



Charles County Board of Appeals Meeting of November 18, 2014

Department of Planning and Growth Management Staff Report

**Project Name & Number: Amir Kacapor Property,
Docket # 1330**

Type of Project: Special Exception

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For questions, contact the Planning Division at 301-645-0540

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I. Project & Applicant Information:

- a. **Project Name:** Amir Kacapor Commercial Greenhouse
 - i. The applicant: Amir Kacapor
- b. **Project Number:** Docket #1330
- c. **Subject Property:** The subject property, known as Tax Map 32, Grid 7, Parcel 73, is in the 7th election district. The property is located on the corner of Hawthorne Road (Maryland Route 225) and Hunt Road.
- d. **Land Use & Zoning Category:** This site is in the Rural Conservation Deferred (RCD) Zoning District. This property is out of the Development District and the Priority Funding Area. The property is approximately 5.81 acres. This report is submitted pursuant to *Special Exception, pursuant to Articles XXV and XIII, and Use # 1.05.200* of the Charles County Zoning Ordinance.
- e. **General Description of the Request:** The applicant, Amir Kacapor, owner of the property subject to this application, is petitioning for a *Special Exception, pursuant to Articles XXV and XIII, and Use # 1.05.200* of the Charles County Zoning Ordinance to develop a commercial greenhouse operation with on-premises sales permitted. The subject property can be identified as 5.81 acre lot on Tax Map 32, Grid 7, Parcel 73 in the 7th election district
- f. **Background:** The following is a discussion of specific issues identified by Staff for consideration by the Board of Appeals. The applicant seeks to develop a commercial greenhouse operation with on-premises sales permitted. The minimum standards for Use #1.05.200 are established in Articles XXV and XIII, and Permissible Table Use # 1.05.200 of the Zoning Ordinance. The principal issue is whether the proposed use is appropriate to the subject site, the surrounding neighborhood, and consistent with the requirements of the Zoning Ordinance and the use meets the definition of a commercial greenhouse under use 1.05.200 commercial greenhouse operation with on-premises sales permitted. The subject property, Parcel 73 consists of 5.81 acre and is currently zoned RCD, Rural Conservation Deferred, per the current Charles County Zoning Maps and Charles County Zoning Ordinance. The site is situated on the corner of Hawthorne Road (Maryland Route 225) and Hunt Road in the 7th election district. The use of the subject property is as developed and consists of a house, a shed, and a garage. The property is surrounded by residential lots and forested land. There are two residential properties across the street from this property and they are able to see the property that is requesting this review.

II. Rationale for Amendment

CRITERIA FOR APPROVAL AND FINDINGS:

Need for Special Exception:

According to the current ordinance, the proposal as detailed in the application would require a Special Exception in the RCD, Rural Conservation Deferred zoning district (Figure IV-1 Table of Permissible Uses, Use #1.05.200).

Minimum Zoning Requirements:

The minimum standards for the use, 1.05.200 Commercial greenhouse operation with on-premises sales permitted, are as follows:

*This use is permitted by special exception in the RC and RR Zones, together with buildings incidental thereto, subject to the following [**Please Note:** Per Charles County Zoning Ordinance, Section 297-88, Rural Zones (A)(3) RC(D) Rural Conservation Deferred Development District, "All other provisions of the Zoning Ordinance regarding the RC Zone shall apply to any property zoned RC(D)."]:*

- A. *Such use will not cause a negative impact because of traffic, noise or other factors.*

The applicant states *the use of commercial greenhouses will not cause a negative impact because of traffic, noise, or other factors –There are two accesses to property: from Hawthorne Road (for customers parking) as well as Hunt Road, and no negative impact of the traffic. Operations of the greenhouse, open fields, and on-premises sales do not cause any impacted noises, and no factors causing a negative impact.*

Staff notes *that this property is required to have Adequate Public Facilities approval at later stages of the development process and this is listed as a condition of approval in this report.*

- B. *Such use will not include the sale or storage of general hardware or power equipment.*

The applicant states *the use of a greenhouse with on-premises sale will not include either the sale or storage of general hardware nor power equipment.*

- C. *The use is located on a tract of land containing greater than two acres*

The applicant states *the acreage of the site is greater than two acres and that the actual acreage is approximately five point eight (5.81) acres.*

D. *The use will be set back more than 50 feet from the nearest property line.*

The applicant states that from the nearest property line, the use set back will be the minimum of 50 feet. They submit that it will in fact be more than fifty (50) feet. The closet it will come to a property line will be approximately fifty-five feet (Along the Northwest side that is shared with the Jones, Phoenicia property, Map 32, Parcel 74, 10.31 acres).

E. *Greenhouses shall have a minimum setback of twice the height of the building.*

At this time, the exact height of the greenhouse building has not been determined, but at the Site Development Plan stage the applicant will be required to comply with this setback requirement.

F. *Storage of all materials which produce odors or attract pests shall be effectively covered.*

The applicant states all the materials and products that could produce odors or attract pests will be stored in covered storage.

Description of Property:

The site is currently developed with various improvements. There are three existing structures/buildings (a house, a garage, & a shed) on the premises. There are two open fields in the rear of the property. The property has frontage on both Hawthorne Road (Maryland Route 225) and Hunt Road. Hawthorne Road is developed and Hunt Road is a gravel road.

Impact on Surrounding Uses:

The character of the surrounding neighborhood is a mixture of residential, agricultural, and some commercial. The subject property is surrounded by private residences and forested properties.

Use Specific Analysis:

The proposed use is for commercial greenhouse operation with on-premises sales permitted. The intent of the project is to construct commercial greenhouses.

III. Project Consistency

a. Consistency with the Comprehensive Plan, Zoning Ordinance & Other Codes

Comprehensive Plan Consistency:

The subject property is located in the RCD, Rural Conservation Deferred Development District and is designated as Rural Conservation Deferred Development District on the Comprehensive Plan's Land Use Map from the 2006 Comprehensive Plan. The applicant states their application complies with the Comprehensive Plan, specifically Chapter 3, Chapter, 4, and Chapter 10.

The area where the subject property is located is currently a mixture of residential, agricultural, and some commercial, and it is outside of the development district. The subject property complies with the Comprehensive Plan, including Chapter 8, and more specifically Chapter 4 Economic Development (4.1-4.3, 4.7, & 4.10). One of Chapter 4's objectives 4.3, is to "Diversify the County's economic base through the development of new startup businesses."

Charles County Zoning Ordinance Consistency:

The subject property is located in an area designated in the Charles County Zoning Ordinance as RC(D), Rural Conservation Deferred Development District. Per the Zoning Ordinance, in this district "Section § 297-88. Rural Zones. A. Objectives. The Rural Conservation (RC) and Rural Residential (RR) Zones are intended to maintain rural character in many country areas consistent with Comprehensive Plan objectives. (3) RC(D) Rural Conservation Deferred Development District. This zone maintains low density residential development, preserves the rural environment and natural features and established character of the area. It also maintains existing agricultural and aquacultural activities and the land base necessary to support these activities. The density and lot area provisions of the RC(D) Zone and the Table of Permissible Uses shall apply to any property zoned RC(D), except as set forth in § 297-88D. All other provisions of the Zoning Ordinance regarding the RC Zone shall apply to any property zoned RC(D).

The property complies with the objectives and definition of the RCD within the Zoning Ordinance Definition.

IV. Staff Evaluation: Impacts, and Findings

PRELIMINARY FINDINGS

The request for Special Exception #1330 was evaluated by Staff based upon the standards set forth in *Articles XXV and XIII, and Use # 1.05.200* of the Charles County Zoning Ordinance. Findings by staff have been annotated in *italics*.

Amir Kacapor, is the developer of the subject property, known as Tax Map 32, Grid 7, Parcel 73, containing 5.81 acres.

a. Article XXV, Charles County Board of Appeals, Section 415, Special Exception, Item (H) lists the following General Requirements, where the proposed use:

- i. Will not be detrimental to or endanger the public health, safety, and general welfare.

The Applicant states, the proposed use will not be detrimental to or endanger the public health, safety, and general welfare.

Staff finds that this use will be on over five (5) acres with the main activities located further into the property, and that existing County regulations (site development plan process, etc.) will adequately address the issue of public safety during that stage of the review process. Also, onsite uses are shown on the site plan to be over two hundred (200) feet from the road(s), therefore this use minimizes activities that are detrimental to or endanger the public health, safety, and general welfare.

- ii. Is a Permissible Special Exception in the Zone.

The Applicant states, in association with the Zoning Ordinance, a special exception is permissible in the zone.

Staff finds that this subject property is zoned RCD, Rural Conservation Deferred Development District and the requested use of a commercial greenhouse operation with on-premises sales permitted is a permitted use in this zone by Special Exception.

- iii. Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

The Applicant states, the proposed use will not be detrimental to peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

Staff finds that because the use is on over five (5) acres that includes trees and the main activities are located further into the property, any objectionable impact from the type of physical activity, fumes, odors, dust or glare may be reduced.

- iv. Complies with the standards and requirements set forth in Article XIII.

The Applicant states, the proposed use complies with the standards and requirements set forth in Article XII of Zoning Ordinance.

Staff finds that this request complies with the standards and requirements set forth in Article XIII.

- v. Will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors, dust or glare.

The Applicant states, the proposed use will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors, dust, or glare.

Staff finds that the use will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors, dust, or glare or be significantly reduced by compliance with Charles County Road Ordinance Regulations and because the use is setback a minimum of two hundred (200) feet from the road(s) and is located on over five (5) acres.

- vi. Will provide adequate utilities, water, sewer or septic systems, access roads, storm drainage, and/or necessary public facilities and improvements. If a use requires an Adequate Public Facilities Review by the Charles County Planning Commission, such review shall be made a condition of the granting of the Special Exception by the Board.

The Applicant states, the adequate utilities, water, sewer (septic system), access roads, storm drainage, electricity and other public facilities are provided for the proposed use.

Staff finds that if the Special Exception is approved, part of the Conditions of Approval are for the applicant to comply with all government regulations, specifically adequate utilities, water, sewer, or septic systems, access roads, storm drainage, and/or necessary public facilities and improvements, including but not limited to Road Ordinance, Site plans, and Development plans (storm drainage, road access, parking, etc.).

- vii. Will provide adequate ingress and egress and be so designed as to minimize traffic congestion in the public streets.

The Applicant states, the adequate egress and ingress are provided from/to Hawthorne Road and Hunt Road to minimize traffic congestion.

Staff finds that if the Special Exception is approved, part of the Conditions of Approval are for the applicant to comply with all government regulations regarding providing adequate egress and ingress and minimizing traffic congestion onto adjoining public streets.

- viii. Is in accordance with the objectives of the Charles County Comprehensive Plan.

The Applicant states, the proposed use is in accordance with the objectives of the Charles County Comprehensive Plan.

Staff finds that the proposed use is consistent with the Charles County Comprehensive Plan specifically including but not limited to Chapter 4 Economic Development, and Chapter 8 Natural Resources Protection. More Specifically from Chapter 4 Economic Development 4.1-4.3, 4.7, and 4.10; Objective 4.3 from Chapter 4 states that it is to “Diversify the County’s economic base through the development of new startup businesses” and these greenhouses can be considered a part of this.

- ix. Conforms to the Applicable Regulations of the zone in which it is located and to the Special Requirements established for the specific use.

The Applicant states, the proposed use conforms to the applicable regulations in the zone in which it is located and to the specific requirements established for the specific use.

Staff finds that the proposed use is allowed in this zone with a Special Exception and also must meet all government rules at other stages of the development process.

V. Conclusions & Recommendations

Based upon the review of the application, and as stated in the staff report, staff recommends approval of the request for a Special Exception. The Special Exception request for the Subject Property (Tax Map 32, Grid 7, and Parcel 73) to develop commercial greenhouses was found to be consistent with the Charles County Comprehensive Plan, and the Charles County Zoning Ordinance. Therefore the justifications submitted for this application have met the necessary requirements. Should the Board of Appeals choose to approve this request, the Planning Division recommends that it be subject to the following conditions:

1. As per Zoning Ordinance Section 415, Item H (6), the use requires an Adequate Public Facilities Review. According to regulations, any project which proposes a Site Development Plan (SDP) is required to show compliance with Zoning Ordinance, Article XVI "Adequate Public Facilities Requirements". Therefore, when the subject project applies for a Site Development Plan (SDP), it will undergo an Adequate Public Facilities Review at that time. Such review includes, at minimum, submittal of the Preliminary Adequate Public Facilities (PAPF) Application and its review fee of \$104, showing proposed vehicular trip generation. The PAPF Application process will determine the necessity and/or parameters of a traffic impact analyses.
2. As per Zoning Ordinance Section 415 H (7). *"Will provide adequate ingress and egress and be so designed as to minimize traffic congestion in the public streets."* Submit appropriate one (1) site plan, and explain how the plan will *"provide adequate ingress and egress and be so designed as to minimize traffic congestion in the public streets."* (Refer to Special Exception Application requirements V. and VI A.)
3. During the Site Development Plan (SDP) process, please provide required information: detailed site design, vehicular circulation, entrance and exit safety and function issues, as well as traffic impact on the public streets.
4. The applicant must comply with all other Federal, State, and County regulations and review processes, including but not limited to the State of Maryland Highway Administration and the State of Maryland Charles County Health Department.

VI. Appendices (see pages 9-13)