

COUNTY OF YORK

MEMORANDUM

DATE: December 3, 2012 (PC Mtg. 12/12/12)
TO: York County Planning Commission
FROM: Timothy C. Cross, AICP, Principal Planner
SUBJECT: Application No. UP-820-12, Casey & Associates LP

ISSUE

This application requests a Special Use Permit, pursuant to Section 24.1-712 of the Zoning Ordinance, to authorize an increase in height for a flagpole to be constructed at the Casey Toyota auto dealership on an 8.83-acre parcel of land located at 601 East Rochambeau Drive (Route F-137) and further identified as Assessor's Parcel No. 2-39.

DESCRIPTION

- Property Owner: Casey & Associates LP
- Location: 601 East Rochambeau Drive (Route F-137)
- Area: 8.83 acres
- Frontage: 1,033 feet on East Rochambeau Drive
- Utilities: Public water and sewer
- Topography: Relatively flat
- 2025 Land Use Map Designation: Economic Opportunity
- Zoning Classification: EO – Economic Opportunity
- Existing Development: Automobile dealership
- Surrounding Development:
 - North: VDOT Park-and-Ride lot across East Rochambeau Drive; Route 199/I-64 interchange beyond
 - East: Great Wolf Lodge
 - South: None
 - West: Williamsburg Ford auto dealership
- Proposed Development: 100-foot flagpole with a 30-foot by 60-foot American flag

BACKGROUND

On March 15, 2011, the Board of Supervisors approved Application No. UP-790-11 through the adoption of Resolution No. R11-12 authorizing the establishment of an automobile dealership (Casey Toyota) on the subject property. Also approved was Resolution No. R11-13 which authorized disturbance of the Greenbelt Buffer to enhance sightlines to the dealership. The dealership was built in 2012 and is now open for business. The owner wishes to install a flagpole on the site that would be used to fly an American flag. Flags and flagpoles are permitted as a matter of right under Section 24.1-707(n) of the Zoning Ordinance, which specifies that flagpoles must conform with the height regulations of the zoning district in which they are located. The subject property is zoned EO (Economic Opportunity) and therefore subject to a maximum building height of 75 feet. The applicant wishes to install a 100-foot flagpole and has submitted this application for a height increase, in accordance with Section 24.1-712 of the Zoning Ordinance, which allows the Board to authorize increases in sign area and height by Special Use Permit under certain circumstances.

CONSIDERATIONS/CONCLUSIONS

1. Casey Toyota recently relocated from its previous site on Richmond Road to its current location on East Rochambeau Drive (Route F-137) in the Lightfoot area between Great Wolf Lodge to the east and Williamsburg Ford to the west. All three properties and most of the surrounding area are zoned EO (Economic Opportunity) and designated Economic Opportunity in the Comprehensive Plan. The applicant proposes to install a 100-foot flagpole that would be used to fly an American flag measuring 30 feet by 60 feet. According to the sketch plan, the flagpole would be located toward the front of the property in the vehicle sales/display area and set back approximately 185 feet from the edge of pavement of East Rochambeau Drive. The flag would be lighted at night and would be taken down whenever wind speeds reach 90 mph. (For reference purposes, a Category 1 hurricane involves sustained wind speeds of 74 to 95 mph.) The applicant has indicated that no flag other than the American flag would be displayed.
2. Under Section 24.1-707(n) of the Zoning Ordinance, flags of the United States (as well as the Commonwealth of Virginia, York County, religious groups, civic organizations, service clubs, etc.) are treated as exempt signs and as such are permitted in every zoning district subject to the maximum height limitation for that district. This section states further that the “placement of flags in such quantities and locations as to be for attention-getting/advertising purposes, in the opinion of the zoning administrator, shall not be considered exempt under this section.” The maximum allowable building height in the EO zoning district is 75 feet, so a flagpole up to 75 feet in height would be permitted as a matter of right on this property. A taller flagpole requires approval of a Special Use Permit by the Board of Supervisors in accordance with the provisions set forth in Section 24.1-712 of the Zoning Ordinance, which sets forth the standards for increases in sign area and/or height. Specifically, the Board can approve Special Use Permits for increases in sign area and height by Special Use Permit “when unusual topography, vegetation, parcel shape, or

the distance from the road right-of-way would impose substantial hardship by making a sign otherwise permitted by the terms of this chapter ineffective and unreadable from vehicles on adjoining (i.e., abutting) roadways.” (Although not relevant to this case, it should be noted that this section also allows the Board to approve increases in the number of signs for certain shopping centers or other large commercial uses having more than 100,000 square feet of retail floor area.) This section further states that “in authorizing signs in either of the above situations, the board shall limit the area, height, and location of such signs to that which, in its opinion, is reasonably in keeping with the provisions of Article VII.”

3. According to the applicant, a 100-foot flagpole is needed for better visibility of the site from East Rochambeau Drive, Route 199, and Interstate 64. The narrative description submitted by the applicant states that “dead, dying and diseased” trees and shrubs located between the VDOT park-and-ride lot and I-64 “block visibility of the proposed flagpole from Interstate 64 thereby making the flagpole ineffective for display of the American flag at the restricted [75-foot] height.” It goes on to cite the parcel’s shape and the curvature of East Rochambeau Drive as factors that impede visibility from Route 199. In addition, the applicant feels that existing trees on the subject property and the curvature of the road hinder the auto dealership’s visibility from both directions on East Rochambeau Drive. These trees, many of which measure approximately 75 to 85 feet in height according to the applicant, are required to be preserved in order for the site to meet the Zoning Ordinance landscaping and greenbelt provisions.

It should be noted that the criteria for increases in sign area and height address visibility only from “adjoining (i.e., abutting) roadways.” As stated in Section 24.1-103(g) of the Zoning Ordinance, *General rules of interpretation*, the word “abutting” means “touching and sharing a common point or line.” The only adjoining or abutting roadway in this case is East Rochambeau Drive; therefore, visibility from East Rochambeau Drive is the only consideration.

4. East Rochambeau Drive runs parallel to Interstate 64 in a northwest-southeast direction between its southern terminus at Capitol Landing Road and the Route 199/Lightfoot interchange, at which point it curves to the west and runs parallel to Route 199 in a northeast-southwest direction all the way to its western terminus on the west side of Mooretown Road (Route 603). The subject property is located at the bend in the road where East Rochambeau Drive runs basically in an east-west direction. While there is a curve in the road on each end of the property frontage as well as a fairly substantial stand of tall trees in the northeastern corner of the property, the area in front of the building and most of the vehicle sales/display area is clear and offers a fairly unobstructed view of the entire site. There is very little vegetation in the northwestern corner of the property, at least not enough to obstruct views of the building and sign for vehicles approaching from the west.

It does appear that existing trees might partially obscure a 75-foot flagpole from vehicles approaching from the east; however, the Toyota sign and the building itself are highly visible. If the applicant desires greater visibility for the flag, staff believes

this can be achieved with a flagpole of up to 75 feet in height relocated to another, more visible location on the site.

5. The applicant has indicated that the flag would be flown 24 hours a day and would be lighted at night. This is in conformance with the Federal Flag Code*, which states that it is the universal custom to display the American flag only from sunrise to sunset but that “when a patriotic effect is desired, the flag may be displayed 24 hours a day if properly illuminated during the hours of darkness.” The Zoning Ordinance lighting standards typically require full cutoff lighting fixtures that direct the light downward; however, there is a specific exemption for lighting of the United State flag. Since the maximum allowable flagpole height in the County is 75 feet, it is likely that this exemption did not contemplate the possibility of lights shining one hundred feet (100’) into the sky.
6. According to Planning Division records, there have been four other applications for increase in sign area and/or height in the past 25 years:
 - In November 1991 the Board unanimously denied an application for an increase in sign area (from 50 feet to 71 feet) for the Langley Federal Credit Union building on Route 17.
 - In June 1992 the Board unanimously approved an application to allow a second free-standing sign for a grocery store proposed to be located toward the rear of the James York Plaza shopping center on Merrimac Trail on land now occupied by a mini-storage warehouse facility. The grocery store and the second sign were never built; Food Lion moved into existing space in the shopping center that was formerly occupied by a discount department store.
 - In April 2006, the Planning Commission unanimously recommended denial of an application for an increase in sign area and height for the Marquis shopping center. The application was subsequently withdrawn by the applicant and was never considered by the Board of Supervisors. A modified request for increased sign area at the Marquis was later submitted and unanimously denied by the Board in October 2006.

RECOMMENDATION

Businesses need visibility, and most business owners would like to be more visible than their competitors. Left unchecked, however, the “bigger is better” mentality can manifest itself in a perpetual cycle of one-upmanship that can result in commercial corridors so cluttered with signs, lights, flags, pennants, etc. that nobody can read anybody’s sign. For this reason it is important that sign standards be consistently applied so that all development is treated fairly and equally. Staff recommends a cautious and conservative approach in considering approval of exceptions because each exception is a possible

*The Federal Flag Code is a set of uniform guidelines for the display of the flag. It does not prescribe any penalties for non-compliance, nor does it include any enforcement provisions; rather, the Code functions simply as a guide to be voluntarily followed by civilians and civilian groups.

precedent for similar requests in the future. Increases in sign area or height should, in staff's opinion, be extremely rare and should be justified by compelling evidence that a bigger or taller sign is not just *desired* but is truly *needed* owing to land characteristics that are beyond the developer's control. Staff does not believe this request meets that standard. Site visibility may be in the eye of the beholder, but staff's observation is that the auto dealership is highly visible to traffic approaching the site from either direction on East Rochambeau Drive. While it does appear that the visibility of a 75-foot flagpole could be partially obstructed by vegetation, this situation can be remedied, in staff's opinion, by moving the flagpole to another more open area of the site. The applicant's desire for visibility from Route 199 and Interstate 64 is understandable, but it is not a valid criterion for approving a height increase since the property does not abut these roadways (although staff's observation is that the dealership is also quite visible from both directions on Route 199). Furthermore, staff believes that patriotic purposes and objectives can be achieved with a 75-foot flagpole and that there is no compelling reason that an American flag needs to be visible from I-64 or Route 199 other than for "attention getting/advertising" purposes, which is contrary to the intent of the Zoning Ordinance provisions relating to the display of flags.

Therefore, based on the considerations and conclusions as noted, staff recommends that the Commission forward this application to the Board of Supervisors with a recommendation of denial. However, should the Commission choose to recommend approval, it can do subject to the conditions set forth in proposed Resolution No. PC12-25. One of the proposed conditions would limit the size of the flag to 30 feet by 50 feet rather than 30 feet by 60 feet as requested by the applicant. This is consistent with the guidelines of the flagpole manufacturer, which recommend a 30' by 50' flag for flagpoles up to 120 feet in height. Based on staff's research, this appears to be the standard flag size for flagpoles of this height; in order for the flag to be in proper proportion to the pole, the general standard is that the length of the flag should be between $\frac{1}{4}$ and $\frac{1}{2}$ the height of the pole.

TCC

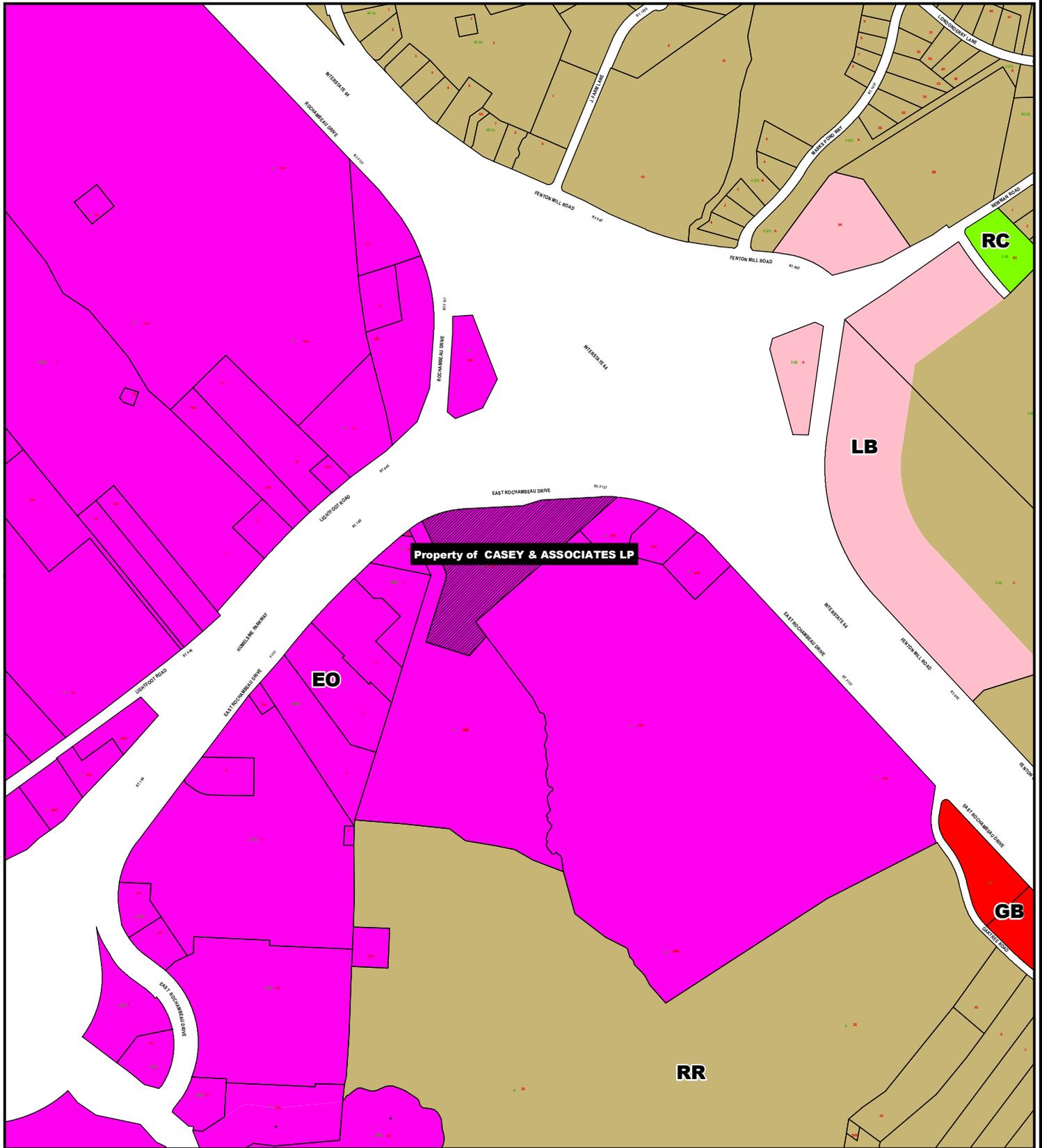
Attachments:

- Zoning map
- Applicant's narrative description and photographs
- Site plan and site plan detail
- Flagpole diagram and specifications
- Photographs taken by staff
- Proposed Resolution No. PC12-25

APPLICANT
Casey & Associates, LP
Height increase authorization for a 100' flagpole
601 EAST ROCHAMBEAU DR

ZONING MAP

APPLICATION NUMBER: UP-820-12



★ = Conditional Zoning



Printed on November 02, 2012



SOURCE: YORK COUNTY
GIS PARCEL DATA and
ZONING COVERAGE

THIS IS NOT A LEGAL PLAT.
This map should be used for
information purposes only. It is
not suitable for detailed site planning.

SUPPLEMENT TO APPLICATION FOR SPECIAL USE PERMIT

NOV 6 2012

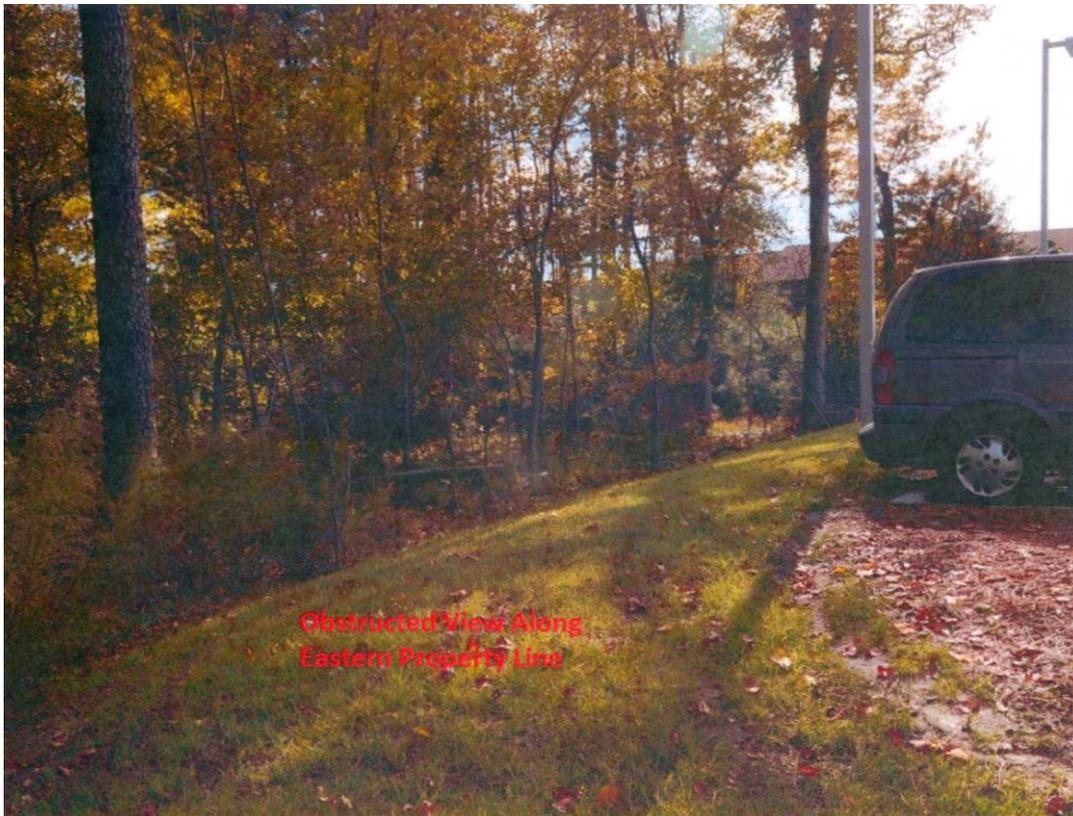
APPLICATION NO. UP-820-12, Casey & Associates

Planning Division

Applicant has applied for a Special Use Permit for the proposed installation of a flagpole that is 100' in height for display of a 60' x 30' American flag. The proposed location of the flagpole is delineated on the attached Site Plan for Casey Toyota (as marked with the red circle).

Due to the unusual location of the subject property and the overgrown vegetation on the adjacent property, the Applicant seeks authorization to erect the flagpole to a height that exceeds the maximum height authorized pursuant to the Zoning Ordinance. The subject property is directly across East Rochambeau Drive from the VDOT Park and Ride area and testing/practice location for commercial trucking vehicles. Said VDOT Park and Ride area is located between the subject property and Interstate 64 as shown on the attached Context Map for Casey Toyota. The underbrush and overgrown trees and shrubs consist primarily of scrub trees that are dead, dying and diseased and block visibility of the proposed flagpole from Interstate 64 thereby making the flagpole ineffective for display of the American flag at the restricted height. Applicant has obtained a vegetation control permit from VDOT to clear and cut certain of the underbrush but said work will not completely eliminate the substantial hardship that the Applicant will endure if the proposed flagpole cannot exceed the maximum height allowed under the Zoning Ordinance. Photographs of the visual obstruction that will render a shorter flagpole ineffective are attached hereto. Additionally, due to the parcel shape and its location along the curve of East Rochambeau Drive, unless the flagpole is erected to a height of 100', it will not be visible from Route 199 further making the flagpole and the display of the American flag ineffective. Applicant would like to emphasize that the subject property is surrounded by other commercial uses.

Photos Submitted by the Applicant



Photos Submitted by the Applicant



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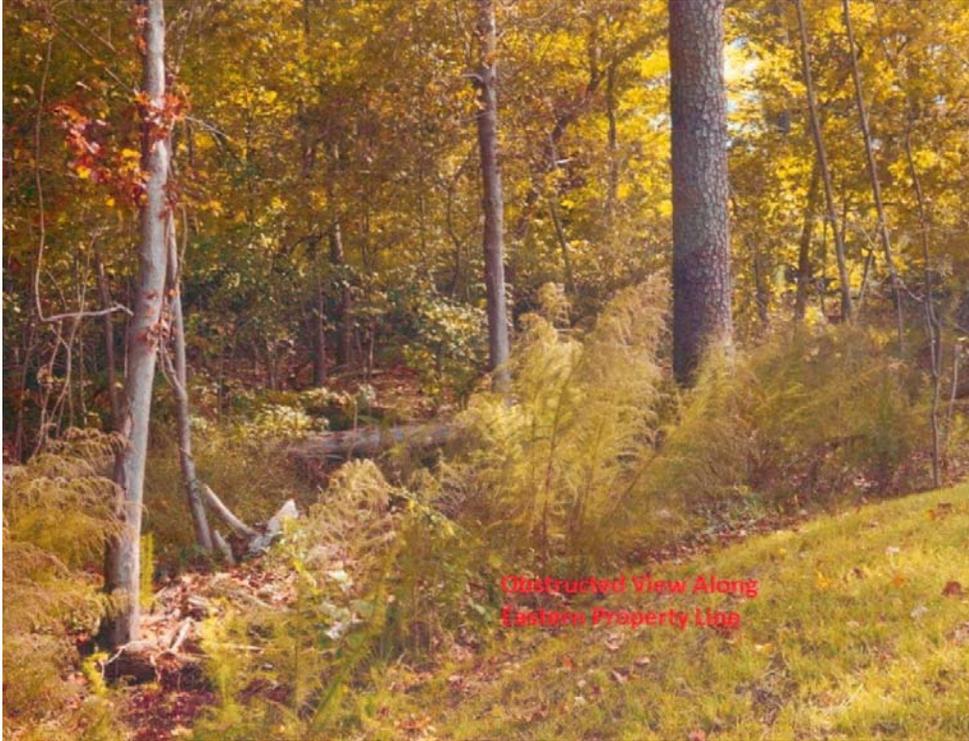


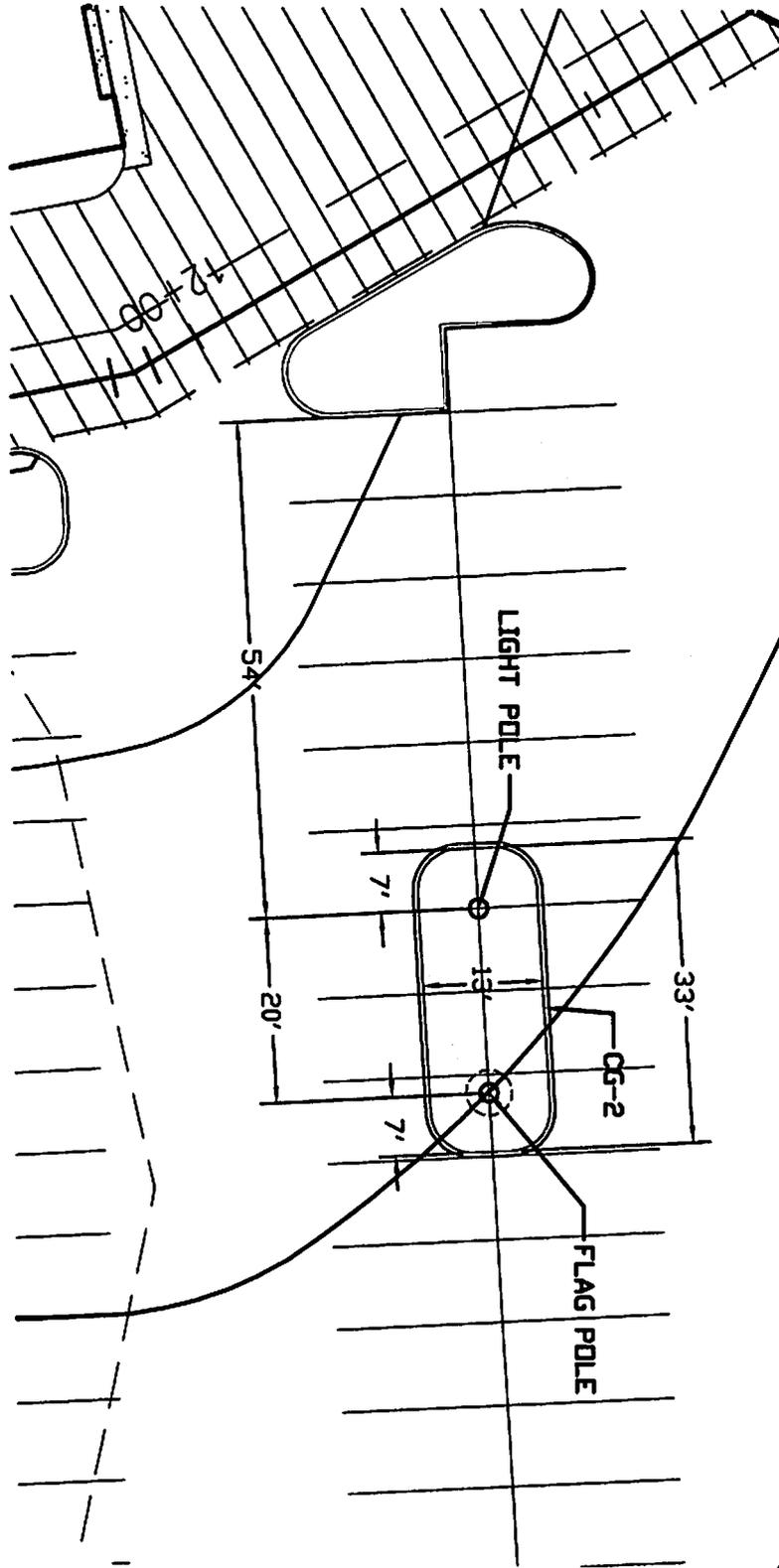
**Landscaping Along Front Property Line that
Obstructs View of Proposed Flagpole**



**Obstructed View of Subject Property For Traffic
Traveling West on E Rochambeau Drive**

Photos Submitted by the Applicant

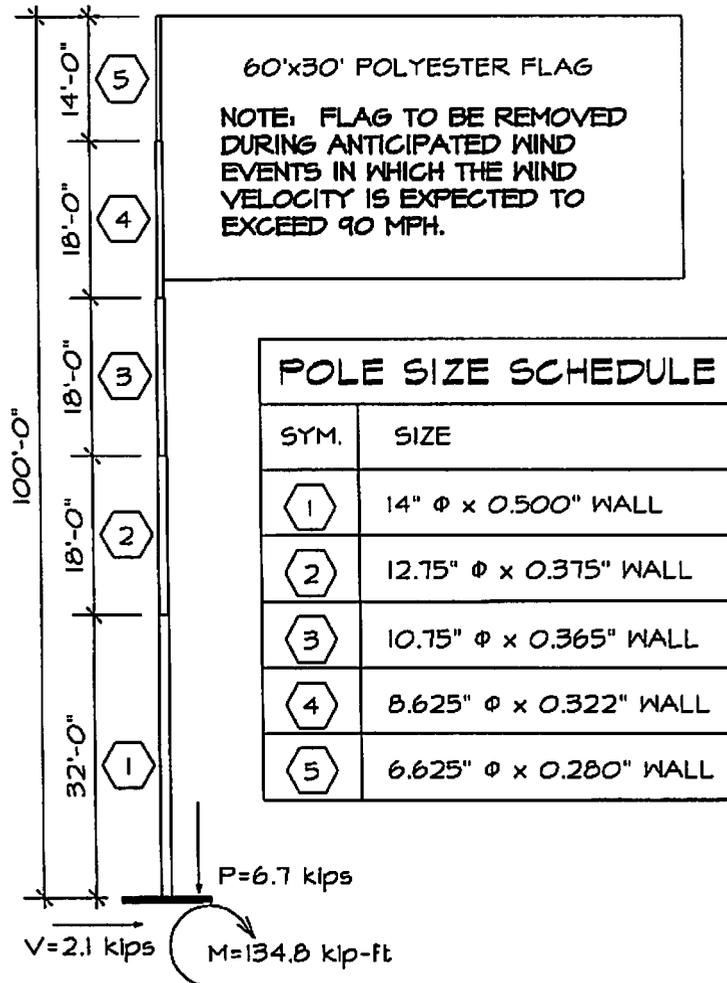




- MANUFACTURER - U.S. FLAG & FLAGPOLE SUPPLY, INC.
- 130 MPH (3 SEC GUST) UNFLAGGED WIND SPEED
- 90 MPH (3 SEC GUST) FLAGGED WIND SPEED

PROJECT: Casey Toyota Dealership
Williamsburg, VA
CONTRACTOR: W. M. Jordan Company
SUPPLIER: Roanoke Engineering Sales Co., Inc.

SCOPE: 1 Flagpole @ 100' x 14" x .500"



U.S. FLAG & FLAGPOLE
SUPPLY, INC.

4355 W. CARDINAL DRIVE
BEAUMONT, TX 77105
Phone: (800) 710-4842
Fax: (800) 510-3359
www.usflag.com

PROJECT:
Typical Flagpoles

DRAWING TITLE:

100' Standard Flagpole

DATE:
3/25/09

DRAWING NO.

1

A-36 Carbon Steel Flagpoles

Flagpole Construction: Each flagpole is constructed of A-36 Carbon Steel, which offers a 36,000 PSI Yield Point. Each section is joined utilizing seamless steel concentric reducers, which provides a uniform taper-like appearance. In addition to matching touch-up paint, each flagpole will come with a standard size corrugated steel foundation sleeve with a steel base plate and lightning spike arrestor.

Hardware: Each flagpole will come with an Internal Stainless Steel Winch System, which includes the following: Heavy Duty Revolving Truck Ball Assembly with 1.25" Stainless Steel Spindle, 1/8" Stainless Steel Aircraft Cable, Locking Stainless Steel Internal Winch w/Removable Handle, Beaded Retainer Rings, Counterweight, 2" Stainless Steel Snap Hooks, 3/8" Q-Links, and Flag Arrangement.

Paint: Flagpoles are first sand-blasted to prepare the entire surface of the flagpole to receive primer. Then they are coated with a high performance, two-component chemically cured epoxy semi-gloss primer in preparation for painting. Finally, the finish is completed with an aliphatic urethane gloss enamel, which is specifically designed for maximum gloss and color retention.

Photographs taken by Staff – November 16, 2012



**Picture 1: View from the east along East Rochambeau
Casey Toyota is on the left and the VDOT park-and ride lot is on the east.
The distance between the highway sign and the dealership entrance is 785 feet.**



**Picture 2: View from the east along East Rochambeau
Casey Toyota is on the left and the VDOT park-and ride lot is on the east.
The distance between the park-and-ride lot and the dealership entrance is 225 feet.**

Photographs taken by Staff – November 16, 2012



Picture 3: View from the west.

The distance between the beginning of the bike lane and the dealership entrance is 257 feet.

PLANNING COMMISSION
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Planning Commission held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of _____, 2012:

Present

Vote

Richard M. Myer, Jr., Chair
Mark B. Suiter, Vice Chair
Alexander T. Hamilton
Christopher A. Abel
Timothy D. McCulloch
Todd H. Mathes
Melissa S. Magowan

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE AN INCREASE IN SIGN HEIGHT TO ALLOW A 100-FOOT FLAGPOLE IN CONJUNCTION WITH AN EXISTING AUTOMOBILE DEALERSHIP AT 601 EAST ROCHAMBEAU DRIVE

WHEREAS, Casey & Associates, LP has submitted Application no. UP-820-12 which requests for a Special Use Permit, pursuant to Section 24.1-712 of the York County Zoning Ordinance, to authorize an increase in sign height from 75 to 100 feet for a flagpole to be installed at an existing automobile dealership located on an 8.8-acre parcel of land located at 601 East Rochambeau Drive (Route F-137) and further identified as Assessor’s Parcel No. 2-39 (GPIN C20c-1236-0152); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the ____ day of _____, 2012 that Application No. UP-820-12 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval for a Special Use Permit, pursuant to Section 24.1-712 of the York County Zoning Ordinance, to authorize an increase in sign height from 75 to 100 feet for a flagpole to be installed at an existing automobile dealership located on an 8.8-acre parcel of land located at 601 East Rochambeau Drive (Route F-137) and further identified as Assessor's Parcel No. 2-39 (GPIN C20c-1236-0152) subject to the following conditions:

1. This Special Use Permit shall authorize an increase in sign height from 75 to 100 feet for a flagpole to be installed at an existing automobile dealership located on an 8.8-acre parcel of land located at 601 East Rochambeau Drive (Route F-137) and further identified as Assessor's Parcel No. 2-39 (GPIN C20c-1236-0152).
2. No flag other than a single flag of the United States measuring no greater than thirty feet (30') by fifty feet (50') shall be flown from the flagpole.
3. Advertising and signage on the flagpole shall be prohibited.
4. The height of the flagpole shall not exceed one hundred feet (100').
5. The flag shall be removed during anticipated wind events in which the wind speed is expected to exceed 90 miles per hour.
6. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the Resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for a building permit for the flagpole.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.