JUSTICE SCALIA, concurring in the judgment.

Were the respondent engaged in activity protected by the First Amendment, I would agree with the Court's disposition of the question presented by the facts of this case (though not with all of the Court's reasoning). Such activity, when subjected to a general permit requirement unrelated to censorship of content, has no special claim to priority in the judicial process. The notion that media corporations have constitutional entitlement to accelerated judicial review of the denial of zoning variances is absurd.

I do not believe, however, that Z. J. Gifts is engaged in activity protected by the First Amendment. I adhere to the view I expressed in *FW/PBS, Inc.* v. *Dallas*, 493 U. S. 215, 250 (1990) (opinion concurring in part and dissenting in part): the pandering of sex is not protected by the First Amendment. "The Constitution does not require a State or municipality to permit a business that intentionally specializes in,

and holds itself forth to the public as specializing in, performance or portrayal of sex acts, sexual organs in a state of arousal, or live human nudity." *Id.*, at 258. This represents the Nation's long understanding of the First Amendment, recognized and adopted by this Court's opinion in *Ginzburg* v. *United States*, 383 U. S. 463, 470–471 (1966). Littleton's ordinance targets sex-pandering businesses, see Littleton City Code § 3–14–2 (2003); to the extent it could apply to constitutionally protected expression its excess is not so great as to render it substantially overbroad and thus subject to facial invalidation, see *FW/PBS*, 493 U. S., at 261–262. Since the city of Littleton "could constitutionally have proscribed the commercial activities that it chose instead to license, I do not think the details of its licensing scheme had to comply with First Amendment standards." *Id.*, at 253.