

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

AT THE CROSS FELLOWSHIP BAPTIST CHURCH INC)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:18-cv-00290
)	
)	
CITY OF MONROE, NORTH CAROLINA,)	
)	
Defendant.)	
_____)	

PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

Plaintiff, AT THE CROSS FELLOWSHIP BAPTIST CHURCH INC (“Church”), by and through its counsel, files this Motion pursuant to Rule 65 of the Federal Rules of Civil Procedure, and respectfully requests this Court enter a preliminary injunction prohibiting the Defendant, CITY OF MONROE (“City”), from enforcing or applying its zoning code against the Church, and states as follows:

1. The facts of this case are as stated in the Church’s Verified Complaint.
2. The Church incorporates by reference the facts of this case as set forth in the Church’s Verified Complaint filed with this Court on June 4, 2018.
3. Rule 65 of the Federal Rules of Civil Procedure authorizes this Court to grant preliminary injunctive relief.
4. The Church is likely to succeed on the merits.
5. The City’s Ordinance O-2017-13, which amended Chapter 156 of Title XV of the Code of Ordinances of the City of Monroe (“zoning code”) to create the Concord Avenue Overlay

District (“CA-O”), violates the Religious Land Use and Institutionalized Person’s Act (“RLUIPA”) (42 U.S.C. § 2000cc(b)(1)), because it treats the Church on less than equal terms with nonreligious assemblies and institutions in Sub-district C of the CA-O.

6. The Church is not even permitted to apply for a special use permit to operate its house of worship in Sub-district C of the CA-O but numerous nonreligious assemblies and institutions like community centers, libraries, art galleries, and museums may operate in Sub-district C of the CA-O as of right.

7. As explained more fully in the Church’s Brief submitted herewith, this unequal treatment violates RLUIPA.

8. The Church is suffering, and will continue to suffer, irreparable harm without an injunction.

9. The Church desires to locate and hold its services at its newly rented and renovated property.

10. The Church should be free to locate in Sub-district C without fear of being forced out of its newly rented and renovated property.

11. The Church’s ministry and religious mission are severely hampered by the City’s unequal and discriminatory treatment which violate the Church’s constitutional and statutory rights.

12. The City will not be harmed by the issuance of an injunction.

13. The City’s Ordinance O-2017-13 allows, as permitted uses, nonreligious assemblies and institutions which are just as impactful—if not more so—than the Church using its building to hold small worship gatherings on Sundays.

14. Issuance of an injunction is in the public interest as the protection of the Church's constitutional and statutory rights are of the highest public importance.

WHEREFORE, the Church respectfully requests this Court issue a Preliminary Injunction to enjoin the City, the City's officers, agents, employees, and all others persons acting in concert with them, from enforcing its zoning code, so that:

- (1) The City must allow the Church to operate its house of worship in Sub-district C of the CA-O;
- (2) The City must allow the Church to operate its house of worship at its property;
- (3) The City must treat the Church equally with nonreligious assemblies and institutions;
- (4) The City must not discriminatorily target the Church through its zoning code;
- (5) The City's zoning code will not be used in any manner to infringe upon the Church's rights.

Dated: June 4, 2018

Respectfully submitted,

s/ Robert D. Potter, Jr.

Robert D. Potter, Jr.

N.C. Bar # 17553

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Counsel for Plaintiff

**Pro Hac Vice Motions forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document will be personally served on the following individual at the address listed:

Bridgette H. Robinson, City Clerk
City of Monroe, North Carolina
300 West Crowell Street
Monroe, NC 28112

Dated: June 4, 2018

s/ Robert D. Potter, Jr.

Robert D. Potter, Jr.