



# Charles County Board of Appeals

## Meeting of September 9, 2025

### Department of Planning and Growth Management

#### Staff Report

**Project Name:** Bona Terra, LLC @ 5460 Bicknell Road, Indian Head, MD 20640

### BOA Docket #1471 – Special Exception Application

**Type of Project:** Special Exception – Use #1.05.200 – Commercial greenhouse operation; on-premises sales permitted in the Watershed Conservation District (WCD) Zone.

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## I. BACKGROUND

The property that is the subject of this Staff Report is located at 5460 Bicknell Road Indian Head, Maryland 20640, and is further identified as Parcel 128, within Grid 10, on Tax Map 30. Property Tax Identification Number: 0910003571 (hereinafter referred to as the “Subject Property”). The Subject Property possesses two (2) existing gravel driveways with access onto Bicknell Road, one for 5460 Bicknell Road and another for 5490 and 5500 Bicknell Road. The Applicant owns both 5460 and 5490. Neighbors at 5500 Bicknell Road, which have right of way access through the Applicants’ property, are aware of this application. Parcel 128 contains approximately 13.22 acres of land, 4,400 square feet of which are subject to the Special Exception request. The Subject Property is in the Watershed Conservation District (WCD) zone and is owned by Alyssa Tsuchiya, Jennifer DePalma, and Jeremy Tidd, who purchased it in 2024. The Special Exception application was filed by Bona Terra, LLC, on January 3, 2025. A certificate of good standing for Bona Terra, LLC, from the Maryland Department of Assessments and Taxation, dated April 11, 2025, is included within the Appendices of this report.

Environmental Findings – Watershed: This property is located within the Mattawoman Creek watershed. It is also partially located in the Tier II Catchment area, with assimilative capacity remaining. Forest Conservation: Forest Conservation is applicable to this project, as the property area is greater than 40,000 square feet and is not subject to a previous Forest Conservation Plan. Due to the project’s nature, an Agricultural Activity Exemption will be applicable. Forest Conservation will need to be addressed during the subsequent Site Development Plan (SDP) stage. Habitat Protection: A Habitat Protection Plan is not required for this project. Resource Protection Zone (RPZ): There are no environmentally sensitive features known to be located on or near the property, therefore, RPZ is not applicable to this project.

A location map, zoning map, aerial map, and adjacent property owner map of the Subject Property are included within the Appendices of this report.

## II. SUMMARY OF APPLICANT’S REQUEST

The Applicant, Bona Terra, LLC, represented by the Scott Law Group, LLC, is requesting Special Exception use approval from the Board of Appeals for a Commercial greenhouse operation; on-premises sales permitted, Use #1.05.200, as defined in § 297-212 of the Zoning Ordinance. The Subject Property is currently used as a private residence and Bona Terra’s native plant nursery. The native plants, soil, and inputs are all produced on site, in line with Use #1.01.000 Agricultural operations, which is a permissible by right use in the WCD zone. From an environmental and natural resources point of view, Bona Terra’s mission is to farm native plants with a focus on the local genetics necessary to restore diversity in the Chesapeake eco-region. Bona Terra prides itself in industry-leading sustainable practices.

The proposed on-premises sales area will encompass approximately 4,400 square feet and will not include any activities involving the cannabis industry. An important distinction to make is that Commercial greenhouse operations; no on-premises sale, Use #1.05.100, is a permissible by right use in the WCD zone. However, when on-premises sales are permitted, Use #1.05.200

requires approval from the Board of Appeals at a public hearing, in accordance with the Standard for Review on page 3 of this report. Granting this Special Exception would allow Bona Terra, LLC, to make on-premises sales to customers, which would further benefit the community members and natural environment of Charles County by helping to fund Bona Terra's philanthropic Plant Grant initiative and Education and Community Outreach functions, which are discussed in detail within the Applicant's Justification Statement included within the Appendices of this report.

### **III. STANDARD OF REVIEW**

As established in the Zoning Ordinance, specifically § 297-415 H.1-9, the Board of Appeals shall grant a special exception when, from a preponderance of evidence of record, the proposed use: (1) Will not be detrimental to or endanger the public health, safety and general welfare; (2) Is a permissible special exception in the zone; (3) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood; (4) Complies with the standards and requirements set forth in Article XIII; (5) Will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors, dust or glare; (6) Will provide adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements. If a use requires an adequate public facilities review by the Planning Commission, such a review shall be made a condition of the granting of the special exception by the Board; (7) Will provide adequate ingress and egress and be so designed as to minimize traffic congestion in the public streets; (8) Is in accordance with the objectives of the Charles County Comprehensive Plan; and (9) Conforms to the applicable regulations of the zone in which it is located and to the special requirements established for the specific use.

In addition to the test outlined above, the Board of Appeals must also determine whether the application meets the criteria set forth in § 297-212, which are discussed in greater detail in the pages that follow. As established by § 297-415. Q., the burden of persuasion remains with the applicant, who must demonstrate that the criteria of both § 297-212 Use #1.05.200 and § 297-415.H. are met.

### **IV. ANALYSIS**

#### **I. Pertinent Text of Zoning Ordinance**

As stated above, the applicant requests approval for the following provisions of the Zoning Ordinance:

1. § 297-212, Use #1.05.200 of the Zoning Ordinance: Commercial greenhouse operation; on-premises sales permitted. The request for Special Exception was evaluated based upon the standards set forth in § 297-212 and Use #1.05.200 of the Zoning Ordinance. This is fact specific and is composed of six (6) elements listed with staff findings below.
2. § 297-415. H. The proposed use is subject to the nine (9) criteria outlined above in the

Standard of Review Section and listed with staff findings below.

## **II. § 297-212, Use #1.05.200 – Facts and Findings**

Staff has evaluated the criteria established in § 297-212 and the analysis is summarized below:

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

Per the Applicant's submittal materials and provided response, it is staff's position that the proposed use, as proffered, will not cause a negative impact because of traffic, noise or other factors. The inclusion of on-premises sales through a portable point-of-sale system (iPad and cashbox) is not foreseen to cause any objectionable nuisance. A Preliminary Adequate Public Facilities (PAPF) study was completed and concluded that Use #1.05.200 would not cause a negative impact from traffic. As discussed in detail within the Applicant's Justification Statement included within the Appendices of this report, the on-premises sales operation will produce a limited number of vehicle trips to the Subject Property which will be primarily sporadic and seasonal, with a peak from mid-March to October. Bona Terra's nursery does not have public open hours, nor do they intend to hold any nighttime events. Instead, visitors make appointments in advance or sign up for special events using a timed ticket system, enabling Bona Terra to stagger visitor arrivals. The noise impacts will be minimal, consistent with existing neighborhood sounds such as vehicles traveling down the gravel driveway, vehicle doors and trunks opening and closing and light conversation. No amplified sounds, music, or noisy equipment will be present.

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

The Applicant has confirmed their agreement to comply with this criterion within their Justification Statement.

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

The Subject Property encompasses approximately 13.22 acres of land, which is greater than two (2) acres.

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

Per the Applicant's submittal materials and provided response, the proposed greenhouses, hoophouses, and point of sale will be set back more than 50 feet from the nearest property line. The point-of-sale system – an iPad and cashbox –

are portable and may be set up in a few different locations based on circumstance but never will occur within 50 feet of the nearest property line. Furthermore, the Applicant commits to obtaining all required County permitting for verifiable agricultural structures interrelated with the operation of the Commercial greenhouse; on-premises sales.

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

The proposed commercial greenhouses and hoophouses range in height from 6' feet to 11' feet and should easily comply with this criterion. Compliance with these minimum setback requirements will be verified by County staff prior to approval of the subsequent Site Development Plan (SDP) application.

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

The Applicant has confirmed their agreement to comply with this criterion within their Justification Statement.

### **III. § 297-415.H. - Facts and Findings**

Staff has evaluated the criteria established in § 297-415.H. and the analysis is summarized below:

**(1) Will not be detrimental to or endanger the public health, safety and general welfare.**

Per the Applicant's submittal materials and provided response, it is staff's position that the proposed use, as proffered, would not inherently be detrimental to or endanger the public health, safety, and general welfare. The proposed Use is consistent with the surrounding area and the character of the neighborhood in which the Subject Property is located. The proposed operations are consistent with the rural nature of Charles County and is the type of use promoted to enhance and create value out of the rural areas of the County, like Agritourism. The Subject Property is surrounded by farmland, forest, and low-density development, substantially limiting any potential detrimental impacts on nearby properties.

**(2) Is a permissible special exception in the zone.**

Staff finds that the requested use of a Commercial greenhouse operation; on-premises sales permitted (Use # 1.05.300) is permitted by Special Exception in the Watershed Conservation District (WCD) zone where it is proposed.

**(3) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.**

Per the Applicant's submittal materials and provided response, it appears that the proposed greenhouse with on premise sales, as proffered, would not inherently be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood. Little to no impact is envisioned to be imposed by the portable point of sale (iPad and cashbox) or the commercial greenhouse operations. The use will produce a limited number of vehicle trips to the Subject Property which will be primarily sporadic and seasonal, with a peak from mid-March to October.

**(4) Complies with the standards and requirements set forth in Article XIII.**

It is staff's position that the proposed use, as proffered, appears to comply with the standards and requirements as set forth in Article XIII for Use #1.05.200, as analyzed in Section IV. Analysis (Facts and Findings) beginning on Page 3 of this report.

**(5) Will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors, dust or glare.**

Per the Applicant's submittal materials and provided response, it is staff's position that the proposed use, as proffered, will not cause an impact on traffic, nor cause objectionable noise, type of physical activity, fumes, odors, dust or glare. A Preliminary Adequate Public Facilities (PAPF) study was completed and concluded that Use #1.05.200 would cause no objectionable impact from traffic. The use will produce a limited number of vehicle trips to the Subject Property which will be primarily sporadic and seasonal, with a peak from mid-March to October. The type of physical activity, fumes, odors, dust or glare will not be factors. Any potential dust will be minimized by a well-maintained gravel and grass driveway and areas of the parking lot and turning area which will also be graveled. No glare will be produced as the use will require no exterior lights. Bona Terra will not be open to the public any hours that require lighting.

**(6) Will provide adequate utilities, water, sewer or septic system, access roads, storm drainage and /or other necessary public facilities and improvements. If a use requires an adequate public facilities review by the Planning Commission, such review shall be made a condition of the granting of the special exception by the Board.**

The Subject Property is serviced by two wells and a septic tank. The public road providing access is Bicknell Road. The adequacy of public facilities will be reviewed during the subsequent Site Development Plan (SDP) application review and shall be addressed prior to SDP approval consideration. A Preliminary

Adequate Public Facilities (PAPF) study was completed and concluded that the proposed Use #1.05.200 would cause no objectionable impact from traffic; therefore, review by the Planning Commission is not required.

**(7) Will provide adequate ingress and egress and be so designed as to minimize traffic congestion in the public streets.**

The point of public road access to the Subject Property, and the design of the site entrance, will be established in accordance with the access permit requirements reviewed by the County Engineer. The Applicant has expressed their commitment to working with the County to ensure the road, road entrance, driveway and parking lot are updated to the appropriate standards for this use, including but not limited to future gravel driveway width expansion to at least 18 feet. Compliance with applicable requirements will be verified by County staff prior to approval of the subsequent Site Development Plan (SDP) application.

**(8) Is in accordance with the objectives of the Charles County Comprehensive Plan.**

Long-Range/Preservation Planning staff has reviewed the subject application for consistency with the goals and objectives of the 2016 Charles County Comprehensive Plan, as required under § 297-415 (H) (8) of the County Zoning Ordinance. The subject Special Exception use is in an area designated as Watershed Conservation District on the County's Land Use Map.

Staff finds that the proposal is in accordance with the goals and objectives of the 2016 Comprehensive Plan as follows:

Chapter 3: Growth Management and Land Use - The intent of the Watershed Conservation District is to protect the Mattawoman Creek watershed's ecological, aesthetic, recreational, economic, and scenic resources. A commercial greenhouse in this location would be compatible with the low density residential and agricultural character of this district. The proposed use is also consistent with Goal 3.9: Protect the County's natural resources, as the proposed use consists of the growing of sustainable native plants, would utilize sustainable growing and business practices and would help promote the planting of native plants throughout the county.

Chapter 5: Natural Resources - The proposed use is consistent with Goal 5.7: Promote awareness of environmental issues through public outreach, public access and educational programs, to cultivate a basic understanding of the natural environment and its valuable resources. The proposed use seeks to promote sustainable practices to the community by such activities as the distribution of free native seedlings to the public.

**Chapter 6: Energy Conservation** - The proposed use is consistent with Goal 6.1: Reduce County-wide energy consumption and improve efficiency as a component of growth and reduce greenhouse gas (GHG) emissions in order to grow in a more sustainable manner in the future; as well as Goal 6.7: Reduce overall energy consumption and reduce fossil fuel combustion emissions in the County's transportation sector. The proposed use would use a minimal amount of energy as it does not propose a retail store, and further would make use of an electric vehicle.

**Chapter 7: Economic Development** - The proposed use is consistent with Goal 7.3: Diversify the County's economic base through the attraction of new businesses and encouraging the development of new start-up businesses; as well as Goal 7.6: Support tourism development in the County, particularly emphasizing opportunities associated with the County's natural resources.

**(9) Conforms to the applicable regulation of the zone in which it is located and to the special requirements established for the specific use.**

Conformance with the applicable zoning requirements is further discussed in previous sections of this report. However, with respect to the base zoning regulations for this use in the Watershed Conservation District (WCD) zone, (Figure VI-10 of the Zoning Ordinance), County staff can confirm that the proposed Use #1.05.200, and its proffered operations on the Subject Property, as illustrated on the Conceptual Site Plan, appear to conform with the established minimum lot criteria, minimum yard requirements, lot coverage and maximum impervious surface ratio (ISR). If the requested special exception use is approved, compliance with these requirements will be verified by County staff prior to approval of the subsequent Site Development Plan (SDP) application.

## **V. RECOMMENDATION**

It is staff's position that the Applicant has demonstrated adherence to and compliance with the special exception requirements established for a Commercial greenhouse operation; on-premises sales permitted (Use #1.05.200), and met all applicable use standards, set forth in § 297-212, and the applicable special exception standards set forth in § 297-415 H. of the Zoning Ordinance. County staff recommends approval of the requested special exception application, as presented herein, with the following conditions:

1. The Applicant must submit a subsequent Site Development Plan (SDP) application, in accordance with Appendix A of the Zoning Ordinance, for review and approval consideration by all appropriate County and State agencies.
2. During the subsequent Site Development Plan (SDP) application review, the

Applicant must address §298 Forest Conservation of the Zoning Ordinance by submitting a signed Declaration of Intent, Agricultural Activity Exemption.

3. During the subsequent Site Development Plan (SDP) application review, be aware that the Watershed Conservation District (WCD) zone has applicable impervious surface limitations per §297-98 C. of the Zoning Ordinance. The Applicant must demonstrate that Best Management Practices for stormwater management have been completed or provide impervious surface calculations indicating you are under the 8% threshold of impervious coverage for properties greater than 3 AC. [8% of 13.22 AC is 1.0576 AC].
4. Any planned “Open Nursery” special events proposed to be conducted on the Subject Property are required to apply for and obtain approval of all applicable permitting, in accordance with §297-30 of the Zoning Ordinance pertaining to Temporary Uses.
5. The approval and continued effect of this Special Exception is contingent upon compliance with all applicable County, State, and Federal regulations, including, but not limited to, the following local regulations: Charles County Zoning Ordinance, Grading and Sediment Control Ordinance, Road Ordinance, Storm Water Management Ordinance, Forest Conservation Ordinance, and Floodplain Ordinance.

## **VI. APPENDICES**

The following documents for the project have been provided to the Board of Appeals, and/or uploaded to Granicus:

1. Location Map
2. Aerial Map
3. Zoning Map
4. Adjacent Property Map
5. Adjacent Property Owner List
6. Justification Statement
7. Conceptual Site Plan
8. Appendix A. through F.
9. Owner’s Affidavit
10. Certificate of Good Standing from SDAT
11. Property Survey