a temporary sign unless otherwise exempted from permit requirements by the provisions of this Section. Realtor signs, promotional signs, political signs, directional signs, ideological signs or like signage not constructed or intended for permanent use are considered temporary signs.

Section 810.00--Temporary Signs

810.01--Real Estate Signs
A. RA, SA/RL, OS/RR — One (1) real estate sign per frontage is permitted with a maximum area of thirty-two square feet (32') and maximum height of eight feet (8'). Such signs shall be no closer than fifteen feet (15') to front property lines and five (5) feet from side or rear property lines. No time limits apply.

B. SR, SSB, R-1, MHS, RVS — One (1) real estate sign per frontage is permitted with a maximum area of four square feet (4') and a maximum height of four feet (4') with no minimum setbacks or time limits.

C. R-2 & R-3, MHP, RVP — One (1) real estate sign advertising the sale, lease or rental of the property only is permitted with a maximum area of four square feet (4') per dwelling unit but not to exceed thirty-two square feet (32'). No such sign shall exceed eight feet (8') in height or be closer than ten feet (10') to any front property line. No time limits apply.

D. RC, C-1, C-2, LI, HI and II — One (1) real estate sign advertising the sale, lease or rental of the property is permitted with a maximum area of thirty-two square feet (32'). No such sign shall exceed eight feet (8') in height or be closer than ten feet (10') to any front property line. No time limits apply.

810.02—Political Signs

The maximum area permitted per sign is sixteen square feet (16') in residential districts or thirty-two square feet (32') in rural, commercial, or industrial districts. A sign shall not exceed eight feet (8') in height. No setbacks are required. Political signs shall not be erected or placed in such a manner that would have an adverse affect on public health, safety and welfare.

810.03--Banners

Rural, SA/RL, OS/RR — One (1) temporary banner per lot is permitted with a maximum area of sixteen square feet (16') for a period of up to thirty (30) days. Such signs shall not exceed the height of the building or sign to which they are attached.
R-2, R-3, MHP -- One (1) temporary banner per parcel is permitted with a maximum area of sixty square feet (60') for a maximum of thirty (30) days. Such signs shall not exceed the height of the building or sign to which they are attached.

RVP, C-1, C-2, LI, HI, II -- One (1) temporary banner per parcel is permitted with a maximum area of sixty square feet (60') for a maximum of thirty (30) days. Such signs shall not exceed the height of the building or sign to which they are attached.

810.04--Special Event or Yard/Garage Sale Signs

Signs for special events and yard/garage sales are permitted in any district, but shall not exceed four square feet (4'), be posted for over seven (7) consecutive days, nor be reposted on the same property within ninety (90) days of the last posting.

810.01—Signs, Banners, and Flags

A. All zoning districts may have:

1. One small sign that shall not exceed four square feet.

2. Flags, logos or other appurtenant symbols may be placed or erected to a height not exceeding thirty-five feet above average grade level. No time limits or setbacks apply.

B. Zoning districts may also have the following additional signs:

1. RA, SA/RL, OS/RR -- One (1) real estate sign per frontage is permitted with a maximum area of thirty-two square feet (32') and maximum height of eight feet (8'). Such signs shall be no closer than fifteen feet (15') to front property lines and five feet from side or rear property lines

2. SR, SSB, R-1, MHS, RVS -- One (1) real estate sign per frontage is permitted with a maximum area of four square feet (4') and a maximum height of four feet (4') with no minimum setbacks or time limits.

3. R-2 & R-3, MHP, RVP -- One (1) is permitted with a maximum area of four square feet (4') per dwelling unit but not to exceed thirty-two square feet (32'). No such sign shall exceed eight feet (8') in height or be closer than ten feet (10') to any front property line.

4. RC, C-1, C-2, LI, HI and II. One (1) is permitted with a maximum area of thirty-two square feet (32'). No such sign shall exceed eight feet (8') in height or be closer than ten feet (10') to any front property line. No time limits apply.

5. RA, RC, C-1, C-2, LI, HI and II. Balloons, including festoons. They may be any size, but shall not be erected or suspended over one hundred feet (100') above average grade level. A festoon consists of a decorative chain or strip hanging between two (2) points. Such signs may include incandescent light bulbs, banners, balloons, pennants or other such features as are hung or strung overhead and which are not an integral physical part of the building or structure they are intended to serve.
810.052—Construction Signs Additional Signs During Construction

In addition to a project information sign required under Section 810.1104 the following signs shall be permitted as indicated;

Rural, SA/RL, OS/RR -- One (1) construction sign per frontage is permitted with a maximum area of thirty-two square feet (32') and maximum height of eight feet (8'). Such signs shall be no closer than fifteen feet (15') to front property lines and five feet (5') from side or rear property lines.

SR, SSB, R-1, MHS, RVS -- One (1) construction sign per frontage is permitted with a maximum area of sixteen square feet (16') and a maximum height of six feet (6'). Such signs shall be no closer than ten feet (10') to front property lines.

R-2, R-3, MHP, RVP, RC, C-1, C-2, LI, HI, II -- One (1) construction sign per frontage is permitted with a maximum area of thirty-two square feet (32') and maximum height of eight feet (8'). Such signs shall be no closer than ten feet (10') to front property lines.

810.06—Portable Signs

One (1) portable sign per parcel shall be permitted for a period not exceeding thirty (30) consecutive days. Maximum area permitted is sixteen square feet (16') with a maximum height of six feet (6') and minimum setback of five feet (5') from front property lines. All such signs shall be located at least twenty (20) feet from entries and at least twenty feet (20') from the intersection site triangle (see Section 1101.00).

810.07—Festoons

A sign consisting of a decorative chain or strip hanging between two (2) points. Such signs may include incandescent light bulbs, banners, balloons, pennants or other such features as are hung or strung overhead and which are not an integral physical part of the building or structure they are intended to serve.

810.08—Balloons

Balloons, including festoons, are permitted in all commercial, industrial or rural districts for a period not exceeding one hundred twenty (120) days in any given calendar year. They may be any size, but shall not be erected or suspended over one hundred feet (100') above average grade level.

810.09—Flags and Symbols

Flags, logos or other appurtenant symbols may be placed or erected to a height not exceeding thirty-five feet (35') above average grade level. No time limits or setbacks apply.

810.1003—Enforcement

All temporary signs, so defined and delineated in this code, may be placed without permits. However, any such sign found to be not in compliance with the design standards or time constraints contained in this section shall be required to be removed immediately upon written notice of violation from Department of Development Services personnel authorized to enforce said regulations the County Zoning Inspector.

810.1104—Project Information Signs
A. Any person that requires a building permit or grading permit of one (1) acre or greater shall install and maintain a project information sign in accordance with the requirements below.

B. The sign shall be installed prior to beginning actual construction activities and initiating any type of earth-moving operations.

C. The sign shall be installed at a prominent location near the main entrance of the construction site. Traffic visibility shall be maintained by placing the sign back from the main ingress/egress location and at any applicable intersection for proper sight-triangle clearances.

D. The sign may be removed once,
   1. The final for the building permit is approved by the Chief Building Official, or,
   2. Final stabilization has been achieved on all portions or the site of which person is responsible and is approved by the County Environmental Programs Section.

E. The following information shall be displayed on the project information sign:

<table>
<thead>
<tr>
<th>Project Size</th>
<th>1.01-9.99 Acres</th>
<th>Over 10 Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign Size</td>
<td>36” H x 48” W</td>
<td>48” H x 96” W</td>
</tr>
<tr>
<td>Developer Name</td>
<td>3”</td>
<td>4”</td>
</tr>
<tr>
<td>Project Name</td>
<td>3”</td>
<td>4”</td>
</tr>
<tr>
<td>Company Phone Number</td>
<td>3”</td>
<td>4”</td>
</tr>
<tr>
<td>IF YOU HAVE DUST COMPLAINTS</td>
<td>2.25”</td>
<td>3”</td>
</tr>
<tr>
<td>Please call Yuma County Dust Control Hotline, 928-217-DUST (3878)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

F. The project information sign text height shall be at a minimum as shown on the template above, and must contrast with lettering, typically black text with white background.

G. The lower edge of the sign board must be a minimum of three (3) feet and a maximum of five (5) feet above grade.

Plate VIII--3: Temporary Signs - No Permits Required.

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>Time Limit</th>
<th>Area</th>
<th>Height</th>
<th>Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate</td>
<td>Not Applicable</td>
<td>4 square feet/dwelling unit</td>
<td>4 feet</td>
<td>5 feet minimum</td>
</tr>
<tr>
<td>Single Family Residential</td>
<td>not consistent with §810.01</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Real Estate</td>
<td>Not Applicable</td>
<td>32 square feet</td>
<td>8 feet</td>
<td>10 feet</td>
</tr>
<tr>
<td>(Commercial/Industrial)</td>
<td>Not Applicable</td>
<td>32 square feet</td>
<td>8 feet/10 feet</td>
<td>15 feet/5 feet minimum</td>
</tr>
<tr>
<td>(Rural)</td>
<td>Not Applicable</td>
<td>32 square feet</td>
<td>8 feet/10 feet</td>
<td>15 feet/5 feet minimum</td>
</tr>
<tr>
<td>(Manufactured Resident)</td>
<td>Not Applicable</td>
<td>32 square feet</td>
<td>8 feet/10 feet</td>
<td>15 feet/5 feet minimum</td>
</tr>
<tr>
<td>Political</td>
<td>Not Applicable</td>
<td>16 square feet</td>
<td>8 feet</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>(Residential)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Political (Commercial)</td>
<td>Not-Applicable</td>
<td>32-square-feet</td>
<td>8-feet</td>
<td>Not-Applicable</td>
</tr>
<tr>
<td>------------------------</td>
<td>----------------</td>
<td>----------------</td>
<td>--------</td>
<td>----------------</td>
</tr>
<tr>
<td>Banner (Manufactured Residential/Commercial Only)</td>
<td>30-days</td>
<td>60-square-feet</td>
<td>Structure</td>
<td>Not-Applicable</td>
</tr>
<tr>
<td>Special Event or Yard/Garage Sale</td>
<td>7-days</td>
<td>4-square-feet</td>
<td>Not-Applicable</td>
<td>Not-Applicable</td>
</tr>
<tr>
<td>Construction (two such signs permitted in C-2, LI, HI or II)</td>
<td>Building-permit to-final inspection</td>
<td>32-square-feet</td>
<td>8-feet</td>
<td>10-feet minimum</td>
</tr>
<tr>
<td>Portable</td>
<td>30-days</td>
<td>16-square-feet</td>
<td>6-feet</td>
<td>5-feet minimum</td>
</tr>
<tr>
<td>Festoons</td>
<td>Not-Applicable</td>
<td>60-square-feet</td>
<td>35-feet</td>
<td>10-feet minimum</td>
</tr>
<tr>
<td>Balloons</td>
<td>120-days in one-calendar year</td>
<td>Not-Applicable</td>
<td>100-feet</td>
<td>10-feet minimum</td>
</tr>
<tr>
<td>Flags &amp; Symbols</td>
<td>Not-Applicable</td>
<td>60-square-feet</td>
<td>District</td>
<td>5-feet minimum</td>
</tr>
<tr>
<td>Project Information Signs</td>
<td>Building-permit to-final inspection</td>
<td>See-section 810.11-(E)</td>
<td>See-section 810.11-(E)</td>
<td>Not-Applicable</td>
</tr>
<tr>
<td>Sign Type</td>
<td>Zoning District</td>
<td>Maximum Area</td>
<td>Maximum Height</td>
<td>Minimum Setback</td>
</tr>
<tr>
<td>---------------------------</td>
<td>-----------------</td>
<td>-------------------------</td>
<td>----------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>Temporary Signs</td>
<td>RA, SA/RL, OS/RR</td>
<td>32 square feet</td>
<td>8 feet</td>
<td>15 feet (front) 5 feet (side &amp; rear)</td>
</tr>
<tr>
<td></td>
<td>SR, SSB, R-1, MHS, RVS</td>
<td>4 square feet</td>
<td>4 feet</td>
<td>None</td>
</tr>
<tr>
<td></td>
<td>R-2, R-3, MHP, RVP</td>
<td>4 square feet/du 32 square feet</td>
<td>8 feet</td>
<td>10 feet (front)</td>
</tr>
<tr>
<td></td>
<td>RC, C-1, C-2, LI, HI, II</td>
<td>32 square feet</td>
<td>8 feet</td>
<td>10 feet (front)</td>
</tr>
<tr>
<td>Small sign</td>
<td>All</td>
<td>4 square feet</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Balloons &amp; Festoons</td>
<td>Commercial, Industrial, Rural</td>
<td>None</td>
<td>100 feet</td>
<td>None</td>
</tr>
<tr>
<td>Flags, Logos &amp; Symbols</td>
<td>All</td>
<td>None</td>
<td>35 feet</td>
<td>None</td>
</tr>
<tr>
<td>Construction</td>
<td>RA, SA/RL, OS/RR</td>
<td>32 square feet</td>
<td>8 feet</td>
<td>15 feet (front) 5 feet (side &amp; rear)</td>
</tr>
<tr>
<td></td>
<td>SR, SSB, R-1, MHS, RVS</td>
<td>16 square feet</td>
<td>6 feet</td>
<td>10 feet (front)</td>
</tr>
<tr>
<td></td>
<td>R-2, R-3, MHP, RVP, RC, C-1</td>
<td>32 square feet</td>
<td>8 feet</td>
<td>10 feet (front)</td>
</tr>
<tr>
<td></td>
<td>C-2, LI, HI or II</td>
<td>32 square feet</td>
<td>8 feet</td>
<td>10 feet (front)</td>
</tr>
<tr>
<td>Project Information Signs</td>
<td>All</td>
<td>See section 810.04 (E)</td>
<td>See section 810.04 (E)</td>
<td>None</td>
</tr>
</tbody>
</table>
Gilbert, Arizona (Town), has a comprehensive code (Sign Code or Code) that prohibits the display of outdoor signs without a permit, but exempts 23 categories of signs, including three relevant here. “Ideological Signs,” defined as signs “communicating a message or ideas” that do not fit in any other Sign Code category, may be up to 20 square feet and have no placement or time restrictions. “Political Signs,” defined as signs “designed to influence the outcome of an election,” may be up to 32 square feet and may only be displayed during an election season. “Temporary Directional Signs,” defined as signs directing the public to a church or other “qualifying event,” have even greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the “qualifying event” and 1 hour after.

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

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

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

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

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

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

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

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

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

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

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

707 F. 3d 1057, reversed and remanded.

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

Opinion of the Court

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

SUPREME COURT OF THE UNITED STATES

__________________

No. 13–502

__________________

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

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

[June 18, 2015]

JUSTICE THOMAS delivered the opinion of the Court.

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

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

I

A

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

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

The second category is “Political Sign[s].” This includes any “temporary sign designed to influence the outcome of an election called by a public body.” Glossary 23. 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). These signs may be displayed up to 60 days before a primary election and up to 15 days following a general election. Ibid.

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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. 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-

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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.
Opinion of the Court

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.

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 “abridgment 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
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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.

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

To start, the Sign Code’s distinctions are not speaker based. The restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. If a local business, for example, sought to put up
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signs advertising the Church’s meetings, those signs would be subject to the same limitations as such signs placed by the Church. And if Reed had decided to display signs in support of a particular candidate, he could have made those signs far larger—and kept them up for far longer—than signs inviting people to attend his church services. If the Code’s distinctions were truly speaker based, both types of signs would receive the same treatment.

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

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

And, just as with speaker-based laws, the fact that a distinction is event based does not render it content neutral. The Court of Appeals cited no precedent from this Court supporting its novel theory of an exception from the content-neutrality requirement for event-based laws. As we have explained, a speech regulation is content based if the law applies to particular speech because of the topic discussed or the idea or message expressed. Supra, at 6. A regulation that targets a sign because it conveys an idea about a specific event is no less content based than a regulation that targets a sign because it conveys some other idea. Here, the Code singles out signs bearing a particular message: the time and location of a specific event. This type of ordinance may seem like a perfectly rational way to regulate signs, but a clear and firm rule governing content neutrality is an essential means of protecting the freedom of speech, even if laws that might seem “entirely reasonable” will sometimes be “struck down because of their content-based nature.” City of Ladue v. Gill, 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-
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 unprotected,’” *Republican Party of Minn. v. White*, 536 U. S. 765, 780 (2002), the Sign Code fails strict scrutiny.
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._}
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.
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
speak ers. 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. §78l (requirements for content that must be included in a registration statement); of energy conservation labeling-practices, e.g., 42 U. S. C. §6294 (requirements for content that must be included on labels of certain consumer electronics); of prescription drugs, e.g., 21 U. S. C. §353(b)(4)(A) (requiring a prescription drug label to bear the symbol “Rx only”); of doctor-patient confidentiality, e.g., 38 U. S. C. §7332 (requiring confidentiality of certain medical records, but allowing a physician to disclose that the patient has HIV to the patient’s spouse or sexual partner); of income tax statements, e.g., 26 U. S. C. §6039F (requiring taxpayers to furnish information about foreign gifts received if the aggregate amount exceeds $10,000); of commercial airplane briefings, e.g., 14 CFR §136.7 (2015) (requiring pilots to ensure that each passenger has been briefed on flight procedures, such as seatbelt fastening); of signs at petting zoos, e.g., N. Y. Gen. Bus. Law Ann. §399–ff(3) (West Cum. Supp. 2015) (requiring petting zoos to post a sign at every exit “strongly recommend[ing] that persons wash their hands upon exiting the petting zoo area”); and so on.

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

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

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

SUPREME COURT OF THE UNITED STATES

No. 13–502

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

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

[June 18, 2015]

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

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

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

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. Gillee*, 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
KAGAN, J., concurring in judgment

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.
facilities. Javier Barraza replied that yes, there are other permits. Commissioner White asked staff if the Special Use Permits are five year permits. Javier Barraza stated yes, they are five year permits.

Chairman Henry opened and closed the public meeting.

Commissioner Aguirre made a motion to recommend approval of Special Use Permit Case No. 15-06. Commissioner Porchas seconded the motion. The motion carried 9-0.

9. Presentation and discussion on possible text amendments to Article VIII--Signs of the Zoning Ordinance in light of Reed vs Town of Gilbert.

Planning Director Maggie Castro stated that this is a presentation for information purposes and that is not a request for a commission initiative. Maggie Castro informed the Planning Commission that staff will now start bringing proposed amendments to the Zoning Ordinance as a presentation to the Planning and Zoning Commission so there is an opportunity to review and comment on the proposed changes or the proposed language that staff drafts before it is brought forward as a request for a commission initiative. Maggie Castro stated that there was a lawsuit filed in the Town of Gilbert that went to the U.S. Supreme Court that was concerning signs. Maggie Castro further explained that Good News Community Church filed a lawsuit challenging the Town of Gilbert’s zoning sign ordinance. The Town of Gilbert imposed strict regulations on the church’s signs demanding that they be no larger than six square feet and stand for no more than fourteen hours. Political, Ideological and other nonpolitical signs can be up to thirty two square feet in size and can stand for many months and sometimes indefinitely. Because of the town’s ordinance which regulates signs based on their content resulting in disfavored treatment of the church’s signs, the ordinance is unconstitutional. Staff provided a small example of how the Town of Gilbert’s ordinance was applied and also included in the staff report is an example of how Yuma County treats similar types of signs. Based on the fact that the Town of Gilbert’s Zoning Ordinance and Yuma County’s Zoning Ordinance are similar, Yuma County is also required to comply with the judgment issued in Reed vs Town of Gilbert. Staff is proposing changes to the Section 800.09 which is the definition section of Article VIII, Section 810.00--Real Estate Signs, Section 810.02--Political Signs, Section 810.03--Banners, Section 810.04--Special Event or Yard/Garage Sale signs, Section 810.05--Construction Signs, Section 810.06--Portable Signs, Section 810.07--Festoons, Section 810.08--Balloons, Section 810.09--Flags and Symbols, Section 810.10--Enforcement, Section 810.11--Project Information Signs, and removal of Plate VIII-3--Temporary Signs. Included in the Agenda Packet are the proposed changes in strike and bold format so that the Planning Commission can see how the Zoning Ordinance currently reads and how staff is proposing to amend the Zoning Ordinance so that it is in compliance with U.S. Supreme Court’s decision in Reed vs Town of Gilbert. Commissioner Bardo asked Maggie Castro what is allowed that hasn’t been allowed before. Maggie Castro explained that what the lawsuit did is forbid the regulation of signs based on their content. Maggie Castro explained that a sign for a church that advertizes services or activities cannot be treated differently than a real estate sign for example. Commissioner Rosales asked Maggie Castro about realty signs. Maggie Castro stated that the intent is to treat all temporary signs the same with the proposed changes. Commissioner Rosales stated that his concern is not being able to have a
realty sign up for more than thirty days. Maggie Castro stated that the current Zoning Ordinance restricts real estate signs for up to thirty days. Maggie Castro further explained that it will be required that all temporary signs comply with the thirty day requirement. Commissioner Rosales asked Maggie Castro if the plate is removed will that require permits for a temporary sign. Maggie Castro stated that the permitting information is defined in other sections of the Zoning Ordinance specifying what signs require permits or not and will no longer be included in a table format. Commissioner White asked Maggie Castro how the current code is enforced. Maggie Castro stated that all violations to the Zoning Ordinance are handled on a complaint basis so staff does not proactively cite property owners for violations unless it is in a threat to health, safety and welfare. Maggie Castro explained to the Commissioners that this is draft language and the Commissioners have the opportunity to make changes and to provide input before it is brought back as a request for a commission initiative. Commissioner Rosales stated that he would like staff to do more research on the different types of signs and asked if Gilbert conformed all of the signs. Maggie Castro stated that Gilbert’s sign Ordinance was found to be unconstitutional therefore unenforceable. Commissioner Bardo asked Maggie Castro what category feather signs are under because they are not listed. Maggie Castro stated that there is no category in the Yuma County Zoning Ordinance for those types of signs and explained that staff is treating them like banners.

10. Discussion by the Commission members and Planning Director of events attended, current events, and the schedule for future Planning Commission meetings.

There was no discussion by the Commission members and Planning Director of events attended, current events, and the schedule for further Planning Commission meetings.

11. Adjourn.

The meeting adjourned at 6:13 p.m.

These minutes were approved and accepted on this 25th day of January, 2016.

Witness: Wayne Briggs
Chairman

Attest: Maggie Castro
Planning Director
additional language to bring the item back before the Commission at the next public hearing.

Ms. Castro stated that this presentation was an opportunity for the Commission to propose any changes or recommendations. She also informed the Commission that they have the option to restrict or exclude allowed districts.

After discussion among the commissioners, Chairman Briggs directed staff to make the changes and bring the item back at the next meeting.

**ITEM No. 6: Presentation and discussion on possible text amendment to the Zoning Ordinance in light of Reed vs. Town of Gilbert.**

Planning Director Maggie Castro stated that this agenda item was a presentation and discussion carried forward from the December 2015 meeting. Ms. Castro reviewed the changes and modifications requested by the Commission at the previous meeting.

Commissioners discussed the language involving time limits of temporary signs and requested the time limit be stated as ‘when the need ceases to exist’. Deputy County Attorney, Ed Feheley stated that the proposed change ‘when the need ceases to exist’ could not be enforced and suggested having no time limit and defining temporary sign in a way that people understand what is meant by temporary. Ms. Castro offered the text of Section 800.09 – Sign, Temporary could be rewritten to read as follows:

Sign, Temporary: A sign which is 1) not constructed according to the requirements of the Yuma County Comprehensive Building Code and 2) shall not be considered a temporary sign unless otherwise exempted from permit requirements by the permissions of the Section. Realtor signs, promotional signs or like signage not constructed or intended form permanent use are considered temporary signs.

Commissioners agreed with the suggested language. Ms. Castro would make the suggested changes and bring the item back as a presentation at the next regularly scheduled meeting.

**ITEM No. 7: Discussion by the Commission members and Planning Director of events attended, current events, and the schedule for future Planning Commission meetings.**

There was no discussion by the Commission members and Planning Director.
control some retention basins so permission to use those basins would be obtained through the HOA.

Commissioners asked about type of soil beds with regard to soil testing requirements and cost of permitting. Commissioners also discussed whether soil testing should be mandated, which districts to allow Community Gardens as a use, types of structures requiring permits, and associated permit costs.

Mr. Villegas informed the Commission that the type of soil bed, e.g., raised or ground, would not be addressed in the YCZO. There would be no cost to obtain a permit to establish a Community Gardens; however, permits would be required for structures such as a storage shed.

Planning Director Maggie Castro provided clarification to the Commission by contrasting the steps to establish a Community Garden with and without an established use in the YCZO. She stated that if the Commission moved forward with the Commission Initiative, Community Gardens would be permitted as Mr. Villegas previously mentioned. If the Commission decided not to move forward with the initiative, anyone wishing to establish a community garden would need to obtain a Special Use Permit (SUP) with a non-refundable fee of $750.00 for Residential or $1500.00 for Commercial/Industrial districts. She also clarified that temporary shade/screen/netting structures for agricultural use were exempt from building code requirements.

Mr. Villegas informed the Commission that the SUP process did not require soil testing. He reiterated that the Commission had the option to remove soil testing from the proposed language.

MOTION (McKINLEY/BARDO): To move forward with a request for a Commission Initiative to adopt a new Section 1108.18 – Community Gardens into the Yuma County Zoning Ordinance to allow and regulate Community Gardens in Yuma County allowing use in all districts and removing the soil testing requirement.

ITEM No. 5: Presentation and discussion on possible text amendment to Article VIII-Signs of the Zoning Ordinance in light of Reed vs. Town of Gilbert.

Planning Director Maggie Castro informed the Commission the agenda item was a presentation and discussion carried forward from the January 25, 2016 meeting. Ms. Castro reviewed the changes and modifications requested by the Commission at the previous meeting. She also explained the court case prompting the proposed changes and stated that the Yuma County Zoning Ordinance currently had similar wording that was challenged in Reed vs. Town of Gilbert.

Commissioners asked if the proposed changes would put Yuma County in compliance with regard to sign regulations. The Commission also asked if regulations were in place
for maintaining the aesthetics of signs over time if there were no time limitations for all signs.

Deputy County Attorney Ed Feheley clarified the decision of the Supreme Court and what changes would be in compliance with the ruling for Reed vs. Town of Gilbert. He noted that some subdivisions could have CC&Rs that regulate signs further. Mr. Feheley said that decaying signs could be addressed under public safety and health or by the Yuma County Zoning Ordinance as junk. He also explained the process of moving forward with the Commission Initiative.

MOTION (HENRY/McKINLEY): To bring the item back as a request for a Commission Initiative for a text amendment to Article VIII-Signs at the next regular meeting.

VOICE VOTE: The motion carried 6-0.

**ITEM No. 6: Review and approval of the Calendar Year 2015 Annual Report:**

Planning Director Maggie Castro presented the Calendar Year 2015 Annual Report to the Planning and Zoning Commission pursuant to Section 5(B) of the Planning and Zoning Commission bylaws.

MOTION (BARDO/AGUIRRE): Direct staff to present the Calendar Year 2015 Annual Report as presented to the Board of Supervisors (BOS) at the next regular BOS meeting.

VOICE VOTE: The motion carried 6-0.

**ITEM No. 7: Discussion by the Commission members and Planning Director of events attended, current events, and the schedule for future Planning Commission meetings.**

There was no discussion by the Commission members and Planning Director.

There being no further business to come before the Commission, the Chairman adjourned the meeting at 5:51 p.m.

Approved and accepted on this 28th day of March, 2016.

Wayne Briggs, Chairman

ATTEST:

Maggie Castro, Planning Director
Yuma County
Planning & Zoning Commission

March 28, 2016

Item No. 7
P&Z Commission Agenda
Meeting Date: 03/28/2016
Submitted For: Maggie Castro  Submitted By: Fernando Villegas
Department: Planning & Zoning Division - DDS

Information

1. REQUESTED ACTION:
Request to initiate a text amendment to the Yuma County Zoning Ordinance to amend Article II—Definitions and add a proposed new section, Section 1108.18—Community Gardens

2. INTENT:
The intent is to allow community gardens in all zoning districts in Yuma County subject to regulations.

3. For detailed analysis see attached staff report

4. STAFF’S RECOMMENDATION:
Staff recommends the Planning Commission initiate a text amendment to the Zoning Ordinance to amend Article II--Definitions and add a new section, Section 1108.18--Community Gardens, as presented..

Attachments
Staff Report
HIA
January 25th P&Z meeting minutes
February 22nd P&Z meeting minutes
TO: Yuma County Planning & Zoning Commission

FROM: Fernando Villegas, Senior Planner

RE: Request to initiate a text amendment to the Yuma County Zoning Ordinance to amend Article II—Definitions and add a proposed new section, Section 1108.18—Community Gardens

DATE: March 9, 2016

The Yuma County Public Health Services District prepared a Health Impact Assessment (HIA) in 2015 in partnership with the Health Promotions Division, Health in Arizona Policy Initiative, and Arizona Nutrition Network with significant inputs from the Department of Development Services and other public and community agencies for the purpose of adopting a Community Garden Ordinance for Yuma County.

Community gardens have been identified as part of a strategy for improving access to healthy food, which can reduce food insecurity and help lower the risk of several chronic diseases. As a result, in recent years a number of community-based and public health initiatives in Yuma County began encouraging and establishing community gardens. However, this has required an adjustment to the zoning regulations in several jurisdictions that did not otherwise include community gardens as a permitted land use. The City of Yuma was the first to respond, and in the fall of 2014, Yuma County Department of Development Services began work on its Community Garden Ordinance.

Additionally, the American Planning Association (APA) created an initiative called Plan4Health with the purpose of strengthening the connection between planning and public health. Plan4Health connects communities across the country, funding work at the intersection of planning and public health. Anchored by members of the APA and the American Public Health Association (APHA), Plan4Health supports creative partnerships to build sustainable, cross-sector coalitions. Coalitions work with communities to increase access to healthy food or increase opportunities for active living where residents live, work, and play. The Plan4Health project aims to build local capacity to address population health goals and promote the inclusion of health in non-traditional sectors. Coalitions made up of APA chapters, APHA affiliates, local non-profits, schools, parks and recreation departments, universities – and more. These coalitions are working to launch and to strengthen strategies for healthy planning.
In 2010, the American Planning Association, with funding from the Centers for Disease Control and Prevention, began a three-year study to assess the integration of public health into comprehensive plans and their development process. During the next 10 year update to the Yuma County Comprehensive Plan, staff intends to address health in the plan’s vision, mission and engagement strategy and approach. One of the plan components will be Active Living and will include planning strategies to address Food and Nutrition. Some planning strategies to address Food and Nutrition are:

- Promote access to clean water and public drinking fountains
- Designate areas in urban as well as rural communities for agricultural use and allow community gardens within all residential neighborhoods
- Promote the availability of healthy, fresh foods in identified food deserts and food swamps

The HIA for the Community Garden Ordinance identified five health outcomes prevalent in Yuma County: Diabetes, cardiovascular disease, obesity, stress, and food security. Health Outcome is defined as follows: The health status of an individual, group or population which is attributable to a number of determining factors such as behaviors, social and community environments, health care services and genetics.

**Key findings on the health impact of a Community Garden Ordinance**

The HIA examined the impact on health of community gardens that would be initiated by county residents as a result of a Community Garden Ordinance in Yuma County.

**Current conditions**

The following are key health outcomes and determinants that could be positively affected by the establishment of community gardens:

1) Yuma County has higher rates of diabetes (13.3%) than Arizona (9%).
2) Yuma County has higher rates of cardiovascular disease (12.9%) than Arizona (10.4%).
3) Yuma County has higher rates of obesity (30.2%) than Arizona (24.7%)
4) 22.3% of residents in Yuma County and 39.4% of children in Yuma County are food insecure.
5) Physical inactivity in Yuma County has been rising in recent years.

**Projected impacts**

The research literature and stakeholder expert input anticipates the following impacts of community gardens on health:

*Physical activity*: Those who participate in a community garden will increase their physical activity, which is known to reduce the risk of cardiovascular disease, obesity and stress.

*Diet and nutrition*: Those who participate in a community garden will significantly increase their consumption of fruits and vegetables and will start eating nutritious foods they were not previously eating. This is especially the case where programming is in place that provides
nutrition education and training in food preparation. Increased consumption of fruits and vegetables is associated with lower risk for obesity.

**Social capital:** Social capital results from the benefits associated with strong relationships with others and includes improved health. Those who participate in a community garden will increase their social interactions with others and will experience lower levels of stress.

**Food security:** Those who participate in a community garden will enjoy significant food cost savings and will therefore increase their food security. Food insecurity has a significant impact on health, especially that of children, who are sick more often and experience growth impairment, slowed cognitive development, lower school achievement and behavioral problems.

**Potential negative impacts:** Those who participate in a community garden may increase their exposure to toxins from pesticides or soil contaminants, food-borne illness, heat-related illness and strain injuries. All of these, however, can be mitigated through regulatory measures and appropriate training and education, most of which is already in place.

The purpose of this text amendment is to implement the recommendations in the HIA for the Community Gardens Ordinance. The proposed text amendment is to add language to the Zoning Ordinance to add the following definitions to Section 202.00: Community Garden, Garden Plot, and Compost. Additionally staff is proposing to add a new section, Section 1108.18—Community Gardens, for the purpose of establishing minimum development standards and operational requirements.

The following are the proposed changes to the Zoning Ordinance. Staff is not proposing deleting any text with this proposal.

### 202.00 – Definitions

**Community Garden:** A private or public facility for the cultivation of fruits, vegetables, flowers and ornamental plants by more than one person.

**Garden Plot:** Allocated gardening spaces for cultivating vegetables, fruits, and ornamentals.

**Compost:** Decayed organic material used as a plant fertilizer.

### 1108.18 -- Community Gardens

**A. General.** Community gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers or herbs by multiple users. The land shall be served by a water supply sufficient to support the cultivation practices used on the site.
B. Community gardens are allowed in all zoning districts subject to the following regulations:

1. Operating Rules:
   a. Community gardens shall have a set of operating rules addressing the governance structure of the garden, hours of operation, maintenance, and security requirements and responsibilities.
   
b. A garden coordinator shall be designated to perform the coordinating role for the management of the community gardens. The garden coordinator shall be responsible for assigning garden plots in a fair and impartial manner according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the Department of Development Services.
   
c. It is recommended that community gardens grow fruits and vegetables that are organically produced, using no synthetic fertilizers or pesticides. The United States Department of Agriculture (USDA) and the United States Environmental Protection Agency (EPA) governs the use of pesticides.

2. Drainage:
   a. The site shall be designed and maintained to prevent water from irrigation, storm water and/or other activities and/or fertilizer from draining onto adjacent property or right of way.
   
b. The site shall be designed and maintained to prevent the ponding of water that could contribute to the breeding of mosquitos.

3. On-Site Activities:
   a. There shall be no retail sales on site, except for produce grown on the site. If retail sales negatively impact residential zoning districts, retail sales shall not be allowed.
   
b. No building or structures shall be permitted on the site, with the exception of sheds for storage, greenhouses and small amenities.
   
c. Sheds for storage of tools shall be limited in size to 120 square feet in compliance with setbacks for accessory structures.
   
d. Greenhouses, limited in size to 120 square feet and designed in compliance with setbacks for accessory structures, consisting of buildings made of glass, plastic or fiberglass in which plants are cultivated.
   
e. Small amenities such as benches, bike racks, raised/accessible planting beds, compost or waste bins, picnic tables, seasonal farm stands, fences, garden art, rain barrels, and children’s play areas are allowed.
f. The combined area of all structures shall not exceed 15 percent of the community garden site area.

g. Composting material shall be only those materials generated onsite or contributed by active members of the community garden. Containers shall be located a minimum of 3' from property line. Containers shall be covered to reduce odor.

4. Fences and Security:
Fences and security lighting for community gardens are optional. Fences and security lighting shall meet the requirements for the zoning district.

5. Parking:
No off street parking required unless retail sales of on-site grown produce are allowed. Parking for community gardens shall meet the requirements of Section 902.00 -- Number of Parking Spaces Required.

6. Maintenance required:
Property shall be maintained free of high grass, weeds or other debris. Trash and debris shall be in compliance with Section 1108.05--Maintenance of Yards and Open Space.

7. Abandoned or unproductive community gardens:
If a community garden is left in an unproductive state for longer than a period of twelve months, the garden coordinator or other individual(s) responsible for the community garden shall remove all plants, weeds, and structures.
Healthy Choices  
Healthy Lifestyles

Yuma County Public Health Services District

Health Impact Assessment of a proposed Community Garden Ordinance for Yuma County

June 2015

Funding for this project was provided by the National Center for Chronic Disease Prevention and Health Promotion (CCDPH) under grant number US8DP004793.
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Acknowledgements

The Yuma County Public Health Services District recognizes the effort and dedication of the many participants and stakeholders who contributed to this Health Impact Assessment. The Health Promotions Division, Health in Arizona Policy Initiative and Arizona Nutrition Network have partnered to prepare this document, with significant inputs from the Yuma County Department of Development Services and other public and community agencies. We want to thank Deborah Robinson and Anissa Jonovich of the Arizona Department of Health Services for offering guidance and resources to support this project, and Anna Vakil for providing technical assistance including the literature review, some data analysis, final report revisions and the process evaluation. We are grateful to the members of the HIA Stakeholder Group who participated in regular meetings and interviews (see list below), as well as the Healthy Communities Food Garden Network. We also extend our grateful recognition to the Yuma County citizens who responded to an interview in order to provide key public input.

Technical assistance was funded by a grant from the Pew Charitable Trusts.

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- Anna Vakil PhD MCIP

Health Impact Assessment Stakeholders
- Monty Stansbury, Planning Director, Yuma County Department of Development Services
- Stacey Bealmear-Jones, Urban Horticulture Agent, U of A Yuma County Cooperative Extension
- Ryan Butcher, Program Coordinator, Yuma County Safe Kids program
- Alyssa Linville, Assistant Planner, City of Yuma Department of Community Development
- Stephanie Joy Everett, Senior Planner, City of Yuma Department of Community Development
- Carol Perez, Management Analyst, Yuma County Intergovernmental Public Transportation Authority
- Maggie Castro, Planning Director, Yuma County Department of Development Services (after May, 2015)

Healthy Communities Food Garden Network, a Health District-led network
A Health District led workgroup aimed to increase access to healthy food and physical activity. Formed in 2013 and comprised of subject matter experts, and non-profit organization representatives interested in promoting and supporting community gardens in Yuma County.

Yuma County Department of Development Services
- Javier Barraza, Senior Planner
- Fernando Villegas, Senior Planner
Key Health Impact Assessment Concepts & Terms

Health Impact Assessment:
A Health Impact Assessment (HIA) is a systematic process that uses an array of data sources and analytical methods and considers input from stakeholders and the public to determine the potential effects of a proposed policy, plan, program or project on the health of a population and the distribution of the effects within the population. An HIA also provides recommendations on monitoring and managing those effects.

Health Impact/Effect:
Any change in the health of a population or any change in the physical, natural, or social environment that has a bearing on public health.

Health Determinant:
The range of personal, social, economic and environmental factors which determine the health status of individuals or populations. An example of a health determinant relevant for this HIA would be access to healthy food.

Health Outcome:
The health status of an individual, group or population which is attributable to a number of determining factors such as behaviors, social and community environments, health care services and genetics. An example of health outcomes relevant for this HIA would be diabetes and obesity.

Health Equity:
Health equity refers to absence of disparities between population groups with respect to disease and health outcomes. Health equity is impacted by a variety of social factors such as income inequality, educational quality, natural and built environmental conditions, individual health behavior choices and access to health care. Health equity is improved as these disparities are eliminated or minimized. Health inequity is exacerbated as these disparities grow.

Health Disparity:
Differences in the overall rate of disease, morbidity or mortality between one population group and another. Many personal, social, economic and environmental factors contribute to health disparities. Many populations are affected by disparities including racial and ethnic minorities, residents of rural areas, women, children, elderly and persons with disabilities.

Health in All Policies:
The practice of considering health, well-being and equity in the development and implementation of policies, projects and programs in non-health sectors. It involves a range of activities, such as HIA, to achieve better health outcomes and reduce health disparities.

Rapid, Intermediate and Comprehensive HIA:
Rapid HIA involves collection and analysis of existing data only. An Intermediate HIA is the most common type and entails a more thorough investigation of health impacts as well as the collection of some new data. A Comprehensive HIA involves the collection and analysis of new data using multiple methods and sources and is the most costly and time-consuming of the three.
Executive Summary

Community gardens have been identified as part of a strategy for improving access to healthy food, which can reduce food insecurity and help lower the risk of several chronic diseases. As a result, in recent years a number of community-based and public health initiatives in Yuma County began encouraging and establishing community gardens. However, this has required an adjustment to the zoning regulations in several jurisdictions that did not otherwise include community gardens as a permitted land use. The City of Yuma was the first to respond, and in the fall of 2014, Yuma County Department of Development Services (Department of Development Services) began work on its own Community Garden Ordinance.

A Health Impact Assessment (HIA) is an information gathering tool used to inform and promote policy decisions that are beneficial for health. Information gathered includes an examination of research literature, data on health outcomes and determinants, and input from stakeholders, experts and the public. From the fall of 2014 to June of 2015, with funding from the Centers for Disease Control and the Pew Charitable Trusts and assistance and support from the Arizona Department of Health Services, the Yuma County Public Health Services District (Health District) conducted a HIA on a proposed Community Garden Ordinance for Yuma County. The main goal of the HIA was to inform Department of Development Services of the health impacts of the Community Garden Ordinance with a focus on four main health determinants: physical activity, diet and nutrition, social capital and food security. The decision-making process for the Community Garden Ordinance will culminate with the submission of a zoning text amendment along with a staff report to the County Board of Supervisors, anticipated to take place in late 2015.

Key decision makers associated with the HIA are Department of Development Services, the Health District and the Yuma County Board of Supervisors. The HIA findings will also serve as an educational tool and example for members of the Yuma County Citizen Advisory Groups, which will help provide public input into the formulation of the Yuma County 2030 Comprehensive Plan. Other stakeholders include the City of Yuma, the University of Arizona Yuma County Cooperative Extension (Cooperative Extension), Yuma County Injury Prevention Program, Arizona Nutrition Network (Nutrition Network), Health in Arizona Policy Initiative (HAPI) and Arizona Alliance for Livable Communities.

Key findings on the health impact of a Community Garden Ordinance

This HIA examines the impact on health of community gardens that would be initiated by county residents as a result of a Community Garden Ordinance in Yuma County.

Current conditions

The following are key health outcomes and determinants that could be positively affected by the establishment of community gardens:

1) Yuma County has higher rates of diabetes (13.3%) than Arizona (9%).
2) Yuma County has higher rates of cardiovascular disease (12.9%) than Arizona (10.4%).
3) Yuma County has higher rates of obesity (30.2%) than Arizona (24.7%)
4) 22.3% of residents in Yuma County and 39.4% of children in Yuma County are food insecure.
5) Physical inactivity in Yuma County has been rising in recent years.

Projected impacts
Yuma County Public Health Services District
Health Impact Assessment: Community Garden Ordinance

The research literature and stakeholder expert input anticipates the following impacts of community gardens on health:

**Physical activity:** Those who participate in a community garden will increase their physical activity, which is known to reduce the risk of cardiovascular disease, obesity and stress.

**Diet and nutrition:** Those who participate in a community garden will significantly increase their consumption of fruits and vegetables and will start eating nutritious foods they were not previously eating. This is especially the case where programming is in place that provides nutrition education and training in food preparation. Increased consumption of fruits and vegetables is associated with lower risk for obesity.

**Social capital:** Social capital results from the benefits associated with strong relationships with others and includes improved health. Those who participate in a community garden will increase their social interactions with others and will experience lower levels of stress.

**Food security:** Those who participate in a community garden will enjoy significant food cost savings and will therefore increase their food security. Food insecurity has a significant impact on health, especially that of children, who are sick more often and experience growth impairment, slowed cognitive development, lower school achievement and behavioral problems.

**Potential negative impacts:** Those who participate in a community garden may increase their exposure to toxins from pesticides or soil contaminants, food-borne illness, heat-related illness and strain injuries. All of these, however, can be mitigated through regulatory measures and appropriate training and education, most of which is already in place.

**Recommendations for a Community Garden Ordinance**

Several measures can be adopted that facilitate the establishment of community gardens and help ensure that they are successful. The following recommendations would therefore enhance the positive health impacts and reduce the negative impacts of this ordinance:

1) That residents interested in establishing community gardens be connected with existing programming support that trains gardeners in efficient gardening techniques, organizational and leadership effectiveness, and how to avoid heat-related illness, food-borne illness, toxin exposure and strain injuries. Cooperative Extension currently offers several different types of this training.

2) That soil testing be required in cases where community gardens are proposed for sites that are potentially contaminated and that precautionary soil testing be adopted as a best practice.

3) That the Health Services District continue to maintain its existing nutrition programming in order to encourage and support residents in food desert neighborhoods to participate in community gardens. The Nutrition Network already has programs in place that include gardening workshops, nutrition classes and cooking demonstrations.

4) That the Department of Development Services encourages the use of vacant land, especially county-owned public land, for community gardens, particularly land that is currently underutilized.
### Conclusion

**Summary of health outcomes and impacts**

<table>
<thead>
<tr>
<th>Health Outcome or Determinant</th>
<th>Direction of Impact</th>
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</tr>
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<td>***</td>
</tr>
<tr>
<td>Reduced stress</td>
<td>+</td>
<td>Adults</td>
<td>**</td>
</tr>
<tr>
<td>Food cost savings</td>
<td>+</td>
<td>All segments of the population</td>
<td>*</td>
</tr>
<tr>
<td>Food security</td>
<td>+</td>
<td>All segments, children &amp; youth</td>
<td>**</td>
</tr>
<tr>
<td>Increase strains &amp; injuries, heat related illness, food borne illness</td>
<td>-</td>
<td>All segments of the population</td>
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</tr>
</tbody>
</table>

**Key:**
- * Less than 5 Studies, ** 5-10 Studies, *** 10-20 Studies

Summary of health outcomes and impacts is also described in body of document see page 24.
Introduction
Lack of food security in the US is a significant public health problem. In 2009, it was estimated that approximately 14% of Americans were food insecure (Reference #22). Parallel with this, cardiovascular disease, diabetes and obesity have presented a growing chronic disease burden for the population and the health care system. The CDC has identified that part of a strategy for combating both of these problems is improving access to healthy foods (17).

Yuma County, Arizona, illustrates a unique paradox that while being a vital provider of fresh produce to the nation for much of the year, food insecurity for its own citizens is exceptionally high. As well, rates of several chronic diseases in Yuma County are higher than those in both Arizona and the US, particularly obesity (25). In response to these issues, the community has arisen to initiate several efforts that work towards increasing access to healthy food. One of these is a growing interest in establishing community gardens, however, community gardens have until recently not been permitted by planning jurisdictions in the county.

The City of Yuma was the first to approve a community garden ordinance in April of 2015 and in the fall of 2014 Yuma County began the process of formulating theirs. This development presented an opportunity for the Yuma County Public Health Services District (Health District) to conduct the county’s first Health Impact Assessment (HIA).

The purpose of this HIA is to investigate the potential health impacts of a proposed Community Garden Ordinance for Yuma County that is being prepared by the Yuma County Department of Development Services (Department of Development Services). An HIA is one of several tools available that examine the intended and unintended effects of policies, programs and projects on community health.

For the purpose of this HIA, we define “community garden” as any piece of publicly or privately owned land that is planned, designed, built, maintained and gardened by a group of community members for the purpose of producing fruits, vegetables (and sometimes ornamentals) for consumption by community garden members or for donation.

Background: Building a movement for healthy eating in Yuma County
In an effort to build interest and participation in increasing access to healthy food, decreasing risk factors for obesity, reducing the incidence of chronic diseases, and promoting opportunities for physical activity, the Health District, Health in Arizona Policy Initiative (HAPI) and the Arizona Nutrition Network (Nutrition Network) created the Healthy Communities Food Garden Network (Food Garden Network) in August 2013, comprised of individuals and representatives of organizations interested in promoting and supporting community gardens.

Representatives from the following agencies attended an initial roundtable discussion: City of Yuma Housing Authority, Housing America (a local nonprofit housing organization), Palmcroft Elementary School, the Yuma Community Food Bank, JV Farms & Smith (a local farming company) the University of Arizona Yuma County Cooperative Extension (Cooperative Extension), Dr. Jeanne Elnadry (a local physician affiliated with Hospice of Yuma), and other Health District representatives (Deputy Director and Emergency Preparedness). The network has since expanded and now includes representation from the Department of Development Services, City of Yuma Neighborhood Services division, the City of Yuma Planning and Zoning division, the City of Somerton Parks & Recreation division, Crossroads...
Mission and the Cocopah Indian Tribe. The goal of the Food Garden Network is to increase access to healthy food, as well as create community awareness around the multiple benefits of food gardens.

At approximately the same time, the Yuma Regional Medical Center launched the Yuma County Arizona: Healthiest County in America initiative. This effort has four areas of focus: child and family health, chronic disease prevention, access to comprehensive care and workplace wellness, as well as Healthy Eating Adventure Yuma, which encourages eating plant-based whole foods (4). Another significant parallel development is A Healthy Somerton (1), an initiative of the Regional Center for Border Health Inc. that focuses on chronic disease management and increasing physical activity, which also includes a Farmers Market On Wheels that provides fresh produce to Somerton neighborhoods.

As discussions about food gardens gained momentum within Yuma County, school boards and private landowners joined the movement. In September 2014, HAPI in collaboration with the Arizona Department of Health Services and the University of Arizona College Of Agriculture offered a local School Garden Certification program. Schools learned how to meet requirements that enable fresh produce to be safely served in school cafeterias from their on-site school gardens and learned how to develop a school garden curriculum. Currently, there are over eight school gardens and five privately owned gardens operating within Yuma County.

About this Health Impact Assessment

In October 2014, the Health District secured a grant from the Centers for Disease Control distributed through the Arizona Department of Health Services to conduct an HIA on the proposed Yuma County Community Garden Ordinance. Funding to support technical assistance for the project was provided from the Pew Charitable Trusts in November 2014 and Anna Vakil of Canopy Consulting and Research (the Consultant) was contracted to provide this assistance.

The research conducted for this HIA identified four main pathways to health that can result from community gardens. It also proposed recommendations that can enhance these health benefits:

1) Physical Activity
2) Diet and Nutrition
3) Social Capital
4) Food Security

There are six essential steps involved in conducting an HIA.

1. **Screening**: The screening process determines if conducting an HIA will benefit the project, plan, program and/or policy and decision makers.

2. **Scoping**: The scoping process identifies the goals, objectives and key health determinants of the HIA.

3. **Assessment**: The assessment process creates a profile of the population affected and existing conditions of the health and environmental outcomes. It also involves collecting information in order to estimate or project positive and negative consequences of the decision.
4. **Recommendations:** The recommendation process involves *suggestions and/or actions for avoiding negative impacts and the opportunity to leverage resources to improve health outcomes.*

5. **Reporting:** The reporting process is the *presentation of evidence-based recommendations to guide in the final formulation of the decision.*

6. **Monitoring and Evaluation:** The monitoring and evaluation process allows the opportunity to determine *how the HIA was used, and whether its projections and predictions were accurate.* Monitoring also allows for long-term review of implementation of the recommendations and measurement of health outcomes.

The sections which follow describe each of these respective steps.
Screening: Is an HIA appropriate?

The main purpose of the screening step of the HIA is to determine whether to proceed with an HIA. In this case, the decision was taken to move forward with an HIA of the Community Garden Ordinance for the following reasons: feasibility and timeliness of the HIA relative to the decision-making process of the ordinance, suitability of the topic for the first HIA to be conducted in Yuma County, the policy had potentially important impacts on health, there were sufficient resources to conduct an HIA and there was receptivity of stakeholders. Based on the resources available and the proposed timeline (October 2014 through June, 2015), it was decided that a project somewhere between a Rapid and an Intermediate HIA was feasible since resources were limited but allowed for some new data to be collected.

A Core Team at the Health District was formed to lead the HIA process consisting of Annette Perez, Wellness Coordinator, Health in Arizona Policy Initiative; Suzanne Cooper, Program Coordinator, Arizona Nutrition Network; and Gloria Coronado, Health Promotions Programs Manager; along with Anna Vakil, the Consultant providing technical assistance.
Scoping the HIA

The HIA Core Team decided that the main goals of the HIA were to:

1) Inform the Department of Development Services and other key stakeholders and decision-makers about the health impacts of the proposed Community Garden Ordinance.
2) Facilitate partnerships and a learning process among stakeholders about how to do an HIA and the value of HIAs as an important tool in a Health in All Policies strategy.
3) Identify recommendations for existing and new policies and programs that enhance the health benefits of community gardens.

Proposed ordinance and HIA study area

The Department of Development Services first considered proposing a community garden ordinance for Yuma County in 2013 following the passage of similar ordinances in the City of Phoenix. In April 2015, the city council of the City of Yuma approved a text amendment permitting community gardens as a land use in several types of residential, commercial, agricultural, industrial and recreational zoning districts in the city and also signaled support of a Community Garden Policy adopted by the Community Development Department. Since parts of Yuma County are contiguous with the City of Yuma, Department of Development Services indicated to the HIA Core Team their intention that any new proposed community garden ordinance for the county should be compatible with what the City of Yuma already has in place.

The current timeline for approval of the county ordinance is late 2015, involving the submission of a zoning text amendment to the County Board of Supervisors accompanied by a staff report, which can include health-related language and other recommendations from this HIA. Work on the 2030 Comprehensive Plan will also begin soon and is expected to be submitted to the County Board of Supervisors in early 2020. The Department of Development Services is hoping to learn from this HIA about how best to incorporate health outcomes into the process of preparing the 2030 Comprehensive Plan.

For the purpose of making the project manageable, it was decided that the HIA would focus on the unincorporated areas in Yuma County and unincorporated areas where the county ordinance cannot be enforced. By definition, this removed the larger urban centers such as the cities of Yuma, Somerton and San Luis, the Yuma Proving Ground and Marine Corps Air Station-Yuma, wildlife refuges and the Cocopah Indian Tribe Reservation, consisting of three noncontiguous areas occupying 6,500 acres on or near the Colorado River west of Yuma (see Figure 1). This enabled a focus on those areas that were directly under the jurisdiction of The Department of Development Services and the proposed ordinance. Notwithstanding this, it is hoped that the information and results provided by this HIA will be used by the cities of Yuma, Somerton and San Luis, as well as the Cocopah Indian Tribe.
The total population affected by the Community Garden Ordinance consists of those residing in the unincorporated areas of Yuma County 2013, was 63,007 people (75). Much of the policy area is
uninhabited desert or rural farmland; where community gardens are unlikely to be established. As a result, a decision was taken early on to further focus the HIA on neighborhoods in higher-density urban areas within the Community Garden Ordinance area. After consulting with The Department of Development Services, three zones meeting this definition were identified, (two are illustrated in Figure 2):

1) Northwest Yuma, which is the urbanized area west of Yuma contiguous with the city
2) Foothills, which is the urbanized area east of Yuma
3) “County islands” within the City of Yuma, which are small unincorporated areas of Yuma County surrounded on all sides by the City of Yuma

**Figure 2: Northwest Yuma and Foothills**

![Map of Northwest Yuma and Foothills](image)

**Engaging stakeholders**

To ensure a collaborative process for the HIA, a Stakeholder Group was formed, include representation from other key divisions of the Health District, City of Yuma Planning Dept. staff, Co-operative Extension, Yuma County Intergovernmental Public Transportation Authority (Carol Perez, Management Analyst) and the Regional Center for Border Health Inc. Throughout the process, the Food Garden Network, which continued to meet regularly, was considered to be a broader stakeholder group for the HIA. Updates on the HIA were provided at every Food Garden Network meeting and input from the various participants was also solicited.
The stakeholder strategy consisted primarily of a series of four meetings that served the dual purpose of providing information updates and soliciting input from stakeholders at key points of the HIA process:

1) February 10, 2015: Input solicited from stakeholders on health outcomes and determinants for the Pathway Diagram.
2) April 10, 2015: Presentation of draft Pathway Diagram and interviews of stakeholders on key Assessment variables.
3) June 3, 2015: Solicitation of recommendations and suggestions.

*Engaging residents: vulnerable populations*

While the entire population of the Community Garden Ordinance area will benefit from the establishment of community gardens, our preliminary investigations indicated that the strongest positive impacts would be seen in the vulnerable populations. In addition, HIA best practices encourage the targeting of limited resources toward understanding issues faced specifically by vulnerable populations (83).

Vulnerable populations for this HIA are those people within the Community Garden Ordinance area who live in food deserts. A food desert is “a low-income census tract where either a substantial number or share of residents has low access to a supermarket or large grocery store” (96). In Yuma County as a whole, 11% of residents do not have access to healthy food (25).

It was decided that public input would be sought from those in the study area residing in food deserts. However, soliciting participation of people residing in these areas is known to be challenging. It was therefore determined that an effective strategy would involve capitalizing on relationships the Health District already has in these neighborhoods. The Department of Development Services was asked to prepare a map showing food deserts in the county islands of Northwest Yuma to facilitate choosing an appropriate neighborhood where residents could be approached to provide input into the HIA.

The Health District currently runs nutrition programs out of several primary schools, which involve meeting regularly with parents of children enrolled in the Headstart Program, so two of these schools located in food desert County Island neighborhoods in Northwest Yuma were chosen as venues where resident input could be sought.
Figure 3: County islands and food deserts in a section of Northwest Yuma
**HIA Pathways to health**

A preliminary pathway diagram resulted from the Stakeholder Group meeting of February 10, 2015 that was further developed during the HIA process. Four main pathways were identified that affect health outcomes: physical activity, diet and nutrition, social capital and food security. These pathways are outlined here and described more fully in the Assessment section.

**Figure 4: Community Garden HIA Pathways**

**Physical Activity**

It was anticipated that community gardens would increase opportunities for physical activity, which would have a positive impact on four health outcomes emphasized in the research literature: type 2 diabetes; cardiovascular health; obesity and stress. It also anticipated that gardening might increase the probability of strains and injuries as well as heat-related illness, particularly during the summer months. Interviews of residents revealed that 60% of respondents indicated they would be willing to walk more than a mile to a community garden. 40% would be willing to walk less than a mile.

**Diet and Nutrition**

The second major health pathway is diet and nutrition as a direct result of increased access to fresh produce. It was expected that this would lead to increased consumption of fruits and vegetables among community gardeners, which would in turn have a positive impact on three major health outcomes of type 2 diabetes, cardiovascular health and obesity. It was also anticipated that increased consumption of fresh produce might lead to higher exposure to food-borne illnesses and toxins such as pesticides or soil contaminants.
Social Capital
Social capital refers to mutual support networks among individuals and households enabling them to function more effectively. Typical examples include resource sharing that occurs at the neighborhood level such as mutual childcare arrangements. This pathway results primarily from increased opportunities for social interaction provided by community gardens, which would also tend to reinforce cultural expression and enhance family relationships. All of these factors would have the effect of reducing stress levels.

Food Security
The fourth major pathway for intermediate outcomes begins with increased food cost savings, which will have a direct positive impact on food security. These savings would free up household resources for other important household expenses.
Assessment: The health impacts

The Assessment phase of an HIA identifies baseline data available for the most important health outcomes and determinants. It also entails estimating the health impacts in terms of likelihood and possible distribution within the population based on the research evidence. Below are a brief review of the methods used and an outline of significant impacts that may be important for consideration in the formulation of the Community Garden Ordinance.

Assessment Methods

What has already been learned about community gardens and health?

A literature search was conducted using keyword searches derived from the health outcomes and determinants of the HIA Pathway Diagram utilizing English-language digital databases that included studies from the US, Canada, the UK and Australia: EBSCO (sciences, health, social sciences and humanities) and PubMed (medicine, dentistry, nursing, physical therapy biomedical research, clinical practice, administration, policy issues and health care services).

This search resulted in 111 references relevant to the HIA. A document summarizing the most important 37 of these references was prepared that summarized methodology and main findings for each study in order to facilitate informed discussion about the literature within the HIA Core Team.

Ground-truthing: drawing on stakeholder expertise

Like any subject area, the national and international literature on community gardens and health must be connected to what is locally relevant. As a result, attempts to project future impacts of a proposed policy need to be grounded in local experience and expertise. The HIA literature describes this as “ground-truthing” (90). Information was collected from expert members of the stakeholder group, consisting of 12 individuals (including HIA Core Team members) in the form of individual structured interviews and focus group discussions during Stakeholder Group meetings. Information was also gleaned from the proceedings of the Food Garden Network, which met regularly throughout the HIA process.

Ground-truthing: Yuma County resident perceptions

A strategy was developed to obtain input from Yuma County vulnerable populations living in food deserts, capitalizing on existing relationships the Health District has in these areas. Structured interviews were held with parents of preschool or Headstart children in both English and Spanish at two sites on two different dates in May 2015. An interview guide was developed in both English and Spanish and gift cards were provided as incentive. Questions were asked about the respondent’s past experience with gardening, receptiveness to the possibility of participating in a community garden, distance respondent is willing to walk to a community garden, and concerns about community gardens in general. A total of 22 interviews took place.

What we found: HIA results

This section first presents baseline information on the main health outcomes: diabetes, cardiovascular disease, obesity, stress and food security. This is followed by an assessment of the four main pathways to health (physical activity, diet and nutrition, social capital and food security). Other potentially important impacts are also briefly reviewed. Finally, resident perceptions about community gardens are described.
Where are we now? Baseline data on health outcomes

Type-2 diabetes

*Figure 5: Diabetes in Yuma County*

![Diabetes Population Prevalence](image)

Source: Yuma County Health Assessment, 2012

Figure 1 illustrates that Yuma County had significantly higher rates of diabetes in 2011 than the state of Arizona as a whole. Obesity and physical inactivity are risk factors contributing to diabetes rates. Diabetes itself also increases the risk for heart disease, neuropathy and stroke and often remains undiagnosed (111). Type-2 diabetes is increasingly being seen in the child population, which is of special concern.

Cardiovascular disease

*Figure 6: Cardiovascular disease in Yuma County*

![Cardiovascular Disease](image)

Source: Yuma County Health Assessment, 2012
Cardiovascular disease describes any condition that affects the heart muscle, valves or rhythm. As can be seen in Figure 6, rates of this disease in Yuma County for 2011 are higher than Arizona. The most serious consequence of cardiovascular disease is sudden death. Unhealthy diet, physical inactivity, obesity and smoking raise the risk of cardiovascular disease (96).

**Obesity**

*Figure 7: Obesity in Yuma County*

The obesity problem in the US is well documented and, as can be seen in Figure 7, obesity rates are higher in Yuma County than Arizona as a whole, approaching one-third of the population. Furthermore, Hispanics, which in 2013 comprised 61% of Yuma County’s population (94), tend to have the highest obesity rates. Obesity is a serious health threat that leads to higher risk for several diseases and conditions including heart disease, stroke, high blood pressure, type-II diabetes, some cancers, gallbladder disease, osteoarthritis, gout, and breathing problems such as sleep apnea and asthma. While obesity is basically caused by eating too much and moving too little, a diet that includes plenty of fresh vegetables and fruits is part of an effective weight control strategy (16). Childhood obesity is a growing trend and is of special concern since health during childhood sets the stage for the remainder of the lifecycle. As well, the long term consequences of childhood obesity are not yet fully understood. Although not recent data, in 2005, nearly 36% of students in grades 9 through 12 living in Yuma County were overweight or at risk of becoming overweight (6).

**Stress**

Stress reduction is an important potential benefit of gardening. Since baseline figures on stress levels in Yuma County were not readily available, two proxy variables were identified. The first is number of “poor mental health days” in one month; Yuma County ranked relatively well in Arizona with 3.1, as compared with 3.4 for Arizona as a whole. The second is “social associations”, which is a measure of connectedness to formal social associations. For Yuma County, this is 4.4, as compared with 5.7 for the state of Arizona (25). However, this number could be deceptive in that it does not take into account informal associations, which can be a strong source of social support.
Food security
Food insecurity is a continually shifting concept, but generally means that consistent access to adequate food is limited by a lack of money and other resources at times during the year. By this measure, Yuma County ranks among the highest in Arizona for food insecurity: 22.3% of the population and 39.4% of children in 2013 (65). Changes in a household’s socio-economic situation, especially if sudden, can trigger food insecurity (22). Examples are housing change or job loss. Food insecurity is a major health problem, especially for children since it results in being sick more often, growth impairment, slowed cognitive development, lower school achievement and behavioral problems (19, 80).

Community garden pathways to health
Based on the examination of the research literature, stakeholder input and resident input, the following projections were made regarding the health impacts of community gardens in Yuma County that can be realized through implementation of the Community Garden Ordinance. The likelihood and distribution of these impacts will be further enhanced if the suggestions outlined in the Recommendations section are implemented. The following table provides a summary of the anticipated health impacts of the proposed ordinance.
Yuma County Public Health Services District
Health Impact Assessment: Community Garden Ordinance

Table 1: Summary of health outcomes and impacts

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</tr>
<tr>
<td>Food security</td>
<td>+</td>
<td>All segments, children &amp; youth</td>
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<tr>
<td>Increase strains &amp; injuries, heat related illness, food borne illness</td>
<td>-</td>
<td>All segments of the population</td>
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Key:
* Less than 5 Studies, ** 5-10 Studies, *** 10-20 Studies
Physical activity
It can be seen in Figure 8 that between 2004 and 2011, the rate of physical inactivity in Yuma County rose; while holding steady both in Arizona and in the country as a whole. The recent trend in Yuma County with respect to physical inactivity therefore appears to be moving in the wrong direction.

**Figure 8: Physical inactivity in Yuma County**

![Physical inactivity in Yuma County, AZ](image)

Source: County Health Rankings and Roadmap, 2015

**Figure 9: Physical activity pathway**

It is predicted that those who participate in a community garden will experience an increase in the level of physical activity (29, 39, 101). Gardening meets the US Department of Health and Human Services standards for moderate or vigorous-intensity physical activity and helps assist management of type 2 diabetes if done at least 10 minutes daily (64, 42). This is also the case for both children and senior

Greater physical activity associated with community gardens can potentially lead to an increase in strains and injuries. Poor body mechanics during gardening activities can result in low back pain, knee and muscle/joint pain (77), although some of this evidence comes from study of professional rather than recreational gardeners (56). We believe this negative impact can be mitigated and address this in the Recommendations section.

A potential association between gardening and heat-related illness was not mentioned in the research literature, however, in southern Arizona this possibility must always be taken seriously. Stakeholder input indicated that the main growing season in Yuma is September through June, although some types of produce (melons, okra, eggplant) can be grown during the hot summer months. This means that while gardening activity declines considerably during the summer, it must nonetheless be considered.

Measures to address mitigation of heat-related illness resulting from community gardening in the Recommendations section.

**Diet and Nutrition**

**Figure 10: Diet and nutrition pathway**

It is anticipated that the consumption of fruits and vegetables will increase among those who participate in a community garden, a strong finding in the research literature. Many studies confirm not only that the volume of fruit and vegetable consumption increases (10, 43, 61, 69, 29, 3, 17, 45), but that community garden participants often start eating nutritious foods they have not previously tried (36, 108, 60). These effects are seen not just in individuals but in households with one or more gardeners.

One study revealed a four-fold increase in vegetable consumption, three-fold in children (14). This same study found that before participating in a community garden only 18% of participants had sufficient vegetable intake, which subsequently rose to 84%. Another report found that gardeners were 3.5 times more likely to consume fruits and vegetables at least 5 times a day than non-gardeners (39). The research literature also emphasizes that increased consumption of fruits and vegetables is more likely to occur if there is supportive programming in place that educates community gardeners about the nutritional value of fresh fruits and vegetables and how to prepare and cook them, particularly for low-income populations (110, 33, 109). We discuss this further in the Recommendations section.

Although not well established, there appears to be a link between increased fruit and vegetable consumption among community gardeners and reduction in type-2 diabetes (109, 63, 9).
Some studies have established a connection between increased fruit and vegetable consumption among community gardeners and lower body mass index (BMI), which is a measure of obesity (111). This is especially significant for children and youth. One found that 17% of obese or overweight children had improved BMI; another found that a sub-group of community gardeners classified as obese had a 16% greater increase in preference for vegetables compared with non-gardeners (36). In Los Angeles, a study revealed that community garden participation led to lower BMI for Latino youth (26).

Stakeholder and resident input indicated concerns about the possibility of consumption of produce from community gardens leading to higher incidences of food-borne illness as a result of exposure to pathogens either in produce or in the soil. There was no mention of this in the research literature, however, it is nonetheless a legitimate concern that we address in the Recommendations section.

A second potentially negative impact is the possibility of exposure to toxins, contaminants or harmful chemicals that are either already in the soil as a result of previous land uses, or applied as herbicides or pesticides during the gardening process. This problem is raised in the research literature, which discusses exposure of community gardeners to arsenic (85), lead (86) and other contaminants (101, 55). Measures that can be taken to address this are discussed in the Recommendations section.

Social capital

**Figure 11: Social capital pathway**

![Social capital pathway diagram]

It is predicted that higher levels of social interaction will result from gardeners regularly congregating at the community garden, which in turns leads to lower levels of stress (29, 31, 38, 2, 84, 101, 11, 32, 48). Also part of this health pathway is the community garden as a form of cultural expression and a means to solidify family relationships, particularly for ethnic communities (14, 108, 36, 63). In addition, the research strongly supports the value of gardening itself as a stress-relieving activity (82, 29, 39, 98, 14, 102, 101, 109).

Food security

**Figure 12: Food security pathway**

![Food security pathway diagram]

It is anticipated that there will be significant food cost savings among those who participate in community gardens. Evidence indicates that these cost savings can be substantial. One study found that
individual gardeners were able to save $475 per season; over a multi-year period for an entire community garden, the cost savings were estimated at $915,000 (39). Up to $2/lb of savings in fresh produce has also been reported (4). Another study revealed that 81% of gardeners reported they used the community garden to stretch food dollars (69).

One report found that food security concerns dropped from 31% before a community garden project to only 3% (14). This positive impact on food security is particularly important for children’s health, which has been shown to be strongly affected by food insecurity (19, 80). Furthermore, experts believe that community gardens can contribute not just to individual or household food security, but to community food security as well (23, 29, 30, 105).

Other impacts
Five other variables, while not yet demonstrating an established relationship with health outcomes, are described in the research literature on community gardens and are therefore worthy of mention.

The first is increased citizen engagement and empowerment that results from participating in community gardens. Because community gardens are local gathering places, they therefore lead naturally to community-building and collective problem-solving (39, 44, 29, 8).

The second is municipal cost-savings associated with the development of community gardens. One study estimates these savings at approximately $4,100 per year per site resulting from the prevention of vandalism, illegal dumping and associated labor-intensive (and costly) upkeep.

The third is neighborhood beautification resulting from sites that are transformed from eyesores to community gardens. This has a positive impact on neighborhood property values, which can in turn increase municipal tax revenue (100, 58, 84, 29). One study reported an increase of $1/2-million per garden in increased tax revenue over a 20-year period (39).

Fourth, community gardens contribute to neighborhood crime prevention (29, 39, 58) as a result of more people and “eyes” on the street.

Finally, the research literature describes how community gardens have been shown to have therapeutic value for special populations: cancer survivors, the elderly, at-risk youth and homeless women (89, 12, 82, 36, 81).

Public perceptions about community gardens in food-desert neighborhoods
Twenty two interviews were held with parents of children enrolled in preschool or Headstart programs in two neighborhoods in northwest Yuma. The results are not statistically significant, however, they shed light on the potential receptiveness of residents in a food-desert neighborhood to community gardens; and provided some useful qualitative information on concerns and issues. The gift card incentive resulted in very little missing data.

1) 55% of respondents had no prior experience with gardening.
2) 85% of respondents had a positive response to the idea of a community garden in their neighborhood. 15% had some reservations (specific concerns are described below).
3) 60% of respondents indicated they would be willing to walk more than a mile to a community
garden. 40% would be willing to walk less than a mile.
4) In response to an open-ended question, 41% of respondents stated they would be willing to
commit 1 hour daily to working in a community garden; another 36% indicated they could work
every day (varied amounts of time). Other responses included: a few hours per week, 1 hour per
week, and weekends only.

Residents offered several reasons why they would like to participate in a community garden:
1) Desire to eat healthier foods
2) Interest in teaching their children how to garden
3) Not enough space for a garden at home
4) Desire for organic produce (“none of that toxic stuff”)

Residents also expressed the following reservations about participating in a community garden:
1) Membership fees
2) Gardening in the heat
3) Lack of knowledge about gardening
4) Insufficient time
5) Pests and produce contamination

Those residents with gardening experience have previously grown the following foods: chilis, cilantro,
pumpkins, radishes, carrots, oranges, zucchini, herbs and mint.

Due to the relatively low number of interviews, it is important not to over-interpret these results.
However, there seems to be a general positive response to the concept of a community garden for
residents who were interviewed. Mention of “not enough space” by a community resident probably
refers to the dilemma faced by apartment renters who do not have the option of having a backyard
garden. Concern about community garden membership fees indicates that for residents of food deserts,
these fees need to be affordable.

The apparent willingness of most to walk more than a mile to the community garden is of interest since
there are currently no known planning standards for estimating this. Also of interest is the stated
willingness of some to work in the garden every day. Finally, the majority of respondents had no prior
gardening experience, suggesting a need for training, which is discussed further in the
Recommendations. Most of the concerns expressed by residents listed here are also addressed in the
next section.
Recommendations: Moving forward

1) That the Department of Development Services, the Health District and Cooperative Extension continue to collaborate in order to facilitate the establishment, support and effectiveness of community gardens in Yuma County, particularly in food deserts.

This HIA and activities that preceded and accompany it provide an opportunity for continued collaboration that promises to be beneficial for the further development and effectiveness of community gardens in Yuma County. Our research indicates that local leadership-local champion(s) is a key element of success (93).

2) That The Department of Development Services, the Health District and Cooperative Extension partner to prepare a Community Garden Toolkit to connect residents interested in establishing community gardens with existing programs offered through Cooperative Extension that train gardeners in: efficient gardening techniques; organizational and leadership effectiveness; and how to avoid heat-related illness, food-borne illness, toxin exposure and strain injuries.

The research indicates that training can be an important contributor to the success of community gardens (109). A community garden is as productive as the collective gardening skills of its members. It was determined that training mechanisms for supporting community gardens are already in place through programs offered through the Cooperative Extension Department. In addition, the Food Garden Network recently began distributing a newsletter to its members with important community gardening tips. Input from residents suggests that the majority of those in food deserts may not have had previous gardening experience so training may be critical.

A second area where community gardeners could benefit is training in organizational management and leadership skills. Community gardens are essentially neighborhood-based organizations; our research revealed that gardens are as successful and sustainable as the organizations that manage them. Issues that can often be challenging for these organizations include: management of volunteer time, dispute resolution, produce theft and vandalism.

Also, stakeholder input revealed a need for a community garden toolkit or community garden policy guideline to assist in standardizing and establishing community gardens. Stakeholders also communicated the importance of ensuring that the design and features of community gardens be suited to their membership. (An example would be raised beds for seniors who may have less physical flexibility). Organizational support for community gardens is also available through Cooperative Extension. Other state and national organizations such as the American Community Gardening Association provide useful information (see Useful Resources below).

Training can also help mitigate the possible negative impacts of community gardens discussed previously. Cooperative Extension currently runs several programs that can train community garden leaders and members in how to avoid heat-related illness and food-borne illness resulting from improper gardening and food handling practices; proper use of pesticides and other chemicals (it is important to note that organic gardening also requires the use of some types of chemicals); safe composting; vector control; minimizing contamination of food by domestic and other animals; and
reducing strain injuries that result from poor body mechanics while engaging in gardening activities. The Department of Development Services can play a proactive role in connecting prospective gardeners to the following Cooperative Extension resources:

a) Master gardening class: a 14-week course that trains individuals interested in become gardening experts.

b) Hands-on gardening training sessions and presentations can be arranged on special request.

c) Longer-term training of community garden leaders and members can also be arranged on special request.

3) That soil testing be required in cases where community gardens are proposed for sites that are potentially contaminated.

The City of Yuma has already implemented a similar provision. Stakeholder input revealed that when there are doubts about soil quality, raised soil beds can often resolve this issue. We recommend that precautionary soil testing be conducted as a best practice. The Arizona Department of Health Services, Office of Environmental Health School Garden Program conducts soil testing for school gardens and community food gardens that will undergo the ADHS Garden Certification Process.

Office of Environmental Health
School Garden Program
150 N 18th Avenue, Suite 140
Phoenix, AZ 85007
(602) 361-3952
(602) 364-3146 Fax

4) That the Health District continue to maintain its existing nutrition programming in food desert neighborhoods.

The research revealed that fruit and vegetable consumption increases where programs are offered in nutrition and food preparation that educate people on how to incorporate fresh produce into their daily diet (109, 33). Such programs are currently offered in Yuma County through the Nutrition Network at public housing complexes and for parents of children enrolled in the Head start program, as well as at selected primary and middle schools.

One of the Nutrition Network educators is also a Master Gardener. We identified those living in food deserts as the primary vulnerable population; therefore we recommend that, where possible, these important supportive programs continue to focus on food desert neighborhoods in Yuma County. Programming currently includes gardening workshops, nutrition classes and cooking demonstrations.

5) That where possible, the Department of Development Services encourage the use of vacant land, especially public county-owned land, for community gardens.

While community gardens can be established on either public or private land under various legal arrangements (18), publicly owned land represents a somewhat more stable option, since private land is more likely to change hands or uses, forcing community gardens to relocate. Lack of secure tenure is a persistent dilemma that can affect the willingness of community organizations to invest and commit to their community garden projects (28, 72). The ultimate form of site security is for the land to be owned
by the community organization itself, supportive nonprofit organization or land trust, however, this possibility seems remote for Yuma County. Given limited resources, what seems appropriate is for Department of The Department of Development Services to geographically target any policy efforts toward food desert neighborhoods (105, 57, 78).

One solution employed by local governments addressing the problem of insecure tenure is to allocate a portion of parks and recreation land for community gardens. Some cities (such as Boston, Portland, Seattle) have managed to designate a separate zoning category for community gardens in order to promote them as a legitimate land use and open space category (37, 47). Others have converted underutilized land near transportation routes, utility easements or along existing trails that can help encourage greater use of these corridors (49).

Figures 13 and 14 illustrate the location of vacant parcels in northwest Yuma and the Foothills, areas where community gardens are most likely to be established in Yuma County. These maps show that most vacant land is privately owned.

*Figure 13: Vacant land in Northwest Yuma*
6) That the Department of Development Services encourage housing developers to consider including space for community gardens in their plans.

Due to established interest and demand for community gardens in the Yuma area, we recommend that Development Services consider encouraging housing developers, particularly those who build or rehabilitate apartment complexes, to allow sufficient space as well as a possible specific site for a community garden.

7) That when provided opportunities, the Department of Development Services promote other components of an overall strategy to increase access to healthy food.

Community gardens are one part of a broader strategy that can increase access to healthy food in the community. When implemented together with community gardens, these other elements have a synergistic effect, multiplying the overall health benefits:

1) School gardens, an initiative described earlier that is already in place in Yuma County.
2) Retail stores that offer affordable fresh produce located in or accessible to food desert neighborhoods. Approval of a Walmart Neighborhood Market in March, 2015 on the City of Yuma’s north side is an example.

3) Farmers markets selling locally-grown fresh produce located in or accessible to food desert neighborhoods. The Farmers Market on Wheels, part of A Healthy Somerton initiative, is an example.

4) Community-supported agriculture (CSA); which is larger-scale cultivation of fresh produce in urban areas. Vegetables and fruits produced by CSA can be sold in local farmers markets. Yuma Garden Company located in the northwest Yuma portion of Yuma County is an example.

**Useful Resources**

The following are a few readily available information resources that support the development of community gardens:

1. How local governments can support community gardens:  
   [http://nccommunitygarden.ncsu.edu/RoleLocalGov.pdf](http://nccommunitygarden.ncsu.edu/RoleLocalGov.pdf)

2. Legal options for community gardens:  

3. Funding of community gardens:  
   [https://communitygarden.org/resources/funding-opportunities/](https://communitygarden.org/resources/funding-opportunities/)

4. Mapping tool that can be used to identify food desert neighborhoods:  
Yuma County Public Health Services District
Health Impact Assessment: Community Garden Ordinance

Reporting
Once the HIA is finalized, the report will be presented to all stakeholders involved in the HIA process and shared with the Healthy Communities Food Garden Network, and Department of Development Services Citizens Advisory Group. A portion of the findings will also be included in the staff report to the Department of Development Services planning & zoning board.

Portions of the HIA will also be made available to the public via Community Garden Toolkit and Yuma County Website.

Monitoring & Evaluation
Funding for the HIA does not extend past June, 2015, as a result there is no support for monitoring or evaluation beyond the completion of the HIA. Nonetheless, it is possible for the Health Promotions Division of the Health District to informally monitor key upcoming decision points of the Community Garden Ordinance, such as submission of the Department of Development Services staff report accompanying the Community Garden Ordinance text amendment to the County Board of Supervisors, anticipated to occur in late 2015, through the assistance of the HAPI program. It is hoped that this report will include mention of health determinants and outcomes and also refer to recommendations of this HIA. Reference to or citation of the HIA by other local jurisdictions such as the city of Yuma, Somerton, San Luis and the Cocopah Indian Tribe could also be monitored. Other important opportunities for monitoring could occur from 1 to 5 years following the adoption of the ordinance. The Health District, Department of Development Services and Cooperative Extension could take stock at regular intervals of the establishment and development of community gardens in Yuma County and determine if there are gaps in the ordinance as well as the Health District and Cooperative Extension programming that supports it.

<table>
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<th>RECOMMENDATION</th>
<th>AGENCY RESPONSIBLE</th>
<th>TIMELINE</th>
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<tr>
<td>Monitor inclusion of health language in submission of staff report to accompany recommendation of text amendment.</td>
<td>Yuma County Public Health Services District, Health in Arizona Policy Initiative Program</td>
<td>Immediate as each segment is completed</td>
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<tr>
<td>Monitor the establishment of Community Gardens</td>
<td>Yuma County Public Health Services District, Health in Arizona Policy Initiative Program</td>
<td>Annual review</td>
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An outcome evaluation would assess whether the projections for health outcomes made in this HIA were accurate, however, funding to support this research is currently unavailable, particularly for longer-term outcomes. If such an outcome evaluation were to be carried out, a quasi-experiment with pre- and post-test would be an appropriate study design. This would involve the measurement of
changes in variables associated with the four main pathways (physical activity, diet and nutrition, social capital and food security) among community garden participants before and after the establishment of selected community gardens, comparing these with measures of non-gardeners from the same or similar neighborhoods in order to determine if the community gardens affected health outcomes in the manner that was predicted by the HIA.

The Consultant is currently conducting a simple process evaluation, which assesses whether the HIA was implemented in the manner that was anticipated or intended. It consists of two data points, both involving unstructured interviews. The first, which was already carried out in April 2015, involved interviews of HIA Core Team members; the second will involve interviews of Core Team members and stakeholders following completion of the HIA. Topic areas to be covered include: areas of learning about how to conduct an HIA, strengths and weaknesses of the overall process, resources available for conducting the HIA, data availability, timeframe for conducting the HIA, adequacy of training, and effectiveness of community involvement and stakeholder engagement. Process evaluation results will be reported separately by the Consultant to the Health District, Department of Development Services, other stakeholders and the Arizona Department of Health Services. Results will include a list of lessons learned and recommendations for improvement of future HIAs.
References

1. A Healthy Somerton Initiative, retrieved from: http://ahealthysomerton.com/about/


5. Alliance for Healthy Communities, http://healthiestcounty.org/


30. Evers, A, N Hodgson (2011) Food choices and local food access among Perth’s community gardeners Local Environment 16(6):585-602

31. Firth, C D Maye D Pearson (2011) Developing “community” in community gardens Local Environment (16(6):555-68


Yuma County Public Health Services District

Health Impact Assessment: Community Garden Ordinance


83. Policy Link (2013) *Promoting Equity Through the Practice of Health Impact Assessment*


88. Silberfarb, L S Savre G Geber (2014) An approach to assessing multicity implementation of healthful food access policy, systems and environmental changes Preventing Chronic Disease 11


94. US Census Bureau, Quick Facts: Yuma County, retrieved from: http://quickfacts.census.gov/qfd/states/04/04027.html


He confirmed the company would utilize available federal and state level tax credits, accelerated depreciation, sales tax and property tax deductions.

Chairman Briggs closed the hearing.

MOTION (HENRY/BLACK): Approve subject to all the operational and performance conditions recommended by staff. Motion carried 8-0.

ITEM No. 5: Presentation and discussion on possible text amendments to the Zoning Ordinance to address Community Gardens.

Senior Planner Fernando Villegas explained Community Gardens have been identified as part of a strategy for improving access to healthy food, which can reduce food insecurity and help lower the risk of several chronic diseases. The intent of the discussion was to consider adopting a new section, Section 1108.18 – Community Gardens, into the Yuma County Zoning Ordinance to allow and regulate community gardens in Yuma County.

Mr. Villegas reviewed proposed definitions, allowances and regulations. Commissioners inquired about the feasibility and necessity of regulating community gardens and if permitting would be required. Mr. Villegas informed the Commission that permitting would be required and that applicants would be expected to submit all necessary information for approval to establish a community garden. The permitted use would allow community gardens to sell garden produce.

Commissioners asked which zoning districts would permit community gardens. Planning Director Maggie Castro explained if the Planning and Zoning Commission initiates this text amendment and it is ultimately approved by the Board of Supervisors, the land use as Community Gardens would be allowed in all zoning districts. If the text amendment is adopted, neither special use permits nor notification to adjacent property owners would be required; persons wanting to establish a community garden would follow the operational requirements listed in the zoning ordinance. All requirements would be addressed prior to the establishment of the use.

Commissioners asked whether other municipalities have allowed community gardens in all zones, including industrial areas. Mr. Villegas stated that he would check if the City of Yuma allowed the use in industrial zones and that several municipalities in Arizona have established community gardens with the same allowances being proposed.

Commissioners asked if the use is restricted to non-profit. Mr. Villegas stated the use was intended to be available to all persons or agencies, both public and private.

Commissioners asked what the size limitations for community gardens are. Mr. Villegas stated that there was no limit to the size of the garden, only the accessory structures, e.g., shed, greenhouse, storage facility, etc.
Commissioners asked what the County liability is regarding soil condition and toxicity resulting from prior industrial use, as well as monitoring. Mr. Villegas clarified soil testing would be required if the property record showed prior industrial use. Ms. Castro suggested a change in the language of Section 1108.18(B)(1)(C) to specify soil testing shall be provided by the community garden coordinator or evidence of soil testing shall be submitted to the Department of Development Services by the garden coordinator. She informed the Commission soil testing would be the responsibility of the property owner(s), not the County.

Commissioners inquired as to who would be responsible for monitoring the garden. Ms. Castro indicated the responsibility for monitoring the garden(s) would be the designated garden coordinator and the person establishing the garden, specified in the permitting process. All the information would need to be submitted to the Department of Development Services prior to the establishment of a community garden. Staff would not actively oversee the gardens; a coordinator would be established prior to the approval of the community garden. Once a community garden was established, staff would not monitor the operation of the community garden unless a complaint was received.

Commissioners inquired as to what extent would zoning inspectors be overseeing or regulating community gardens. Ms. Castro stated staff would respond to complaints relating to land use and zoning. Any complaints received outside of staff jurisdiction and authority would be referred to the appropriate regulatory agency.

Commissioners inquired as to whether there have there been any complaints to date. Staff has not received any complaints to date. Ms. Castrol explained there are no active cases involving community gardens because there is not an established use in the Zoning Ordinance.

Commissioners asked if the Community Garden section is necessary or too much regulation. Ms. Castro stated that the establishment of a community garden would not be allowed since the Zoning Ordinance does not currently address community gardens. The proposed section would create minimum development standards and zoning parameters.

Commissioners inquired about procedures for using County property for community gardens and mentioned the use of retention basins for community gardening as good opportunities for maintaining the aesthetics of those areas prone to overgrowth of weeds and bushes. Commissioners also asked for staff to include procedures on how to request using County property for community gardens. Deputy County Attorney, Ed Feheley stated that County property is exempt from the Zoning Ordinance. Ms. Castro informed the Commission that staff would look into the possibility of using retention basins for community gardens and staff would possibly amend the language or add
additional language to bring the item back before the Commission at the next public hearing.

Ms. Castro stated that this presentation was an opportunity for the Commission to propose any changes or recommendations. She also informed the Commission that they have the option to restrict or exclude allowed districts.

After discussion among the commissioners, Chairman Briggs directed staff to make the changes and bring the item back at the next meeting.

**ITEM No. 6: Presentation and discussion on possible text amendment to the Zoning Ordinance in light of Reed vs. Town of Gilbert.**

Planning Director Maggie Castro stated that this agenda item was a presentation and discussion carried forward from the December 2015 meeting. Ms. Castro reviewed the changes and modifications requested by the Commission at the previous meeting.

Commissioners discussed the language involving time limits of temporary signs and requested the time limit be stated as ‘when the need ceases to exist’. Deputy County Attorney, Ed Feheley stated that the proposed change ‘when the need ceases to exist’ could not be enforced and suggested having no time limit and defining temporary sign in a way that people understand what is meant by temporary. Ms. Castro offered the text of Section 800.09 – Sign, Temporary could be rewritten to read as follows:

> Sign, Temporary: A sign which is 1) not constructed according to the requirements of the Yuma County Comprehensive Building Code and 2) shall not be considered a temporary sign unless otherwise exempted from permit requirements by the permissions of the Section. Realtor signs, promotional signs or like signage not constructed or intended form permanent use are considered temporary signs.

Commissioners agreed with the suggested language. Ms. Castro would make the suggested changes and bring the item back as a presentation at the next regularly scheduled meeting.

**ITEM No. 7: Discussion by the Commission members and Planning Director of events attended, current events, and the schedule for future Planning Commission meetings.**

There was no discussion by the Commission members and Planning Director.
The Yuma County Planning and Zoning Commission met in a regular session on February 22, 2016. The meeting was held in Aldrich Auditorium at 2351 West 26th Street, Yuma, Arizona.

**CALL TO ORDER:** At 5:00 p.m. Chairman Wayne Briggs convened the Planning and Zoning Commission meeting. Commissioners present were: Wayne Briggs, Alicia Aguirre, Max Bardo, Tim Bowers, Michael Henry, and John McKinley. Commissioners Gary Black, Martin Porchas, Matias Rosales and Paul White were absent. Others present were: Planning Director Maggie Castro; Senior Planner Fernando Villegas; Deputy County Attorney Ed Feheley; and Executive Assistant Tricia Ramdass.

**PLEDGE OF ALLEGIANCE:** Chairman Briggs led the Pledge of Allegiance.

**ITEM No. 3:** Approval of the Planning and Zoning Commission regular meeting minutes of January 25, 2016.

MOTION (HENRY/BARDO): Approve as presented.

VOICE VOTE: The motion carried 6-0.

**ITEM No. 4:** Presentation and discussion on possible text amendments to the Zoning Ordinance to address Community Gardens.

Senior Planner Fernando Villegas informed the Commission the agenda item was a presentation and discussion carried forward from the January 25, 2016 regular meeting. The intent of the discussion was to consider adopting a new Section 1108.18 – Community Gardens into the Yuma County Zoning Ordinance (YCZO) to allow and regulate Community Gardens in Yuma County. Mr. Villegas presented information regarding the allowed districts and soil testing requirements of other municipalities, and possible use of retention basins as requested by the Commission at the previous meeting.

Mr. Villegas informed the Commission that they had the option of limiting community gardens to particular districts. In addition, they could remove the requirement for soil testing. His research revealed that the City of Yuma allows Community Gardens in residential, commercial, and industrial zoning districts, whereas, the City of Phoenix allows community gardens in commercial districts, but requires a Special Use Permit for use in residential districts. Neither city required soil testing as part of establishing a Community Garden. He also presented proposed text changes for signage requirements if the Commission decided to restrict allowable use to residential districts only.

Mr. Villegas addressed the use of retention basin for Community Gardens. He stated he checked with the Yuma County Flood Control District and was informed that the use would be possible with a permit from Flood Control as long as the garden would not interfere with the function of the basin. Additionally, Home Owners’ Associations (HOA)
control some retention basins so permission to use those basins would be obtained through the HOA.

 Commissioners asked about type of soil beds with regard to soil testing requirements and cost of permitting. Commissioners also discussed whether soil testing should be mandated, which districts to allow Community Gardens as a use, types of structures requiring permits, and associated permit costs.

Mr. Villegas informed the Commission that the type of soil bed, e.g., raised or ground, would not be addressed in the YCZO. There would be no cost to obtain a permit to establish a Community Gardens; however, permits would be required for structures such as a storage shed.

Planning Director Maggie Castro provided clarification to the Commission by contrasting the steps to establish a Community Garden with and without an established use in the YCZO. She stated that if the Commission moved forward with the Commission Initiative, Community Gardens would be permitted as Mr. Villegas previously mentioned. If the Commission decided not to move forward with the initiative, anyone wishing to establish a community garden would need to obtain a Special Use Permit (SUP) with a non-refundable fee of $750.00 for Residential or $1500.00 for Commercial/Industrial districts. She also clarified that temporary shade/screen/netting structures for agricultural use were exempt from building code requirements.

Mr. Villegas informed the Commission that the SUP process did not require soil testing. He reiterated that the Commission had the option to remove soil testing from the proposed language.

MOTION (McKINLEY/BARDO): To move forward with a request for a Commission Initiative to adopt a new Section 1108.18 – Community Gardens into the Yuma County Zoning Ordinance to allow and regulate Community Gardens in Yuma County allowing use in all districts and removing the soil testing requirement.

ITEM No. 5: Presentation and discussion on possible text amendment to Article VIII-Signs of the Zoning Ordinance in light of Reed vs. Town of Gilbert.

Planning Director Maggie Castro informed the Commission the agenda item was a presentation and discussion carried forward from the January 25, 2016 meeting. Ms. Castro reviewed the changes and modifications requested by the Commission at the previous meeting. She also explained the court case prompting the proposed changes and stated that the Yuma County Zoning Ordinance currently had similar wording that was challenged in Reed vs. Town of Gilbert.

Commissioners asked if the proposed changes would put Yuma County in compliance with regard to sign regulations. The Commission also asked if regulations were in place...