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ORANGE COUNTY
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STATE OF NORTH CAROLINA

ORANGE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
25CV002097-670

TRIANGLE LAND CONSERVANCY

Plaintiff,

v.

UNION GROVE FARM, INC.; BANDIT FARMS II, LLC; BANDIT FARMS III, LLC; EASTWEST ORGANICS, LLC; HARPER GRACE, LLC; MEREDITH G. SAYBE

Defendants.

ORDER DENYING UNION GROVE FARM, INC.'S, BANDIT FARMS II, LLC'S, AND BANDIT FARMS III, LLC'S MOTION FOR LEAVE TO AMEND THEIR COUNTERCLAIMS

THIS MATTER came on for hearing before the Honorable Stephanie L. Reese, Superior Court Judge presiding, on June 15, 2026 in Orange County Civil Superior Court upon the Motion for Leave to Amend Counterclaims (the "Motion to Amend"), filed by Defendants, Union Grove Farm, Inc., Bandit Farms II, LLC, and Bandit Farms III, LLC ("Counterclaim Defendants"). At the June 15, 2026 hearing, Samuel Slater and Mary Kate Gladstone appeared on behalf of Counterclaim Defendants. Catherine Hill and Robin Tatum appeared on behalf of Plaintiff, Triangle Land Conservancy ("TLC").

After considering the pleadings, including TLC's Complaint, Counterclaim Defendants' Counterclaims, and the Motion to Amend, TLC's Brief in Opposition to Counterclaim Defendants' Motion to Amend, and the arguments of counsel, the Court finds that the Motion to Amend should be denied, for the reasons set forth below.

This matter relates to a Grant of Conservation Easement and Development Rights (the "Conservation Easement") located on what is now known as Union Grove Farm in Orange County. TLC is a North Carolina nonprofit corporation and is the holder of the Conservation

Easement. Defendants each own either a fee simple or leasehold interest in properties which are subject to the Conservation Easement (the "Conservation Property").

TLC filed the Complaint in this action on August 15, 2025. The Complaint seeks, *inter alia*, a declaratory judgment to interpret the terms of and enforce the Conservation Easement with respect to: 1) three new roads at the Conservation Property; and 2) Defendants' proposal to locate an amphitheater at the Conservation Property.

Counterclaim Defendants filed their Answer and Counterclaims on September 22, 2025. On April 10, 2026, Counterclaim Defendants filed their Motion to Amend. The Motion to Amend seeks to add a new claim for declaratory judgment, requesting that the Court find: 1) that "[t]he Conservation Easement restricts the construction of buildings and structures on the Conservation Property, but it does not regulate or limit uses at the Conservation Property with the exception of golf courses, airstrips, and helicopter pads;" and 2) "[u]ses other than golf courses, airstrips, and helicopter pads are permitted on the Conservation Property without any oversight or approval by TLC unless that use requires the construction of a building or facility." *See*, Counterclaim Defendants' proposed amended counterclaims ¶ 111.

"Leave of court to amend a pleading is left within the trial court's discretion, and such decision is not reversible absent a showing of abuse of discretion." *Draughon v. Harnett Cnty. Bd. of Educ.*, 166 N.C. App. 464, 467, 602 S.E.2d 721, 724 (2004). "A motion to amend may be denied for (a) undue delay, (b) bad faith, (c) undue prejudice, (d) futility of amendment, and (e) repeated failure to cure defects by previous amendments." *Id*. (citations omitted).

With respect to declaratory judgment claims, it is well-established that "a justiciable controversy must exist in order to invoke the provisions of the Declaratory Judgment Act." *Wendell v. Long*, 107 N.C. App. 80, 84, 418 S.E.2d 825, 827 (1992). To establish a justiciable

controversy, there must be "an actual controversy between parties having adverse interests in the matter in dispute." *Id*.

"When the record shows that there is no basis for declaratory relief, or the complaint does not allege an actual, genuine existing controversy, a motion for dismissal under … Rule 12(b)(6) will be granted." *Gaston Bd. of Realtors v. Harrison,* 311 N.C. 230, 234-235, 316 S.E.2d 59, 62 (1984). Additionally, a motion to amend is futile when the proposed new counterclaim could not survive a motion to dismiss for failure to state a claim. *Smith v. McRary*, 306 N.C. 664, 671, 295 S.E.2d 444, 448 (1982).

The Court finds the Counterclaim Defendants' Motion to Amend should be denied for the following reasons:

1. Counterclaim Defendants' have requested to add declaratory judgment claims that would define the entirety of uses permitted and regulated at the Conservation Property by the Conservation Easement. However, the only uses or activities at the Conservation Property that are currently in controversy between TLC and the Counterclaim Defendants are the three roads and proposed amphitheater, which are the subject of TLC's Complaint. Regarding these matters, TLC's Complaint already includes declaratory judgment claims that request the same determinations as Counterclaim Defendants' proposed new declaratory judgment claims. Specifically, TLC's Complaint requests the Court to determine not only Defendants' ability to construct buildings and structures at the Conservation Property for an amphitheater use, but also whether Defendants may use the Conservation Property for the use proposed, or any similar use. The Complaint raises issues of whether the proposed amphitheater use, or any similar use, constitutes, *inter alia*, an agricultural purpose. The Complaint also questions whether Defendants are allowed to

build structures and associated supporting buildings for music and other performances, and to engage in related uses. These issues are live controversies between the parties, and will be litigated through the determinations already requested in the Complaint. As such, granting the Motion to Amend would be futile with respect to these issues.

2. Granting the Motion to Amend would also be futile because it seeks to add declaratory judgment claims regarding matters which are not in controversy and over which the Court has no jurisdiction. Again, the only uses or activities at the Conservation Property that are currently in controversy between TLC and Counterclaim Defendants are the three roads and proposed amphitheater. Any other declarations sought by Counterclaim Defendants are not defined with specificity and do not relate to other proposed uses or activities at the Conservation Property, for which there is a current actual controversy. Decisions on the application of the Conservation Easement to situations and actions that have not yet occurred, and may never occur, would be purely advisory in nature, which is contrary to the purpose of the Declaratory Judgment Act. Because these proposed Amended Counterclaims do not allege current justiciable controversies under the Declaratory Judgment Act, it would be futile to allow the Motion to Amend.

THEREFORE, it is ORDERED, ADJUDGED, and DECREED that Union Grove Farm, Inc.'s, Bandit Farms II, LLC's, and Bandit Farms III, LLC's Motion for Leave to Amend their Counterclaims is hereby denied.

This the 17th of July, 2026
7/17/2026 3:02:42 PM



The Honorable Stephanie Reese
Superior Court Judge Presiding