

CASE NUMBER: 20SN0530

APPLICANT: Susan L. Frise



**CHESTERFIELD COUNTY, VIRGINIA
BERMUDA DISTRICT**

**STAFF'S ANALYSIS
AND RECOMMENDATION**

Planning Commission (CPC) Public Hearing:

MAY 19, 2020

CPC Time Remaining:

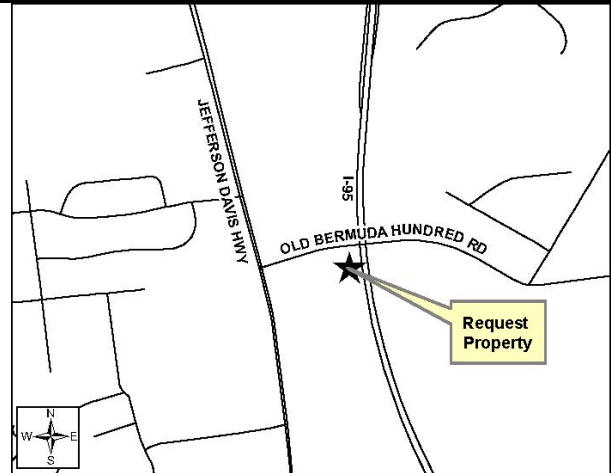
100 DAYS

Applicant's Contact:

SUSAN L. FRISE (804-651-9816)

Planning Department Case Manager:

TYLER WALTER (804-318-8893)



Virginia Flaggers

0.8 Acre – 2501 Old Bermuda Hundred Road

REQUESTS

REQUEST I – (Height Exception). Conditional Use Planned Development to permit a height exception to erect a flagpole. Specifically, the applicant is requesting a 62-foot exception to the 50-foot height limitation in order to erect a 112-foot tall flagpole.

REQUEST II – (Principal Use). Conditional Use Planned Development to allow the same flagpole to be the principal use on the subject property.

REQUEST III – (Flag Size Exception). Conditional Use Planned Development to permit a size exception for one (1) non-commercial flag. Specifically, the applicant is requesting a 600 square foot (20x30 foot) non-commercial flag to be flown from the flagpole.

Notes:

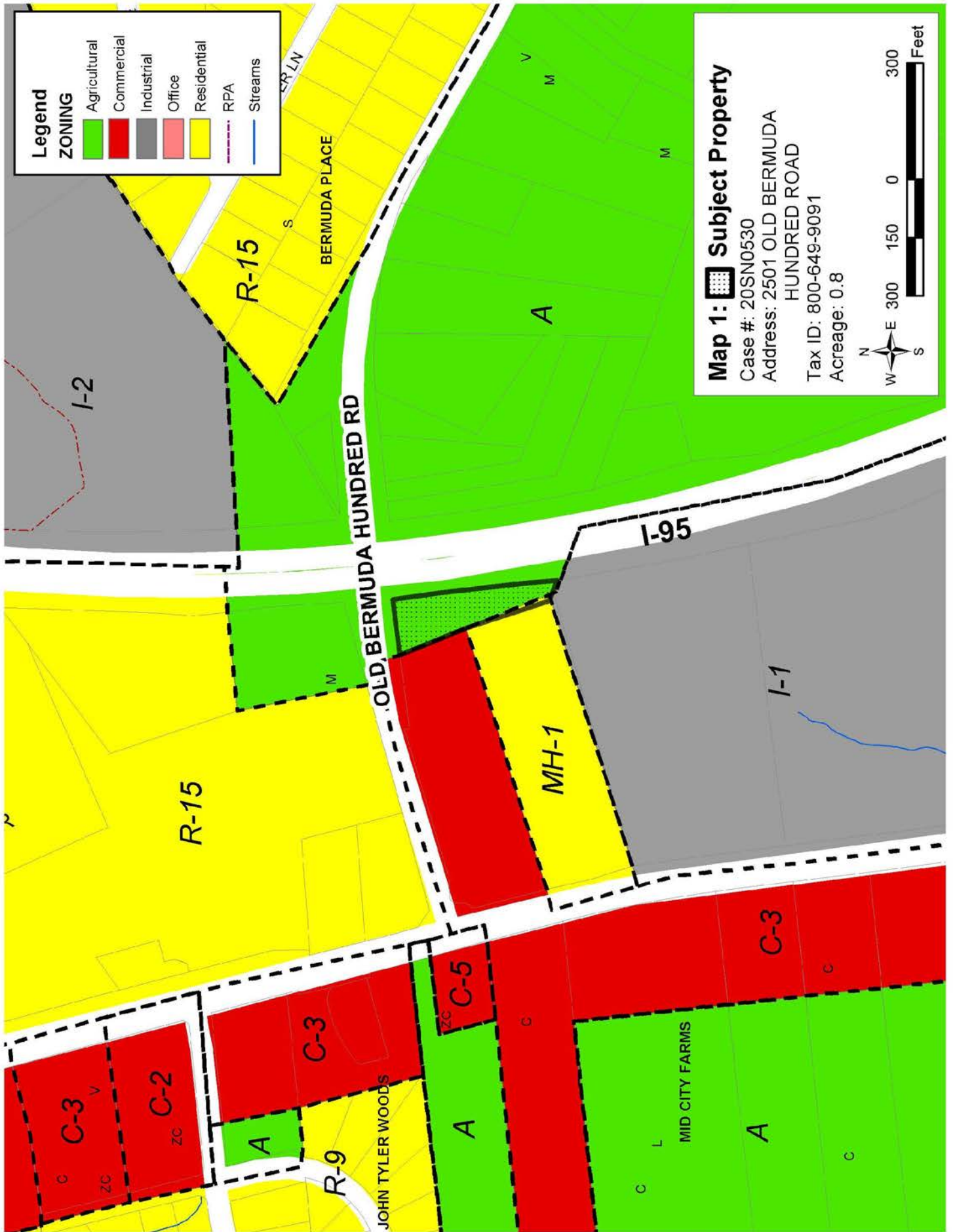
- A. Conditions may be imposed or the property owner may proffer conditions.
- B. Conditions and conceptual site layout are located in Attachments 1 - 3.

SUMMARY

A flagpole for with non-commercial flag is proposed to be installed on a vacant parcel in an Agriculture (A) zoned district. The Zoning Ordinance considers a flagpole an accessory use on property. The Agricultural Zoning District permits accessory structures to be a maximum of 50 feet. The applicant requests a sixty-two (62) foot height exception for the proposed 112 foot flagpole. The applicant also requests that the flagpole be permitted as a principal use. The applicant has indicated due to the setbacks required and the topography on the property, that the height exception is needed to permit the flagpole to be visible within the surrounding area. The applicant is also seeking exception to the maximum size for the non-commercial flag they intend to mount on the flagpole. Specifically, the applicant is requesting a 550 square foot exception to the permitted 50 square feet permitted to mount a 600 square foot (20 x 30 feet) non-commercial flag to the flagpole.

RECOMMENDATIONS	
STAFF	<p><u>REQUEST I – (Height Exception) – DENIAL</u></p> <ul style="list-style-type: none"> • A 62-foot height exception is excessive • Approval of this request would encourage similar requests for exceptions • Could have adverse impacts on adjacent parcels and Interstate 95 should flagpole fall <p><u>REQUEST II – (Principal Use) – DENIAL</u></p> <ul style="list-style-type: none"> • Having an accessory use (flagpole) serve as a primary use is not an appropriate use of the subject property • Approval of this request would encourage similar requests for exceptions <p><u>REQUEST III – (Flag Size Exception) – DENIAL</u></p> <ul style="list-style-type: none"> • A 50-square foot non-commercial flag, which is the permitted maximum size of a non-commercial flag by the Ordinance is visible as it exists • Approval of this request would encourage similar requests for exceptions

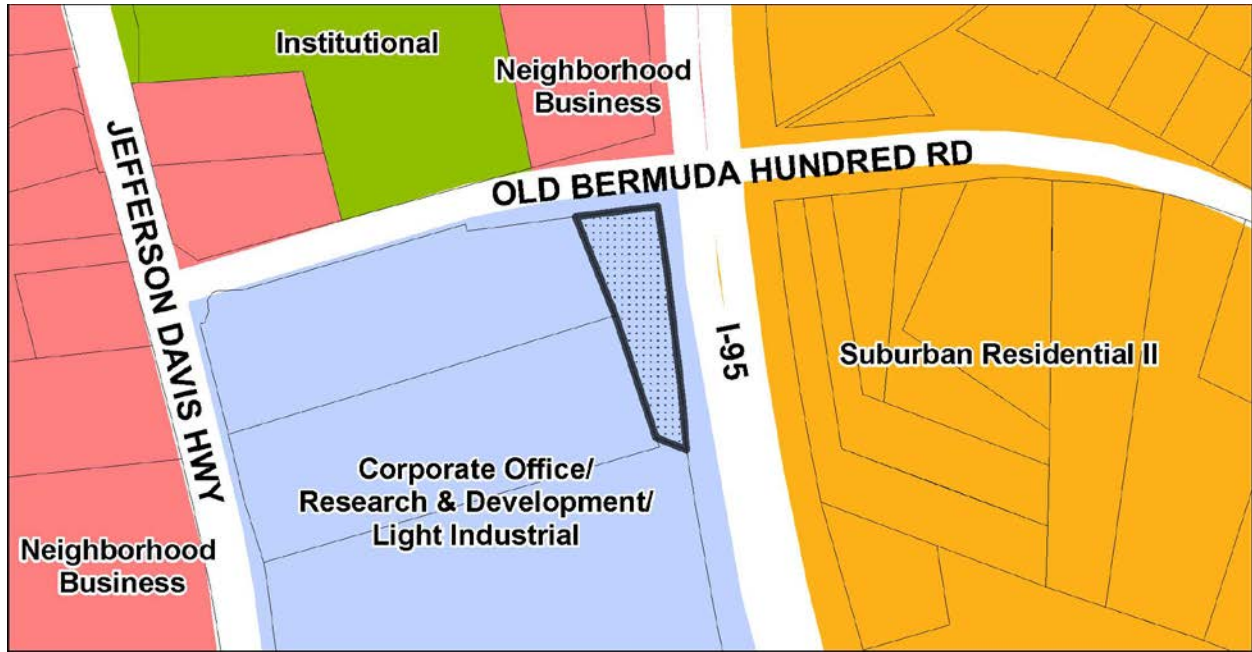
SUMMARY OF IDENTIFIED ISSUES	
Department	Issue
PLANNING	<p>Request I (Height Exception)</p> <ul style="list-style-type: none"> • A fifty (50) foot flagpole is currently permitted as an accessory use. If placed at the maximum height of fifty (50) feet, the flagpole would be adequately visible to the surrounding area as depicted in the attached site elevations • A 112-foot flagpole is an inappropriate height in an agriculturally zoned parcel • Given the current width of the subject property at the proposed location of the flagpole (114' +/-), the permitted height of fifty (50') is well within the safe range should the flagpole fail, it would fall within the confines of the subject parcel and not have adverse impacts on adjacent properties. Permitting a 112' flagpole could cause an adverse impacts on adjacent parcels and Interstate 95 should the flagpole fail <p>Request II (Principal Use)</p> <ul style="list-style-type: none"> • A flagpole is customarily an accessory use per the Zoning Ordinance. Promoting the use of an accessory structure to be used as a primary structure is inappropriate and could encourage other applications for accessory uses to serve as primary uses <p>Request III (Size Exception)</p> <ul style="list-style-type: none"> • The maximum allowed square footage (50 square feet) for a 50-foot flagpole for a non-commercial flag (if installed as an accessory use) would remain visible to the surrounding area



Comprehensive Plan

Classification: CORPORATE OFFICE/RESEARCH & DEVELOPMENT/LIGHT INDUSTRIAL

The designation suggests the property is appropriate for corporate office, research, laboratories, and light manufacturing and assembly uses that are generally dependent upon raw materials first processed elsewhere.



Subject Property

300 150 0 300 Feet



Surrounding Land Uses and Development



PLANNING

Staff Contact: Tyler Walter (804-318-8893) waltert@chesterfield.gov

Case History

The history of this rezoning request dates to 2013 through a building permit, a subsequent zoning determination, an appeal through Board of Zoning Appeals (BZA), and an issuance of summons and appeal through the courts. The denials through Building Inspection, the BZA, and courts have pre-dated the applicant submitting the Conditional Use Planned Development (CUPD) requests for the flagpole height, principal use of the flagpole, and the non-commercial flag size exception.

In October 2013, a building permit was approved for the construction of a fifty (50) foot flagpole on the subject property. This building permit was approved without review from the Planning Department. Between late 2013 and early 2017 the approved flagpole was replaced by a seventy (70) foot flagpole without an approved building permit. In February 2017, Code Compliance received a complaint that a flagpole was on the subject property. Upon site visit staff observed a flagpole on the subject property that was taller than the fifty (50) foot flagpole approved under the 2013 building permit.

Subsequently, a building permit to allow for the installation of a "68-70 foot" flagpole (This was the exact language on the building permit application regarding the height of the flagpole.) was submitted to the County for review. This permit was denied for failing to meet zoning requirements-

In February 2018, the property owners received a written determination from the Planning Department advising that a flagpole was not permitted as a principal use on the property without the presence of a principal use. Additionally, the letter concluded that if a principal use was established on the property, that the accessory use, being the flagpole, would be permitted by right, provided that the height of the flagpole would be limited to fifty (50) feet. Finally, the letter stated that the existing flagpole was also in violation of accessory structure setback requirements.

In September 2018, the subject property was purchased by the current property owner, Catherine Hendricks. Since ownership of the property had changed, and the violation still existed, a new Notice of Zoning Violation was issued to Ms. Hendricks. This notice cited the February 2018 notice sent to the previous owners. Ms. Hendricks, now the new property owner, was given until November 30, 2018 to correct the violation.

The zoning violation was appealed to the Board of Zoning Appeals (BZA) in February 2019. The BZA upheld the Director's decision and the appeal was denied. Between February 2019 and September 2019, the flagpole had remained in place, resulting in a summons to the property owner to appear in General District Court. The property owner removed the flagpole after the Court ruled in favor of the County.

Proposal

The applicant proposes to construct a 112 foot flagpole to be considered a principal structure on an Agriculturally (A) zoned property. The applicant also requests the ability to attach a 600 square feet non-commercial flag. The flagpole is proposed to be located near the center of the property (Attachment 2, Exhibit A). The Agricultural (A) District permits a maximum height of fifty (50) feet for principal and accessory structures. Since the applicant seeks to install a 112 foot flagpole, the applicant also requests a sixty-two (62) foot exception to the maximum permitted height for the flagpole. The Zoning Ordinance defines a non-commercial flag as stated below.

Flag, noncommercial: Sign consisting of a piece of cloth or other flexible material that only depicts the emblem or insignia of a nation, political unit, educational, charitable, religious, civic or similar group, or is a decorative flag that does not display a commercial message. A noncommercial flag shall be not be included in the calculation of signage on the property.

Staff is not supportive of all three requests for the following reasons:

REQUEST I – (Height Exception)

- A 62-foot height exception is excessive
- Approval of this request would encourage similar requests for exceptions
- Could have adverse impacts on adjacent parcels and Interstate 95 should flagpole fall

REQUEST II – (Principal Use)

- Having an accessory use (flagpole) serve as a primary use is not an appropriate use of the subject property
- Approval of this request would encourage similar requests for exceptions

REQUEST III – (Flag Size Exception)

- A 50-square foot non-commercial flag, which is the permitted maximum size of a non-commercial flag by the Ordinance is visible as it exists
- Approval of this request would encourage similar requests for exceptions

Should the Planning Commission wish to approve this request, staff recommends the conditions outlined in Attachment 1 be imposed to assist in mitigating the impacts on area properties:

General Overview	
Requirements	Details
Ownership	Limited to the applicant only <i>Condition 1</i>
Height Limit	Not to exceed 112 feet. <i>Condition 2</i>
Location & Design	Located and designed as depicted in Attachments 2 & 3. <i>Condition 3</i>
Display	Limited to one (1) non-commercial flag not to exceed 600 square feet in area. <i>Condition 4</i>

Cessation of Use	At the time the flagpole ceases to be used, the property owner shall dismantle the flagpole within 12 months. <i>Condition 5</i>
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FIRE AND EMERGENCY MEDICAL SERVICES
Staff Contact: Anthony Batten (804-717-6167) battena@chesterfield.gov

This request will have minimal impact on Fire and EMS.

Nearby Fire and Emergency Medical Service (EMS) Facilities	
Fire Station	The Dutch Gap Fire Station, Company Number 14
EMS Facility	The Dutch Gap Fire Station, Company Number 14

COUNTY DEPARTMENT OF TRANSPORTATION
Staff Contact: Steve Adams (804-751-4461) adamsst@chesterfield.gov

VIRGINIA DEPARTMENT OF TRANSPORTATION
Staff Contact: Willie Gordon (804-674-2560) willie.gordon@vdot.virginia.gov

UTILITIES
Staff Contact: Matt Rembold (804-716-7616) remboldm@chesterfield.gov

ENVIRONMENTAL ENGINEERING
Staff Contact: Rebeccah Rochet (804-748-1028) rochetr@chesterfield.gov

This request will not impact these facilities.

CASE HISTORY

Applicant Submittals

09/07/2019 and 05/05/2020	Application submitted
10/01, 12/23, and 02/05/2020	Renderings and conceptual site layout submitted.

Community Meeting

03/09/2020	Issues Discussed: One citizen attended in support of the project and did not have any questions.
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ATTACHMENT 1

CONDITIONS

1. Non-Transferable Ownership. The Conditional Use Planned Development for the flagpole and the non-commercial flag shall be granted to Catherine Hicks and Susan L Frise, exclusively, and shall not run with the land. (P)
2. Height Limit. The flagpole shall not exceed 112 feet in height above grade. (P)
3. Location and Design. The flagpole shall be located on the property as depicted in Exhibit A, and shall have a design generally consistent with the rendering in Exhibit B. (P)
4. Flag Display. Display shall be limited to one (1) non-commercial flag not to exceed 600 square feet of area. (P)
5. Cessation of Use. At such time that the flagpole ceases to be used for a period exceeding twelve (12) consecutive months, the property owner shall dismantle and remove the flagpole from the property. (P)

EXHIBIT A – SITE LOCATION

February 5, 2020

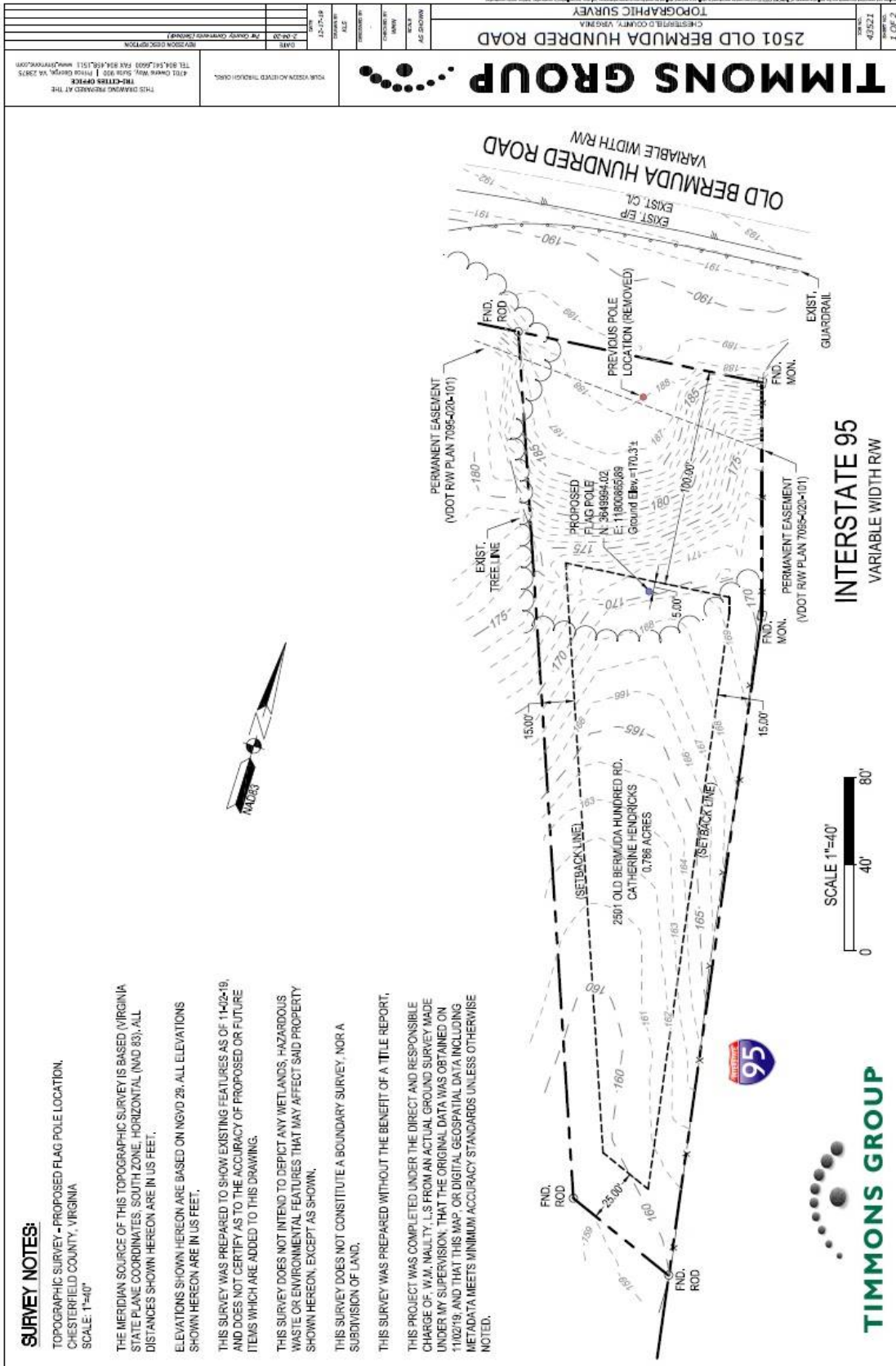


EXHIBIT B – FLAGPOLE ELEVATION
February 5, 2020

