

**Report to the Board of Appeals
Request for a Special Exception for a Slaughterhouse,
Request to the Board of Appeals for three (3) variances
Special Exception #1299**

SUMMARY OF REQUEST

Slaughterhouse Site Area: 10.14 acres

Location of Site: 13800 Petzold Dr, Waldorf, MD
To the west of Dr. Samuel Mudd Road, near the junction of Dr. Samuel Mudd Road and Bryantown Road.

Identified as Tax Map 16, Grid 23, Parcel 43, in the 8th Election District

Zoning: Agricultural Conservation (AC) Zone

Proposed Activity: (Use #1.01.460) Slaughterhouse

Property Owner: Richard and Carol Turner

Applicant: Richard and Carol Turner for “Rick’s Place”

SUMMARY:

The Applicants request the granting of Special Exception #1299 for a slaughterhouse. The following is a discussion of specific issues identified by the Planning Division for consideration by the Board of Appeals. The Applicants propose to continue operating a slaughterhouse/custom meat butchering operation. The affected property is zoned Agricultural Conservation (AC). The applicants request the Board to consider whether the proposed use is consistent with the current *Zoning Ordinance*, and whether the facility operates within the regulatory guidelines of the specific Special Exception, as established in the *Zoning Ordinance*. The Applicants also request the granting of three variances in conjunction with Special Exception #1299.

BACKGROUND:

The Applicants, Richard and Carol Turner, are requesting continued use of the shop located within a barn on their property as a custom meat butchering establishment/slaughterhouse. The Turners purchased the subject property in 1999. A custom meat cutting establishment has existed on the subject property since 2002. The barn existed prior to the Turners’ purchase of the property and it has been converted into a slaughterhouse.

On October 23, 2012, the Board of Appeals (BOA) heard BOA Docket #1294, Appeal to Zoning Officer Decision regarding the use designation of Rick’s Place, owned and operated by Richard and Carol Turner. Mr. Turner was sent a violation letter from a County Inspector in

October 2011 for operating a slaughterhouse facility, largely deer processing and occasionally livestock, in the Agricultural Zone without a permit or County authorization. The inspection and subsequent violation letter was in response to complaints by neighbors, largely due to the speed of customers in route to Rick's Place. Mr. Turner requested a meeting to discuss the issue in November 2011, which was attended by Mr. Turner, USDA inspector, and County staff, et al. A ninety (90) day stay on enforcement action was granted so the Department could research the issue. Mr. Turner was sent an updated Zoning Violation letter in February 2012 that named his use a Slaughterhouse (Use # 1.01.460), which requires a Special Exception to operate in the AC zone under the Charles County Zoning Ordinance.

The County's Inspections and Enforcement Manager, Reed Faasen and Assistant County Attorney, Matthew Clagett recommended that Mr. Turner apply for the special exception and variances for several criteria in order to come into compliance with the County Zoning Ordinance. The Slaughterhouse use designation was the closest permissible use in the Zoning Ordinance that describes Mr. Turner's facility and the service he provides. The BOA upheld the decision of County Staff and recommended the Turners apply for the Special Exception and variances. On Wednesday, October 24, 2012, E. Gregory Wells, visiting associate judge with the Calvert County District Court ruled that the Turners could operate the slaughterhouse with the following restrictions until February 1, 2013 pending the decision of the BOA regarding the Special Exception and variances:

1. The business shall consist of custom meat processing only. There shall be no slaughtering of live animals.
2. The delivery of carcasses shall be restricted to the following schedule between October 24, 2012 and February 1, 2013: Weekdays from 10am until 2pm and evenings from 6pm until 8pm; Saturdays from 10am until 2pm. There shall be no deliveries on Sundays or Holidays (Federal Holiday Schedule shall apply).
3. The speed limit on the road leading in and out of the Turners' business is restricted to 15 mph. A sign (or signs) shall be conspicuously posted stating the same.
4. The Turners shall apply for a variance within sixty (60) days of this order.
(DISTRICT COURT FOR CHARLES COUNTY - CIVIL SYSTEM, Case #040200014242012)

The Turners are requesting to operate from the second week of August each calendar year until the second week of June the following calendar year. They will close on Sundays and government holidays. Weekly hours are proposed from 9 a.m. until 2 p.m. and 5 p.m. until 8 p.m. on weekdays and from 10 a.m. until 7 p.m. on Saturdays.

SPECIAL EXCEPTION REQUIREMENT:

According to the current *Zoning Ordinance*, the proposed activity requires a Special Exception in the Agricultural Conservation (AC) zoning district (see Figure IV-1 Table of Permissible Uses, §297-63, Use #1.01.460).

VARIANCE REQUIREMENT:

The Applicants have applied for three variances for their slaughterhouse operation regarding the conditions for this permissible use outlined in the Zoning Ordinance under use #1.01.460.

1. A variance is needed for the minimum site area of 20 acres required for a slaughterhouse operation. The Turners' property is 10.14 acres.
2. A variance is needed for the requirement for the site to have direct access to a collector or arterial road. The Turners' property is located on Petzold Drive, a private right-of-way road.
3. A variance is needed for the requirement that stock pens or buildings associated with the slaughterhouse operation must be at least 300 feet from any public right-of-way and must be at least 500 feet from any other property line. The barn that has been converted to a slaughterhouse is located 100 feet from the property boundary to the east and right-of-way (Petzold Drive), 400 feet from the property boundary to the north, 460 feet from the property boundary to the west, and 260 feet from the property boundary to the south.

An analysis of the three variance requests can be found beginning on page 10 of this report.

DESCRIPTION OF PROPERTY:

The 10.14 acre property is located on Petzold Road, west of the intersection of Bryantown Road and Doctor Samuel Mudd Road. The Turners' single family dwelling is located on the property, along with several barns including the barn utilized for the slaughterhouse.

IMPACT ON SURROUNDING USES:

The slaughterhouse site is located within the AC Zone and all adjacent properties are zoned AC. The Planning Division performed a field inspection on December 21, 2012. The site visit confirmed the barn on the Turners' property is the sole building used for the business. The barn has been converted for use as a meat processing facility and was an existing structure when the Turners purchased the property. The barn is located 100 feet from the property boundary and right-of-way to the east, 400 feet from the property boundary to the north, 460 feet from the property boundary to the west, and 260 feet from the property boundary to the south.

The character of the surrounding parcels is low density residential and agricultural. The other parcels along Petzold Road are developed as single-family dwellings on 1-9 acre lots. The property bordering the subject property to the north, south, and west is a 97 acre parcel owned by the Commissioners of Charles County, MD which was purchased in August of 2000 for natural resource and agriculture conservation purposes (Parcel 241).

MINIMUM ZONING REQUIREMENTS

In order to conform with the current *Zoning Ordinance*, the proposed slaughterhouse must meet the minimum standards established in Article XIII, §297-212, Use 1.01.460 (Slaughterhouse), and must satisfy the minimum requirements as provided specific to the AC - Agricultural Conservation Zoning District (§297-87) or get variances. The slaughterhouse operation also must meet the standards set forth in Article XXV, §297-415 on Special Exceptions, the standards set forth in Article XIII §297-216(C) regarding variances being requested, and any performance guarantees and conditions imposed by the Board.

CRITERIA FOR APPROVAL AND FINDINGS:

The Board of Appeals shall grant a special exception when, from a preponderance of the evidence record, the proposed use:

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

Staff Analysis: Staff does not find any evidence that the use will endanger public health, safety and general welfare as this use is compelled to follow state and United States Department of Agriculture (USDA) regulations. The Applicants state they are aware they must follow USDA regulations. The Applicants submitted a copy of *USDA Food Safety and Inspection Service's Exempt Establishment Review Report* for a visit conducted on May 4, 2012 as evidence of compliance. This form applies to custom slaughter or processing when the animal is slaughtered or processed by someone other than the owner for personal use of the owner. All items on the form exhibited *Acceptable* review, including humane handling of livestock, recordkeeping and documentation, sanitation operations, pest control, inedible material, marking and labeling control, pathogen control, water supply, and sewage and waste disposal. No items were marked *Unacceptable*.

The Applicants also submitted a copy of a *Food Processing Plant Inspection Report* by the Maryland Department of Health and Mental Hygiene's Office of Food Protection and Consumer Health Services dated October 23, 2012. There were no violations described on the List of Violations and Observations on the report and the facility was noted as *Approved* to participate in the Farmers and Hunters Feeding the Hungry program for the 2012-2013 season.

Lastly, the Applicants submitted a letter from the Charles County Department of Health's Division of Environmental Health Services from November 28, 2011. The letter stated the sample of water for bacterial examination taken from the Turners' premises was considered satisfactory for human consumption.

- (2) *Is a permissible use in the zone.*

Staff Analysis: The subject property is zoned Agricultural Conservation (AC) and the use is permitted by Special Exception in the AC zone.

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

Staff Analysis: The Applicants stated they have been operating their business since 2002 and that the business' location is in a peaceful, rural area. They stated properties within their neighborhood have been bought and sold at competitive prices comparable to similar homes in their district.

During the Planning staff's site visit on December 21, 2012, the business appeared to be clean and confined to a single barn structure. Staff did not observe evidence that the use would 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.

The following are the minimum standards outlined in Article XIII, §297-212, use 1.01.460 (Slaughterhouse):

A. Site plan requirements.

(1) Waste or any decomposable residue from the slaughterhouse operation may not be disposed of by spreading on and/or plowing under on a farm unless the farm contains at least 100 acres and a County Health Department approval is obtained.

Staff Analysis: The Applicants stated the waste materials from deer processing/slaughterhouse operations are stored in a refrigerated area before being picked up and hauled away.

During Planning Staff's December 21, 2012 site visit, the refrigerated area was observed and appeared to be an adequate storage area for waste prior to disposal off site.

(2) Adequate measures must be developed, as per Article II, for the abatement of offensive and obnoxious odors, dust, smoke or similar nuisances, to the degree that such odors, dust, smoke or similar nuisances will be confined within the boundaries of the slaughterhouse site.

Staff Analysis: The Applicants stated their slaughterhouse operation is confined to indoor uses, which eliminates noise or odors.

Planning Staff's site visit confirmed the business operates within an enclosed barn structure.

(3) Adequate measures meeting the Building Code standards must be installed for the abatement of animal noises.

Staff Analysis: The Applicants stated all holding pens are built inside and enclosed to control animal noises.

Planning Staff's site visit confirmed the holding pens are attached to the barn structure, enclosed, and appeared to be stable and adequate to abate animal noises.

(4) Design, construction and operation of the facility must meet or exceed the requirements of all relevant state and federal regulations, and the operation must conform to the requirements of Agricultural Handbook 570, United States Inspected Meat and Poultry Packing Plants, a Guide to Construction and Layout, published by the United States Department of Agriculture in February 1981, as

amended.

Staff Analysis: The Applicant stated the construction and operation of their business has abided by the USDA-FSIS (Food Safety and Inspection Service) Regulations and that yearly inspections are conducted to ensure they abide by the guidelines.

As aforementioned, the applicants submitted a *Review Report* from the FSIS for a visit conducted on May 4, 2012 as evidence of compliance. They also submitted a copy of a *Food Processing Plant Inspection Report* by the Maryland Department of Health and Mental Hygiene's Office of Food Protection and Consumer Health Services dated October 23, 2012 with no noted violations.

(5) Waste, by-products or any decomposable residue which results from the slaughtering of animals must be refrigerated while on the premises.

Staff Analysis: The Applicant stated all waste derived from their slaughterhouse business is refrigerated while on premises until picked up for disposal.

The Planning Staff observed the refrigerated areas during their December 21, 2012 visit. There was no evidence of waste being stored outside of this area.

(6) There must be provided adequate off-street parking and loading and unloading facilities for customers and employees.

Staff Analysis: The Applicant stated adequate entrance and exit areas are available to customers, as well as a loading and unloading area for livestock.

Planning Staff observed the entrance, exit, and unloading areas during their December 21st site visit and found the property offered adequate parking, loading, and unloading areas.

(7) The site must have direct access to a collector or arterial road.

Staff Analysis: The Applicant stated they are not on an arterial or collector road, and have a deeded 50 foot private right-of-way. They have applied for a variance to this requirement.

(8) There will be no construction in a floodplain, even with floodproofing.

Staff Analysis: There is no floodplain located on the property per a review of Maryland Department of Natural Resources and FEMA maps.

(9) Construction and earthmoving will not be done within 25 feet of tidal or non-tidal wetlands which cover at least one-fourth (1/4) acre.

Staff Analysis: There are no wetlands on the property per review of Maryland Department of Natural Resources maps.

(10) Construction and earthmoving will not be done within 25 feet of slopes over 20%.

Staff Analysis: No construction or earthmoving is being proposed with this application. The property does not contain slopes over 20% per review of Maryland Department of Natural Resources maps.

B. Minimum site area. A minimum of 20 acres is required for a slaughterhouse operation. If the slaughterhouse includes a feedlot, a minimum of 100 acres is required.

Staff Analysis: The subject property is 10.14 acres. However, the property is contiguous with 582 acres of land protected by perpetual conservation easements. These conservation properties surround the subject property to the north, south and west and are predominantly forested. These properties provide expansive wooded buffers to the subject property. The operation does not include a feedlot. The Applicants have applied for a variance to the lot size requirement.

C. No slaughterhouses shall be constructed or established within one mile of any neighborhood of 20 lots or more in which the average density is one dwelling unit per five acres or more.

Staff Analysis: The subdivision known as Wetherburn is approximately .5 linear miles away from the Turners' property and approximately 1.2 miles by road. There are a total of 37 lots within this subdivision plus significant open space and forest conservation associated with and surrounding the subdivision which yields an average density less than one dwelling unit per five acres (237 acres / 37 units = 6.4 acres). Therefore, this requirement does not apply.

D. Stock pens or buildings associated with the slaughterhouse operation must be at least 300 feet from any public right-of-way and must be at least 500 feet from any other property line.

Staff Analysis: The Applicants have applied for a variance for this requirement. The Applicants state the slaughterhouse building and attached stock pen have been on the property for over 50 years and have remained the same size and in the same location.

The barn used for the slaughterhouse operation is located 100 feet from the property boundary to the east and right-of-way, 400 feet from the property boundary to the north, 460 feet from the property boundary to the west, and 260 feet from the property boundary to the south. The stock pens are small in size allowing only a few animals to be held at any one time.

Special exception findings continued...

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

Staff Analysis:

The Applicants' desired hours of operation are Monday-Friday from 9am -2pm and 5pm-8pm and on Saturdays from 10am-7pm, closed on Sundays and government holidays.

The Applicants state the posted hours of operation are to accommodate the bus schedule of school children and for safety reasons. The Applicants state during the busiest season from September 15th through January 15th, they average five customers per day. During other times they average three customers per day.

The initial zoning violation issued by the Zoning Inspector was issued to the Applicants due to a complaint from a neighbor regarding the speed of vehicles visiting Rick's Place. In compliance with a court order by E. Gregory Wells on Wednesday, October 24, 2012, the reduced hours of operation currently posted are Monday – Friday from 10am-2pm and 6pm-8pm and on Saturdays from 10am-2pm. Sundays and government holidays the operation is closed. Under the court order, Rick's Place is permitted to operate under these hours of operation until February 1, 2013 pending the Board of Appeals decision regarding their Special Exception/variances. The speed limit sign, "Children at Play" sign, and reduced hours of operation have been put in place per the court ruling. Planning staff observed the 15 mph speed limit signs and a "Children at Play" sign cautioning drivers to watch for children, both of which were prominently displayed on Petzold Road.

There is some dust on the road because it is a packed gravel road. The road appeared to be in good condition when observed by Planning staff during the site visit.

The Applicant states there are no fumes or odors derived from the business that affect others in the neighborhood. Planning staff did not observe any fumes or odors that would pose a nuisance during their site visit. There was no mention of odors or fumes creating a nuisance in the reports the Applicants submitted from the DHMH or USDA-FSIS.

- (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.*

Staff Analysis: All lots on Petzold Drive are served by private wells and septic systems, including the Turner's home and business. An adequate public facilities review by the Planning Commission is not required because neither a preliminary plan of subdivision or major site plan applies to the use.

The Applicants state they will continue to have inspections and water samplings conducted by the Charles County Health Department, as well as have waste water stored

and pumped.

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

Staff Analysis: The Applicants state they have adjusted their business hours to adequately decrease the ingress and egress of traffic to a minimum, especially during school bus schedules and Sundays. The Applicants emphasize that safety is a top priority because they are operating their business and also have their home on Petzold Drive. The Applicants state their busiest times are from September 15 – January 15, when they average five customers per day. They state that the food banks usually pick up between 15 and 20 deer at a time. The Applicants state during other times of the year they average three customers per day.

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

Staff Analysis: Chapter 9 of the 2006 Charles County Comprehensive Plan states that agriculture is an important and significant part of the Charles County economy. The Chapter outlines several goals and objectives related to agriculture that support the applicants proposed use which include (1) support the farmer's right to farm; and (2) diversify the agricultural economy and product offerings, enhance farm product marketing, or in other ways, assist farmers to maintain an economically viable industry. As part of Maryland's tobacco buy-out program in 2000, the Tri-County Council for Southern Maryland, a non-profit, quasi-governmental body, convened the Southern Maryland Agricultural Development Commission to develop a program to stabilize the region's agricultural economy as farmers convert from tobacco to alternative crops and other agricultural enterprises. Many southern Maryland farmers began raising additional livestock in the wake of the tobacco buy-out. In several reports, the Commission has identified a need for local livestock processing facilities to accommodate the increase in livestock production. The establishment of a regional livestock processing facility remains a top priority for the Commission.

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

Staff Analysis: According to the Charles County Zoning Ordinance, slaughterhouses are permitted in the Agricultural Conservation (AC) zone with a Special Exception.

The Applicants state they are asking for three variances to the special requirements for a slaughterhouse.

Board Authorization – Variances

The Board is authorized to grant variances under Article XIII, §297-416 of the Zoning Ordinance. The following is an excerpt from §297-416 which outlines the findings and criteria to be used by the Board, which has been annotated with the staff findings.

The Board is authorized to grant variances from the strict application of these regulations when, by reason of exceptional narrowness, shallowness or shape of specific parcels of property or by reason of exceptional topographical conditions or other extraordinary situations or conditions of specific parcels of property, the strict application of the regulations of this chapter would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of said property. However, the Board of Appeals shall not grant variances that will substantially impair the intent, purpose and integrity of this chapter. This provision shall not be construed to permit the Board, under the guise of a variance, to change the permitted use of land.

The applicant is requesting three variances in this application which are analyzed separately below.

1. **Variance 1** - A variance is needed for the minimum site area of 20 acres required for a slaughterhouse operation. The Turner's property is 10.14 acres.
2. **Variance 2** – A variance is needed for the requirement that stock pens or buildings associated with the slaughterhouse operation must be at least 300 feet from any public right-of-way and must be at least 500 feet from any other property line. The barn that has been converted to a slaughterhouse is located 100 feet from the property boundary to the east and right-of-way (Petzold Drive), 400 feet from the property boundary to the north, 460 feet from the property boundary to the west, and 260 feet from the property boundary to the south.
3. **Variance 3** - A variance is needed for the requirement for the site to have direct access to a collector or arterial road. The Turner's property is located on Petzold Drive, a private right-of-way road.

Variance 1 – Minimum Lot Size of 20 acres

In addition to those general findings required above, variance requests shall not be granted unless the following criteria are met:

(1) That special conditions or circumstances exist that are unique to the subject property or structure and that a strict enforcement of the provisions of this chapter would result in unwarranted hardship which is not generally shared by owners of property in the same land use classification.

Staff Analysis: Although the Turners' property is 10.14 acres and the requirement for a slaughterhouse in the AC zone requires 20 acres, their property is unique in that it is contiguous with 582 acres of land protected by perpetual conservation easements. These conservation properties surround the subject property to the north, south and west and are predominantly forested. These properties provide expansive wooded buffers to the subject

property.

(2) That strict enforcement of the provisions of this chapter would deprive the property owner of rights commonly shared by other owners of property in the area.

Staff Analysis: The Applicants state if variances are not granted, they would be deprived of their property rights as slaughterhouses are permissible in their land use zone, Agricultural Conservation.

Denial of the lot size variance may deprive rights to the applicant that are commonly shared by owners of like property or businesses, if other property owners who do not have 20 acres for a slaughterhouse are granted variances for similar requests.

(3) That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the same zone/land use classification.

Staff Analysis: There are few slaughterhouse facilities located in Southern Maryland. The lot size variance being requested may confer rights to the applicant that are denied to owners of like property or businesses, if other property owners who cannot meet conditions of the lot size for a slaughterhouse are denied variances for similar requests.

(4) That the variance request is not based upon conditions or circumstances which are self-created or self-imposed.

Staff Analysis: Slaughterhouse became an allowed permissible use under conditions with a Special Exception in 1992 as a result of the major zoning ordinance amendment associated with the onset of the Charles County Comprehensive Plan. Prior to 1992, slaughterhouses were excluded as a permissible use in the R-3 (Rural-Agricultural) zone. The conditions for slaughterhouses are the same today as outlined in 1992, including the requirement for a minimum of a 20 acre parcel. The subject property has been 10.14 acres since May 1975 as found in a plat of subdivision as recorded in the Land Records of Charles County at Plat Book 22, page 114. However, the need for the lot size variance may be based on self-created or self-imposed conditions or circumstances in light of both its necessity to legitimize the ongoing property use and the Applicants' decision to run a slaughterhouse business operation after their purchase of the property.

(5) That greater profitability ability or lack of knowledge of the restrictions shall not be considered as sufficient justification for a variance.

Staff Analysis: The Applicants state they are not claiming greater profitability or lack of knowledge as reasons for their variance requests. The Applicants acknowledge they understand the nature of the variances they are requesting, and state that applying for these variances will allow them to continue operating their business, as well as help local livestock farmers along with supplying food to needy families in the tri-county area.

(6) *That the proposed variance is consistent with the Charles County Comprehensive Plan.*

Staff Analysis: The proposed use is a permitted use and within the AC zone. Staff did not find any evidence to suggest the proposed variance for lot size is inconsistent with the Charles County Comprehensive Plan. Further elaboration regarding the Comprehensive Plan can be found on page 9 of this report.

Variance 2 – Building setbacks

In addition to those general findings required above, variance requests shall not be granted unless the following criteria are met:

(1) That special conditions or circumstances exist that are unique to the subject property or structure and that a strict enforcement of the provisions of this chapter would result in unwarranted hardship which is not generally shared by owners of property in the same land use classification.

Staff Analysis: The barn that has been converted to a slaughterhouse is believed to have been built in the 1960s, likely a former tobacco barn, which met building setback regulations when constructed. The barn existed prior to the Turners' ownership of the property and prior to slaughterhouses being a permissible use, which was not permitted until 1992 in the Charles County Zoning Ordinance.

(2) That strict enforcement of the provisions of this chapter would deprive the property owner of rights commonly shared by other owners of property in the area.

Staff Analysis: The Applicants state if variances are not granted, they would be deprived of their property rights as slaughterhouses are permissible in their land use zone, Agricultural Conservation.

Denial of the building setback variance may deprive rights to the applicant that are commonly shared by owners of like property or businesses, if other property owners with slaughterhouses cannot meet the building setback conditions of a slaughterhouse and are granted variances for similar requests.

(3) That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the same zone/land use classification.

Staff Analysis: There are few slaughterhouse facilities located in Southern Maryland. Since this use is rare, it is difficult to determine if granting a building setback variance would confer special privileges.

(4) That the variance request is not based upon conditions or circumstances which are self-created or self-imposed.

Staff Analysis: Building setbacks for accessory structures, such as barns, were established for the R-3 (Rural-Agriculture) in the 1989 Charles County Zoning Ordinance. These setbacks were 60 feet from the front and 6 feet for the rear or side of the property line. The barn being utilized as the slaughterhouse facility is believed to be built in the 1960s. The Turner's purchased the subject property in 1999 and converted the existing barn into the slaughterhouse. The structure being utilized as the slaughterhouse predates the publishing of conditions for its use; however, the need for the building setback variance may be based on self-created or self-imposed conditions or circumstances in light of its necessity to legitimize the ongoing property use and the Applicants' decision to run a slaughterhouse business operation after their purchase of the property.

(5) That greater profitability ability or lack of knowledge of the restrictions shall not be considered as sufficient justification for a variance.

Staff Analysis: The Applicants state they are not claiming greater profitability or lack of knowledge as reasons for their variance requests. The Applicants acknowledge they understand the nature of the variances they are requesting, and state that applying for these variances will allow them to continue operating their business, as well as help local livestock farmers along with supplying food to needy families in the tri-county area.

(6) That the proposed variance is consistent with the Charles County Comprehensive Plan.

Staff Analysis: The proposed use is a permitted use and within the AC zone. The Applicants state that one of the goals of the Charles County Comprehensive Plan is to encourage agricultural and rural preservation and that their business provides a service to people in those communities.

Further elaboration regarding the Comprehensive Plan consistency can be found on page 9 of this report. Staff did not find any evidence to suggest the proposed variances are inconsistent with the Charles County Comprehensive Plan.

Variance 3 – Arterial or collector road

In addition to those general findings required above, variance requests shall not be granted unless the following criteria are met:

(1) That special conditions or circumstances exist that are unique to the subject property or structure and that a strict enforcement of the provisions of this chapter would result in unwarranted hardship which is not generally shared by owners of property in the same land use classification.

Staff Analysis: Petzold Drive, where the subject property is located, is a unique Private Drive which existed before the establishment of the subject lot and is unusually lengthy compared to other private rights-of-way. The current Zoning Ordinance allows five single family dwelling lots on private drives. However, Petzold Drive currently has 16 lots, some of which were subdivided before the five lot limit was established, and some as a result of interfamily transfers and/or variances issued for additional lots added to the private drive.

(2) That strict enforcement of the provisions of this chapter would deprive the property owner of rights commonly shared by other owners of property in the area.

Staff Analysis: The Applicants state if variances are not granted, they would be deprived of their property rights as slaughterhouses are permissible in their land use zone, Agricultural Conservation.

Denial of the variance for direct access to a collector or arterial road may deprive rights to the applicant that are commonly shared by owners of like property or businesses, if other property owners who cannot meet the requirement of direct access to a collector or arterial road for a slaughterhouse are granted variances for similar requests.

(3) That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the same zone/land use classification.

Staff Analysis: There are few slaughterhouse facilities located in Southern Maryland. Since this use is rare, it is difficult to determine if granting a variance for having direct access to an arterial or collector would confer special privileges.

(4) That the variance request is not based upon conditions or circumstances which are self-created or self-imposed.

Staff Analysis: The Applicants were aware that the location of their property required access via a Private Drive when their business was established; however, the length of the road and extent to which the number of lots exceeds the allowable amount under the Zoning Ordinance, currently five lots, is not self-imposed. The variance request may be based on conditions or circumstances that are self-created or self-imposed in light of its necessity to legitimize the ongoing property use.

(5) That greater profitability ability or lack of knowledge of the restrictions shall not be considered as sufficient justification for a variance.

Staff Analysis: The Applicants state they are not claiming greater profitability or lack of knowledge as reasons for their variance requests. The Applicants acknowledge they understand the nature of the variances they are requesting, and state that applying for these variances will allow them to continue operating their business, as well as help local livestock farmers along with supplying food to needy families in the tri-county area.

(6) That the proposed variance is consistent with the Charles County Comprehensive Plan.

Staff Analysis: The proposed use is a permitted use and within the AC zone. The Applicants state that one of the goals of the Charles County Comprehensive Plan is to encourage agricultural and rural preservation and that their business provides a service to people in those communities.

Staff did not find any evidence to suggest the proposed variances are inconsistent with the Charles County Comprehensive Plan. Further elaboration regarding Comprehensive Plan consistency can be found on page 9 of this report.

PLANNING DIVISION RECOMMENDATIONS

The Planning division staff finds that the applicant has met or justified compliance with most of the criteria for approval, and therefore recommends the following Conditions of Approval, for the purposes of adequately and completely addressing the requirements of the *Zoning Ordinance*:

1. The approval of Special Exception Docket #1299 for a Slaughterhouse is granted from the date of this Order and shall be effective for a period of five (5) years. After five (5) years, the Applicant may request an extension/modification to the Special Exception from the Board of Appeals.
2. The Applicants shall continue to operate only during posted hours: Monday – Friday from 9am–2pm and 5pm–8pm, Saturday from 10am-7pm, closed on Sundays and government holidays.
3. The Applicants shall ensure the 15mph speed limit sign and the “Children at Play” sign remain posted at all times.
4. As stated in their application, the Applicants shall operate from the second week of August each calendar year until the second week of June the following calendar year.
5. The applicants shall operate the business on their property utilizing only the structure that has been converted to a slaughterhouse currently and shall not expand to other structures.
6. The applicant should strive to keep Petzold Drive in a good state of maintenance and repair by having performed, from time to time, grading of the gravel surface and pothole filling.

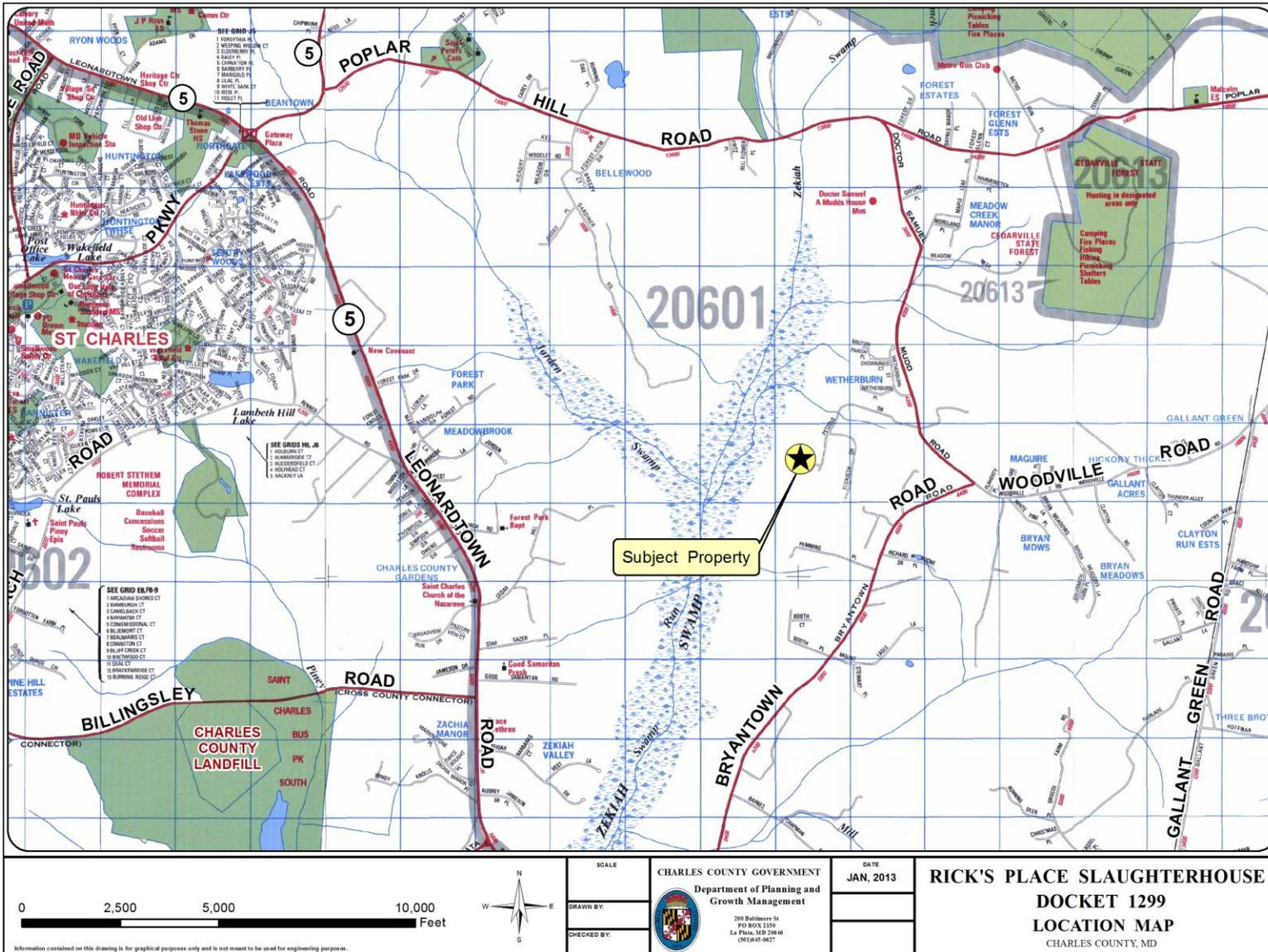
Prepared by the Planning Division, Department of Planning and Growth Management.

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Date _____

Location Map



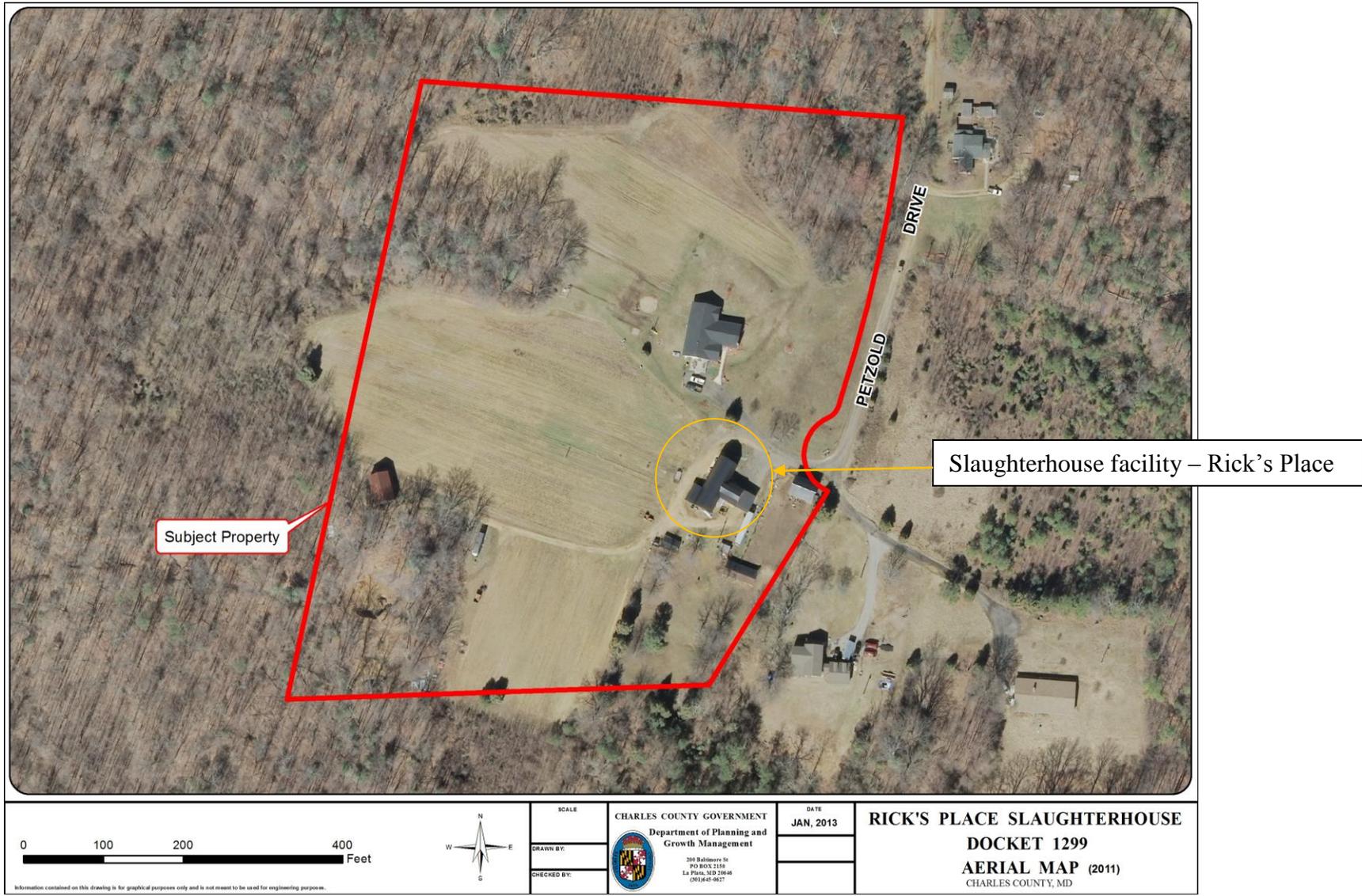
Zoning Map with Aerial View



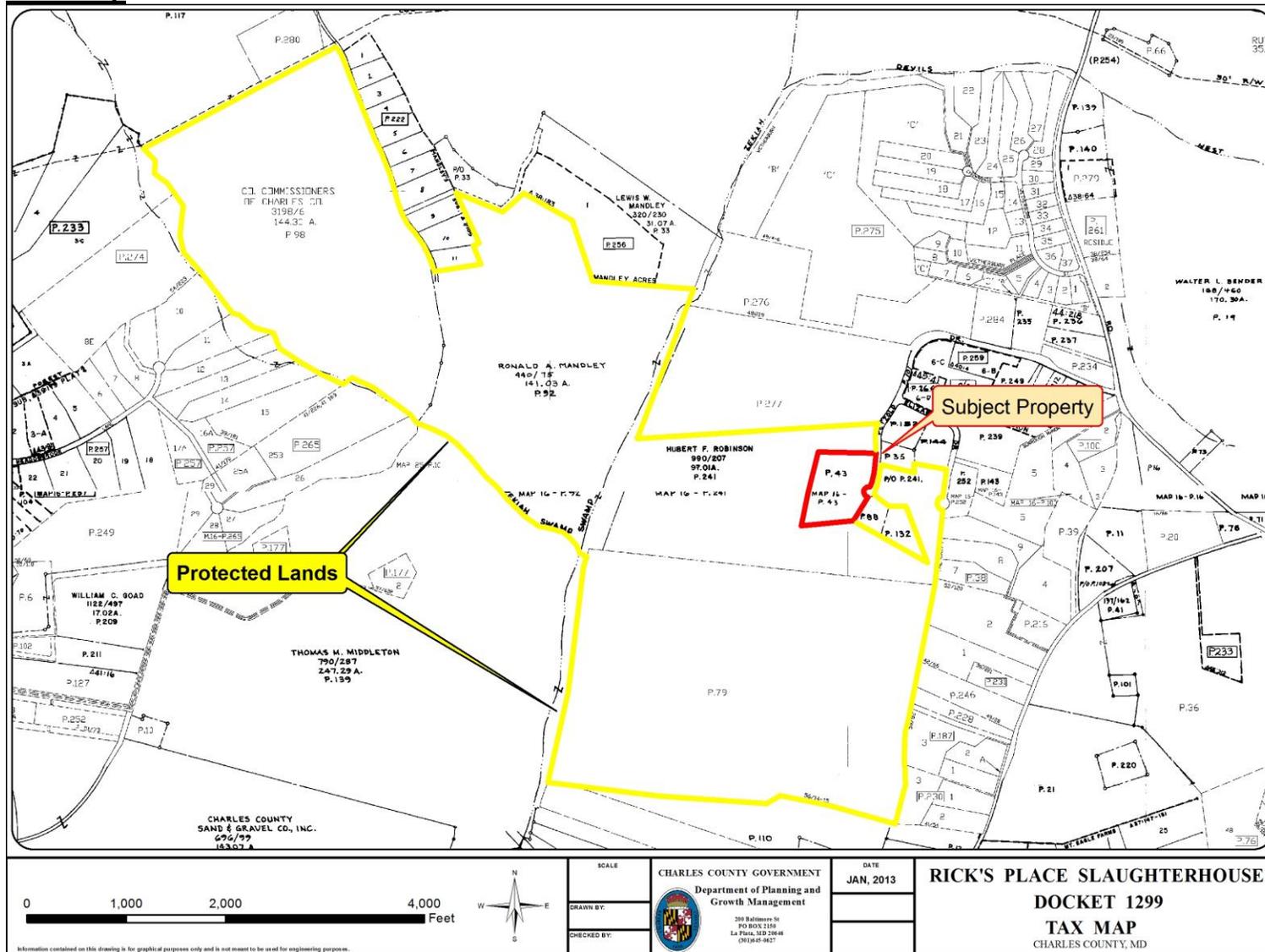
Subject Property

<p>0 1,000 2,000 4,000 Feet</p> <p>Information contained on this drawing is for graphical purposes only and is not meant to be used for engineering purposes.</p>	<p>SCALE</p> <p>DRAWN BY:</p> <p>CHECKED BY:</p>	<p>CHARLES COUNTY GOVERNMENT Department of Planning and Growth Management 209 Baltimore St Le Plais, MD 21084 (301)445-8027</p>	<p>DATE</p> <p>JAN, 2013</p>	<p>RICK'S PLACE SLAUGHTERHOUSE DOCKET 1299 AERIAL MAP (2011) CHARLES COUNTY, MD</p>
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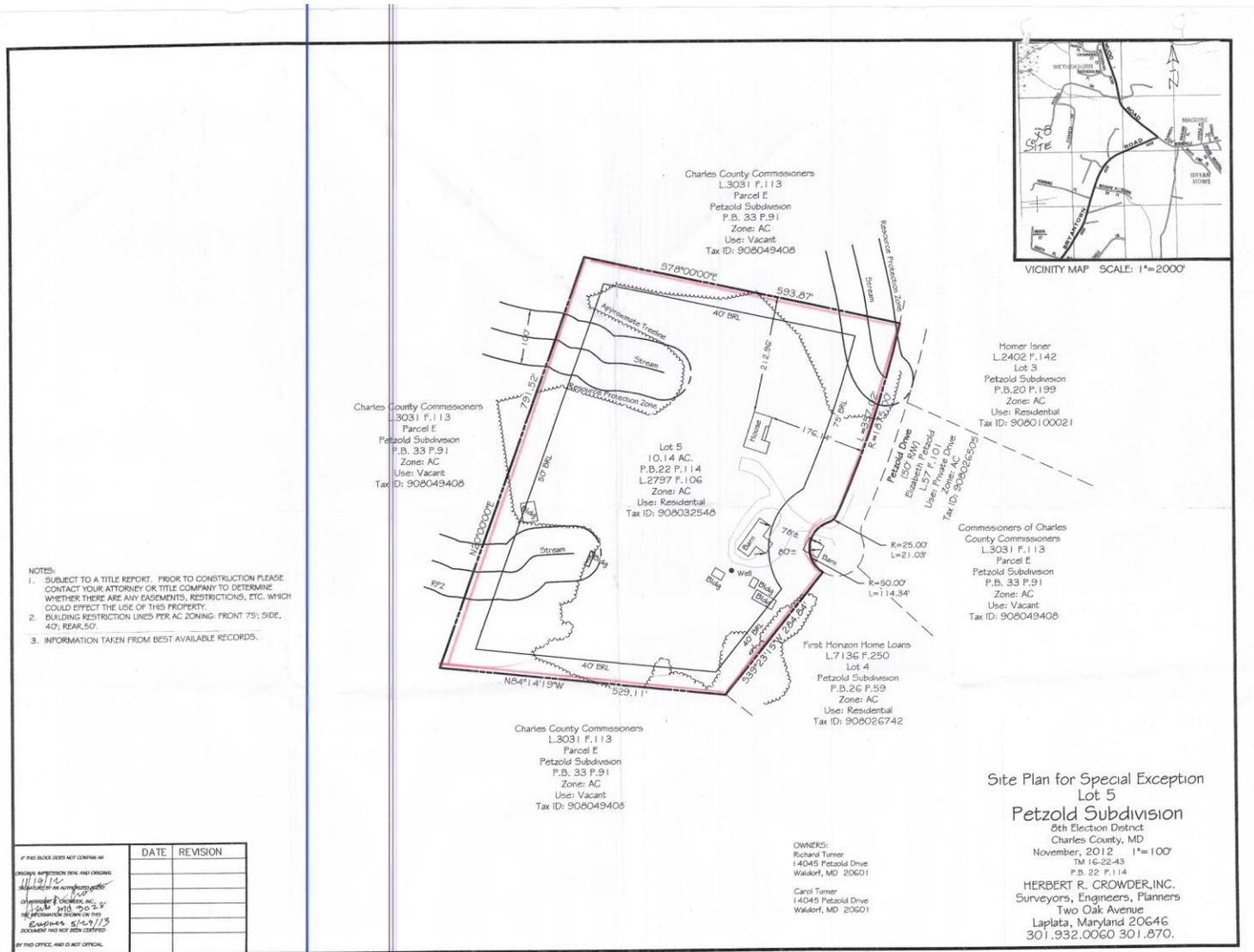
Aerial Map



Zoning Map –Protected lands through Agricultural Preservation owned by Charles County Government and private ownership



Site Plan



Photos Taken On-Site On December 21, 2012



Photo #1: Posted speed limit sign and “Caution – Children at Play” sign on Petzold Drive adjacent to Dr. Samuel Mudd Road.

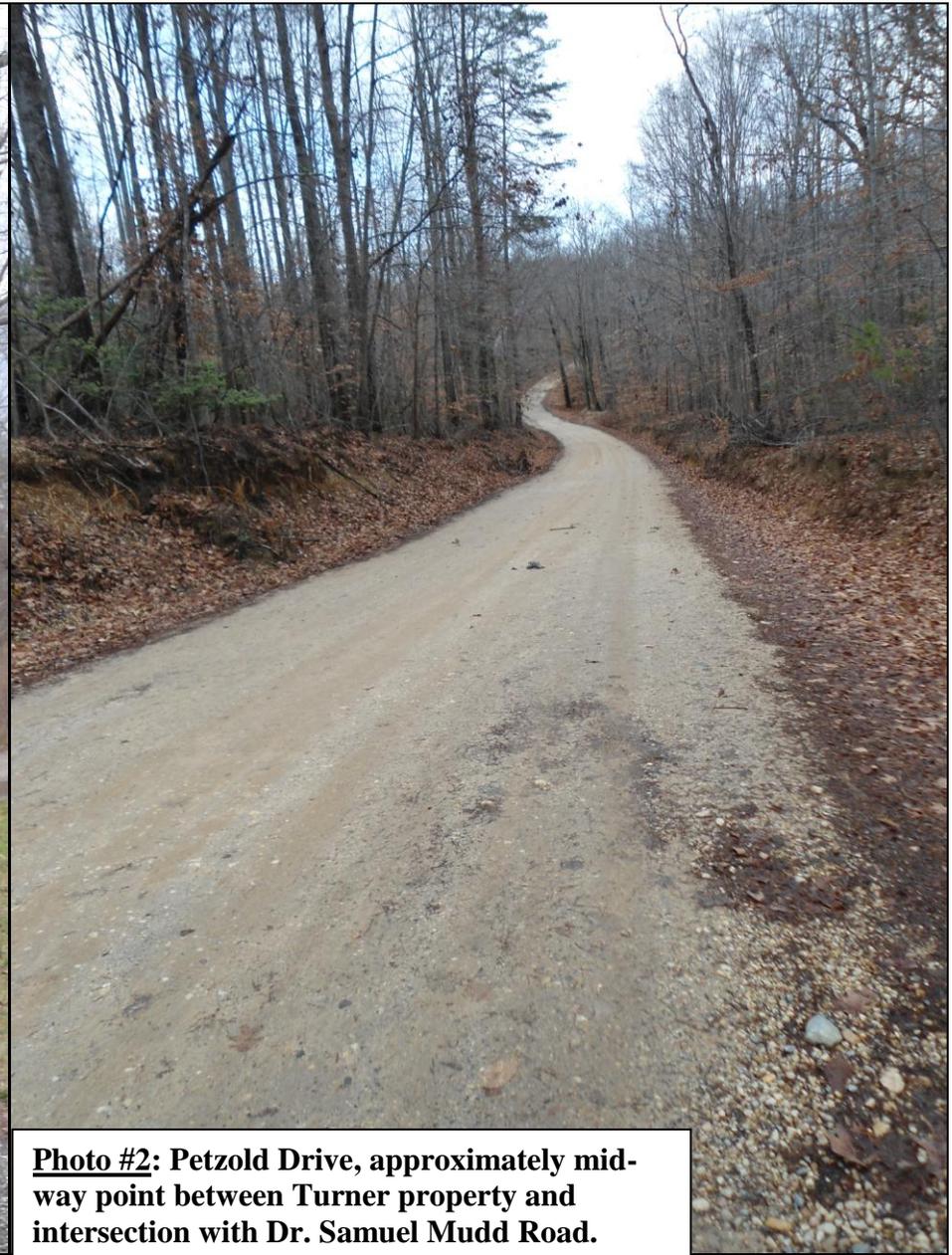


Photo #2: Petzold Drive, approximately mid-way point between Turner property and intersection with Dr. Samuel Mudd Road.



Photo #3: Signs posted on Rick's Place (slaughterhouse) building facility



Photo #4: Enclosed pen area for temporary holding of livestock.



Photo #5: View of landscape of Turner property.



Photo #6: Rick's Place (slaughterhouse) building facility.

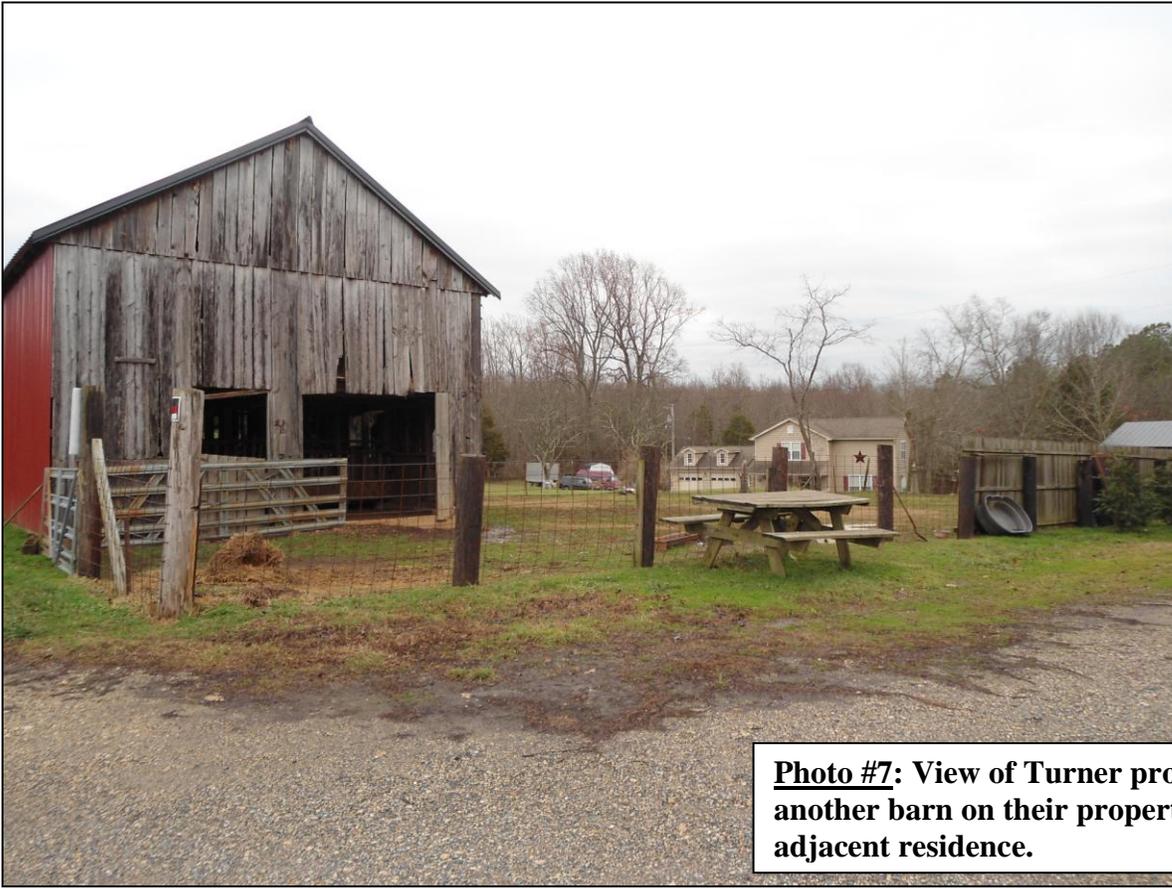


Photo #7: View of Turner property including another barn on their property, and closest adjacent residence.



Photo #8: View of Turner property/Rick's Place (slaughterhouse) driveway facing Petzold Drive (right-of-way).



Photo #9: View of Petzold Drive from end of Rick's Place's driveway.



Photo #10: Hours of operation posted at end of Rick's Place driveway.



Photo #11: Inside of Rick's Place (slaughterhouse) building, countertops and meat processing area.



Photo #12: Entrance to Rick's Place refrigeration area.



Photo #13: Entrance to refrigeration area.



Photo #14: Door to meat processing area (right), door to refrigeration area (left).

