

Comment Letter No. 18



February 1, 2012

VIA FACSIMILE,
ELECTRONIC AND U.S. MAIL

Ms. Carolyn Syms Luna
Planning Director
County of Riverside
Post Office Box 1409
Riverside, California 92502-1409
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Re: Draft EIR Comments for EIR No. 524 (Wine Country)

Dear Ms. Luna,

I am writing on behalf of Calvary Bible Fellowship, a church that is currently located in the Wine Country. We have been working with the County on various land-use issues in relation to our client. We would like to take this opportunity to encourage the County to allow for religious assemblies as a permitted use in the Wine Country as part of the above-referenced Draft EIR No. 524.

18.1

The Notice of Preparation of EIR and scoping session occurred on or before January 19, 2010. On November 30, 2010 Calvary Bible Fellowship sent a letter to you requesting a finding that the construction of two new buildings on approximately 21 acres for the use as a sanctuary, Sunday school, private kindergarten through eighth grade school, and temporary child care facility is the same in character and intensity as a use listed in the Citrus Vineyard Zone of Riverside County Ordinance Number 348.

18.2

That ordinance in part states at the time:

“any use that is not specifically listed may be considered a permitted or conditionally permitted use provided that the planning director finds that the proposed use is substantially the same in character and intensity as those listed such a use is subject to the permit process which governs the category in which it falls”

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On January 27, 2011 via letter to Calvary Bible Fellowship representatives, you made the finding that their proposed project was indeed “substantially the same in character and intensity” as other uses in the zone.

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cont

Based on that finding, Calvary Bible Fellowship on March 10, 2011 filed an appropriate application for plot plan for the above-referenced project.

Because the draft EIR was being prepared and studies conducted during the period in which Calvary Bible Fellowship was requesting findings from the County, and indeed received a favorable finding from the County, the County had informed knowledge, and should have studied the inclusion of houses of worship, private schools, and other related uses in the EIR document. The EIR Draft Report is deficient because the proposed land uses and planning and zoning documents do not clearly set forth that houses of worship, religious educational facilities and related religious buildings as defined under RLUPA are clearly permitted uses nor were they studied. Accordingly, the documentation is Constitutionally deficient and an impermissible planning document.

} 18.3

I have enclosed letters that we have previously sent to the County with regard to our belief that the existing ordinance and the proposed land use, planning and zoning documents are, or would be, in violation of the Religious Land Use and Institutionalized Persons Act (“RLUIPA”). This is a federal act passed in the year 2000. We have found that many state agencies have yet to comply with the federal law that is intended to prevent zoning authorities to place substantial burdens upon religious assemblies or treat them differently than other nonreligious assembly uses. Because of the significant protection now afforded to religious assemblies, it is particularly appropriate for zoning authorities to take corrective action as is recommended by section 42 U.S.C. § 2000cc-3(e) of RLUIPA:

} 18.4

"A government may avoid the preemptive force of any provision of this chapter by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden."

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Therefore, please take this opportunity to lawfully incorporate religious assemblies into the future plans for the Wine Country. Please refer to the enclosed letters for my analysis of the law and its application to the existing ordinance.

} 18.4
cont

Please do not hesitate to contact me if I may be of any assistance.

Kind Regards,



Robert Tyler

RHT:jal

Enclosures

Response No. 18

**Advocates for Faith and Freedom
Robert Tyler**

- 18.1 This comment does not identify any specific concern with the adequacy of the Draft PEIR or any environmental issues. This comment has been duly noted and is presented in this Comments and Responses document for decision makers to evaluate as part of their Project deliberations. No further response is required. (State CEQA Guidelines § 15088(a) (CEQA requires that a lead agency respond to environmental comments).)
- 18.2 This comment does not identify any specific concern with the adequacy of the Draft PEIR or any environmental issues. This comment has been duly noted and is presented in this Comments and Responses document for decision makers to evaluate as part of their Project deliberations. No further response is required. (State CEQA Guidelines § 15088(a) (CEQA requires that a lead agency respond to environmental comments).)
- 18.3 On May 15, 2012, pursuant to the Court’s Writ of Mandate dated February 24, 2012, and Judgment on Petition for Writ of Mandate filed on March 6, 2012, in *Protect Wine Country v. County of Riverside* (RIC 1108020) the Board of Supervisors of the County of Riverside set aside its approval and adoption of Ordinance No. 348.4713. As a result, the language of the Citrus/Vineyard Zone returned to the way it existed prior to Ordinance No. 348.4713 and the “substantially the same in character and intensity” provision was removed from it. This provision is also not included in the proposed Ordinance No. 348.4729. Under the existing Citrus/Vineyard Zone and the proposed Ordinance No. 348.4729, churches, temples, and other places of religious worship are not a listed permitted use. Therefore, the Draft PEIR does not need to study the impact of such uses.
- 18.4 This comment does not identify any specific concern with the adequacy of the Draft PEIR or any environmental issues. This comment has been duly noted and is presented in this Comments and Responses document for decision makers to evaluate as part of their Project deliberations. No further response is required. (State CEQA Guidelines § 15088(a) (CEQA requires that a lead agency respond to environmental comments).) However, as part of the Project deliberations, County decision-makers and other agencies with permit or approval authority may consider factors other than CEQA in deciding whether or not to approve the Project, its associated permitted uses, or its associated agreements, permits or approvals.