

CITY OF MONROE
CITY COUNCIL STRATEGIC PLANNING MEETING
300 WEST CROWELL STREET
MONROE, NORTH CAROLINA 28112
MAY 5, 2020 – 4:30 P.M.
AGENDA
www.monroenc.org

1. Opportunities and Challenges for Residential Growth
2. Legislative Prayer

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- The meeting will be available for public listening in the Council Chambers located inside City Hall and the meeting will also be live streamed on the City's YouTube Channel.
 - In accordance with Governor Cooper's Executive Order No. 135, no more than nine (9) persons will be allowed into the City Hall Council Chambers. Also, in order to comply with social distancing as well as Executive Order 135, no member of the public will be allowed in the City Hall Conference Room. The remainder of City Hall is closed to the public, so no member of the public will have access to any portion of City Hall other than the Council Chambers and the restroom facilities located in the Lobby Area of City Hall.



STAFF REPORT

TO: City Council

VIA: E.L. Faison, City Manager

DATE: May 5, 2020

FROM: Brian Borne, Assistant City Manager/Downtown Director

PREPARED BY: Lisa Stiwinter, Director of Planning and Development

SUBJECT: Residential Growth Discussion

SUMMARY STATEMENT

City Council has requested to consider and discuss the following topics in regards to Residential Growth:

- Opportunities and challenges residential growth brings to Monroe;
 - How City Council evaluates land use development decisions;
 - Available tools in considering residential development projects;
 - Consider the content and presentation styles City Council receives regarding projects;
 - Summary of transportation projects and methods available to Monroe in influencing road project scheduling and completion; and/or
 - A summary of residential projects approved and pending City Council approval.
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REVIEW

History of Residential Growth:

The City of Monroe, with a population of 35,330, is the county seat of Union County. According to the North Carolina Office of State Budget Management, the City of Monroe only grew 7.7% from 2010 to 2018 (**Attachment 1:** Standard Population Estimates for North Carolina Municipalities as of July 1, 2018). There are 14 municipalities that make up Union County, the City of Monroe ranked number 11 in growth. Why didn't Monroe experience growth similar to the other municipalities?

- No new residential subdivisions from 2007 to 2015;
- Downturn in the economy;
- Limited density no greater than 2 units per acre;
- School districts; and/or
- Competition amongst municipalities adjacent to Mecklenburg County;

In 2016, Monroe started experiencing a request for new residential subdivisions as a result of the following, but not limited to:

- Increase in the economy
- The opening of the Monroe Expressway in November 2018 increased mobility and capacity in the US 74 Corridor by allowing high-speed regional travel while maintaining access to properties along existing US 74 (<https://www.ncdot.gov/projects/monroe-expressway/Pages/default.aspx>).
- Updated Land Use Plan and development of a Transportation Plan (Forward Monroe) provides varying densities that are greater than 2 units per acre and a clear understanding to developers of where and how Monroe wants to grow and develop in the next 20-30 years (<http://www.forwardmonroe.com/>).
- Monroe is a full service city that provides water & sewer, electric & gas, golf course, historic downtown, airport, parks and greenways, and industrial corporate center.

Summary of Residential Development (2016 to Current):

The City of Monroe has received twenty-five (25) request for new residential projects since 2016 that consist of fifteen (15) being approved, one (1) withdrawn, three (3) being denied and six (6) pending City Council decision (**Attachment 2: New Residential Projects** summary).

- Seven (7) out of the approved fifteen (15) residential projects were annexed into the City.
- Approximately 2,528 new residential lots/units have been approved, 268 denied, 104 withdrawn and additional 938 being proposed.
- Density ranges from 0.86 to 9.3 dwelling units per acres.
- Single-Family Detached = 14, Single-Family Attached & Detached = 4, Single-Family Attached = 2, Multi-Family = 3, and Mixed-Use Development (Residential and Commercial) = 1.
- Elevations: 17 of the new residential developments will be utilizing brick, stone, stucco or fiber cement, and 6 are utilizing brick, stone, stucco, fiber cement and vinyl.
- Average lot sizes are approximately 7,000 square feet.

New State Laws regarding Residential Development:

In 2015, there was a revision to G.S. 160A-381 (h) that states local governments can no longer enforce building design elements for one or two family dwellings that include the following elements:

- Exterior building color
- Type or style of exterior building materials
- Style or materials of roof structures or porches
- Exterior non-structural architectural ornamentation
- Location or architectural styling of windows/doors including garage doors
- Number and type of rooms
- Interior layout of rooms.

In 2019, another revision to the G.S. 160A-381 (a1) that states a zoning ordinance shall not set a minimum square footage for any structures subject to regulation under the North Carolina Residential Code for one and two family dwellings.

The revisions to the state legislation in 2015 and 2019 has limited local governments ability to require standards for one and two family residential dwellings. Local government's only tool is through the Conditional District rezoning (zoning text and map amendment) process, which is a mutually agreed upon process between the applicant and the City.

Conditional District rezoning (zoning text and map amendment) is a site specific zoning district subject to one or more conditions included as part of the legislative approval by the City Council that establishes the conditional district zoning district.

Conditions of Approval is a limitation or stipulation on the range of allowable uses, density, intensity, configuration, or operation parameters of new development or redevelopment. A condition may be proposed by the applicant, a staff member or a review authority that must be accepted by an applicant and the City to become binding.

Land Development Plan Consistency:

Statutes in North Carolina, require that zoning be undertaken "in accordance with a comprehensive Plan", a set of policy and analytic documents and maps for the guidance of land use and development. Local governments must apply zoning comprehensively to all of the territory within planning and development regulation. Further, our courts have said that reasoned study and analysis of full range of land use issues facing the city should serve as the foundation for regulations, even though the plan itself is advisory.

In 2005, the City zoning statutes were amended to require that a land use plan consistency statement be approved by Planning Board and City Council when any zoning amendment is considered such as a Conditional District rezoning (zoning text and map amendment). The intent of this amendment was to require local governments to be aware of what advice and analysis is included in the adopted land use plans so that it can be thoughtfully considered as zoning

amendments are processed. The land use plan consistency analysis must be prepared, written, and approved by the boards at the time zoning amendments are decided.

In 2017, the General Assembly modified this requirement to specify the form the statements must take and provided that if a zoning amendment is approved that is inconsistent with the land use plan, the zoning amendment is deemed to have amended the land use plan as well.

In conclusion, the state law mandates that all zoning text and map amendment (Conditional District rezoning's) be accompanied by a land use plan consistency statement describing how the amendment is consistent or inconsistent with the relevant policies statements outlined in the land use plan. The policies and maps in the land use plan will not determine whether City Council approves the rezoning request, but it will document that City Council is aware of and have considered the advice and guidance provided in the land use plan.

Example of Land Use Plan Consistency Statement that is included in all Zoning Text and Map Amendment (Conditional District Rezoning's) City Council packets for consideration:

LAND USE PLAN CONSISTENCY

The Land Use Plan (Forward Monroe) indicates this area is Suburban. While residential uses typically take the form of neighborhoods with uniform housing types and densities, a mix of housing types and lot sizes is preferred in Suburban locations. Attached and multi-family housing is suitable in mixed-housing neighborhoods and activity centers. Commercial development mostly serves the needs of nearby residents and often locates along corridors with higher traffic volumes and near prominent intersections. Emphasis should be placed on integrating the design of commercial centers with surrounding neighborhoods. Multimodal connectivity between neighborhoods and to nearby center also should be emphasized. Strategic connections to the off-street multi-use trail network are preferred and open space should be preserved in both active and passive forms within neighborhoods. The density for suburban residential is 2-4 units per acre.

The proposed project is consistent with the land use plan. Staff is of the opinion that the project is a reasonable use because of the residential project in nature and the fact that the development falls within the allowable density of the land use plan.

Land Use and Transportation Plan (Forward Monroe):

Forward Monroe is the city's blueprint for development, its growth strategy, and the foundation upon which future land use and transportation decisions will be based. The Land Use/Transportation Plan was adopted by City Council in April 2018 with a goal to update the Land Use Plan to clearly identify, describe, and depict the desired growth and development patterns, policies, and practices for Monroe for the next 20 years.

In addition, it was also the City's goal to create an innovative transportation plan that recognizes the inherent relationship between land use, market forces, and transportation. The intent was to develop a plan that provides for diverse land use patterns served by an expansive multi-modal

transportation network and addresses urban design, aesthetics, market and economic trends, and healthy active living through a community driven process. ***Principal goals of the Land Use/Transportation Plan included the following:***

1. Develop a mix of different types of land uses.
2. Create a diverse range of housing options including varying densities.
3. Develop an integrated and interconnected multi-modal transportation network.
4. Create economic development and employment opportunities; and
5. Visually enhance the City through urban design and aesthetic improvements.

Kimley-Horn and Associates, national Planning and Engineering firm and planning staff partnered together to conduct a land use scenario planning process where informed decisions were made on a preferred growth strategy that provided clear direction for land use, design and transportation initiatives that promotes community values and vision. Community engagement was an integral part of the land use scenario planning process therefore a public involvement plan was created to define the type and sequence of outreach activities that included the following:

- Diverse Advisory Committee
- Technical Committee
- Branding
- Forward Monroe website
- Stakeholder Interviews
- Focus Groups
- MetroQuest (Online Survey)
- Community Events (3)
- Latino Outreach
- Youth Engagement

Approximately ***10,000 individual data points*** were received from citizens throughout the community engagement activities.

The plan responded to existing challenges, anticipated future needs, and prepared the community to accommodate future growth. At its core, *Forward Monroe* expresses the community's vision, identifies the community's value, and outlines the plans, programs, policies and projects that will fulfill the vision over time.

As a blueprint for staff and elected officials, *Forward Monroe* was designed as a tool or reference document to inform land use decisions, transportation strategies, and public investment choices. It is anticipated to be used in following ways:

- **City Council:** To inform decisions as land use proposals are evaluated without restricting the ability to adapt to changes in the market and community preferences.

- **City Staff:** To align department policies, budget decisions, and incremental decisions with the community's long-term vision.
- **Board and Commissions:** To clarify the community's vision and encourage consistency as decisions are made.
- **Businesses:** To identify where the City is targeting growth and investment and where development decisions may be streamlined.
- **Development Community:** To learn what and where certain types of growth are desired and understand expectations for good design and purposeful planning.

The Land Use/Transportation Plan was developed in six (6) chapters listed below:

Chapter 1: Starting Point-Provides a foundation for understanding the plan, how it was developed and how it will be used.

Chapter 2: Guiding Statements-Describes how community input yielded a vision and set of community themes that percolate throughout the process.

Chapter 3: Land Use-Shows the outcome of a data-driven process that yielded a blueprint for future growth and development.

Chapter 4: Transportation-Shows how the transportation network and parks and open space react to and support the community's growth strategy.

Chapter 5: Focus Areas-Shows how the growth strategy and framework plans intersect at our community's catalyst sites and critical corridors.

Chapter 6: Action Plan-Identifies and prioritizes the necessary plans, programs, policies, and projects to fulfill the community's vision.

The goal was to create a great plan with an actionable strategy to implement the plan

Rewrite of the Unified Development Ordinance (UDO) and Zoning Map Update (Transform Monroe):

The rewrite of the UDO and update to the Zoning Map was an action strategy identified in the action plan for the Forward Monroe process. The Action Plan for Forward Monroe recommends the following action items:

Short-term (2-5 Years)

- "Complete Transform Monroe to codify and adopt zoning standards that assist in implementing the Future Land Use Plan".

- “As part of Transform Monroe, update regulations to promote quality design with traditional neighborhood features”.
- As part of Transform Monroe, seek ways to encourage mixed-income developments that increase economic diversity of existing and new neighborhoods”.
- As part of Transform Monroe, ensure consistency of new or rehabilitated housing units with the character of surrounding neighborhoods and remove barriers to adaptive reuse of buildings”.
- “Institute connectivity requirements into Transform Monroe to ensure new development projects enhance the community’s transportation network”.
- Incorporate transit-ready development into Transform Monroe by incentivizing density and mixed-uses within transit priority zones”.

Monroe’s current Unified Development Ordinance dates back to 2003 and does not reflect best zoning and planning practices. With the update to the Land Use Plan adopted and steady changes in demographics and development patterns, the City recognized the need to rewrite its Unified Development Ordinance and update the zoning map. As one of the main tools to implement the land use plan, it is essential that a new ordinance respond to community values and goals and policies and strategies identified in the land use plan update. The City’s goal is to develop a clear and user-friendly UDO that is consistent with city plans and policies.

The updated Land Use and Transportation Plan and the rewrite of the Unified Development Ordinance and update to the Zoning Map are both tools or reference documents for staff and City Council to utilize in reviewing land development proposals.

Transportation Methods:

Federal and State law requires defined urbanized areas that exceed a population of 50,000 establish a “continuing, cooperative, and comprehensive” transportation planning process in order to qualify for federal funds. Later, Metropolitan Planning Organizations (MPOs) were created in order to carry out the planning process. Jurisdictions within the urbanized areas are required to coordinate their transportation planning activities under the umbrella of an MPO.

In the Charlotte Urbanized Area, the Charlotte Regional Transportation Planning Organization (CRTPO) is charged with implementing the federally-mandated transportation planning process. CRTPO’s planning area includes all of Mecklenburg and Iredell Counties and most of Union County. The City became part of the CRTPO in 2000. The CRTPO is responsible for the following but not limited to:

Comprehensive Transportation Plan (CTP):

- Developing and adopting a Comprehensive Transportation Plan (CTP), which is a long range plan (outlines future improvements for the entire transportation network) that is a collaborative process among citizens, and the CRTPO town and city officials to envision future transportation needs.

- It provides the foundation for what will become the transportation priorities over the next 50+years.

Metropolitan Transportation Plan (MTP):

- Developing and adopting a Metropolitan Transportation Plan, which outlines its goals and objectives as well as addresses transportation related issues and impacts for a 20-year minimum horizon.
- The MTP is federally-mandated and complies with the Statewide and Metropolitan Transportation Planning regulations issued by the US Department of Transportation.
- The MTP is updated every 4 years.
- Conformity is also required by federal regulations to ensure that federal funding and approval are given to highway and transit projects that are consistent with established air quality goals.
- CRTPO adopted the 2045 MTP and made air quality conformity determination on the MTP in March 2018.

Transportation Improvement Program (TIP):

- Identifies the transportation projects and strategies that CRTPO and North Carolina Department Transportation (NCDOT) plan to undertake over the next 10 years.
- All projects receiving federal funding must be in the TIP.
- The TIP is the regions' way of allocating its transportation resources among the various capital and operating needs of the area, based on a clear set of short-term transportation priorities.
- The TIP is updated at least every 3 years, is realistic in terms of available funding and is not just a "wish list" of projects.
- Conforms to the State Implementation Plan (SIP) for air quality.
- Is approved by the MPO and the governor; and
- Is incorporated directly, without change, into North Carolina's State Transportation Program (STIP).

Prioritization (STIP):

- The North Carolina Department of Transportation (NCDOT) uses a data driven approach for ranking transportation improvements in the State Transportation Improvement Program (STIP).
- The STIP is updated every two years. Prioritization is NCDOT's decision-making tool for developing the listing of projects to be delivered within an upcoming ten-year work program.

- The State allows jurisdictions to consider a local contribution to improve a projects standing. Previous review by Staff has shown minimal effect with contribution of \$500,000 and \$1,000,000.
- With limited impact to the point total and due to the effect on the eligible funding sources- General Fund, Powell Bill and Vehicle Tax, Staff does not recommend a local contribution as part of the STIP process.

CRTPO Discretionary Projects:

- The Charlotte Regional Transportation Planning Organization (CRTPO) receives direct attributable funds to be allocated to member jurisdiction projects on a competitive basis.
- Applications can be submitted for projects during the annual call by CRTPO for Discretionary Projects.
- Engineering staff recommends continued participation in the Critical Intersection Analysis Program led by Union County to identify certain intersections throughout the county that experience congestion and safety issues, provide a further evaluation based on existing data, and narrow the list to those that would be most competitive for funding through the NCDOT and/or the Charlotte Regional Transportation Planning Organization (CRTPO). Projects identified by the analysis to date within Monroe are as follows.
 - Sutherland Avenue and Walkup Avenue
 - John Moore Road and Old Charlotte Highway
 - Old Charlotte Highway and Carroll Street
 - Old Charlotte Highway and Williams Road
- NCDOT regularly brings forward safety and congestion projects for consideration during the discretionary call for projects. Recent project submitted by NCDOT, the Rocky River Road and NC 84 Intersection Improvements to address congestion was approved during the most recent round on February 19, 2020. Estimated costs for the project is \$1,676,000 with costs participation as follows: State \$750,000; Union County: \$50,000; & City of Monroe \$50,000. Priority is given to projects that contribute a higher match than 20 percent since the higher contribution will free up discretionary funds.
- On February 17, 2017, City Council approved resolution R-2017-14 to support NCDOT in their efforts to seek safety enhancement funds for improving Old Charlotte Highway and John Moore Road identified above. The project includes adding a left turn lane on Old Charlotte Highway at John Moore Road with a traffic signal and extending the widening from John Moore Road to Timber Lane Drive to create a two-way center left turn lane at an estimated cost of \$1,100,000. The City agreed to provide a 20 percent match. Staff has also had discussion with NCDOT regarding participating in safety project at Old Charlotte Highway and Williams Road to add a signal. Neither of these projects have move forward.

Summary of Transportation Projects:

2045 MTP ROADWAY PROJECTS 2025 Horizon Year Projects

TIP No.	2045 MTP ID	PROJECT NAME	ROUTE NUMBER	PROJECT LIMIT BEGINS	PROJECT LIMIT ENDS	IMPROVEMENT TYPE	PROJECT DESCRIPTION
U-5703 A	E203	US 74/Rocky River Rd	US 74	Intersection	Intersection	Intersection Improvements	Reconfigure intersection (superstreet design)
2020-2029 STIP: U-5703A Complete; U-5703B: Realign James Hamilton Rd. w/ Rocky River Rd. at Myers Rd.- Right of Way 2020; Construction 2021; Costs \$1.15 million.							
R-3329/ R-2559	E204	Monroe Connector/ Bypass		I-485 (Charlotte Outer Loop)	US 74 between Wingate & Marshville	New Location	New 4 lane toll freeway, to provide alternative to US 74 in Union County
Complete							
U-5931	E207	US 74/Secrest Shortcut Rd	US 74	Intersection	Intersection	Intersection Improvements	Construct intersection improvements
2020-2029 STIP: Right of Way 2020; Construction 2024; Project Costs \$7.35 million.							

2035 Horizon Year Projects

TIP No.	2045 MTP ID	PROJECT NAME	ROUTE NUMBER	PROJECT LIMIT BEGINS	PROJECT LIMIT ENDS	IMPROVEMENT TYPE	PROJECT DESCRIPTION
U-4024	2063	US 601 Widening	US 601	US 74	Monroe Connector	Widening	Widen from 2 lanes to 4 lanes, with median, bike lanes and sidewalks
2020-2029 STIP: Right of Way 2025; Construction 2027; Project Costs \$28.5 million.							
U-5764	E205	US 74 Widening	US 74	NC 200	Rocky River Rd	Widening	Widen from 4 lanes to 6 lanes, with median, bike lanes and sidewalks
2020-2029 STIP: Right of Way 2020; Construction 2024; Project Costs \$65.75 million.							
U-5723	E208	US 74/US 601	US 74/ US 601	Interchange	Interchange	Improve Existing Interchange	Construct interchange improvements
2020-2029 STIP: Right of Way- In progress; Construction 2024; Project Costs \$8.0 million.							
U-4714B	E372	John St - Old Monroe Rd		Morningside Meadow Ln	Wesley Chapel Stouts Rd	Widening	Widen from 2/3 lanes to 4 lanes with median, bike lanes and sidewalks
2020-2029 STIP: Right of Way 2020; Construction 2022; Project Costs \$53.34 million.							
U-6169		Old Monroe Rd Widening	SR 1009	Wesley Chapel Stouts Rd	Airport Rd	Widening	Widen from 2/3 lanes to 4 lanes with median, bike lanes and sidewalks
2020-2029 STIP: Right of Way 2027; Construction- Post years; Project Costs \$27.4 million.							

U-6031	2066	Charlotte Ave		Seymour St	Dickerson Blvd (NC 200)	Widening	Widen from 2/3 lanes to 4 lanes with median, bike lanes and sidewalks
2020-2029 STIP: Right of Way 2022; Construction 2025; Project Costs \$8.4 million.							

2045 Horizon Year Projects

TIP No.	2045 MTP ID	PROJECT NAME	ROUTE NUMBER	PROJECT LIMIT BEGINS	PROJECT LIMIT ENDS	IMPROVEMENT TYPE	PROJECT DESCRIPTION
	2060	Monroe-Weddington Rd	NC 84	Waxhaw - Indian Trail Rd	Airport Rd	Widening	Widen from 2 lanes to 4 lanes with median, wide outside lanes and sidewalks
	2069	Morgan Mill Rd	NC 200	Monroe Connector	US 74	Widening	Widen from 2 lanes to 4 lanes with median, bike lanes and sidewalks
	2064	Monroe Northern Loop		US 74	Walkup Ave/Bivens Rd	New location	New 2 lane roadway on 4 lanes of right-of-way with median, bike lanes and sidewalks

RECOMMENDATION

Planning staff is seeking City Council's guidance and discussion regarding residential growth discussion.

Attachments:

Attachment 1: Union County's population estimates

Attachment 2: New Residential Project Summary

**Estimates of the Total Population of North Carolina
Municipalities for July 1, 2018 by Municipality Name**

Standard Population Estimates

Municipality	Total Population		Change	
	April 2010	July 2018	Numeric	Percent
Total Municipal Population	5,252,615	5,834,588	581,973	11.1
Fairview	3,324	3,773	449	13.5
Hemby Bridge	1,520	1,592	72	4.7
Indian Trail	33,518	39,390	5,872	17.5
Lake Park	3,422	3,722	300	8.8
Marshville	2,402	2,466	64	2.7
Marvin	5,579	7,166	1,587	28.4
Mineral Springs	2,639	3,065	426	16.1
Monroe	32,797	35,330	2,533	7.7
Stallings	13,831	16,427	2,596	18.8
Unionville	5,929	6,731	802	13.5
Waxhaw	9,859	14,249	4,390	44.5
Weddington	9,459	10,860	1,401	14.8
Wesley Chapel	7,463	8,981	1,518	20.3
Wingate	3,491	4,104	613	17.6

*Centerville and Spencer Mountain are no longer incorporated municipalities.

Source: North Carolina OSBM, Standard Population Estimates, Vintage 2018

PROJECT NAME	LOCATION	RESIDENTIAL	LOTS / UNITS	PROJECT AREA	DENISTY	SCHOOL DISTRICT	TARGET POPULATION	MINIMUM HOUSE SIZE	EXTERIOR MATERIALS	ZONING STATUS	APPROVAL
Secrest Village	Secrest Shortcut	Single-Family Detached	11	13.55	0.81	Porter Ridge	Not Age Targeted	1,600 heated with 2 car garage	Fiber cement, stone, stucco, brick and/or vinyl	Approved	Byright
Piedmont Buggy Works 2017 (1)	514 Miller Street 09228228	Mult-Family	56	6.21	9	Monroe	Not Age Targeted	650-900 sqr. per unit	brick	Approved Apr. 16'	City Council
Fieldstone Phase II (2)	Off Lancaster Hwy. 09327001	Single-Family Detached	54	12.81	3.59	Monroe	Age Restricted 55+	1,560 heated with 2 car garage	Fiber cement, stone, stucco, wood and/or brick	Approved May 17'	City Council
Poplin Grove (3)	Unionville-Indian Trail Road 08267001	Single-Family Detached	126	51.5	2.4	Porter Ridge	Not Age Targeted	1,600 heated with 2 car garage	Fiber cement, stone, stucco and/or brick	Approved Sep. 17'	City Council
Oakton/Cottage Green (4)	Pageland Hwy./White Store Road 09125134	Single-Family Detached	218	73.36	2.97	Forest Hills	Age Targeted	1,421 heated with 2 car garage	Fiber cement, stone, stucco and/or brick	Approved Oct. 17'	City Council
Secrest Commons (5)	ML King Jr. Blvd./Waxhaw Hwy. 09321004 90	Single-Family Detached/Attached	280 single family & 192 multifamily Removed MF & added SF	124.54	3.79	Monroe	Age Targeted	2,000 heated square ft. (2-story), minimum of 1,600 heated square (1-story)	Fiber cement, stone, stucco and/or brick	Approved Mar. 18'	City Council
Villages at Rocky River (6)	Weddington Road / Rocky River Road 09348013A & B	Single-Family Detached	184	55.07	3.34	Monroe	Age Targeted	1,400 heated with 2 car garage	Fiber cement, stone, stucco, brick and/or vinyl	Approved Sep. 18'	City Council
Dogwood Forest (7)	John Moore Road 09298119A	Single-Family Detached	21	7.52	2.79	Monroe	Not Age Targeted	1,800 heated with 2 car garage	Fiber cement, stone, stucco, brick and/or vinyl	Approved Apr. 19'	City Council
Redwood Apartments (8)	Secrest Price Road 09298068A	Mult-Family	119	23.17	5.14	Piedmont	Not Age Targeted	1,710-2,040 heated with 2 car garage	Stone, vinyl, and vinyl shake	Approved Dec. 18'	City Council

Veronica Springs (9)	Secrest Shortcut near Barbee Farm Dr. 09216002, 09216084, 09216085, 09216086, & 09259002	Single-Family Detached	200	104.34	1.96	Piedmont	Not Age Targeted	1,400 heated with 2 car garage	Fiber cement, stone, stucco and/or brick	Approved Nov. 18'	City Council
Stallings Brook (10)	Unionville-Indian Trail Road & Ridge Rd.	Single-Family Detached	142	77	1.84	Porter Ridge	Not Age Targeted	1,400 heated with 2 car garage	Fiber cement, stone, stucco and/or brick	Approved Nov. 18'	City Council
Fraser Court	N. Charlotte Avenue 09-264-023B	Multi-Family Apartments	120	12.9	9.3	Monroe	Not Age Targeted	Five (5) three-story apartment buidlings with 24 units each Units 2-3 bedrooms with square feet 952 to 1,189	Fiber cement with cultured stone	PB approved CC Denied March. 19'	
Simpson Farms (11)	Secrest Shortcut & Fowler Road 09213017C 09213017B	Single-Family Detached	194	71.81	2.8	Piedmont	Not Age Targeted	1,450 heated with 2 car garage	Fiber cement, stone, stucco and/or brick	Approved May 19'	City Council
Alexander Commons (12)	Hwy 75 & Skywatch 09321002E 90	Single-Family Attached & Detached	77	12.9	3.5	Monroe	Not Age Targeted	1,450 heated with 2 car garage	Fiber cement, stone, stucco, brick and/or vinyl	Approved Aug. 19'	City Council
Kellerton (13)	Deese Road 09177030 A & 09177029	Single-Family Attached & Detached	137 townhomes & 89 single family	58.27	3.96	Piedmont	Not Age Targeted	1,400 for all sf homes 2 car garages & 1,300 townhomes with 1 & 2 car garages	Fiber cement, stone, stucco, brick and/or vinyl	Approved Aug. 19'	City Council

Medlin Forest (14)	Medlin Road 09197025	Single-Family Detached	68	28.11	2.42	Monroe	Age Targeted	1,700 heated with 2 car garage	Fiber cement, stone, stucco and/or brick	Approved Sept. 19'	City Council
Blue Sky Meadows (15)	Concord Avenue 09216042	Single-Family Detached	360	118.99	3.03	Piedmont	Not Age Targeted	1,400 heated with 2 car garage	Fiber cement, stone, stucco and/or brick	Approved Sept. 19'	City Council
Arbors	James Hamilton Road & Rocky River Road 09-336-029D & 09-336- 029E	Single-Family Attached with Self- Storage Facility	100	18.04	6.93 90,000 square feet 3-story storage facility	Piedmont	Not Age Targeted	1,400 heated with 1 car garage	Fiber cement, stone, stucco and/or brick	PB approved CC Denied Sept. 19'	City Council
Stewarts Creek	Fowler Secrest Road 09-295-012B, 09-295- 012E, 09-295-012C & 09-298-067D	Single-Family Detached	48	55.71	0.86	Piedmont	Not Age Targeted	1,500 heated square feet with 2 car garage on half acre lots	Fiber cement, stone, and/or brick	PB approved CC Denied Jan. 20'	
Seacrest Landing	Secrest Shortcut	Single-Family Attached (townhomes)	172	30.48	5.64	Porter Ridge	Not Age Targeted	1,300 townhomes with 1 & 2 car garages	Fiber cement, stone, stucco, brick and/or vinyl	Pending	City Council
Mendenhall Oaks	Secrest Shortcut & Fowler SecrestRoad	Single-Family Detached	104	34.92	2.98	Piedmont	Not Age Targeted	1,400 heated with 2 car garage	Fiber cement, stone, stucco, brick	Pending	Withdrawn
Stewarts Crossing	Secrest Shortcut	Single-Family Detached	173	89.84	1.93	Piedmont	Age Targeted	1,250 heated with 2 car garage	Fiber cement, stone, stucco and/or brick	Pending	City Council
Scotch Meadows	Olive Branch	Single-Family Detached	186	47.4	3.92	Piedmont	Not Age Targeted	1,400 heated with 2 car garage	Fiber cement, stone, stucco, brick and/or vinyl	Pending	City Council
James Hamilton Road Project	James Hamilton Road & Hwy 74	Single-Family Attached & Detached	60 townhomes & 89 single family	32.86	4.53	Piedmont	Not Age Targeted	1,600 heated with 2 car garage	Fiber cement, stone, stucco, brick and/or vinyl	Pending	City Council

Ridge Road Mixed-Use	Hwy 601 & Ridge Road 09-213-008	Single-Family Attached (Townhomes) & Multi-Family Apartments Proposed amenities: park area, internal pedestrian multi-use path, & dog park area	Residential: 186 townhomes & 72 apartments Total: 258 du Commercial: hotel, grocery, 37,800 retail space, 2 drivethrough restaurants, convenience store/gas station	54.66	4.86	Piedmont	Not Age Targeted	1,320	Fiber cement, stone, stucco, brick or vinyl	Pending	City Council
Pensco	Secrest Shortcut Road	Single-Family Attached (Townhomes) & Multi-Family Apartments Proposed amenities: pool, clubhouse, internal walking trail, dog park and tot lot	79 Townhomes & 264 Apartments Total: 343 du	40.13	4.93 (townhomes) 3.6 (apartments) Total: 8.55	Porter Ridge	Not Age Targeted			Pending	City Council
Annexed Projects			2528 approved								
		6 projects in process	1,281 being processed								
			total if all approved 3,809								

STATUS	ACTUAL SF & PRICE RANGE
Built Out	
Not Active	
Not Active	\$180,000- \$200,000
Under Construction	2,056-3,704 square feet Starting price ranges \$344,990- \$437,596
Under Construction	1,421-2,325 square feet Starting price ranges \$219,990- \$264,990
Plan Review	
Plan Review	
Under Construction	1,463-2,144 square feet Starting price \$195,990- \$232,990
Plan Review	1,300-1,500 square feet \$1,300-\$1,700 rent per month

Under Construction	2,200-2,800 square feet Starting price \$250,000-\$290,000
Currentlty being Designed	2,200-2,500 square feet Starting price \$280,000-\$326,000
	Tax Credit project- Targeted 60% of the median income for rent Median income \$40,000-\$60,000 Rent prices ranged from \$400, \$900 and \$1,100
Plan Review	1,650 min. & avg. 2,000 square feet Starting price \$250,000-\$300,000+
Currentlty being Designed	
Currentlty being Designed	TH 1,300 to 1,800 & SF 1,450 to 2,500 square feet. Starting price TH \$200,000-\$265,000 & SF \$260,000-\$300,000

Currentlty being Designed	1,700 min. to 2,000+square feet Starting price low \$300,000's
Currentlty being Designed	most homes 2,000+, Starting price high \$200,000's - \$300,000+
	1,500-1,800 square feet starting price 230,000 to 300,000
	1,300 to 1,800. Starting price low to mid \$200,000's
N/A	N/A
	2,200 ave. up to 2,600. Starting price \$250,000 to \$450,000



MEMORANDUM

TO: City Council

DATE: May 5, 2020

FROM: S. Mujeeb Shah-Khan, City Attorney

SUBJECT: Legislative Prayer Issues

SUMMARY STATEMENT

Council is asked to discuss legislative prayer before a City Council meeting.

REVIEW

Prior to the start of the April 21, 2020 Special City Council Meeting, members present at the meeting discussed the possibility of beginning the meeting with a prayer. At that time, I asked those members present in the City Hall Conference Room to not begin the meeting with a prayer so that the item could be discussed by the full Council at the May 5, 2020 Strategic Meeting. The members agreed.

The issues involved when a public body considers a prayer before a meeting, can be significant given the First Amendment challenges made in the past. A legislative body like the City Council has to ensure that if it wishes to offer a prayer, that the prayer does not mean the Council is violating the First Amendment's Establishment clause.

Enclosed with the Staff Report is a memorandum discussing issues involved with Council prayer.

RECOMMENDATION

Staff requests that Council consider and provide input on legislative prayer.

Attachment: Memorandum from City Attorney on Council Prayer



MEMORANDUM

TO: Mayor and City Council
FROM: S. Mujeeb Shah-Khan, City Attorney
SUBJECT: Council Prayer
DATE: May 5, 2020

Prior to the start of the April 21, 2020 Special City Council Meeting, members of Council raised the possibility of starting the meeting with a prayer. After some discussion, it was agreed that no prayer would take place, and that the issue of prayer at a Council meeting would be discussed at the May 5, 2020 Strategic Meeting. In preparation for that discussion I wanted to provide you with this memorandum discussing the state of the law on legislative prayer, what happened in Rowan County and how it was liable for \$285,000.00, and options for your consideration.

Overview of Supreme Court Cases

The First Amendment to the United States Constitution provides that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." While Congress is expressly mentioned, the obligation extends to all levels of government, at the state and local level. Under the Establishment Clause of the First Amendment, a City must be careful to not engage in activities that link it to a particular faith or suggest that it holds one religion, or any religion above all others.

In 1983, in the case of *Marsh v. Chambers*, 463 U.S. 783 (1983), the Supreme Court determined that a prayer delivered in Nebraska's state legislature by a state-funded Chaplain was permitted under the First Amendment. However, the Supreme Court made it clear that any permitted prayer "was [one] not 'exploited to proselytize or advance any one, or to disparage any other, faith or belief.'"

In 2014, the Supreme Court considered prayers offered at a town council meeting. The case of *Town of Greece, v. Galloway*, 572 U.S. 565 (2014), involved a New York town that offered a prayer at the start of their meetings, from local unpaid volunteer clergymen. Typically, the prayer was a Christian prayer (on occasion, a Jewish layperson, the local Baha'i temple chairman, and a Wiccan priestess offered prayers). Two citizens filed suit, alleging that Greece violated "the First Amendment's Establishment Clause by preferring Christians over other prayer

givers and by sponsoring sectarian prayers, such as those given ‘in Jesus’ name.’”¹ Ultimately, the United States Supreme Court agreed to hear the case.

In a 5-4 decision, the Supreme Court decided that Greece’s method of prayer was not in violation of the First Amendment. What is important is that the *Greece* case offered guidance on what is and what is not permitted in a legislative prayer:

- Legislative prayer should be assumed constitutional so long as it:
 - Is given at the session opening to lend gravity to the occasion;
 - Reflects the values of the nation;
 - Is given in a solemn and respectful tone;
 - Invites lawmakers to reflect on shared ideals and common ends;
 - Is non-discriminatory among faiths; and
 - Is non-coercive.
- Legislative prayer will most likely not be constitutionally permissible if there is a pattern of:
 - Denigrating/disparaging any religion;
 - Threatening damnation;
 - Preaching conversion;
 - Proselytizing or advancing any faith or belief; or
 - Coercion.

Lund v. Rowan County – The Fourth Circuit Finds the Rowan County Commission’s Prayers Unconstitutional

Before the Supreme Court decided the *Greece* case, there was a case pending out of Rowan County (Salisbury) over the prayers provided by County Commissioners. Unlike the *Greece* case, the prayers were led by the Commission members themselves. In the words of the Fourth Circuit Court of Appeals (the appeals court that includes North Carolina), “The prayers referenced one and only one faith and veered from time to time into overt proselytization. Before each invocation, attendees were requested to rise and often asked to pray with the commissioners.”

The Fourth Circuit, in a 10-5 decision, found that Rowan County’s Commissioner-led prayer violated the First Amendment. In its decision, the Court of Appeals expressed concerns that the prayers were led by the County Commissioners only. That fact alone did not make the prayers unconstitutional. What made the prayers unconstitutional was how the prayers took place. By having only the Commissioners lead prayer, the prayers were limited to one faith, Christianity, and the prayers suggested its superiority to other faiths. Further, by inviting the audience to join in the prayer before the start of business at the meeting, the Court saw that as coercive to all requiring participation to the point where anyone leaving or not participating would be seen negatively. The Rowan County Board of Commissioners, in losing, was

¹ Instead of asking for the prayers to be ended, the Plaintiffs asked that Greece be limited to offering “‘inclusive and ecumenical’ prayers that referred only to a ‘generic God’ and would not associate the government with any one faith or belief.”

prevented from using their type of prayer practice (led by Commissioners only, and direct audience members to pray with them) at their meetings.

The United States Supreme Court chose to not hear the case, making sure that the Fourth Circuit's decision is the law in North Carolina.

As the losing party in the case, Rowan County was required to pay the Plaintiffs' attorneys' fees. Before a judge could decide on the appropriate fees, Rowan County and the Plaintiffs agreed that Rowan County would pay \$285,000.00 in attorneys' fees to the Plaintiffs. Rowan County's Commission unanimously voted to pay the fees out of public funds.

OPTIONS

As the Council considers whether or not it wishes to have prayer at its meetings, it is worth considering various options. I would note that Council has the following options available to it, and note the level of risk associated with each one:

- Maintain current practice (no prayer and meeting starts once Mayor calls meeting to order) **(NO RISK)**;
- Offer a moment of silence at the start of the meeting, with no comment before and after, including no use of "Amen" at the end of the moment **(NO RISK)**;
- Offer a prayer led by religious officials (Ministers, Priests, Rabbis, Imams, or others) with a diverse group of religious officials or third parties not on Council **(ELEVATED RISK)**; and
- Offer a prayer led by Councilmembers **(HIGHEST RISK)**.

If Council wishes to offer a prayer, I would remind Council that for any prayer to be constitutional it must meet the standards in the *Greece* case. As a reminder, that would mean the prayer:

- Is given at the session opening to lend gravity to the occasion;
- Reflects the values of the nation;
- Is given in a solemn and respectful tone;
- Invites lawmakers to reflect on shared ideals and common ends;
- Is non-discriminatory among faiths; and
- Is non-coercive.

In addition, in order to prevent any further concerns, the prayer should be led by a third party, with no audience invitation to join in the prayer.

If you have any questions on this issue, please contact me at your convenience.

SMS/ms

cc: E. L. Faison/City Manager
Bridgette Robinson/City Clerk
Brian Borne/Assistant City Manager
J. Ashley Duncan Britt, Esq./Assistant City Attorney