

CAPPELLO  
& NOËL LLP  
TRIAL LAWYERS



Lawrence J. Conlan

October 2, 2020

Via E-mail Only

Santa Barbara County Board of Supervisors  
105 East Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
Email: [sbcob@countyofsb.org](mailto:sbcob@countyofsb.org)  
[sbcob@co.santa-barbara.ca.us](mailto:sbcob@co.santa-barbara.ca.us)

Re: **Castlerock Family Farms II, LLC Cannabis Cultivation Land Use Permit,  
Case No. 20APL-000000-00019, Third Supervisorial District**

Dear Chair Hart and Honorable Supervisors:

We are the lawyers for Castlerock Family Farms II, LLC. We write to support the approval of our client's Land Use Permit, and to address issues raised by the Coalition in its appeal. This farm should be approved by the Board, as it was by the Planning Commission, and as recommended by the Planning Department. The Coalition's appeal is misguided and unsupportable, and it should be rejected.

Castlerock's farm is fully compliant with the County Ordinance and all applicable laws. It will include 23 acres of outdoor cultivated cannabis, on a 277-acre property. The grow will be screened from public view, lined with tall pine and oak trees, and surrounded by appropriate landscaping. There will be no new structures built, and it will operate from a private water supply. With no processing on site, there is minimal opportunity for odor. The grow will be approximately 1,500 feet to the north of the nearest permitted tasting room at Peake Ranch Winery. We are aware of no other permitted tasting room nearby. The Department's analysis and the Coalition's appeal refer to the Pence Winery "tasting room" more than 3,000 feet away, but we are not aware that a permitted tasting room is operating there. Under no circumstances should the Coalition or Blair and Diane Pence be permitted to derail a compliant project based on speculative concerns about odor at an illegal tasting room more than a half-mile away.

The Coalition's appeal can be broken down into three categories. First, it argues that Castlerock's planned farm allegedly does not comply with CEQA. This is an argument the Coalition has recycled to challenge every approved cannabis permit it learns about. Second, it argues that the farm is not consistent with the Comprehensive Plan. This is a similar refrain about speculative odor impacts from cannabis farms that are unsupported by any reliable evidence, let alone substantial evidence. The Coalition also expresses, as it has before, that

illegal pesticide drift from vineyards to neighboring farms will harm *the vineyards*. This is preposterous. There is simply no valid argument that a legal farm may be prohibited from operating in order to protect the illegal conduct of pesticide users. Third, the Coalition alleges that the farm expands beyond existing non-conforming uses. This argument is false, as Castlerock Family Farms II did not claim to be legal non-conforming in the permit application that was approved.

The core of the Coalition's challenge is its claim that the PEIR certified in February 2018 does not comply with CEQA. The Coalition asserts its usual claims regarding cannabis impacts, compatible use, pesticide drift, impacts to tasting rooms, and clustering. The same assertions have been made in every appeal by the Coalition, and they have been rejected repeatedly because they are substantively wrong. The Planning Department's analysis thoroughly explains the lack of merit in those arguments, and Castlerock Family Farms II incorporates that analysis herein.

As importantly, the Coalition's arguments have been waived because neither it nor its members challenged the PEIR after it was certified more than two years ago. To ensure finality and predictability in public land use planning decisions, statutes of limitations governing challenges to such decisions are typically short. (*Hensler v. City of Glendale* (1994) 8 Cal.4th 1, 27; see also, e.g., *Travis v. County of Santa Cruz* (2004) 33 Cal.4th 757, 774–775.) The limitations periods set forth in CEQA adhere to this pattern; indeed, as the CEQA Guidelines themselves assert, “CEQA provides *unusually short* statutes of limitations on filing court challenges to the approval of projects under the act.” (CEQA Guidelines, § 15112, subd. (a), italics added.) Courts have often noted the Legislature's clear determination that “the public interest is not served unless CEQA challenges are promptly filed and diligently prosecuted.” (*Citizens for a Megaplex–Free Alameda v. City of Alameda* (2007) 149 Cal.App.4th 91, 111; *Nacimientto Regional Water Management Advisory Com. v. Monterey County Water Resources Agency* (2004) 122 Cal.App.4th 961, 965; accord, *Board of Supervisors v. Superior Court* (1994) 23 Cal.App.4th 830, 836.) Because the Coalition failed to challenge the PEIR within the applicable statute of limitations period, its CEQA-related challenges here must be rejected.

The Board is on very solid ground to approve the Castlerock Family Farms II project based on the law and the facts, and it should do so. In support of its decision, it should also consider the economics of cannabis in Santa Barbara County, a critical issue during these times. Particularly as reliable tax revenues have been reduced following the Covid-19 outbreak and business shutdown, every cannabis project in Santa Barbara County has the potential to assist in providing funding for essential services for our community. The positive impact of cannabis cannot be overstated. The UCSB Economic Forecast Project, led by Dr. Peter Rupert, UCSB economics professor and former Chair of the Economics Department, has done a preliminary analysis of the positive monetary impacts of cannabis in Santa Barbara County.<sup>1</sup> Based on studies of existing growers, his team determined that the cannabis industry buys locally (in Santa Barbara County) goods and services (output) worth \$785,000 per year per cultivated acre. Using a baseline of 156 acres legally cultivated in the county, that amounts to direct purchases from the local economy of \$122.5 million, generating approximately \$169.3 worth of output. Accounting for many additional jobs created, and including all direct, indirect and induced impacts, the study

---

<sup>1</sup> See Initial Impact report at [https://efp.ucsb.edu/Cannabis/implan\\_InitialAssessment.pdf](https://efp.ucsb.edu/Cannabis/implan_InitialAssessment.pdf)

October 2, 2020  
Page 3

estimates total annual economic impact of the cannabis industry at \$458.3 million for the County. This is a robust economic impact that effectively reaches the entire community.

Finally, and conversely, the Board should consider the motivations behind this appeal as well. Though the Coalition purports to be a “community-based advocacy organization seeking to promote the development of the cannabis industry in Santa Barbara County,” it plainly does not support cannabis. The Coalition is a detriment, not a benefit, to the community at large, and it is seeking to undermine years of hard work and effort in which the County has invested. The Coalition has directly or indirectly challenged virtually every cannabis permit approved by the County; it is not “for” cannabis, it is “against” cannabis. It has two apparent goals: to create an unfair agricultural monopoly in favor of the wine industry, and to promote the unfortunately misguided personal vendetta of its leaders Mr. and Mrs. Pence. Neither of those goals are legitimate reasons to block this project, or to undermine the positive, far-reaching, and essential economic impacts that cannabis farming brings to Santa Barbara County.

Thank you for your consideration of the Castlerock Family Farms project. We will be available at the Board hearing on October 6, 2020 to answer any questions about the farm and in support of the approval of its land use permit.

Sincerely,

CAPPELLO & NOËL LLP

*/s/ Lawrence J. Conlan*

Lawrence J. Conlan

cc: Troy White, TW Land Planning and Development LLC