

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
23 CVS 2156

FIFTH AVENUE UNITED
METHODIST CHURCH OF
WILMINGTON,

Plaintiff,

vs.

THE NORTH CAROLINA
CONFERENCE, SOUTHEASTERN
JURISDICTION, OF THE UNITED
METHODIST CHURCH, INC., et al.

Defendants.

**AFFIDAVIT OF DISTRICT
SUPERINTENDENT TARA LAIN**

District Superintendent Tara Lain, being first duly sworn, deposes and says:

1. My name is Tara C. Lain. I currently serve as the District Superintendent for the Harbor District of the North Carolina Conference of The United Methodist Church (the "North Carolina Conference"). I am over eighteen (18) years of age, under no legal disability, and am a resident of New Hanover County, North Carolina. I am a defendant in this lawsuit.

2. The information in this Affidavit is provided based upon my own personal knowledge and from my review of business records made and kept by the Conference in the ordinary course of its business.

Lain Affidavit



3. I hold a Bachelor of Arts degree from the University of North Carolina at Chapel Hill (1993) and a Master of Divinity degree from Duke University Divinity School (1999).

4. I served as a pastor for several UMC churches within the North Carolina Conference from 2005 until 2020, including most recently Oleander UMC and Trinity UMC in Wilmington North Carolina.

5. The congregation of Oleander UMC was an aging congregation when I served there. Under my leadership they began to explore offering their building and remaining congregation as a legacy to the UMC in Wilmington. The Oleander congregation recently made the decision to become a legacy church, offering to merge with another congregation so their building could continue to offer space for disciples to gather and to lead the mission of making disciples in the surrounding area.

6. During my time at Trinity UMC I worked with the church to define the needs of the community so they could discern the best path to make disciples of Jesus Christ for the transformation of the world. Trinity UMC is continuing on this path of growth and service under its new pastor since my departure in 2020.

7. I was appointed Harbor District Superintendent in 2020. As the Harbor District Superintendent I serve as an extension of the Office of the Bishop in our District, oversee the ministry of Harbor District clergy and churches, and serve as a Chief Missional Strategist for the Harbor District. My role is to provide the support, supervision and leadership needed to ensure that churches within the Harbor District

thrive and play their role in fulfilling the mission of the United Methodist Church to “make disciples of Jesus Christ for the transformation of the world.”

8. One of the churches I served as District Superintendent until recently was Fifth Avenue United Methodist Church, located at 409 South Fifth Avenue in downtown Wilmington, North Carolina (“Fifth Avenue UMC” or the “Church”).

Relationship of Fifth Avenue UMC to the North Carolina Conference

9. Fifth Avenue UMC has a rich history. The Church was built in 1847. After a fire destroyed the original sanctuary the congregation built what was at the time the largest sanctuary in North Carolina. The Church thrived for many years but as downtown Wilmington experienced urban decline in the years following World War II the membership and missional activity of the church declined as well.

10. Fifth Avenue UMC has always understood that it is a local church of the UMC bound by *The Book of Discipline of The United Methodist Church* or its predecessors (hereinafter, “*The Book of Discipline*” or the “*Discipline*”). The Church has accepted appointments from the North Carolina Conference of the UMC and its predecessors for approximately 175 years since its founding in 1847. Attached as **Exhibit A** is a true and accurate list of the pastors appointed by the Conference and its predecessors to serve Fifth Avenue UMC since its founding according to the records of the Conference. The Church also used the United Methodist Hymnal, held itself out as a United Methodist Church, paid annual apportionments (although it

was not able to pay its full apportionments in recent years), and submitted reports required of local churches within the North Carolina Conference.

11. When the Church was not able to afford the pastor's salary requirements beginning in 2007 the Conference provided equitable compensation funding to supplement the salary paid by the Church to its pastor as follows:

- a. \$1000 per month equitable compensation in 2007;
- b. \$800 per month equitable compensation in 2008;
- c. \$600 per month equitable compensation in 2009.

12. The Church was last served by a full-time ordained pastor in 2009. Since that time the Church has only been able to support a half or quarter time pastor.

13. The Conference through its Board of Missions has made several loans over the years to the Church, including the following:

- a. \$25000 in November 1984 (satisfied October 1991);
- b. \$30000 in August 1987 (satisfied August 2000);
- c. \$15000 in May 1993 (satisfied September 2001).

14. The Conference has also provided grants to the Church for various reasons over the years, including:

- a. \$6500 in 2019 to repair storm damage resulting from Hurricane Florence.

b. \$5000 in Mission Seed Funds in 2014 for a project to provide weekend food packs for children in poverty.

c. CPI grants of \$2000 in 2002 and \$3000 in 2003. CPI refers to the Comprehensive Plan of Inclusiveness. CPI grants support projects that address social problems or concerns that particularly impact minority communities.

15. The Church has also long understood that the property of the Church is held subject to the United Methodist Trust Clause set forth in Paragraph 2501 and succeeding paragraphs of *The Book of Discipline*. The Church most recently demonstrated this awareness when it followed the procedure set forth in the Discipline for sale of a 5 feet by 100 feet strip of property on the backside of the church lot to an adjacent landowner. Pursuant to Paragraph 2541 of *The Discipline* setting forth the requirements for sale of real property owned by an incorporated local UMC church, the Church held a specially called Charge Conference on May 1, 2022 over which I presided. A true and accurate copy of the Minutes from the Specially Called Charge Conference through which this sale was approved is attached hereto as **Exhibit B.**

Revitalization of Downtown Wilmington and Continued Decline of the Fifth Avenue UMC

16. The situation in downtown Wilmington has changed since the post-World War II period of decline. The area surrounding Fifth Avenue UMC is rapidly

revitalizing, historic homes are being restored, there is new development, and people are rapidly moving into the neighborhood.

17. According to a QuickInsite Report from MissionInsite, a service that churches, denominations and nonprofit organizations rely upon to provide demographic information about people living in our local communities so we can better serve them, the area within a three (3) mile radius of Fifth Avenue UMC had a population of 46,853 in 2022, and the population had grown 12.8% since 2010. This is a neighborhood with a growing population, increasing numbers of school age children, a racially diverse population, and lower average family incomes and higher rates of poverty than statewide averages. (A true and accurate copy of The QuickInsite Report dated 3/16/2023 from which I obtained this information is attached hereto as **Exhibit C**).

18. Unfortunately, Fifth Avenue UMC has not shared in the growth and revitalization experienced by the surrounding community. As downtown Wilmington grew and changed, the church continued to decline in membership, attendance, and mission. By 2022 the total membership of the church was 205 and average weekly attendance was 20. There have been no new professions of faith at the Church since 2001 and the last time a person was baptized there was 2019. There has been only one baptism at the Church since 2017.

UMC Ministries Serving Downtown Wilmington

19. Recognizing that as United Methodists we are called not only to worship Jesus Christ but to serve as the hands and feet of Christ in our community and world to heal the sick, feed the hungry, care for the stranger and free the oppressed, the North Carolina Conference is working in partnership with agency staff, local congregations, and other area churches and service organizations to provide vital ministry and service to the downtown Wilmington community. Here are a few examples of our activities and planned initiatives for the area:

a. Following the series of hurricanes affecting coastal North Carolina in recent years including Hurricanes Matthew and Florence, the North Carolina Conference opened and operated recovery centers through which UMC volunteers and staff worked with partners such as the United Way, FEMA, North Carolina Emergency Management, the American Red Cross and others to help people rebuild homes, communities and lives.

b. The Conference is working to help unsheltered persons in the area transition into homes and jobs. Towards that end, The Feast Gathering UMC is a local ministry that focuses on providing meals and worship opportunities to unsheltered persons while also helping with practical needs through a shower truck and clothing closet. Similarly, a coalition of local UMC churches entitled The Warming Shelter is working to offer shelters for unhoused people during the winter months, cooling shelters in summer and

emergency shelters during storms and hurricanes. We are also actively listening to and working to address community concerns that neighborhood issues may result from these efforts so this important work can take place with support and approval from community residents.

c. The North Carolina Conference and area churches are working to find ways to support CityPlace, an initiative that seeks to provide affordable housing with on-site supportive resources to be used jointly by two underserved groups: young adults with disabilities and moderate-income seniors and near-seniors.

d. Mosaic UMC is a recently launched ministry that seeks to provide worship services, justice ministry and a safe gathering space for worship and study that reaches out in particular to LGBTQIA+ persons and their family members and supporters.

Efforts to Engage Fifth Avenue UMC in Local Ministries

20. The minimum expectations for a UMC church are set forth in paragraphs 201 to 204 of the *Discipline*. The church is a connectional society of persons who have been baptized, professed their faith in Jesus Christ, and assumed the vows of membership in The United Methodist Church. They gather in fellowship to hear the Word of God, receive sacraments, and support one another. (*Discipline* ¶ 203). They also have a missional outreach responsibility to the local and worldwide community. (*Discipline* ¶ 204).

21. Since I became District Superintendent of the Harbor District in 2020 I worked with the leadership of Fifth Avenue UMC in many ways to help them begin to grow again as a congregation and fulfill their outreach mission to connect with and serve the local community and make new disciples of Jesus Christ. Despite the good intentions of the congregation, however, their efforts to connect with the community have in many ways failed to bear fruit.

22. For instance, during the pandemic Fifth Avenue UMC joined with a number of other smaller churches in Wilmington to engage in mission work through a cooperative parish model led by Reverend Linda Taylor from the Conference's Church Transformation Ministries. The group made plans to deliver backpacks to children at a local school but the initiative ultimately fizzled when the schools remained closed for an extended time during the pandemic. I observed that representatives from Fifth Avenue UMC were not flexible in working with the other congregations to pivot to a new form of service in light of that obstacle.

23. Fifth Avenue UMC also engaged in extensive conversations with Susan Silver and representatives from Wesley Community Development, a nonprofit real estate firm affiliated with the Western North Carolina Conference of the UMC, about participating in the CitySpace initiative discussed above. The developers of CitySpace wanted Fifth Avenue UMC to provide access to its Fellowship Hall for a meeting and education space for CitySpace residents. Tentative plans for the Church's participation in the project included grants for the Church to upgrade its

facilities and payment of ongoing rent for use of the space. This would have provided financial support to the Church and helped it participate in a crucial mission. A barrier to this plan arose when property adjacent to the Church that would have been used for this effort became unavailable. Again, however, I observed that when this obstacle arose the Church was quick to decline participation in the initiative without seeking creative ways to address the setback.

24. The Church also declined an opportunity to provide meeting space for a local group focused on outreach to local LGBTQIA+ persons and their friends, family members and supporters that needed space.

25. The Church has been successful in recent years in renting out its property for use in television and film productions. While that has provided a helpful source of revenue for the Church it has not provided any significant benefit or mission to the community.

Declaration of Exigent Circumstances and Closure of Fifth Avenue UMC

26. The foregoing context provides background for the Resolution for Closure of Fifth Avenue United Methodist Church that was adopted as of March 24, 2023 by Presiding Bishop Connie Shelton, all of the District Superintendents of the North Carolina Conference, and the Harbor District Board of Church Location and Building to declare that exigent circumstances exist that require an immediate interim closure of Fifth Avenue UMC pending a formal decision to be made by the

Annual Conference Session of the North Carolina Conference. A true and accurate copy of the Resolution is attached hereto as **Exhibit D**.

27. The Resolution was adopted in accordance with the requirements set forth in Paragraph 2549.3(b) of *The Book of Discipline*, which provides that the presiding bishop, the majority of district superintendents, and the appropriate board of church location and building “may, in their sole discretion, declare that exigent circumstances exist that require immediate protection of the local church’s property, for the benefit of the denomination.”

28. The same provision explains that exigent circumstances “include, but are not limited to, situations where a local church no longer serves the purpose for which it was organized or incorporated. (§§ 201-204)” *Id.* The cited paragraphs refer back to the language in the *Discipline* that sets forth the minimum expectations for a local church. The Conference leaders who signed the Resolution all agreed that exigent circumstances existed for the reasons set forth in detail in the Resolution.

29. Paragraph 2549.3(b) makes clear that a declaration of exigent circumstances provides only for interim protection of the church property “at any time between sessions of annual conference.” A declaration of exigent circumstances is not final. Rather, the *Discipline* provides that “[w]hen it next meets, the annual conference shall decide whether to formally close the local church.”

30. On the Sunday after the Resolution was issued, Conference leaders met with the Fifth Avenue UMC congregation to advise them that the Resolution had

been issued and the Church would close following Easter Sunday services on April 9, 2023. We also explained at that meeting that a final decision regarding whether to close the Church would be made by the Annual Conference Session in June 2023.

31. After the interim closure of the Church, the next Annual Conference session was held in Greenville, North Carolina from June 15-17, 2023. The Conference Board of Trustees brought the following motion before the Annual Conference Session on June 16, 2023:

In accordance with paragraph 2549.3(b) of The Book of Discipline and with the recommendation and consent of Bishop Shelton, the unanimous Cabinet, and the Harbor District Board of Church Location and Building, the Board of Trustees moves for approval of the formal closure of Fifth Avenue United Methodist Church.

32. In accordance with the parliamentary procedure governing the Annual Conference Session, speeches for and against the motion were presented from the floor. I argued in favor of closure, as did Shawn Blackwelder, who had been the pastor of the Church for several years ending in 2009. Three delegates made speeches in opposition to the motion to close the Church. The Annual Conference Session then voted by a clear majority of the assembled clergy and lay delegates from throughout the Conference to formally close the Church.

The Procedure Used to Close the Church Was Consistent with the Discipline and Appropriate Under the Circumstances

33. In other situations in which churches in the Harbor District have closed under my leadership, I have first led the congregation in an assessment of the past, present and potential ministry of the church in accordance with Paragraphs 2549.2

and 213 of *The Discipline*. Thereafter, depending on the result of the study, I would preside over a church conference in which the assembled members voted on whether to close.

34. As United Methodists, our first choice is always to discuss and make decisions collaboratively. That type of discussion and collaboration regarding a potential closure, however, was not an option with Fifth Avenue UMC. The congregation had already indicated it did not wish to close but instead wanted to disaffiliate from the UMC pursuant to Paragraph 2553 of the *Discipline*. Since we believed for reasons set forth in this Affidavit that Fifth Avenue UMC should close rather than disaffiliate, discussion would not have been productive. Our best option under the circumstances was to exercise the discretion given to us in the exercise of our supervisory roles by *The Book of Discipline* to issue the Resolution.

35. We made that decision understanding that it was an interim solution and the final decision on closure would be made by the assembled delegates at the Annual Conference Session. We also understood that our decision would disappoint the members of the congregation, but our collective judgment was that the broader mission of the UMC to make disciples of Jesus Christ for the transformation of the world would be best served by closing Fifth Avenue UMC so that the church property can be used to birth new ministries and house current ministries needing a home to serve the growing population of downtown Wilmington.

36. Paragraph 2553 of the *Discipline* provides churches with a “limited right” to disaffiliate “for reasons of conscience regarding a change in the requirements and provisions of the Book of Discipline related to the practice of homosexuality or the ordination or marriage of self-avowed practicing homosexuals.” However, the right to disaffiliate is not absolute, and a church’s disaffiliation is not effective unless the disaffiliation is ratified by the annual conference through a majority vote of members at an annual conference session. *Discipline* ¶ 2529.1(b)(3); Judicial Council Decision No. 1379 (April 25, 2019), copy attached hereto as **Exhibit E**. In this instance, the Annual Conference Session voted to close Fifth Avenue UMC despite the fact that the delegates were told the Church preferred to disaffiliate. This demonstrates that the Annual Conference Session would not have voted to approve the disaffiliation of Fifth Avenue UMC.

37. Several local churches in the Harbor District have disaffiliated with the blessing of the North Carolina Conference after their congregations discerned they could best fulfill their Christian mission apart from the United Methodist Church. But until a church disaffiliates it remains a part of the UMC subject to all of the minimum expectations of a local church and all provisions set forth in the *Discipline*, including the provisions for closure in Paragraph 2549.

38. In light of the unique circumstances applicable to Fifth Avenue UMC, including the contrast between the long term decline in mission and ministry of the Church and the growth and the growth and revitalization of the surrounding

community and the fact that a reborn UMC church at that location has great potential to serve as a place of hope and vital ministry in downtown Wilmington, the decision by the North Carolina Conference to close Fifth Avenue UMC was correct and proper under Methodist law and polity.

Further the affiant sayeth not.

This the 12th day of July, 2023.

Reverend Tara C. Lain
Reverend Tara C. Lain

Sworn to and Subscribed Before Me
this 12th day of July, 2023.

[Signature]
Notary Public

My commission expires: 11-08-2027

Jessica H Pittman
NOTARY PUBLIC
New Hanover County
North Carolina
My Commission Expires 11/08/2027

Exhibit

A

PASTORS SERVING FIFTH AVENUE UNITED METHODIST CHURCH

1847 - 1848	Abel M. Chreitzberg	1891 - 1894	L. L. Nash
1848	W. C. Parsons	1894 - 1898	W. L. Cunningham
1849	William Crook	1898 - 1902	J. H. Hall
1849	S. H. Brown	1902 - 1903	F. M. Shamburger
1850	H. A. C. Walker	1903 - 1906	Alpheus McCullen
1850	J. T. Munds	1906 - 1910	K. D. Holmes
1850 - 1851	L. S. Burkhead	1910 - 1914	G. T. Adams
1851 - 1853	W. H. Bobbitt	1914 - 1915	A. J. Parker
1853 - 1854	Abram Weaver	1915 - 1916	J. H. Shore
1854 - 1856	T. Page Ricaud	1916 - 1920	J. H. McCracken
1856 - 1857	Joel W. Tucker	1920 - 1921	G. Stanley Frazier
1857 - 1858	J. E. Mann	1921 - 1922	O. W. Dowd
1858 - 1859	Thomas W. Guthrie	1922 - 1924	A. L. Ormond
1859 - 1862	Joseph Wheeler	1924 - 1928	W. C. Martin
1862 - 1863	R. S. Moran	1928 - 1930	D. E. Earnhardt
1863 - 1865	Simeon D. Peeler	1930 - 1934	L. M. Hall
1865 - 1866	Samuel Pearce J. W. Wheeler	1934 - 1938	John Cline
1866 - 1867	J. C. Thomas	1938 - 1945	C. D. Barclift
1867 - 1868	Simeon D. Peeler	1945 - 1947	John R. Edwards
1868 - 1869	J. W. Robotham	1947 - 1949	B. C. Reavis
1869 - 1870	Franklin H. Wood	1949 - 1953	E. L. Farrish
1870 - 1871	A. A. Boshamer	1953 - 1957	E. D. Critcher
1871 - 1872	C. W. Warren James Willson	1957 - 1959	W. J. Moose
		1959 - 1964	R. L. Bame
1872 - 1873	W. N. Coneley	1964 - 1968	C. J. Andrews
1873 - 1874	W. N. Coneley Franklin Wood	1968 - 1974	George W. Ports, Jr.
1874 - 1875	J. T. Gibbs	1974 - 1981	R. L. Crossno
1875 - 1877	J. M. Rhodes	1981 - 1985	Homer E. Morris
1877 - 1879	B. R. Hall	1985 - 1988	L. Jan Fogleman
1879 - 1883	T. Page Ricaud	1988 -	S.A. (Skip) Williams, Jr.
1883 - 1886	D. H. Tuttle		
1886 - 1891	R. C. Beaman		

Fifth Avenue UMC Pastor List-1988-2023

	<u>Start</u>	<u>End</u>
Samuel A. Williams, Jr.	1988	1994
Michael H. Elliott	1994	1999
James E. Malloy, Jr.	1999	2002
Robert Shawn Blackwelder (Associate)	1999	2000
Beverly Ann Fitzgerald (Associate)	2000	2002
Lily Ker Chou	2002	2004
Robert Shawn Blackwelder	2004	2009
Neal Eddins Wingfield	2009	2011
Joseph Leroy Peterson (1/2 time)	2011	2018
William Frazier Adams (1/4 time)	2018	2022
Phil Streuter (Lay Pastor 1/4 time)	2022	2023

Exhibit

B

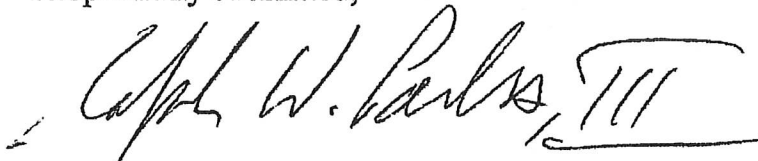
Fifth Avenue United Methodist Church
Special Called Charge Conference For Real Estate Matter
May 1, 2022, approximately 11:38 AM

Attendance: District Superintendent Rev. Tara Lain and Fifth Avenue Pastor Rev. Bill Adams; Congregants Judy Chabak, Sally Godwin, Jean Roesink, Bill Roesink, Carol Worth, Jill Adams, Dana Adams, Ronnie Williams, Janie Freeman, Al Norton, Phyllis Norton, Gloria Monroe, Jean Rawls, Justin Pope, Rip Parks.

This morning's Special Called Charge Conference was held in the church sanctuary after the morning worship service for the purpose of voting on the sale of a portion of the property where Fifth Avenue United Methodist Church is located. This Special Called Charge Conference was advertised in advance in accordance with the rules promulgated by the Methodist Discipline. District Superintendent Reverend Tara Lain began the meeting explaining the basic reason for the Charge Conference, that being to vote on the sale of a five-foot by one hundred thirty-two foot rectangle of real property (660 square feet) located at the Northeast corner of the church's property at 409 S. 5th Avenue, along the church's eastern property line that runs from Church Street to Nun Street, to adjoining property owner Revitalize ILM, LLC.

Rev. Lain asked Trustee Chair Sally Godwin to give a brief explanation of the circumstances surrounding the potential sale of this property, and Ms. Godwin said that (in summary) the adjoining property owner needs the additional property to allow for additional width to their property in order to enable them to have additional set-back space so that they can meet zoning code requirements to build a single family dwelling on their property. Ms. Godwin stated that Revitalize ILM, LLC offered to pay \$12,955.80 plus closing costs for the property; also that the church's Trustees had approved the acceptance of their offer by majority vote. Questions were invited from anyone present regarding the proposed sale of the property, and Al Norton and Bill Roesink had questions which were answered by Ms. Godwin. After all questions were answered, Rev. Lain asked for a motion to be voted on, and Ms. Godwin moved for approval of the sale of the property, and her motion was seconded by Ronnie Williams. Rev. Lain then asked for those approving the motion to indicate so by raising a hand, and it was obvious that a majority raised their hands and thus the motion carried. Rev. Lain thanked everyone for their participation in the process this morning, and she closed the meeting by inviting all present to "go in peace!"

Respectfully submitted,

A handwritten signature in cursive script that reads "Ralph W. Parks, III". The signature is written in black ink and is positioned above the typed name of the signatory.

Ralph W. "Rip" Parks, III
Recording Secretary

Exhibit

C

The QuickInsite Report

Prepared for: North Carolina Conference UMC
Study area: 3 mi Around 409 South 5th Street, Wilmington, North Carolina 28401, United States

Base State: NC
Current Year Estimate: 2022
5 Year Projection: 2027
10 Year Forecast: 2032
Date: 3/16/2023
Semi-Annual Projection: Fall

About the QuickInsite Report

The QuickInsite report is designed to provide a quick look at a geography defined by a user. It provides an initial impression of a study area through a set of primary demographic variables and Mosaic segments.

Two Sections

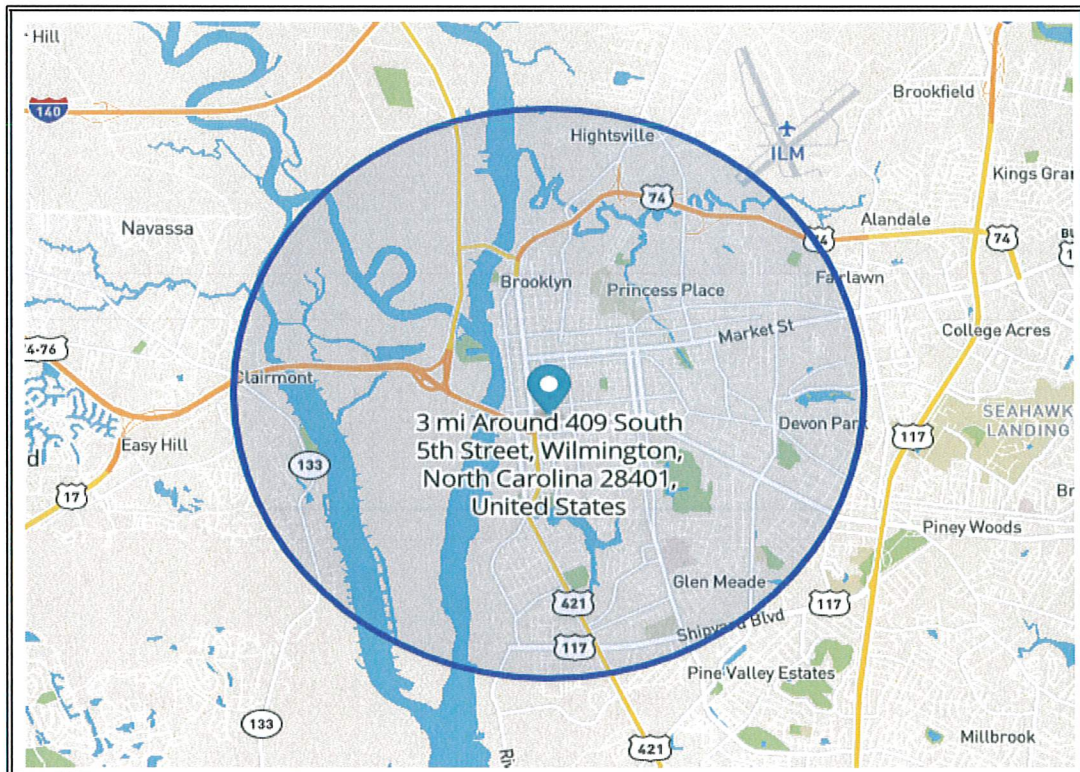
Two reports are provided on the following pages.

- The StoryView section presents 9 key demographic indicators of your study area.
- The ThemeView section presents greater detail about those indicators organized by themes.

NOTE: Not all of the demographic variables available in the MI System are found in this report. The ExecutiveInsite report or custom reports can give a more comprehensive view of an area's demographics. The MinistryInsite or ReligiousInsite reports can provide a view of its beliefs and preferences.

For more information on interpreting the various data on this report, please refer to the Supporting Information on the final page.

THE STUDY AREA



More Information

Please refer to the last page of the report for additional notes and interpretation aides in reading the report.

StoryView

Significant Demographic Indicators of the Study Area's Story

<p>1</p>	<p>Population Change</p> <p>In the 10 year future, how is this area expected to change?</p> <p><small>(See Population and Families Theme)</small></p>	<p>Significant Decline Moderate Decline Little Change Moderate Growth Significant Growth</p>
<p>2</p>	<p>School Age Change</p> <p>In the 10 year future, how is the population of school age children in this area expected to change?</p> <p><small>(See Age Theme)</small></p>	<p>Significant Decline Moderate Decline Little Change Moderate Increase Significant Increase</p>
<p>3</p>	<p>Families with Children</p> <p>Compared to the state, are families with children more or less likely to live in two parent households?</p> <p><small>(See Population and Families Theme)</small></p>	<p>Significantly Less Somewhat Less About the Same Somewhat More Significantly More</p>
<p>4</p>	<p>Adult Educational Attainment</p> <p>For this area, what is the general level of education of the adults 25 and older?</p> <p><small>(See Education and Career Status Theme)</small></p>	<p>Very Low Low Mixed High Very High</p>
<p>5</p>	<p>Community Diversity Index</p> <p>How diverse is the racial/ethnic mix of this area?</p> <p><small>(See Community Diversity Theme)</small></p>	<p>Very Homogeneous Homogeneous Moderately Diverse Very Diverse Extremely Diverse</p>
<p>6</p>	<p>Median Family Income</p> <p>How does the median family income compare to the state for this area?</p> <p><small>(See Financial Resources Theme)</small></p>	<p>Significantly Less Somewhat Less About the Same Somewhat Greater Significantly Greater</p>
<p>7</p>	<p>Poverty</p> <p>Compared to the state, is the number of families in poverty above or below the state average?</p> <p><small>(See Financial Resources Theme)</small></p>	<p>Significantly Below Somewhat Below About the Same Somewhat Above Significantly Above</p>
<p>8</p>	<p>Blue to White Collar Occupations</p> <p>On a continuum between blue collar and white collar occupations, where does this area fall?</p> <p><small>(See Education and Career Status Theme)</small></p>	<p>Very Blue Collar Somewhat Blue Closely Split Somewhat White Very White Collar</p>
<p>9</p>	<p>Largest Racial/Ethnic Group</p> <p>In this area, which racial/ethnic group is the largest percentage of the population?</p> <p><small>(See Community Diversity Theme)</small></p>	<p>Asian (NH) Black/Afri American (NH) White (NH) Hispanic or Latino Pac Is/Amer Ind/Other</p>

ThemeView

Demographic Descriptions of the Study Area

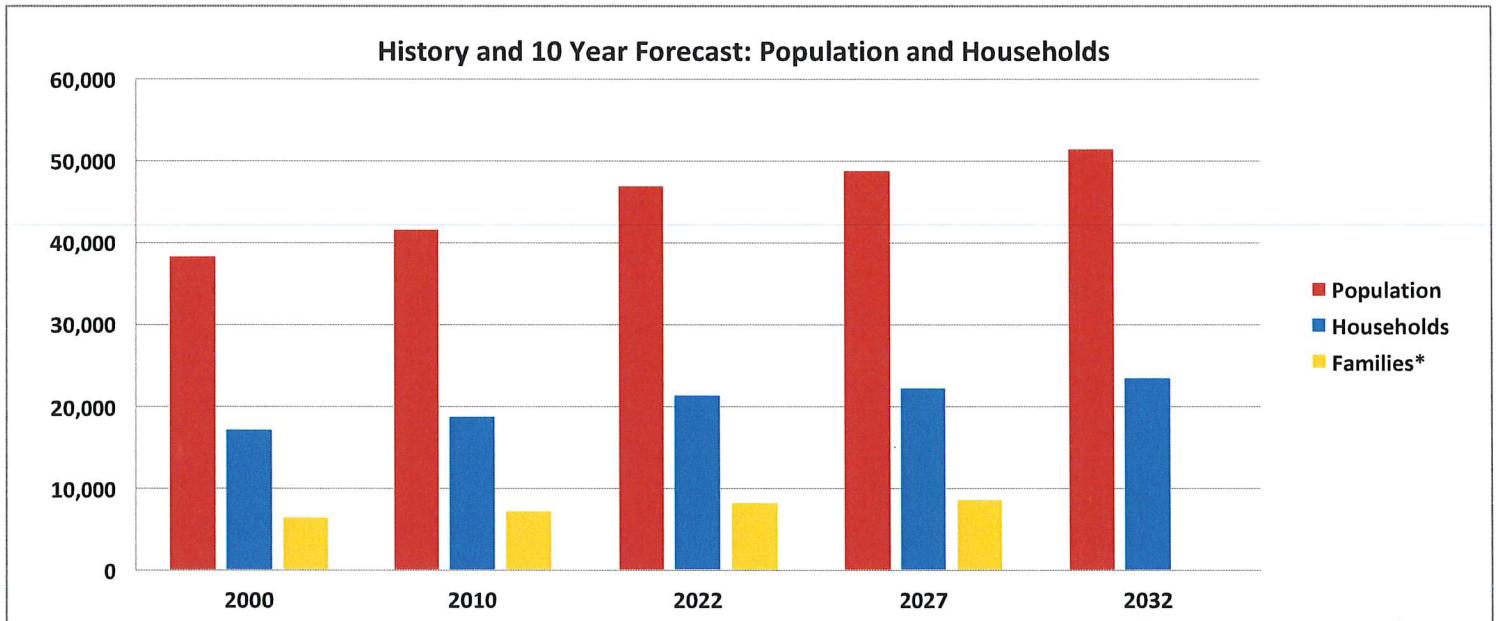
Study area: 3 mi Around 409 South 5th Street, Wilmington, North Carolina 28401, United States

Date: 3/16/2023

Population and Households Theme

Population is the most basic demographic characteristic. It indicates how many persons reside within an area and how that total changes over time. In addition, future population is forecasted looking out 10 years.

Population and Household History with 5 and 10 Year Projected Change

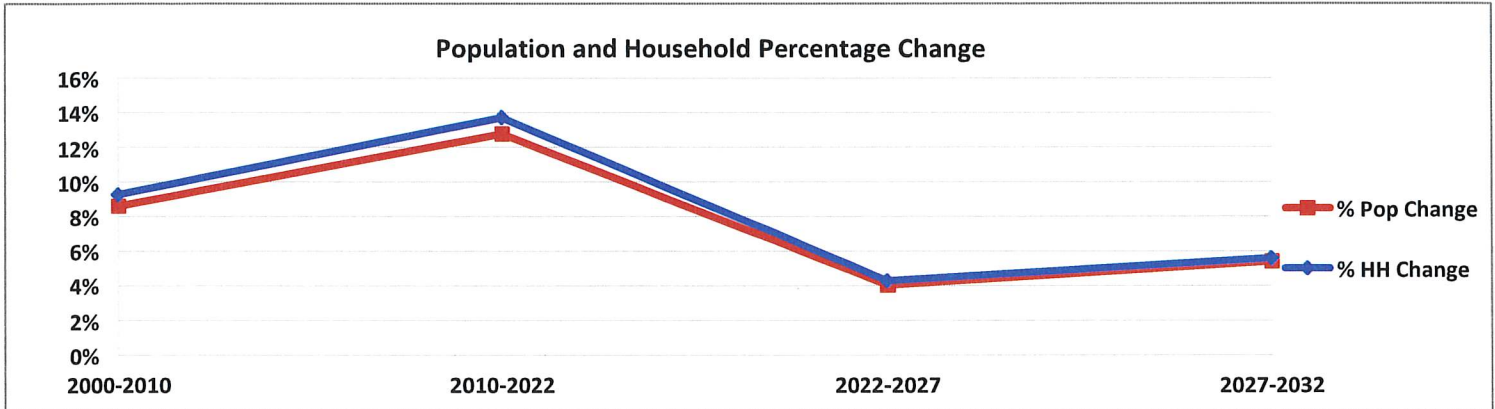


NOTE: Family Household data is not projected out 10 years.

Population, Households & Families					
	2000	2010	2022	2027	2032
Population	38,261	41,551	46,853	48,744	51,378
Population Change		3,290	5,302	1,891	2,634
Percent Change		8.6%	12.8%	4.0%	5.4%
Households	17,121	18,706	21,268	22,179	23,414
Households Change		1,585	2,562	911	1,235
Percent Change		9.3%	13.7%	4.3%	5.6%
Population / Households	2.23	2.22	2.20	2.20	2.19
Population / Households Change		-0.01	-0.02	-0.01	-0.00
Percent Change		-0.6%	-0.8%	-0.2%	-0.2%
Family Households	6,418	7,152	8,187	8,549	
Family Households Change		734	1,035	362	
Percent Change		11.4%	14.5%	4.4%	

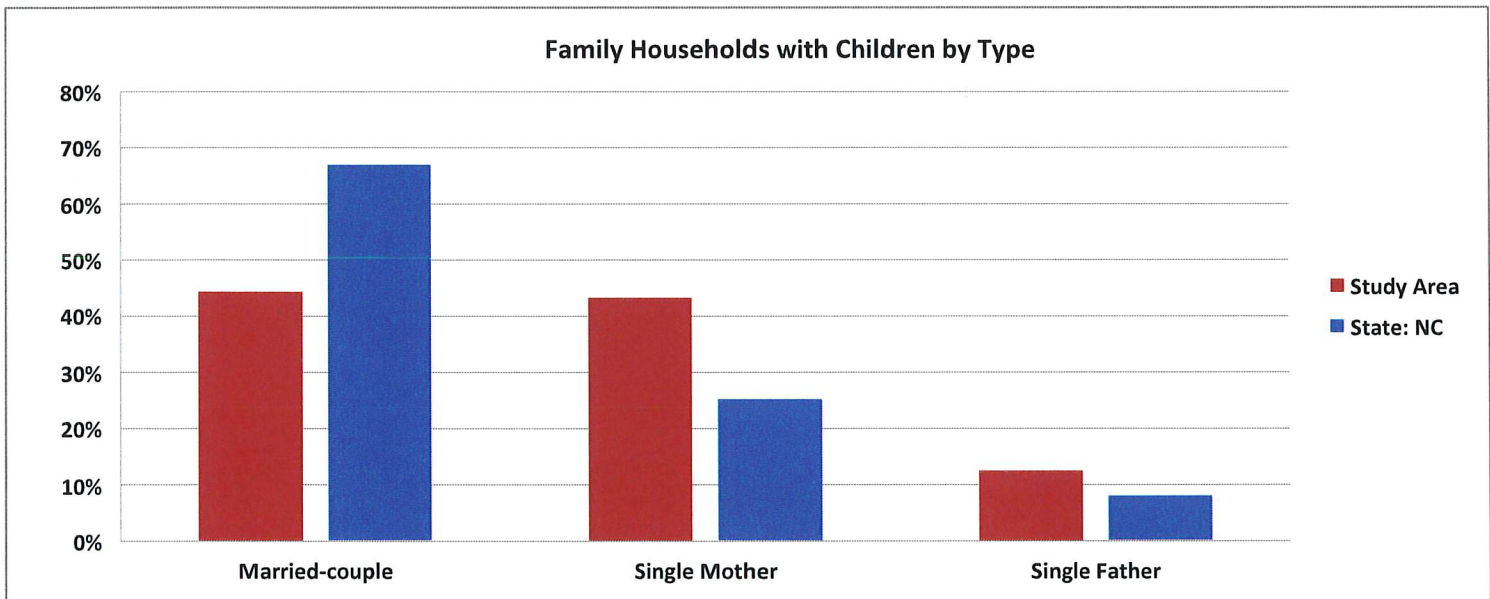
Population and Households Theme

Population and Household History with 5 and 10 Year Projected Percentage Change



Family Households

Family households with children are changing. The traditional married couple structure is evolving into many different family expressions in which children are being raised. These data provide an insight into the family structures within the study area and then compares them to the state.



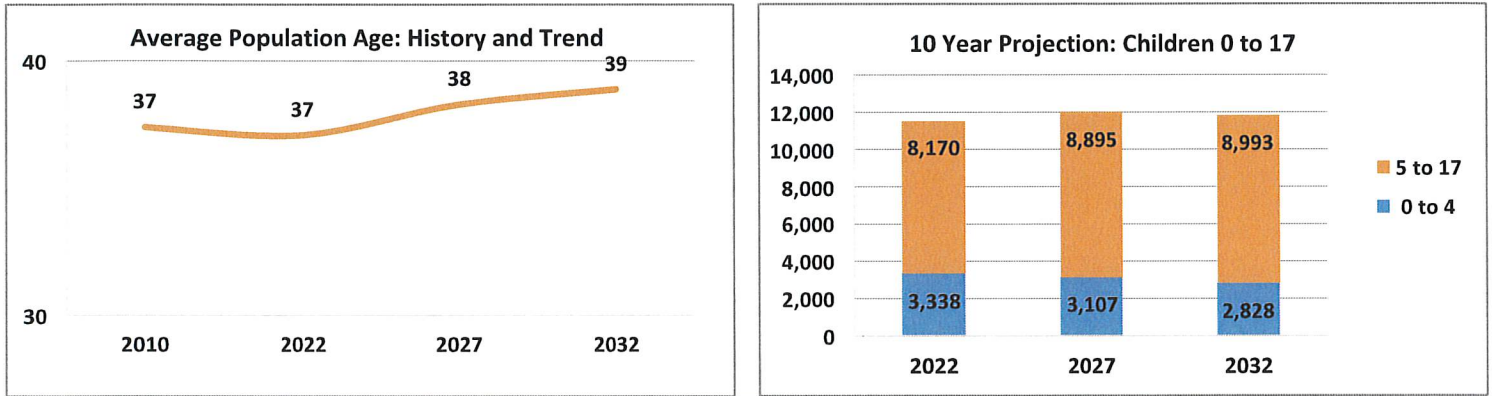
This table presents both the history and projections for family structures in the study area. Take note of the change column to discern how these family structures have changed and are projected to change in the future.

Households with Children	Actual Hhlds by Year			2010 to 2027 Change	Percent of all Hhlds by Year			2010 to 2027 % Change
	2010	2022	2027		2010%	2022%	2027%	
Family: Married-couple	1,804	1,735	1,777	-27	38.8%	44.3%	44.8%	6.0%
Family: Single Mother	2,473	1,694	1,669	-804	53.2%	43.2%	42.1%	-11.1%
Family: Single Father	370	488	520	150	8.0%	12.5%	13.1%	5.1%
Total:	4,647	3,917	3,966	-681	100.0%	100.0%	100.0%	

Age Theme

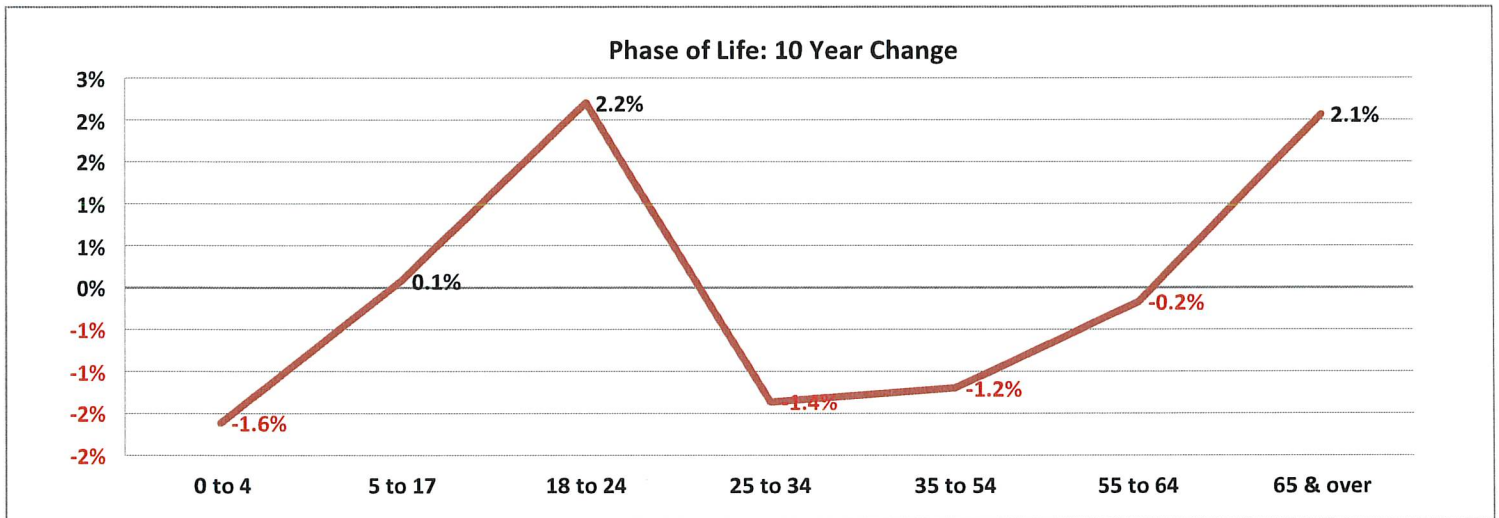
10 Year Average Age and Children 0 to 17 Trends

The age history and forecast reflect changes in a community. For example, two demographic trends currently in play are the aging of the Baby Boom generation and the decline in live births in the late 20th and 21st centuries.



Phase of Life

The Phase of Life 10 Year Change graph highlights life phases that will increase or decrease as a percentage of the total population in the forecasted 10 year future.



Phase of Life presents how a community changes and people age through their various life phases.

Phase of Life	Actual Population by Year & Phase				Percent of Pop by Year & Phase			
	2010	2022	2027	2032	2010%	2022%	2027%	2032%
Before Formal Schooling: 0 to 4	2,804	3,338	3,107	2,828	6.7%	7.1%	6.4%	5.5%
Required Formal Schooling: 5 to 17	5,750	8,170	8,895	8,993	13.8%	17.4%	18.2%	17.5%
College/Career Starts: 18 to 24	5,421	4,376	4,910	5,925	13.0%	9.3%	10.1%	11.5%
Singles & Young Families: 25 to 34	6,851	5,466	4,754	5,288	16.5%	11.7%	9.8%	10.3%
Families & Empty Nesters: 35 to 54	10,599	12,831	13,557	13,442	25.5%	27.4%	27.8%	26.2%
Enrichment Yrs Singles/Cpls: 55 to 64	4,810	5,179	5,169	5,584	11.6%	11.1%	10.6%	10.9%
Retirement Opportunities: 65 & over	5,315	7,494	8,352	9,268	12.8%	16.0%	17.1%	18.1%
Total:	41,550	46,854	48,744	51,328	100.0%	100.0%	100.0%	100.0%

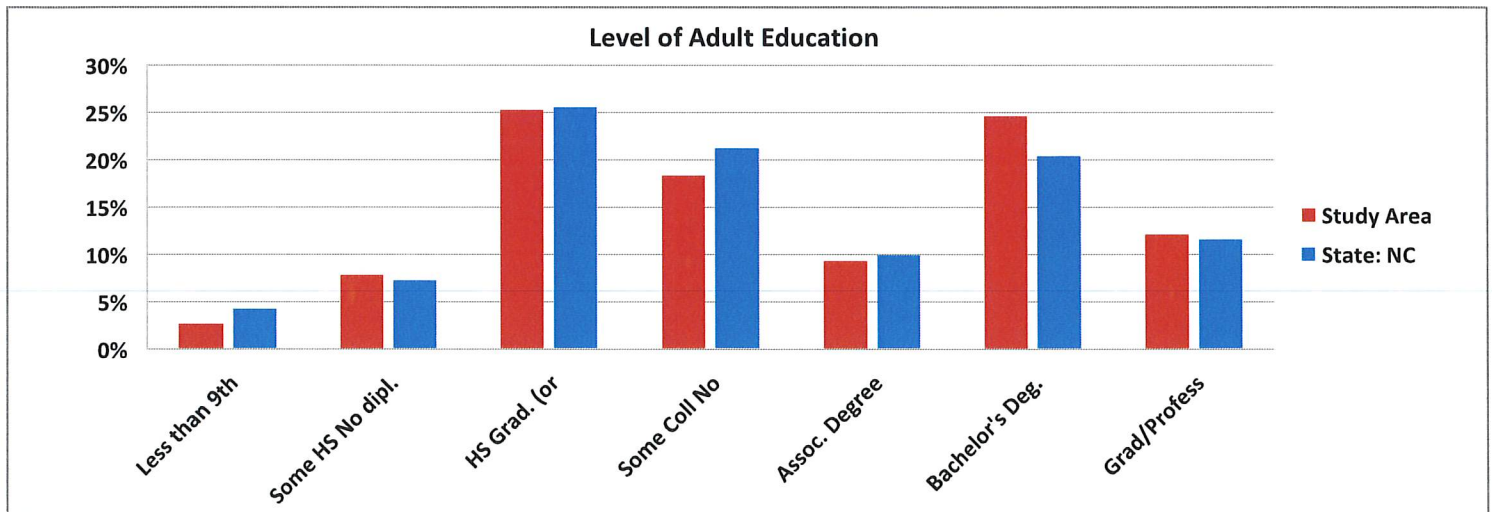
Education and Career Status Theme

The Education/Career Status theme portrays the level of education and the career types by the categories of Blue Collar and White Collar in the study area.

Adult Educational Attainment

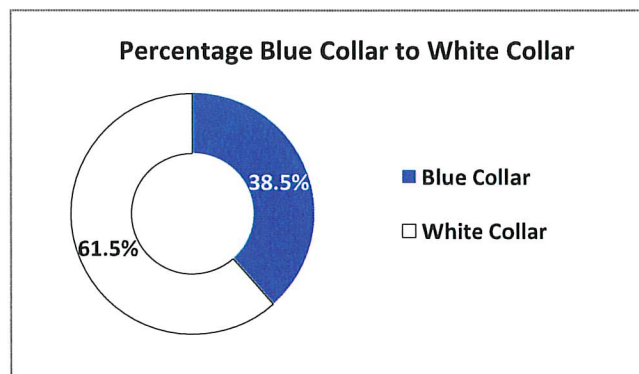
The following graphs array the adult population 25 years of age and older within the study area by their level of education completed.

Adult Educational Attainment Compared to the State of NC



Education Level of Adults 18 Years and Older	Actual Hhlds by Year		2022 to 2027	Percent of all Hhlds by Year		2022 to 2027
	2022	2027	Change	2022%	2027%	% Change
Less than 9th Grade	819	812	-7	2.6%	2.6%	-0.1%
Some High School, No diploma	2,415	2,455	40	7.8%	7.7%	-0.1%
High School Graduate (or GED)	7,820	8,056	236	25.3%	25.3%	0.1%
Some College, No degree	5,669	5,519	-150	18.3%	17.3%	-1.0%
Associate Degree	2,878	2,980	102	9.3%	9.4%	0.1%
Bachelor's Degree	7,620	8,028	408	24.6%	25.2%	0.6%
Graduate or Professional school degree	3,748	3,983	235	12.1%	12.5%	0.4%
Total:	30,969	31,833	864	100.0%	100.0%	

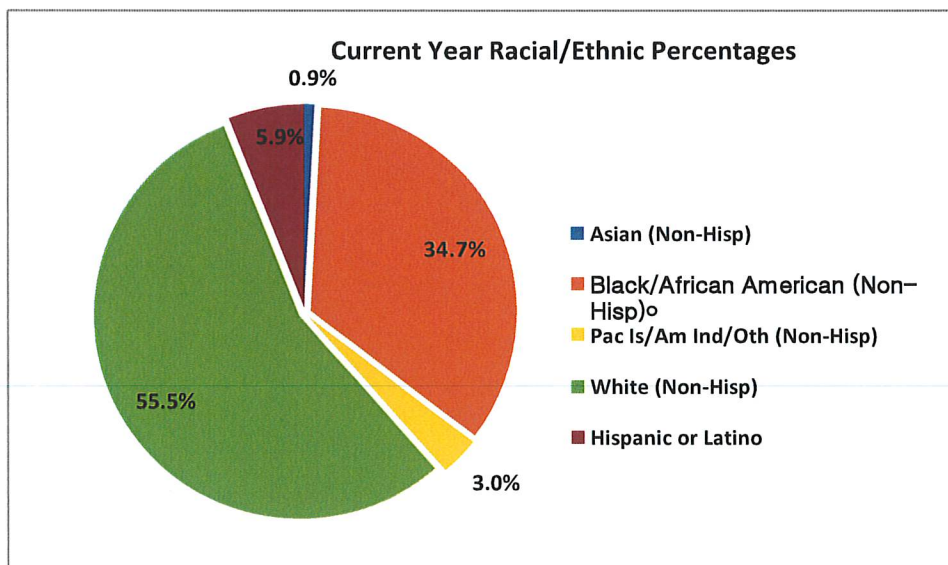
Career Types: Blue Collar and White Collar



Community Diversity Theme

The diversity of a community is shaped by the racial/ethnicity of the people who reside in it as well as people's age, income and education.

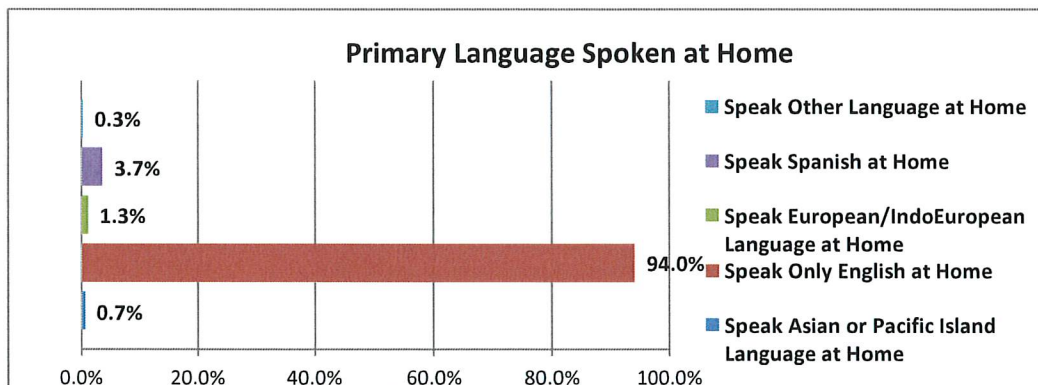
Study Area Racial and Ethnic Diversity



NOTE: Race and ethnicity breakouts are based upon Census Bureau categories. Only those groups for which the Bureau provides extended detail can be reported.

Race and Ethnic History and Trends

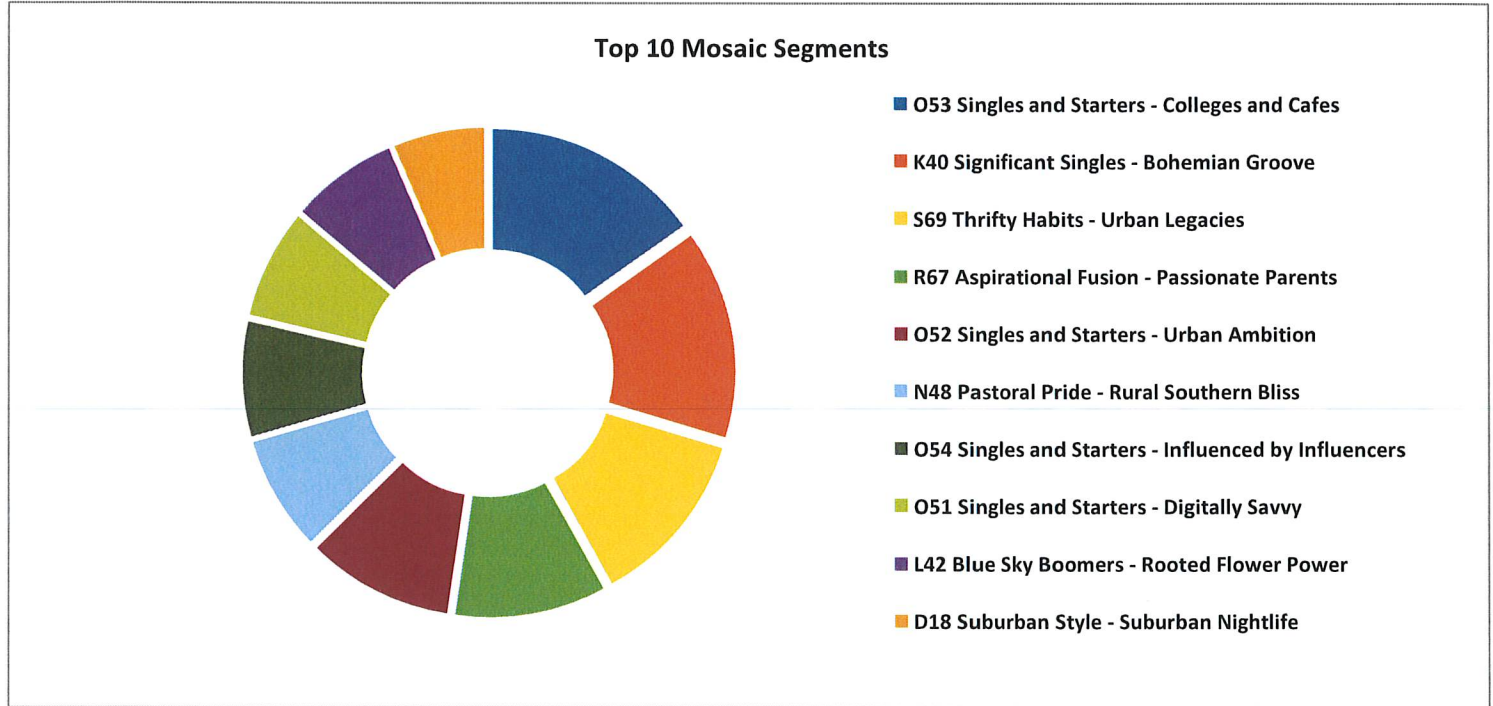
Racial/Ethnicity by Year	Actual Population by Year			2010 to 2027 Change	Percent of all Pop by Year			2010 to 2027 % Change
	2010	2022	2027		2010%	2022%	2027%	
Asian (Non-Hisp)	281	405	439	158	0.7%	0.9%	0.9%	0.2%
Black/African American (Non-Hisp)	15,721	16,235	16,969	1,248	37.8%	34.7%	34.8%	-3.0%
White (Non-Hisp)	22,222	26,024	27,197	4,975	53.5%	55.5%	55.8%	2.3%
Hispanic or Latino	2,253	2,770	2,729	476	5.4%	5.9%	5.6%	0.2%
Pac Is/Am Ind/Oth (Non-Hisp)	1,074	1,419	1,411	337	2.6%	3.0%	2.9%	0.3%
Total:	41,551	46,853	48,745	7,194	100.0%	100.0%	100.0%	



Community Diversity Theme

Mosaic Lifestyle Segmentation Types

Mosaic Lifestyle Types provides insight into the behaviors, attitudes and preferences of the households within the Study Area. The result is a fuller multidimensional understanding of a community, neighborhood, zip code or other geography.



Mosaic	Study Area		State		Comparative Index
O53 Singles and Starters - Colleges and Cafes	1,815	8.5%	52,451	1.2%	698
K40 Significant Singles - Bohemian Groove	1,756	8.3%	42,164	1.0%	840
S69 Thrifty Habits - Urban Legacies	1,477	6.9%	78,611	1.8%	379
R67 Aspirational Fusion - Passionate Parents	1,256	5.9%	50,297	1.2%	503
O52 Singles and Starters - Urban Ambition	1,224	5.8%	96,388	2.2%	256
N48 Pastoral Pride - Rural Southern Bliss	966	4.5%	225,759	5.3%	86
O54 Singles and Starters - Influenced by Influencers	965	4.5%	139,106	3.2%	140
O51 Singles and Starters - Digitally Savvy	920	4.3%	154,515	3.6%	120
L42 Blue Sky Boomers - Rooted Flower Power	892	4.2%	55,712	1.3%	323
D18 Suburban Style - Suburban Nightlife	768	3.6%	135,164	3.2%	115
	12,039		1,030,167		

Learn about your Mosaic Households

To access Mosaic Portrait data click on:

[Mosaic USA E-Handbook by Experian](#) (To open in a new Tab hold Control key when you click on the link)

Handbook includes Mosaic Overview and two graphic pages for each of the 19 Groups and 71 Segments.

[How to Read and Understand a Mosaic Portrait - Video](#)

[Understanding Mosaic Portraits for Mission Planning - Video](#)

Faith based clients: To access the Mosaic application guide click on:

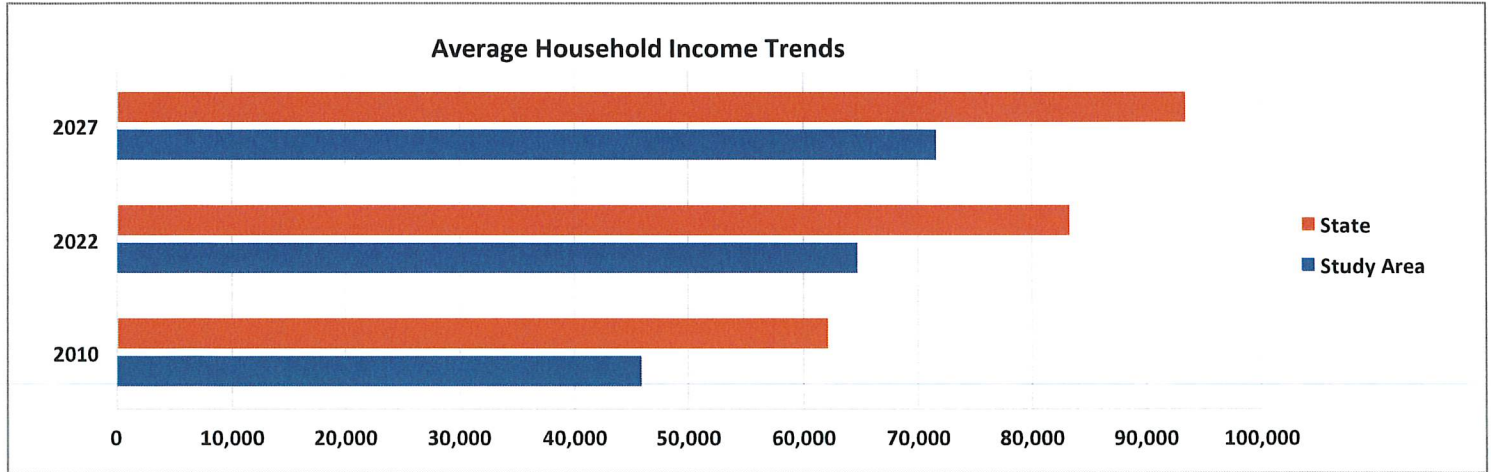
[Mission Impact Mosaic Application Guide by Bandy](#) (To open in a new Tab hold Control key when you click on the link)

Sources: US Census Bureau, Synergos Technologies Inc., Experian

Financial Resources Theme

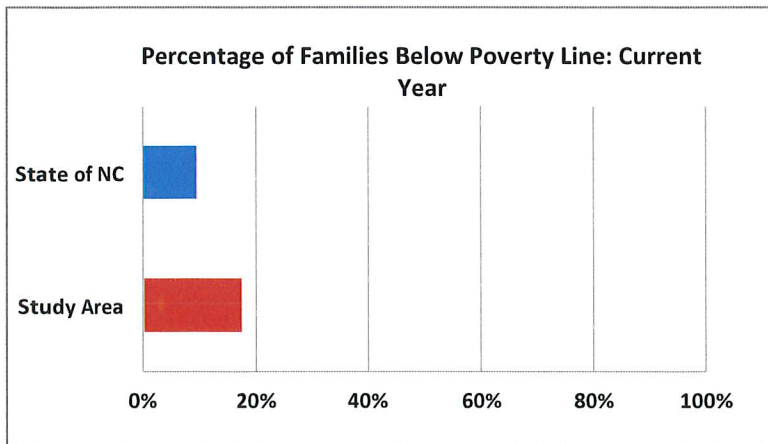
Financial resources available is an indicator of community opportunity or distress. Three variables are presented in this category: 1) Household Income, 2) Family Income and 3) Poverty.

Household Income



Income Trends: Households and Families				2010 to 2027 Change
	2010	2022	2027	
Average Household Income	45,912	64,714	71,664	25,751
Median Household Income	31,273	48,015	48,869	17,596
Per Capita Income	20,669	29,376	32,608	11,938
Median Family Income		57,664	57,157	507

Poverty



Poverty Level	Pop	Area % Pop	NC % Pop
Above poverty level	8,453	82.7%	90.3%
Below poverty level	1,767	17.3%	9.7%
Total	10,220	100.0%	100.0%

Supporting Information

Correlating the StoryView and DetailView Reports

The Detail View Report presents the important demographic detail behind the Demographic Indicators found on the QuickView page. It is organized around six themes.

DetailView Themes	StoryView Number	DetailView Themes	StoryView Number
1. Population, Households & Families	1 & 3	4. Community Diversity	5 & 9
2. Age	2	5. Financial Resources	6 & 7
3. Education/Career Status	4 & 8		

Interpreting the Report

The QuickInsite report is formatted to help you interpret data at a glance.

Change over time: Several trend tables have a column indicating a change over time. Generally these tables begin with the last census, include the current year estimate, a five year projection and if available, a 10 year forecast. The data in each cell represents a percentage change up or down.

Color Coding: Both the "Change over Time" and "Comparative Indexes" columns are color coded to easily spot any change and the direction of that change.

Change:	Increasing	Stable	Declining
Index:	Above Ave	Ave	Below Ave.

Variable Definitions

Full variable definitions can be found in the MI Demographic Reference Guide. Download it free from the Help/Documents menu located on the map screen of your study area on the MissionInsite website.

[Click to download the QuickInsite Worksheet. To open it in a new tab, press Ctrl when you click.](#)

Indexes: Some variables will have a column called "Comparative Index." An index is an easy way to compare a study area with a larger area. For this report, all comparisons are with the state or states within which the study area falls. The indexes can be interpreted as follows.

- Indexes of 100 mean the study area variable is the same as its base area.
- Indexes greater than 100 mean the study area variable is above the base area. The higher the number, the greater it is above the base.
- Indexes less than 100 mean the study area variable is below the base area. The lower the number, the greater it is below the base.

Support

If you need support with this report, please email MissionInsite at misupport@missioninsite.com.

Exhibit

D

RESOLUTION FOR CLOSURE OF FIFTH AVENUE UNITED METHODIST CHURCH

Pursuant to the recommendation of Rev. Tara Lain, District Superintendent of the Harbor District of the North Carolina Conference, Southeastern Jurisdiction, of the United Methodist Church, Inc. (the “North Carolina Conference”), the following resolution is adopted by Presiding Bishop Connie Shelton, the District Superintendents of the North Carolina Conference, and the Harbor District Board of Church Location and Building to declare that exigent circumstances exist that require immediate closure of Fifth Avenue United Methodist Church in Wilmington, North Carolina in accordance with Paragraph 2549.3(b) of The Book of Discipline of the United Methodist Church (“The Book of Discipline”):

BE IT RESOLVED:

WHEREAS, under The Book of Discipline local churches are organized to serve the local community in which the Church is located, and church property is held in trust to ensure that the property is used solely for purposes consonant with the mission of the entire denomination for the maintenance of worship, the edification of believers, and the redemption of the world; and

WHEREAS, Fifth Avenue United Methodist Church in Wilmington, North Carolina (the “Church”) was organized in 1847 and has served the Wilmington community as part of the United Methodist denomination (and its predecessors, including the Methodist Episcopal Church South) for more than 170 years; and

WHEREAS, the original property for the Church was donated to the Church trustees by Miles Costin in trust pursuant to a deed which provided that the land was donated for the purpose of constructing a place of worship at which the ministers of the Methodist Episcopal Church South (now the United Methodist Church) would be permitted to preach God’s Holy Word “forever hereafter.” This property and all other properties owned by the Church are held in trust for the benefit of the United Methodist Church and uses of Church property are subject to The Book of Discipline; and

WHEREAS, though the Church has a rich and robust history of serving its membership and the local community as a thriving United Methodist Church, membership and missional activity of the Church has recently declined and the Church has a current membership of 205 and average weekly attendance of approximately 20 members; and

WHEREAS, contrary to the expressed intention of the donor of the original property for the Church that the property be used “forever after” as a place for preaching God’s Word by United Methodist ministers, the congregation has initiated a procedure seeking for the Church to disaffiliate from the United Methodist Church; and

WHEREAS, the North Carolina Conference has a clear, present and pressing need to respond to local needs in the community by providing space for, among other things, basic needs for unsheltered people, a gathering space for senior adults and persons with disabilities, space for providing shelter and other assistance following major storms, and a welcoming space for worship and study for one or more new United Methodist faith communities; and

WHEREAS, the current membership of the Church has declined opportunities to collaborate with and participate in important ministries and needs of the North Carolina Conference and the local community; and

WHEREAS, the location of the Church property is well-suited towards meeting these missional needs of the North Carolina Conference;

NOW THEREFORE, the undersigned Bishop Connie Shelton, the District Superintendents of the North Carolina Conference, and members of the Harbor District Board of Church Location and Building hereby declare that exigent circumstances exist that require immediate protection of the property of Fifth Avenue United Methodist Church in Wilmington, North Carolina for the benefit of the United Methodist denomination. Accordingly, Fifth Avenue United Methodist Church is hereby CLOSED in accordance with Paragraph 2549.3 (b) of The Book of Discipline because the Church no longer serves the purpose for which it was organized and incorporated. Title to all the real and personal, tangible and intangible property of the Church shall immediately vest in The Board of Trustees of the North Carolina Conference, Southeastern Jurisdiction, of the United Methodist Church, Inc. (the "North Carolina Conference Board of Trustees"). The North Carolina Conference Board of Trustees is hereby authorized to use or dispose of all properties of Fifth Avenue United Methodist Church under such terms and conditions as such the North Carolina Conference Board of Trustees may deem meet and proper.

Effective this 24th day of March, 2023:

Bishop Connie Shelton

Doris J. Blanton

Chris L. Bondy

Michael D. Fress

Dena M. White

Kenneth Joellea

Jana C. Lavin

Jamaal Ruiz Millam

Jon E. Strout

Abelita Black

Rebecca W. Blackmore

M. Kevin Dainel

Becca Dettekman

Earl D. Hoff

Sue W. Hauser

Timothy D. Pugh

Heather W. Reeves

Exhibit

E

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION NO. 1379

IN RE: Petition for Declaratory Decision from the Council of Bishops regarding the constitutionality, meaning, application, and effect of Petition 90066 as amended.

DIGEST OF CASE

Paragraph 41 of the Constitution governs the narrowly defined circumstance of a local church transferring from one annual conference to another but does not apply to a local church seeking to exit The United Methodist Church. Under ¶ 33 of the Constitution, the annual conference as the basic body in the Church has the reserved right to make final decisions regarding the disaffiliation of local churches within its boundaries.

Any legislation of the General Conference permitting the “gracious exit” of a local church must require at a minimum that (1) the disaffiliation resolution be approved by a two-thirds majority of the professing members of the local church present and voting at the church conference, (2) the terms and conditions, including effective date, of the agreement between the annual conference and the exiting local church be established by the conference board of trustees in accordance with applicable church law and civil laws, and (3) the disaffiliation agreement be ratified by a simple majority of the members of the annual conference present and voting.

When taken together with the consent of the annual conference pursuant to ¶ 2529.1(b)(3), Petition 90066 as amended meets all three requirements and is constitutional and provides a means for the disaffiliation of a local church.

Our ruling with respect to the disaffiliation of a local church in JCD 1377 is modified.

STATEMENT OF FACTS

Acting as Legislative Committee, on February 25, 2019, the delegates to the 2019 Special General Conference amended and reported out Petition 90066, also known as the Taylor Disaffiliation Plan.¹ Subsequently, the committee passed a motion requesting the Judicial Council to determine the constitutionality of the Traditional Plan [hereinafter TP], including Petitions 90066 and 90059 (Boyette Disaffiliation Plan).² The following day, we rendered a

¹ See Daily Christian Advocate [hereinafter DCA], Vol. 2, No. 5 (February 26, 2019), pp. 440-445. Petition 90066 as originally submitted is printed in the Daily Christian Advocate, Vol. 1 [hereinafter ADCA], pp. 205-206.

² See DCA, Vol. 2, No. 5 (February 27, 2019), p. 467. The motion passed 437 to 371. The maker of the motion mistakenly invoked ¶ 2610 as the basis for the request. See *id.* at 464. That paragraph applies to acts of the General Conference, *not* a legislative committee. At the time the motion was made, the delegates acted as a *legislative committee*. The correct provision would have been ¶ 2609.4, which mandates that the “Judicial Council shall hear and determine the legality of any action taken by any body created or authorized by the General Conference... upon appeal by one-third of the members thereof...” Addressing the question whether a legislative committee was authorized to request a declaratory decision from the Judicial Council, the legislative chair cited JCD 1318 and 887 and answered it in the affirmative. See *id.* at 447. In JCD 1318, the Judicial Council accepted jurisdiction under ¶ 2609.4 for a request from the Judicial Administration Legislative Committee. In JCD 887, the Council did likewise but without citing the authority for jurisdiction.

declaratory decision, ruling both disaffiliation plans to be in violation of ¶¶ 33 and 41, therefore, unconstitutional. JCD 1377 at 3-4.

On February 26, during plenary session, the *Minority Report on Disaffiliation* was substituted for the majority report by a vote of 402 to 400.³ In adopting the minority report, the General Conference enacted a new ¶ 2553, which reads:

¶ 2553. Disaffiliation of a Local Church Over Issues Related to Human Sexuality—

1. *Basis*-- Because of the current deep conflict within The United Methodist Church around issues of human sexuality, a local church shall have a limited right, under the provisions of this paragraph, to disaffiliate from the denomination for reasons of conscience regarding a change in the requirements and provisions of the *Book of Discipline* related to the practice of homosexuality or the ordination or marriage of self-avowed practicing homosexuals as resolved and adopted by the 2019 General Conference, or the actions or inactions of its annual conference related to these issues which follow.

2. *Time Limits*--The choice by a local church to disaffiliate with The United Methodist Church under this paragraph shall be made in sufficient time for the process for exiting the denomination to be complete prior to December 31, 2023. The provisions of ¶ 2553 expire on December 31, 2023 and shall not be used after that date.

3. *Decision Making Process*--The church conference shall be conducted in accordance with ¶ 248 and shall be held within one hundred twenty (120) days after the district superintendent calls for the church conference. In addition to the provisions of ¶ 246.8, special attention shall be made to give broad notice to the full professing membership of the local church regarding the time and place of a church conference called for this purpose and to use all means necessary, including electronic communication where possible, to communicate. The decision to disaffiliate from The United Methodist Church must be approved by a two-thirds (2/3) majority vote of the professing members of the local church present at the church conference.

4. *Process Following Decision to Disaffiliate from The United Methodist Church*--If the church conference votes to disaffiliate from The United Methodist Church, the terms and conditions for that disaffiliation shall be established by the board of

³ See DCA, Vol. 2, No. 5 (February 27, 2019), p. 521. Listed as Calendar Item 19, the minority report reads (in relevant part):

Minority Report

Adopt Petition #90066 (ADCA, p. 205) with the following changes:

1. Delete what is printed as section 2553.3 in its entirety
2. In the section listed as section 2553.5, first sentence, replace “the resident bishop” with “the board of trustees”
3. Delete the first sentence section 2553.5g
4. Change the final sentence section 2553.5g, by replacing it with the following: “Payment shall occur prior to the effective date of departure.”
5. Delete the entirety of what is printed as sub-section 2553.5c, and re-number the rest accordingly.

DCA, Vol. 2, No. 2 (February 24, 2019), p. 386 (with editorial changes as noted in DCA, Vol. 2, No. 5 [February 27, 2019], p. 516). See also 2019 General Conference Legislation Tracking posted online at <http://www.umc.org/who-we-are/2019-general-conference-legislation-tracking>.

trustees of the applicable annual conference, with the advice of the cabinet, the annual conference treasurer, the annual conference benefits officer, the director of connectional ministries, and the annual conference chancellor. The terms and conditions, including the effective date of disaffiliation, shall be memorialized in a binding Disaffiliation Agreement between the annual conference and the trustees of the local church, acting on behalf of the members. That agreement must be consistent with the following provisions:

a) *Standard Terms of the Disaffiliation Agreement.* The General Council on Finance and Administration shall develop a standard form for Disaffiliation Agreements under this paragraph to protect The United Methodist Church as set forth in ¶ 807.9. The agreement shall include a recognition of the validity and applicability of ¶ 2501, notwithstanding the release of property therefrom. Annual conferences may develop additional standard terms that are not inconsistent with the standard form of this paragraph.

b) *Apportionments.* The local church shall pay any unpaid apportionments for the 12 months prior to disaffiliation, as well as an additional 12 months of apportionments.

c) *Property.* A disaffiliating local church shall have the right to retain its real and personal, tangible and intangible property. All transfers of property shall be made prior to disaffiliation. All costs for transfer of title or other legal work shall be borne by the disaffiliating local church.

d) *Pension Liabilities.* The local church shall contribute withdrawal liability in an amount equal to its pro rata share of any aggregate unfunded pension obligations to the annual conference. The General Board of Pension and Health Benefits shall determine the aggregate funding obligations of the annual conference using market factors similar to a commercial annuity provider, from which the annual conference will determine the local church's share.

e) *Other Liabilities.* The local church shall satisfy all other debts, loans, and liabilities, or assign and transfer them to its new entity, prior to disaffiliation.

f) *Payment Terms.* Payment shall occur prior to the effective date of departure.

g) *Disaffiliating Churches Continuing as Plan Sponsors of the General Board of Pension and Health Benefits Plans.* The United Methodist Church believes that a local church disaffiliating under ¶ 2553 shall continue to share common religious bonds and convictions with The United Methodist Church based on shared Wesleyan theology and tradition and Methodist roots, unless the local church expressly resolves to the contrary. As such, a local church disaffiliating under ¶ 2553 shall continue to be eligible to sponsor voluntary employee benefit plans through the General Board of Pension and Health Benefits under ¶ 1504.2, subject to the applicable terms and conditions of the plans.

h) Once the disaffiliating local church has reimbursed the applicable annual conference for all funds due under the agreement, and provided that there are no other outstanding liabilities or claims against The United Methodist Church as a result of the disaffiliation, in consideration of the provisions of this paragraph, the applicable annual conference shall release any claims that it may have under ¶ 2501 and other paragraphs of *The Book of Discipline of The United Methodist Church* commonly referred to as the trust clause, or under the agreement.

On March 6, 2019, the Council of Bishops [hereinafter Petitioner] filed a request for declaratory decision as to the constitutionality, meaning, application, and effect of Petition 90066 as amended.

Petitioner and Beth Ann Cook filed briefs as interested parties. In addition, Lonnie Brooks, Warren Light, John Lomperis, and Thomas Starnes wrote separate briefs as *amici curiae*.

JURISDICTION

The Judicial Council has jurisdiction pursuant to ¶¶ 2609.1 and 2610.1 of *The Book of Discipline 2016* [hereinafter *The Discipline*]. The Petitioner has standing to request a declaratory decision pursuant to ¶¶ 2609.1 and 2610.2(b) of *The Discipline*.

ANALYSIS AND RATIONALE

In JCD 1377, we held that the *pre*-minority-report version of Petition 90066 violated ¶ 33 because, “[b]y sidestepping the mandatory annual conference ratification, the proposed legislation infringes upon ‘such other rights [of the annual conference] as have not been delegated to the General Conference under the Constitution.’” JCD 1377 at 4 (quoting JCD 1366 at 45 and Constitution, ¶ 33). Our analysis was based in part on JCD 1366 in which we applied ¶ 41 and ruled a similar provision in the TP unconstitutional on the grounds that the “proposed legislation improperly substitutes the 55-percent majority for the two-thirds supermajority requirement” and “completely omits the annual conference as the body ratifying any local church vote to change affiliation.” JCD 1366 at 45.

Since then, supporters and opponents of the TP alike have argued convincingly that ¶ 41 does not apply to a disaffiliating local church because this provision governs, as the heading says, the narrowly defined circumstance of “Transfer of Local Churches,” or in constitutional terms, a “local church [requesting to] be transferred from one annual conference to another in which it is geographically located.”⁴ Constitution, ¶ 41.1. We agree. Consequently, we determine that ¶ 41 is inapplicable when a local church seeks to exit The United Methodist Church.

However, under the principle of enumerated powers, “all matters distinctly connectional,” over which the General Conference has full legislative power, must be expressly listed in the Constitution.⁵ Constitution, ¶ 16. Since the disaffiliation of local churches is *not*

⁴ See Opening Brief of Beth Ann Cook, p. 5 (“...however, ¶ 41, by its very terms, is only applicable to the transfer of a local church from one annual conference to another annual conference in The United Methodist Church and does not provide for a ‘mandatory annual conference ratification’ in all situations of a local church changing its affiliation with The United Methodist Church.”); Opening Brief of John Lomperis, p. 5 (“...the plain-sense language of ¶41 is that, in the Constitution’s own words, it only applies to situations in which a congregation seeks to ‘transfer from one annual conference to another [i.e., another UMC annual conference] in which it is geographically located,’ and that nothing in the actual language of ¶41 indicates that it is intended to address congregations leaving The United Methodist Church altogether.”); Opening Brief of Thomas Starnes, p. 8 (“Specifically, we do not believe the Constitution requires annual conference approval by a two-thirds majority vote in the circumstances contemplated by Petition 90066 and similar “disaffiliation” petitions. By its terms, Constitution ¶ 41 expressly applies only to a transfer of a local church from one UMC annual conference to another UMC annual conference. In that particular circumstance, the Constitution not only requires the approval of both annual conferences, but requires supermajorities to approve the transfer at both the church conference and annual conference level.”).

⁵ See JCD 5 (Interim Judicial Council): “The powers of a General Conference are enumerated in Paragraph 15 [now ¶ 16] (Art. IV, Division One, Part I) of the Constitution.” [emphasis added].

mentioned among the enumerated powers of the General Conference, this subject matter has “not been delegated to the General Conference under the Constitution,” and, therefore, the final decision concerning exiting local churches belongs to the annual conference as part of its “reserved rights.” Constitution, ¶ 33.

In light of the foregoing conclusions, the parts of our ruling in JCD 1377 that address the question of local church disaffiliation are hereby modified. Any legislation of the General Conference permitting the “gracious exit” of a local church must have the following minimum requirements:

- (1) Approval of the disaffiliation resolution by a two-thirds majority of the professing members of the local church present and voting at the church conference.
- (2) Establishment of the terms and conditions, including effective date, of the disaffiliation agreement between the annual conference and the exiting local church by the conference board of trustees in accordance with applicable Church law and civil laws.
- (3) Ratification of the disaffiliation agreement by a simple majority of the members of the annual conference present and voting.

Upon examination of the *post*-minority-report language, we find that ¶ 2553 satisfies the first two conditions. The legislation lacks a provision stating that the disaffiliation agreement is subject to ratification by the annual conference. Although the board of trustees, cabinet, and other conference officials are mandated to participate in the decision-making process under ¶ 2553.4, their role “in facilitating the change of affiliation...is not sufficient to make up for the annual conference’s involvement.” JCD 1366 at 45. As we recently ruled in JCD 1371, the decision of the board of trustees, though important and necessary, cannot be a substitute for the action of the annual conference. “The Annual Conference is to maintain its role in decision-making.” *Id.* at 3.

As a stand-alone piece of legislation, Petition 90066 falls short of the third requirement. However, its constitutionality, meaning, application, and effect should not be determined in isolation. If upheld, this legislation will be codified as ¶ 2553 in *The Discipline* and must be construed in relation to other pertinent disciplinary paragraphs. Fortunately, there is a provision elsewhere in *The Discipline*, which supplies the missing requirement. Paragraph 2529, placed under “Section VI. Local Church Property” and entitled “*Charge Conference Authority*,” which provides, in § 1(b)(3):

b) Regardless of whether the charge conference elects to incorporate the local church, the local church:

- (3) cannot sever its connectional relationship to The United Methodist Church without the consent of the annual conference. [emphasis added]

Although the previous sub-sections pertain to the powers and duties of the charge conference, § 1(b)(3) places a restriction on the local church as a whole but also, by extension, the *church conference* because the latter is integral part of the former. *The Discipline*, ¶ 248.⁶ Here is the ingredient found to be missing in JCD 1377, which was already in *The Discipline*. Under ¶ 2529.1(b)(3), the church conference cannot resolve to sever its ties with The United Methodist Church “without the consent of the annual conference.” As a policy, the prohibition of exit

⁶ Entitled “*Church Conference*,” ¶ 248 states:

To encourage broader participation by members of the church, the charge conference may be convened as the church conference, extending the vote to all professing members of the local church present at such meetings [emphasis added].

without annual conference consent is closely related to ¶ 2553, which sets forth the process for congregations deciding to leave the denomination. Even though ¶ 2553 contains no reference to ¶ 2529.1(b)(3), it is indisputable that both provisions regulate the same subject matter, namely the disaffiliation of local churches, and, thus, should be read together. Paragraph 2529.1(b)(3) does not say whether the consent must be obtained *before* or *after* the church conference action, nor does it indicate the majority (*simple* or *supermajority*) required for the annual conference action. Absent specific language to the contrary, this provision can reasonably be construed as requiring ratification (*i.e.* consent after) by simple majority of the members of an annual conference.⁷

Save for ¶ 2529.1(b)(3), the legislation under review would fall short of the third requirement and run afoul of the Constitution. “When reviewing legislation for constitutionality, we defer to the legislative authority of the General Conference. In reviewing acts of the General Conference for constitutionality, our first inclination is to save legislation, if at all possible, and not destroy.” JCD 1210. In deference to the legislative branch, we reluctantly declare amended Petition 90066 constitutional but stress at the same time that the General Conference bears the responsibility to legislatively address the deficiency identified in ¶ 2553.

RULING

Paragraph 41 of the Constitution governs the narrowly defined circumstance of a local church transferring from one annual conference to another but does not apply to a local church seeking to exit The United Methodist Church. Under ¶ 33 of the Constitution, the annual conference as the basic body in the Church has the reserved right to make final decisions regarding the disaffiliation of local churches within its boundaries.

Any legislation of the General Conference permitting the “gracious exit” of a local church must require at a minimum that (1) the disaffiliation resolution be approved by a two-thirds majority of the professing members of the local church present and voting at the church conference, (2) the terms and conditions, including effective date, of the agreement between the annual conference and the exiting local church be established by the conference board of trustees in accordance with applicable church law and civil laws, and (3) the disaffiliation agreement be ratified by a simple majority of the members of the annual conference present and voting.

When taken together with the consent of the annual conference pursuant to ¶ 2529.1(b)(3), Petition 90066 as amended meets all three requirements and is constitutional and provides a means for the disaffiliation of a local church.

Our ruling with respect to the disaffiliation of a local church in JCD 1377 is modified.

April 25, 2019

⁷ To construe ¶ 2529.1(b)(3) as requiring consent by the annual conference *prior* to the church conference action would be inconsistent with ¶ 2553.4, which stipulates that the terms and conditions of the disaffiliation agreement be established by the board of trustees *after* “the church conference votes to disaffiliate from The United Methodist Church.” As a matter of law and practicality, until a church conference passes the disaffiliation resolution and the board of trustees approves the terms and conditions, there is nothing for the annual conference to consent to.