

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

ALIVE CHURCH OF THE NAZARENE, INC.,))	
)	
Plaintiff,)	
)	
vs.)	Case Action No. 21-cv-_____
)	
)	
PRINCE WILLIAM COUNTY, VIRGINIA,)	
)	
Defendant.)	

**VERIFIED COMPLAINT FOR DECLARATORY RELIEF,
INJUNCTIVE RELIEF, AND DAMAGES**

INTRODUCTION

1. ALIVE Church of the Nazarene, Inc. (“Alive Church” or the “Church”) brings this action against Prince William County, Virginia, to vindicate its constitutional and statutory rights.

2. It is easier in Prince William County to operate a winery or brewery than it is to operate a church.

3. If Alive Church was a winery or brewery it could begin immediately meeting on its agriculturally-zoned Property, hold public gatherings for recreational, entertainment, or educational purposes, and even build buildings for public gatherings without being required to have a building permit or associated land improvements such as turn-lanes, curbs and guttering, or stormwater management.

4. But because Alive Church is not a brewery or winery, it had to go through a lengthy and very expensive Special Use Permit process that resulted in the imposition of conditions such as building permits, turn-lanes, curbs and guttering, and stormwater management that are so costly

that the Church is completely precluded from meeting for religious purposes on its Property.

5. The Defendant, through its Zoning Ordinance, both on its face and as applied, is treating Alive Church differently and less favorably than secular assemblies or institutions such as wineries or breweries.

6. Prince William County's unequal treatment of Alive Church violates federal law.

JURISDICTION AND VENUE

7. This action arises under the United States Constitution and federal law—particularly 42 U.S.C. §§ 1983 and 1988 and the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc, *et seq.*

8. This Court has original jurisdiction over the federal claims by operation of 28 U.S.C. §§ 1331 and 1343.

9. This Court is authorized to grant the requested declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202 and under Federal Rules of Civil Procedure 57 and 65.

10. This Court is authorized to grant the requested damages pursuant to 28 U.S.C. § 1343(a)(4).

11. This Court is authorized to award attorneys' fees pursuant to 42 U.S.C. § 1988.

12. Venue is proper in United States District Court for the Eastern District of Virginia under 28 U.S.C. § 1391 because the Defendant resides in the District. In addition, the events giving rise to the claims occurred in, and the subject property is situated in, the District.

PARTIES

13. Plaintiff Alive Church is a Nazarene church established and existing as a non-profit religious corporation under the laws of the state of Virginia. Currently, [REDACTED], and its purchased property at issue herein is located at [REDACTED]

[REDACTED].

14. Defendant Prince William County is a public body corporate and is politically established, organized, and authorized under Virginia law with the authority to sue and be sued, and was at all times relevant herein operating within the course and scope of its authority and under color of state law.

STATEMENT OF FACTS

15. Alive Church, a registered 501(c)(3) and Virginia nonprofit, is a local church in Nokesville, Virginia, committed to the great commission of Jesus, to one another, to teaching the Holy Scriptures, and to sharing this message of hope and restoration to the world, starting right here in Prince William County.

16. The Church is a small congregation of approximately 250 members.

17. The Church has sincerely held religious beliefs that it is to serve and to engage those in the community with the gospel of Jesus Christ through gatherings and events.

18. The Church has a sincerely held religious belief to meet together and to invite members of the general public to its meetings for the purpose of religious worship and religious speech.

19. The Church believes that it is called to love and serve its community in relational ways and to communicate the Gospel and love of Jesus to the community.

The Church's Property

20. In order to fulfill its religious mission, the Church purchased property in November 2018, located at [REDACTED], containing 17.5658 acres, and zoned A-1, Agricultural. The property's Zoning Verification number is [REDACTED] (Bona Fide Agricultural Use).

21. The Property contains one single-family home built in 1987 and several detached accessory structures.

22. The Property is under the zoning jurisdiction of Prince William County, Virginia.

The Church's Special Use Permit Granted in 2013

23. The County approved a Special Use Permit ("SUP") for a previous church who owned the Property named Victory Crossings Church, on September 10, 2013, "[t]o allow a 40,000 sq. ft. religious institution with related facilities, including a child care facility with a maximum of 100 children." [See Exhibit A, attached].

24. There were numerous conditions attached to the grant of the SUP including establishing a 30 foot wide landscape buffer with hundreds of plants, building water retention areas, stormwater management, constructing a 400 foot right turn lane from [REDACTED] into the Property, constructing a 200 foot turn lane from Kettle Run Road into the Property, and other conditions restricting the size of the buildings, the permitted construction areas on the Property, and the number of the seats allowed in the sanctuary.

25. Alive Church has not fully executed on the granted SUP at this point because the requirements of the SUP (stormwater management, curbs and guttering, roads, etc.) would cost the Church hundreds of thousands of dollars it does not yet have.

26. However, the Church intends to ultimately fulfill the SUP requirements and build a permanent SUP-compliant structure when it can afford to. It has taken steps and spent funds already demonstrating its intent to ultimately comply with the SUP.

27. Because of the conditions placed upon it by the Special Use Permit, Alive Church has been precluded from meeting on its Property for the purpose of its religious worship and outreach.

Alive Church's Meeting Locations

28. Alive Church had been meeting in a Prince William County school because it could not afford to build and gather on its Property.

29. In early 2020, in response to the COVID-19 pandemic, the schools in Virginia were ordered to close and to stop allowing public gatherings such as church services.

30. Alive Church began looking for a new place to meet to hold its worship services.

31. During the time the schools were closed due to the pandemic, the Church met for religious worship services in a farm winery/brewery in Prince William County that contained a building for public gathering purposes.

32. Alive Church's leadership questioned why a farm winery/brewery was allowed to have public gatherings and to build buildings without the need for a building permit but the Church was subjected to burdensome and prohibitive restrictions and conditions that prevented it from gathering for religious worship on its Property.

Alive Church's Application for a Bona Fide Agricultural Use

33. In late 2020, Alive Church's pastor, Allen Perdue, approached the County Zoning Administrator to ask whether Alive Church would be able to apply for the same zoning status as a farm winery/brewery that would enable it to meet for religious worship on its Property.

34. The County Zoning Administrator confirmed that Alive Church was eligible to apply as a bone fide agricultural use and, if approved, Alive Church could begin meeting immediately on its Property for the purpose of religious worship and outreach to the public as long as it also conducted "agritourism" activities such as farming and making beverages and obtained a Virginia Alcoholic Beverage Control (ABC) license and operate as a farm winery. Paraphrasing her May 2020 statement to Pastor Perdue: "Go and get your Virginia ABC License. This will

allow you to build without building permits and have as many events as you want.”

35. On February 5, 2021, Alive Church applied for a zoning determination that it could use its Property as a “bona fide agricultural use” in the interim before it executed on the granted SUP.

36. Alive Church intended to use its Property to grow fruit trees, to make non-alcoholic apple cider, and to open itself to the public for the purpose of religious worship and outreach as a church.

37. On February 26, 2021, the County Zoning Administrator approved the bona fide agricultural use of the Property [*See Exhibit B, attached*].

38. The letter from the Zoning Administrator clarified that for the Church to hold gatherings and events on the Property under the bona fide agricultural use it needed approval of a farm winery or brewery license from the Virginia Alcoholic Beverage Control (ABC) Board. [*Id.*].

39. Alive Church initially pursued obtaining an ABC license to make apple cider and other non-alcoholic beverages and communicated to the ABC Board representative its intent to produce nonalcoholic beverages from the fruit trees it would grow on its Property.

40. The Church received all approvals that were necessary for issuance of an ABC License as a Farm Winery and the final stage before issuance of an ABC License was a virtual site visit by a representative of the ABC Board.

41. Before the virtual site visit, officials from the Church of the Nazarene District of which Alive Church is a part expressed concerns about a Nazarene Church obtaining an ABC License.

42. Alive Church is a member of the Church of the Nazarene denomination.

43. Alive Church subscribes to and sincerely holds the religious denominational beliefs

of the Church of the Nazarene regarding alcohol.

44. After consulting with Church of the Nazarene officials, the Church came to the conclusion that obtaining an ABC License would violate its religious beliefs against the sale or promotion of alcohol even if the Church was producing only nonalcoholic beverages.

45. Due to the sincerely held religious beliefs of the Church of the Nazarene denomination against any use, sale, or promotion of alcohol, and in consultation with Church of the Nazarene officials, the Church withdrew its request for an ABC license.

46. The Church met all the requirements and conditions for an ABC license and would have obtained an ABC license but for its sincerely held religious belief against the promotion or use of alcohol.

47. The Church has sincerely held religious denominational beliefs that prevent it from obtaining an ABC license.

The Differential Treatment Between Wineries/Breweries and Churches

48. The Church meets all the requirements and has all the necessary approvals to be treated by Defendant County as a bona fide agricultural use as a farm winery or brewery to conduct agritourism activities, but for its sincerely held religious beliefs against alcohol.

49. If Alive Church's sincere religious beliefs allowed it to obtain an ABC license, the Defendant County would allow the Church to exercise its religion, via agritourism-related gatherings, functions, and the like, on the Property.

50. Va. Code § 3.2-6400 defines an agritourism activity as:

any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, horseback riding, historical, cultural, harvest-your-own activities, or natural activities and attractions.

51. Va. Code § 3.2-301 specifies that "no locality shall adopt any ordinance that

requires that a special exception or special use permit be obtained for any production agriculture or silviculture activity in an area that is zoned as an agricultural district or classification.”

52. Secular institutions or assemblies that meet the definition of a bona fide agricultural use that may conduct agritourism activity are permitted on the Church’s Property as of right and do not need a special use permit to hold gatherings of the general public for “recreational, entertainment, or educational purposes.”

53. Alive Church, on the other hand, cannot hold gatherings for religious purposes without obtaining an expensive SUP and without abiding by numerous overly burdensome and costly conditions accompanying the SUP.

54. Alive Church has been unable to meet on its Property for religious worship and outreach because it cannot currently comply with the conditions of the SUP.

55. If Alive Church were to obtain its ABC License, it could begin immediately meeting on its Property for religious worship and outreach.

56. The Defendant is treating Alive Church differently than secular assemblies or institutions that conduct agritourism activity.

57. Under Virginia statutes, and as confirmed by the County Zoning Administrator, if Alive Church were to establish itself as an “agritourism activity” such as a winery or brewery it could begin to meet on its Property immediately and hold public gatherings and functions without fulfilling the conditions associated with the SUP.

58. If Alive Church were to establish itself as a winery or brewery, it could build a barn or other public gathering space without the need for a building permit.

59. If Alive Church were to establish itself as a winery or brewery, it would not now be subject to all the requirements in the 2013 SUP and as such, it would not have to now expend

hundreds of thousands of dollars on stormwater management, curbs and guttering, roads, etc. – although, as soon as it can afford to do so, it does intend to comply with the SUP as soon as it can afford to.

60. Wineries and breweries in Virginia, and in Prince William County, receive more favorable zoning terms than churches.

61. Alive Church's local zoning attorney raised the RLUIPA equal terms violation with the County Zoning Administrator by letter in April of 2021 and was told orally by the County Zoning Administrator that the County would not change its position, and that a court order would be required for the County to agree that a church could operate under the same terms and conditions as a winery or brewery.

62. This case is ripe: There is application of the zoning code and a determination by the County Zoning Administrator as to how both the County's SUP requirement and Virginia's winery and brewery laws apply to this church on this piece of Property. The Church has applied for and been granted a SUP, has applied for and been granted use as a bona fide agricultural use, and has applied for and essentially been granted an ABC license that would allow it to operate an agritourism activity on its Property but for its sincere religious beliefs against the promotion or use of alcohol.

63. Stated another way, this case is ripe because (1) the Church has obtained a SUP to operate on its Property as a church, thus there is no doubt how the County's SUP requirement applies to this Church and this Property; (2) the Church has obtained permission to operate as a bona fide agricultural use on its Property for the purpose of conducting agritourism activities, so there is no doubt how the agritourism code applies to this Church and this Property; and (3) the Church met all the necessary requirements to obtain an ABC license to enable its agritourism use

of its Property but for its sincerely held religious belief against the use or promotion of alcohol, so there is no doubt how the ABC license requirements apply to this Church and this Property.

64. The Defendants' actions impose a substantial burden on Alive Church's religious exercise.

65. The Defendants' refusal to treat Alive Church similarly to secular assemblies or institutions such as wineries and breweries does not serve a compelling state interest and does not constitute the least restrictive means of accomplishing any such interest.

66. As a result of Defendants' actions, Alive Church owns property on which it is unable to gather to exercise its religious beliefs.

67. The County's actions and refusal to treat Alive Church similarly to secular assemblies and institutions such as wineries and breweries illegally and unconstitutionally discriminates against churches.

68. Under state law, any winery or brewery may engage in agritourism activities, including gatherings and events for "recreational, entertainment, or educational purposes" – and even unlimited religious wedding services – on its land free of the restrictive obligations being imposed on Alive Church.

69. A winery or brewery may even rent their facilities to churches for their religious services.

70. Under state law, Alive Church could engage in agritourism related activities on its land if its sincere religious beliefs allowed it to obtain an ABC license – a license the State would (and essentially did) grant to Alive Church.

71. Examples for comparison of breweries and wineries engaging in gatherings, events and other agritourism activities in Prince William County, with the County's blessing, are plentiful

and cannot reasonably be the subject of dispute.

72. But churches with sincere religious beliefs against alcohol, such as Alive Church, which therefore are unable to obtain an ABC license, are not allowed to engage in such gatherings and events on their property as agritourism, and must go through a costly process to adhere to requirements of the SUP (stormwater management, curbs and guttering, roads, etc.) to exercise their religious beliefs to gather and assemble for religious worship on their property.

73. The County has treated Alive Church on less than equal terms with nonreligious and secular assemblies and institutions.

74. The County has also substantially burdened the Church's free exercise of religion, infringed its right to peaceable assembly, and violated its right to equal protection of the law.

75. In so doing, the County has also caused Alive Church to suffer monetary damages by subjecting the Church to the time-consuming, costly, and uncertain process of litigation and to not be able to gather for religious purposes on its property.

76. Therefore, Alive Church brings this action to protect its most fundamental freedoms and to ensure that it is no longer discriminated against due to its religious beliefs.

77. In order to fulfill its religious missions, Alive Church desires to assemble for religious purposes on the Church's property in Prince William County, but the County's treatment of Alive Church on unequal terms illegally prevents the Church from doing so.

78. Alive Church will be irreparably harmed if it is not allowed to assemble for religious purposes on its purchased property and will continue to lose the time, resources, and efforts sacrificially invested in its ministry.

79. By treating Alive Church differently and less favorably than nonreligious organizations and secular assemblies, the County has severely and negatively impacted the

Church's ability to meet and fulfill its sincerely-held religious beliefs, speech, gatherings, and functions.

ALLEGATIONS OF LAW

80. All acts of the County, its officers, agents, servants, employees, or persons acting at their behest or direction, were done and are continuing to be done, under the color and pretense of state law, including the ordinances, regulations, customs, policies and usages of the County.

81. Alive Church has no adequate or speedy remedy at law to correct or redress the deprivations of its constitutional and statutory rights by the County.

82. Unless and until the County's disparate, unequal and illegal treatment is enjoined, Alive Church will continue to suffer irreparable injury to its constitutional and statutory rights.

83. The County's unequal treatment and discrimination against Alive Church, through the Code and its officers, agents, servants, employees, or persons acting at their behest or direction, violates RLUIPA and has caused the Plaintiffs to suffer damages.

**COUNT I – VIOLATION OF RLUIPA'S "EQUAL TERMS"
PROVISION, 42 U.S.C. § 2000cc(b)(1)**

84. Alive Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-84.

85. Pursuant to state law and the County Code, wineries and breweries are permitted to build barns for gatherings and operate agritourism activities, including gatherings and events for "recreational, entertainment, or educational purposes" free of the SUP obligations being imposed upon Alive Church.

86. The County's zoning code, on its face and as applied, violates the equal terms provision of RLUIPA, 42 U.S.C. § 2000cc(b)(1).

87. Alive Church is a religious assembly or institution.

88. Alive Church's religious beliefs are sincerely and deeply held.

89. The Code regulates land use in Prince William County, Virginia.

90. The Code constitutes a land use regulation or a system of land use regulations by law.

91. The Code limits and restricts Alive Church's use of the property located at [REDACTED]

[REDACTED].

92. The Code, on its face and as applied, bans religious assemblies, gatherings, and events by churches without obtaining a SUP.

93. Under State law and the County's application of its code, numerous nonreligious breweries and wineries in Prince William County are allowed by the County to build structures like barns for gatherings, and to operate such activities for "recreational, entertainment, or educational purposes" so long as they obtain an ABC license.

94. The County's prohibition of Alive Church's religious gatherings on its Property, on its face and as applied, treats Alive Church on less than equal terms with nonreligious assemblies and institutions like wineries and breweries.

95. The County has no narrowly tailored, compelling government interests sufficient to justify its unequal treatment.

WHEREFORE, Alive Church respectfully requests the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT II – VIOLATION OF RLUIPA'S
"NONDISCRIMINATION" PROVISION, 42 U.S.C. § 2000cc(b)(2)**

96. Alive Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-95.

97. The County's prohibition of Alive Church's religious gatherings, on its face and as applied, violates the nondiscrimination provision of RLUIPA, 42 U.S.C. § 2000cc(b)(2).

98. Alive Church is a religious assembly or institution.

99. Alive Church's religious beliefs are sincerely and deeply held.

100. The Code regulates land use in Prince William County, Virginia.

101. The Code constitutes a land use regulation or a system of land use regulations by law.

102. Breweries and wineries are allowed by Prince William County to operate agritourism activities for purposes of "recreational, entertainment, or educational purposes" free of the land use discrimination imposed upon Alive Church.

103. Under Virginia statutes, and as confirmed by the County Zoning Administrator, if Alive Church were to establish itself as a winery or brewery it could begin to meet on its Property immediately and hold public gatherings and functions.

104. If Alive Church were to establish itself as a winery or brewery, it could build a barn or other public gathering space without the need for a building permit.

105. If Alive Church were to establish itself as a winery or brewery, it also would not be subject to all the requirements in the 2013 SUP and as such, it would not have to expend hundreds of thousands of dollars on stormwater management, curbs and guttering, roads, etc.

106. The Church requested the County's permission to operate agritourism gatherings and events on its property, and to act according to its mission, including, but not limited to, worship, learning, outreach to the community, etc., but was denied.

107. The County's prohibition of churches operating religious gatherings without a SUP, on its face and as applied, discriminates against Alive Church on the basis of its religion or

religious denomination.

WHEREFORE, Alive Church respectfully requests the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

COUNT III – Violation of RLUIPA’s “Substantial Burden” provision, 42 U.S.C. §2000cc(a)(1)

108. Alive Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-107.

109. The County’s Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without obtaining a SUP, both on its face and as applied, violates Plaintiff’s free exercise of religion as guaranteed by RLUIPA, 42 U.S.C. §2000cc(a)(1), et seq.

110. The Church believes its members are to regularly assemble with others to pray, study the Bible, sing religious songs, and share biblical insight on moral, cultural, and civic issues through education and training as an act of worship.

111. The Church’s religious beliefs are sincerely and deeply held.

112. The County’s Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without obtaining a SUP, on its face and as applied, imposes a substantial burden on religious exercise by completely prohibiting Plaintiff from having its church on its Property and by forcing Plaintiff to expend substantial resources to obtain a SUP before meeting to worship.

113. The County’s Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without obtaining a SUP, on its face and as applied, is not in furtherance of a compelling governmental purpose because it is not

imposed on other secular assemblies such as agritourism activities like wineries and breweries.

114. The County's Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without obtaining a SUP is not the least restrictive means of furthering any governmental interest.

115. Upon information and belief, Defendant receives federal financial assistance.

116. Upon information and belief, Defendant's Zoning Code affects commerce with foreign nations, among the several states, or with Indian tribes.

117. Defendant's Zoning Code is a land use regulation or a system of land use regulations.

118. Defendant's Zoning Code has in place formal or informal procedures or practices that permit the Defendant to make individualized assessments of the proposed uses of property.

WHEREFORE, Plaintiff respectfully prays that the Court grant the equitable and legal relief and damages set forth hereinafter in the prayer for relief.

COUNT IV – VIOLATION OF THE RIGHT TO FREE EXERCISE OF RELIGION UNDER THE UNITED STATES CONSTITUTION

119. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-118.

120. The County's Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without obtaining a SUP, on its face and as applied, violates the Church's right to free exercise of religion, as guaranteed by the First Amendment to the United States Constitution.

121. The Church believes its congregants are to regularly assemble with others to pray, study the Bible, sing religious songs, and share biblical insight.

122. The Church's religious beliefs are sincerely and deeply held.

123. Under the County's Zoning Ordinance, churches and other religious institutions are subject to an overly burdensome special use permit requirement to obtain permission to operate on agriculturally zoned property.

124. Similarly situated nonreligious assemblies and institutions like agritourism activities such as wineries and breweries are permitted to operate on agriculturally zoned property as of right.

125. Other such assembly uses are in fact located and operating on agriculturally zoned Property.

126. The County's Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without a SUP, on its face and as applied, substantially burdens the Church's sincerely held religious beliefs.

127. The County's Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without a SUP, on its face and as applied, is neither neutral nor generally applicable because similarly-situated nonreligious assemblies and institutions are permitted to operate on agriculturally zoned property as of right.

128. The County's Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without a SUP, on its face and as applied, specifically and discriminatorily targets religion and religious worship.

129. There is no compelling government interest sufficient to justify the kind of discrimination that exists when the County does not permit churches and other religious institutions to operate on agriculturally zoned property without obtaining a SUP when similarly-situated nonreligious assemblies and institutions are permitted to operate on agriculturally zoned

property as of right.

130. The County's Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without a SUP is not the least restrictive means to accomplish any permissible government purpose sought to be served by the land use regulations.

131. The County's Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without a SUP is not narrowly tailored as required for restrictions on the Church's free exercise of religion.

132. The County has failed or refused to accommodate the Church's sincerely held religious beliefs.

WHEREFORE, the Church respectfully requests the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT V – VIOLATION OF THE RIGHT TO PEACEABLE ASSEMBLY
UNDER THE UNITED STATES CONSTITUTION**

133. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-132.

134. The Church believes it must regularly assemble with others to pray, study the Bible, sing religious songs, and share biblical insight in order to express devotion to God.

135. The County's Zoning Ordinance prohibits the Church from assembling for religious speech and other religious purposes on agriculturally zoned property without obtaining a SUP.

136. The County has no compelling interest in limiting the peaceable assembly of the Church on agriculturally zoned property.

137. The County's Zoning Ordinance prohibiting churches and other religious

institutions from operating on agriculturally zoned property without a SUP, on its face and as applied, constitutes a violation of the Church's right of peaceable assembly as guaranteed by the First Amendment to the United States Constitution.

WHEREFORE, the Church respectfully requests the Court grant the equitable and legal relief set forth in the prayer for relief.

**COUNT VI – VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE
UNITED STATES CONSTITUTION**

138. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-137.

139. The Church's right to equal protection under the laws is protected by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

140. The County's Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without a SUP, on its face and as applied, is an unconstitutional abridgement of the Church's affirmative right to equal protection of the laws, is not facially neutral, and specifically targets the Church's religious viewpoints and speech.

141. The County's Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without a SUP, is unconstitutional because it treats religious assemblies and institutions less favorably than it treats similarly-situated nonreligious assemblies and institutions that are permitted to operate on agriculturally zoned property as of right.

142. The County's Zoning Ordinance prohibiting churches and other religious institutions from operating on agriculturally zoned property without a SUP, on its face and as

applied, is an unconstitutional abridgement of the Church's right to equal protection of the law because the City treats the Church differently from similarly-situated nonreligious assemblies or institutions on the basis of the Church's religious content and expression.

143. The County's Zoning Ordinance is not supported by a compelling government interest sufficient to justify its enactment or enforcement against the Church.

144. The County's Zoning Ordinance O-2017-13 is not the least restrictive means to accomplish any permissible government interest sought to be served by the regulations.

145. The County's Zoning Ordinance does not serve a significant government interest.

146. The County's Zoning Ordinance does not leave open ample alternative channels of communication.

147. The County's Zoning Ordinance is irrational and unreasonable and imposes irrational and unjustifiable restrictions on constitutionally protected speech.

148. The County, in violation of the Equal Protection Clause, has caused, and will continue to cause, the Church to suffer undue and actual hardship and irreparable injury.

149. The Church has no adequate remedy at law to correct the continuing deprivations of the Church's most cherished constitutional liberties.

150. As a direct and proximate result of the County's continuing violations of the Church's rights, the Church has in the past, and will continue to suffer in the future, direct and consequential damages, including, but not limited to, the loss of the ability to exercise its constitutional rights.

WHEREFORE, the Church respectfully requests the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

PRAYER FOR RELIEF

Plaintiff Alive Church prays for judgment as follows:

A. That this Court render a Declaratory Judgment declaring the County Code and its refusal to treat Alive Church on equal terms as nonreligious wineries and breweries, unconstitutional and in violation of federal and state law, and declaring that the County, the County's officers, agents, employees and other persons acting in active concert with them, unlawfully obstructed Alive Church from exercising its constitutionally protected rights and further declaring that:

- (1) The County must allow Alive Church to engage and operate on its property any activity that constitutes an agritourism activity as defined by Virginia law;
- (2) The County must treat Alive Church equally with nonreligious assemblies or institutions in the Agricultural zone;
- (3) The County must not discriminatorily target Alive Church through the County Code and its actions;
- (4) The County Code which prohibits religious organizations from operating religious gatherings and assemblies without a SUP on agriculturally zoned land, is facially and as applied, unconstitutional and violates RLUIPA;
- (5) The County must allow Alive Church to meet, gather, hold events, build barns without permits, and assemble for religious purposes on Alive Church's property; and

B. That this Court issue a permanent injunction to enjoin the County, the County's officers, agents, employees and all other persons acting in active concert with them, from enforcing

the County Code and its discriminatory and unequal treatment of Alive Church so that:

- (1) The County must allow Alive Church to engage in religious gatherings and assemblies for religious purposes on its Property that other secular assemblies or institutions such as wineries and breweries are allowed to engage in on agricultural property;
 - (2) The County must treat Alive Church equally with nonreligious assemblies or institutions in the agricultural zone;
 - (3) The County must not discriminatorily target Alive Church through the zoning code and enforcement;
- C. Grant to Alive Church damages;
- D. Grant to the Alive Church an award of its costs of litigation, including reasonable attorneys' fees and expenses.
- E. Grant such other and further relief as this Court deems just and proper.
- F. Plaintiff demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Respectfully submitted this 3rd day of August, 2021.

ERIK W. STANLEY*

([REDACTED])
PROVIDENT LAW
[REDACTED]

/s/ Colby M. May

COLBY M. MAY

([REDACTED])
JORDAN SEKULOW*

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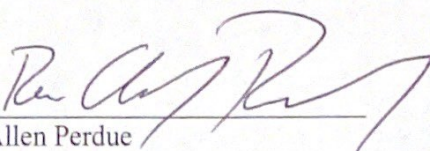
Counsel for Plaintiff

** Motion for Admission Pro Hac Vice Forthcoming*

VERIFICATION OF COMPLAINT

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I have read the foregoing Verified Complaint and the factual allegations thereof and that to the best of my knowledge the facts alleged therein are true and correct.

Executed this 30th day of July, 2021:


Allen Perdue
Lead Pastor
ALIVE Church of the Nazarene