

Parcels or Portions thereof identified on this sheet are within the Airport Safety Overlay District and are subject to Special Regulation


APL2020-00007

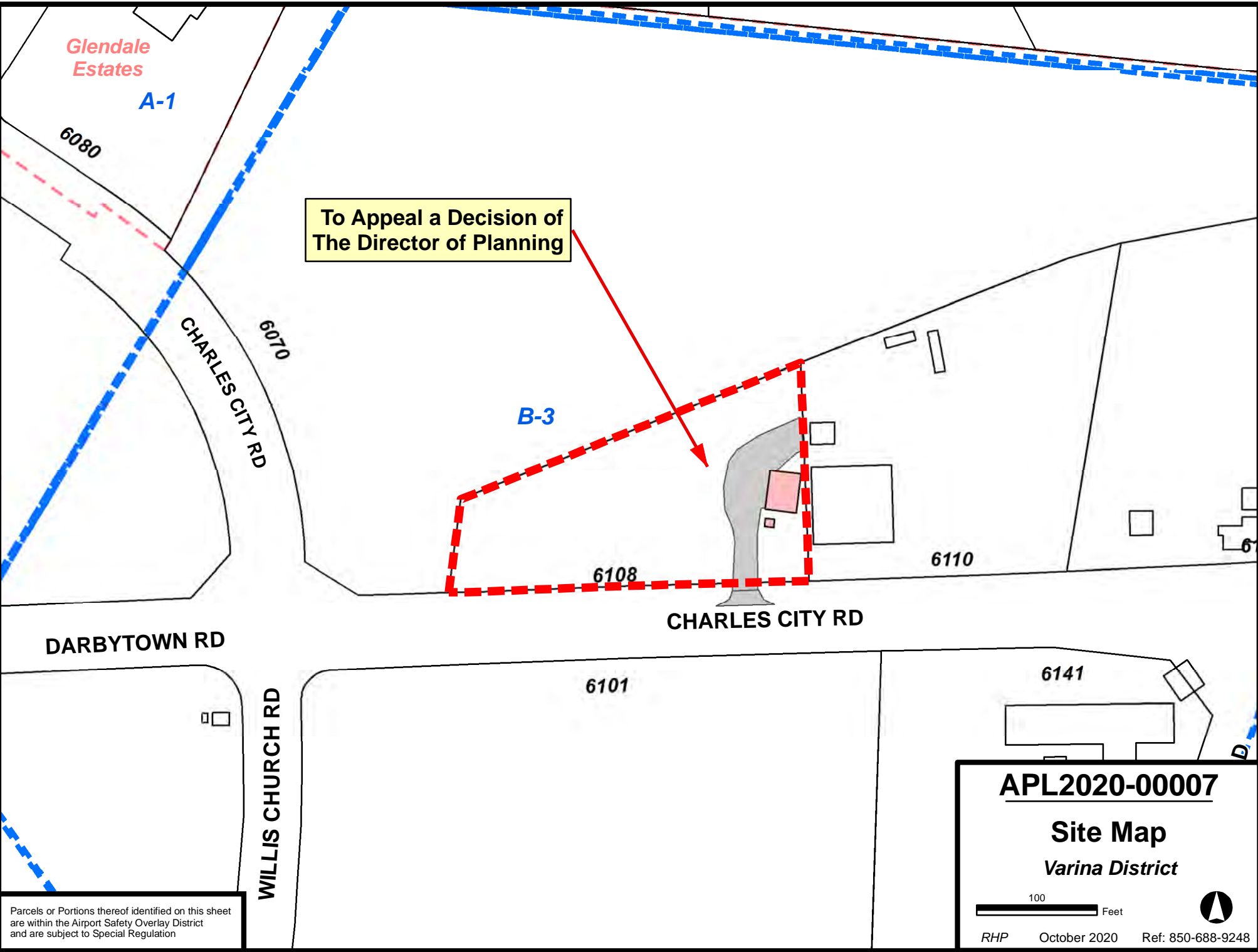
Vicinity

Varina District

1000 Feet

RHP October 2020 Ref: 850-688-9248





To Appeal a Decision of
The Director of Planning

Parcels or Portions thereof identified on this sheet
are within the Airport Safety Overlay District
and are subject to Special Regulation

APL2020-00007
Site Map
Varina District

100 Feet

RHP October 2020 Ref: 850-688-9248



DARBYTOWN RD

CHARLES CITY RD

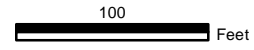
WILLIS CHURCH RD

Parcels or Portions thereof identified on this sheet are within the Airport Safety Overlay District and are subject to Special Regulation

APL2020-00007

Aerial 2020

Varina District



RHP October 2020 Ref: 850-688-9248



Appeal of a Decision of the Director of Planning

County of Henrico, Virginia
Department of Planning

Post Office Box 90775, Henrico, VA 23273-0775 Shipping: 4301 East Parham Road, Henrico, VA 23228 Phone: (804) 501-4602 Fax: (804) 501-4379
Email: planning@henrico.us <http://henrico.us/planning>

Property Address: 6108 Charles City Road Current Zoning: _____
Parcel Number (GPIN): 850-688-9248 Magisterial District: _____
Subdivision: Acreage Section: _____ Block: _____ Lot: _____

Describe the order, requirement, decision, or determination of the Director of Planning that you wish to appeal:
COM 2020-02270
Section 24-106

How was the appellant aggrieved or injured by that order, requirement, decision, or determination?
see attached letter

What is the basis of the appeal? (Was there a mistake of fact, or an erroneous application of law?)
see attached letter

Appellant: <u>Earl Douglas</u>	Phone: <u>804-640-9094</u>
Address: <u>6108 Charles City Road</u>	Fax: _____
<u>Henrico</u>	Email: <u>PTD.inc@aol.com</u>
City/State/Zip: <u>VA 23231</u>	Signature: <u>Earl Douglas</u>
Representative:	Phone: _____
Address: _____	Fax: _____
	Email: _____
City/State/Zip: _____	

This form should be accompanied by a copy of the order, requirement, decision, or determination being appealed, as well as a complete written statement of the basis of appeal.

OFFICE USE

Date received: <u>9/9/2020</u>	Time received: <u>10:30am</u>
PIV #: <u>128755</u>	Fee: \$ <u>300.00</u>
Accepted by: <u>Erin L. Bass</u>	Case #: <u>APL20200007</u>

PTD Inc
6108 Charles City Road
Henrico, VA 23231
(804) 507-1787



August 27, 2020

County of Henrico
Department of Community Revitalization
P. O. Box 90775
Henrico, VA 23273

RE: **Case Number COM2020-02270**
6108 Charles City Road

To whom it may concern:

We wish to appeal the Notice of Violation that we received in reference to our office located at 6108 Charles City Road.

Previously, our business had been operated at 7401 Dogwood Oaks Drive. In February, we were told by the county that the business could no longer operate at that address because of the zoning. Mr. Douglas immediately found property that was correctly zoned and purchased it with the intent to move the business to 6108 Charles City Road. Mr. Douglas has been in communication with the County over some dispute over land disturbance. He has stopped all activity until he and the County can resolve the issue.

I started working out of this office in May. I am the only person working at this location. We are appealing this violation notice because, we were told that I could not work at the 4701 Dogwood Oaks address. Now, this violation says that I cannot work at this address. I have to work somewhere and this property was purchased because it was zoned business. I am not disturbing any land, simply working part-time in a building that already existed.

Please contact me at (804) 507-1787 to advise me what the next steps are that we need to take to help resolve this issue. I appreciate your help with this matter and look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script that reads "Bobbie Bendle".

Bobbie Bendle, Office Manager
Petroleum Tank Disposal, Inc.

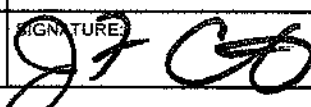


**DEPARTMENT OF COMMUNITY REVITALIZATION
COMMUNITY MAINTENANCE DIVISION
CHAPTER 24
NOTICE OF VIOLATION**

Property owner's address:

DOUGLAS EARL
4701 DOGWOOD OAKS
HENRICO, VA 23231

CASE NUMBER: COM2020-02270	
INSPECTION DATE: 08/12/2020	VACANT OR OCCUPIED:
VIOLATION ADDRESS: 6108 CHARLES CITY RD	
TENANT NAME:	

SUBDIVISION: ACREAGE	GPIN: 850-688-9248	MAGISTERIAL DISTRICT: Varina
INSPECTOR NAME: J. Cerrato	SIGNATURE: 	PHONE NUMBER: (804) 349-2679

VIOLATION(S) NOTED

IT WAS OBSERVED THAT YOU ARE IN VIOLATION OF HENRICO COUNTY CODE, CHAPTER 24 (ZONING) WITH RESPECT TO: 24-8 CONFORMANCE REQUIRED. EXCEPT AS HEREINAFTER PROVIDED FOR EXISTING USES, NO LAND, BUILDING, STRUCTURE OR PREMISES SHALL HEREAFTER BE USED, AND NO BUILDING OR PART THEREOF OR OTHER STRUCTURE, SHALL BE ERRECTED, LOCATED, RECONSTRUCTED, ENLARGED, CONVERTED OR ALTERED EXCEPT IN CONFORMITY WITH THE REGULATIONS HEREIN SPECIFIED FOR THE DISTRICT IN WHICH IT IS LOCATED.

Sec. 24-106.(o) - Plan of development (POD), administrative and schematic site plans.

Violations and penalties. Any person, whether as owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this section or permits any such violation or fails to comply with any of the requirements hereof or who erects any building or uses any building or any land prior to the approval of an occupancy certificate by the director of planning shall be guilty of a misdemeanor and upon conviction thereof shall be subject to punishment as provided by section 24-110. Each day such violation continues shall constitute a separate offense.

*ILLEGAL USE WITHOUT REQUIRED APPROVALS.

THIS OFFICE HAS THE RESPONSIBILITY OF ENFORCING THE ZONING REGULATIONS AND WE HOPE THAT THE ABOVE NOTED VIOLATIONS CAN BE CORRECTED ON A VOLUNTARY BASIS. SHOULD LEGAL ACTION BECOME NECESSARY, CHAPTER 24 CONTAINS THE FOLLOWING PROVISIONS YOU MAY WISH TO CONSIDER:

24-110 ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS CHAPTER SHALL BE DEEMED GUILTY OF A MISDEMEANOR AND UPON CONVICTION THEREOF SHALL BE FINED NOT MORE THAN \$1000.00. IF THE VIOLATION IS UNCORRECTED AT THE TIME OF CONVICTION, THE COURT SHALL ORDER THE VIOLATOR TO ABATE OR REMEDY THE VIOLATION IN COMPLIANCE WITH THE ZONING ORDINANCE, WITHIN A TIME PERIOD ESTABLISHED BY THE COURT. FAILURE TO REMOVE OR ABATE A ZONING VIOLATION WITHIN THE SPECIFIED TIME PERIOD SHALL CONSTITUTE A SEPARATE MISDEMEANOR OFFENSE PUNISHABLE BY A FINE OF NOT MORE THAN \$1000.00. ANY SUCH FAILURE DURING A SUCCEEDING 10 DAY PERIOD SHALL CONSTITUTE A SEPARATE MISDEMEANOR OFFENSE PUNISHABLE BY A FINE OF NOT MORE THAN \$1,600.00; AND ANY SUCH FAILURE DURING ANY SUCCEEDING 10-DAY PERIOD SHALL CONSTITUTE A SEPARATE MISDEMEANOR OFFENSE FOR EACH 10-DAY PERIOD PUNISHABLE BY A FINE OF NOT MORE THAN \$2000.00.

24-111 IN ADDITION TO THE REQUIREMENTS AND PENALTIES SPECIFIED ABOVE, THE DIRECTOR OF PLANNING MAY AND IT SHALL BE HIS DUTY TO, INVOKE ANY OTHER LAWFUL PROCEDURE AVAILABLE TO THE COUNTY, SUCH AS INJUNCTION, ABATEMENT, OR OTHERWISE, AS MAY BE NECESSARY TO PREVENT, RESTRAIN,

**PLEASE SEE THAT THE ABOVE
VIOLATION(S) IS/ARE
CORRECTED BEFORE:**

09/14/2020

**YOU HAVE THE RIGHT TO APPEAL THIS NOTICE WITHIN
THIRTY DAYS IN ACCORDANCE WITH VA. CODE
§15.2-2311. THIS NOTICE SHALL BE FINAL AND
UNAPPEALABLE IF NOT APPEALED WITHIN THIRTY DAYS.**

We encourage you to contact us. Inquiries about this notice may be made as follows:

IN PERSON AT THE COMMUNITY MAINTENANCE OFFICE, 4062 CROCKETT STREET, OR IN WRITING TO: COMMUNITY REVITALIZATION, COMMUNITY MAINTENANCE DIVISION, P.O. BOX 90775, HENRICO, VA 23273-0775 OR BY PHONE TO (804) 501-4757 BETWEEN THE HOURS OF: 8:00 AM TO 4:30PM. FOR MORE INFORMATION ABOUT THIS AND OTHER ORDINANCES, VISIT OUR WEBSITE AT: WWW.HENRICO.US/ MAINT

Case # APL2020-00007

To whome it may concern:

My name is Jason Gary and I used to work for Brook Hill in the early 90's at their Charles City rd yard. At the time 6108 was still part of the Brook Hill business and the small building on the 6108 side was the office. We parked trucks on that lot from the building all the way to the west edge of the property. I personally helped spread the stone on that whole area and we used the entrance from the western side to enter with trucks and trailers. We parked trucks along the street edge of the property and the back edge of property and there was a small area of trees with 2 picnic tables and that area was covered in stone also. The only grass on that whole lot was to the right of the building in the six foot strip between the office building and the big shop building. I cut the grass myself and all I had to cut was the ditch and that strip between the buildings and I would weedeat around the equipment and pallets of supplies.

Return address on envelope:
Jason Gray
213 S 12th Ave
Hopewell, VA 23860

From: [Blankinship, Benjamin](#)
To: [Blankinship, Benjamin](#)
Subject: FW: Rezoning in Glendale
Date: Wednesday, October 14, 2020 11:51:00 AM

Mr. Blankenship,

Thank you for answering my message. This business is an eye sore and very distressing to people in this area. I hope that PTD does not get a permit for this business. I will plan to attend this meeting if at all possible.

Again thank you for your reply.

Dianne Cannon

Sent from my iPad

> On Oct 13, 2020, at 10:16 AM, Blankinship, Benjamin <bla26@henrico.us> wrote:

>

> Ms. Cannon,

>

> The Henrico County Board of Zoning Appeals will hold a public hearing on October 22 to consider an appeal regarding the property at 6108 Charles City Road. The County has served a notice of violation for developing the property without plans or permits. The owner of Petroleum Tank Disposal, Inc. has appealed the notice of violation.

>

> If you are interested in this public hearing, you can download the

> agenda from the County website at <https://henrico.us/pdfs/planning/2020/oct20bza.pdf>. If you scroll down to the second page and click on APL2020-00007, you will see a copy of the appeal. The preliminary agenda is available now; the final agenda should be posted to the same address on Friday. If you have any questions, please feel free to contact me.

>

> Thanks, Ben

>

> Benjamin W. Blankinship, AICP

> Zoning Division Manager

> Henrico County Planning Dept.

> P.O. Box 90775, Henrico, VA 23273

> (804) 501-4286 | Cell (804) 517-2074

> Email: bla26@henrico.us

> check out zoningupdate.henrico.us

>

>

> -----Original Message-----

> Sent: Monday, October 12, 2020 5:30 PM

> To: Blankinship, Benjamin <bla26@henrico.us>

> Subject: Rezoning in Glendale

>

> What is Petroleum Tank trying to zone this property to? They have destroyed this corner. As a home owner in this area, how can you keep making these really bad choices? It is beautiful out this way and it just keeps getting more and more unattractive things happening to it. So sad that Henrico County can't stand up to this kind of thing.

>

> Dianne Cannon

>

> Sent from my iPad



APL2020-00007

Earl Douglas

Staff Report for the Board of Zoning Appeals

This report is prepared by the Planning Department staff to assist the Board of Zoning Appeals in considering this application. Additional information may be submitted by interested parties at the public hearing, and the final decision to grant or deny the application is reserved by law to the Board.

Public hearings: October 22, 2020 Pending

Property Identification and Location:

Property owner: Earl Douglas

Appellant: Earl Douglas

Representative: Earl Douglas

Type of Decision: Notice of Violation

Property address: 6108 Charles City Road

Parcel Number: 850-688-9248

Property acreage: 0.89 acre

Magisterial District: Varina

**2026 Comprehensive
Plan Recommendation:** Prime Agricultural (PA)

Zoning of Property: B-3, Business District

**Zoning of Surrounding
Property:** North: B-3, Business District
West: B-3, Business District
South: B-3, Business District
East: B-3, Business District

Staff Contact: Benjamin W. Blankinship, AICP

BACKGROUND

The appellant operates a business called Petroleum Tank Disposal, Inc. Despite the name of the business, he describes it as a tree service. He operated the business illegally at 4701 Dogwood Oaks with no permits or approvals until earlier this year. When the County received a complaint and issued a notice of violation, he responded by moving the business to 6108 Charles City Road. Unfortunately, he again established the business with no permits or approvals. The property is zoned B-3, which allows a tree service business, but does not allow a petroleum tank disposal business.

After receiving complaints of clearing and grading at the new location, the County issued a new notice of violation. The notice cites "illegal use without required approvals." The County Code requires approval of a plan of development prior to all development exceeding 2,500 square feet of land disturbance (Sec. 24-106(b)(6)).

John McChesney, Assistant County Attorney, will represent the Director of Planning.



COMMONWEALTH OF VIRGINIA
COUNTY OF HENRICO

OFFICE OF THE COUNTY ATTORNEY

J. T. TOKARZ
ACTING COUNTY ATTORNEY

LEE ANN ANDERSON
MARISSA D. MITCHELL
SENIOR ASSISTANT COUNTY ATTORNEYS

October 9, 2020

ANDREW R. NEWBY
DENISE M. LETENDRE
KAREN E. DOTTORE
JOHN D. GILBODY
JOHN D. McCHESNEY
RYAN P. MURPHY
MARY KATHRYN HART †
MEGAN LISA WATKINS †
RACHEL HART JEWELL †
ASSISTANT COUNTY ATTORNEYS

Henrico County Board of Zoning Appeals
4301 East Parham Road
Henrico, Virginia 23228

Re: APL2020-00007: Earl Douglas

Honorable Members of the Board of Zoning Appeals:

The County Attorney's Office represents R. Joseph Emerson, Jr., AICP, Director of Planning, in this appeal brought by Earl Douglas. For the reasons discussed in this letter, the Director asks the Board of Zoning Appeals to uphold the notice of violation issued to Mr. Douglas finding that he violated the zoning ordinance by failing to obtain a Plan of Development (POD) for his property.

Summary of the Case

Mr. Douglas operates a business on property that he owns at 6108 Charles City Road in Varina (the "Property"). The zoning ordinance requires a POD before an individual or business may disturb more than 2,500 square feet of land. County Code Section 24-106(b). The issue in this case is whether Mr. Douglas has disturbed land in excess of 2,500 square feet on the Property without obtaining a POD.

Factual Background

The Board of Supervisors received a complaint in early 2020 about fuel tanks on the Property.

Mr. Douglas owns a business called Petroleum Tank Disposal, Inc, which operates at the Property. Despite its name, the company is purportedly a tree service business. Mr. Douglas purchased the Property in early 2020 and relocated his business there because his prior location was not properly zoned for a tree service business.

Patrick Weddel of the County's Department of Public Works investigated the complaint. Mr. Weddel is an environmental compliance supervisor with DPW's Engineering and Environmental Services Division.

As a part of his investigation, Mr. Weddel reviewed aerial photographs of the Property going back to 1998. He also visited the site where he noticed freshly cleared land, particularly around the perimeter of the Property along its southern border with Charles City Road and on its west and north side. Mr. Weddel calculated the total area of the cleared perimeter to be at least 4,000 square feet. Based on his qualifications and experience, he was concerned that the activity on the land could cause erosion or alter runoff from the Property. As a result of his findings, Mr. Weddel issued a Stop Work Order to preclude further clearing until an erosion and sediment control plan was approved.

Mr. Douglas had further discussions with Christina Goggin of the Planning Department about the need for a POD. As a part of these discussions, he submitted a photograph of a drawing of the Property to show his past work and future plans for the site. Notably, the drawing includes a box near the western edge of the property that states, "Previously wooded area" and "already cleared this area." It states that the measurements of this box are 30 feet by 40 feet. Indeed, aerial photographs show a wooded area at that spot in years prior to 2020. This wooded area no longer exists. (In an email to Mr. Weddel, Mr. Douglas also admitted to cutting down these trees.)

Despite his discussions with Ms. Goggin, Mr. Douglas never submitted an application for a POD. Based on this failure and DPW's finding that Mr. Douglas had disturbed over 2,500 square feet of land, the Department of Community Revitalization issued the notice of violation that Mr. Douglas has appealed.

Bobbie Bendle, the office manager for PTD, sent a letter on behalf of Mr. Douglas to the Department of Community Revitalization to note an appeal of this notice of violation. In the letter, Ms. Bendle acknowledges past disturbance of land by stating, "Mr. Douglas has been in communication with the County over some dispute over land disturbance. He has stopped all activity until he and the County can resolve the issue." She further states, "I am not disturbing any land," presumably as an explanation for why the notice of violation is unfounded.

The County has also received an unsigned letter from someone named Jason Gary. He claims to have worked on land at the Charles City address at some point in the 1990s. He claims that he personally spread stone over the whole area of the Property, which was used to park trucks.

Standard of Review

Code of Virginia Section 15.2-2286(A)(4) gives the Director of Planning "all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance." Pursuant to Section 24-107 of the Henrico County Code, the zoning ordinance is enforced by the Director of Planning and any deputies appointed by him, such as zoning inspectors with the Department of Community Revitalization.

Under Section 24-116 of the Henrico County Code, the BZA has the power to hear and decide appeals from a decision of the Director of Planning. To resolve the appeal, the BZA must

decide whether the Director of Planning was correct. County Code Section 24-116; Code of Virginia Section 15.2-2309(1).

By law, a decision of the Director of Planning or zoning inspector “shall be presumed to be correct.” County Code Section 24-116; Code of Virginia Section 15.2-2309(1). Mr. Douglas has the burden of proof to rebut the presumption of correctness by a preponderance of the evidence. County Code Section 24-116; Code of Virginia Section 15.2-2309(1).

Argument

Henrico Code Section 24-106(b) requires a POD prior to disturbing land in excess of 2,500 square feet. The state code defines land disturbance as “any man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and filling of land.” Va. Code § 62.1-44.15:51. Henrico Code Section 24-106(o) provides that any person who violates Section 24-106 “shall be guilty of a misdemeanor” and subject to punishment as provided by Henrico Code Section 24-110.

As demonstrated by the facts described above, Mr. Douglas cleared in excess of 2,500 square feet of land without an approved POD. Mr. Weddel, as a part of his investigation on behalf of DPW, observed fresh clearance of land and calculated its size to be at least 4,000 square feet. Mr. Douglas has further admitted to clearing land. Although Mr. Douglas discussed submitting a POD with Ms. Goggin, he did not do so prior to disturbing the land and has not done so since.

Therefore, the zoning inspector, on behalf of the Director of Planning, correctly determined that Mr. Douglas’s actions violated Henrico Code Section 24-106.

Response to Mr. Douglas’s Arguments

In his appeal, Mr. Douglas appears to make two main arguments. First, his office manager maintains that she is not currently disturbing any land. Second, a witness claims that the land at issue was covered by gravel at some point in the 1990s. Neither argument rebuts the notice of violation.

First, the contention that PTD is not currently disturbing any land does not change the fact that it disturbed land earlier in 2020 as Ms. Bendle’s letter acknowledges. Land disturbance does not have to be ongoing for a violation of Henrico Code Section 24-106 to occur.

Second, the evidence in the case refutes the apparent contention that Mr. Douglas could not have disturbed any land because the land was already disturbed back in the 1990s. Mr. Weddel noted fresh disturbance on his visit to the Property in early 2020. Furthermore, aerial photographs and Mr. Douglas’s own drawing and statements demonstrate that he cleared a “wooded area” that,

in conjunction with Mr. Weddel's observations about the perimeter of the Property, certainly resulted in the clearing of more than 2,500 square feet of land.

Conclusion

The BZA should deny the appeal and uphold the notice of violation because the evidence demonstrates that Mr. Douglas cleared land in excess of 2,500 square feet without a POD.

Sincerely yours,

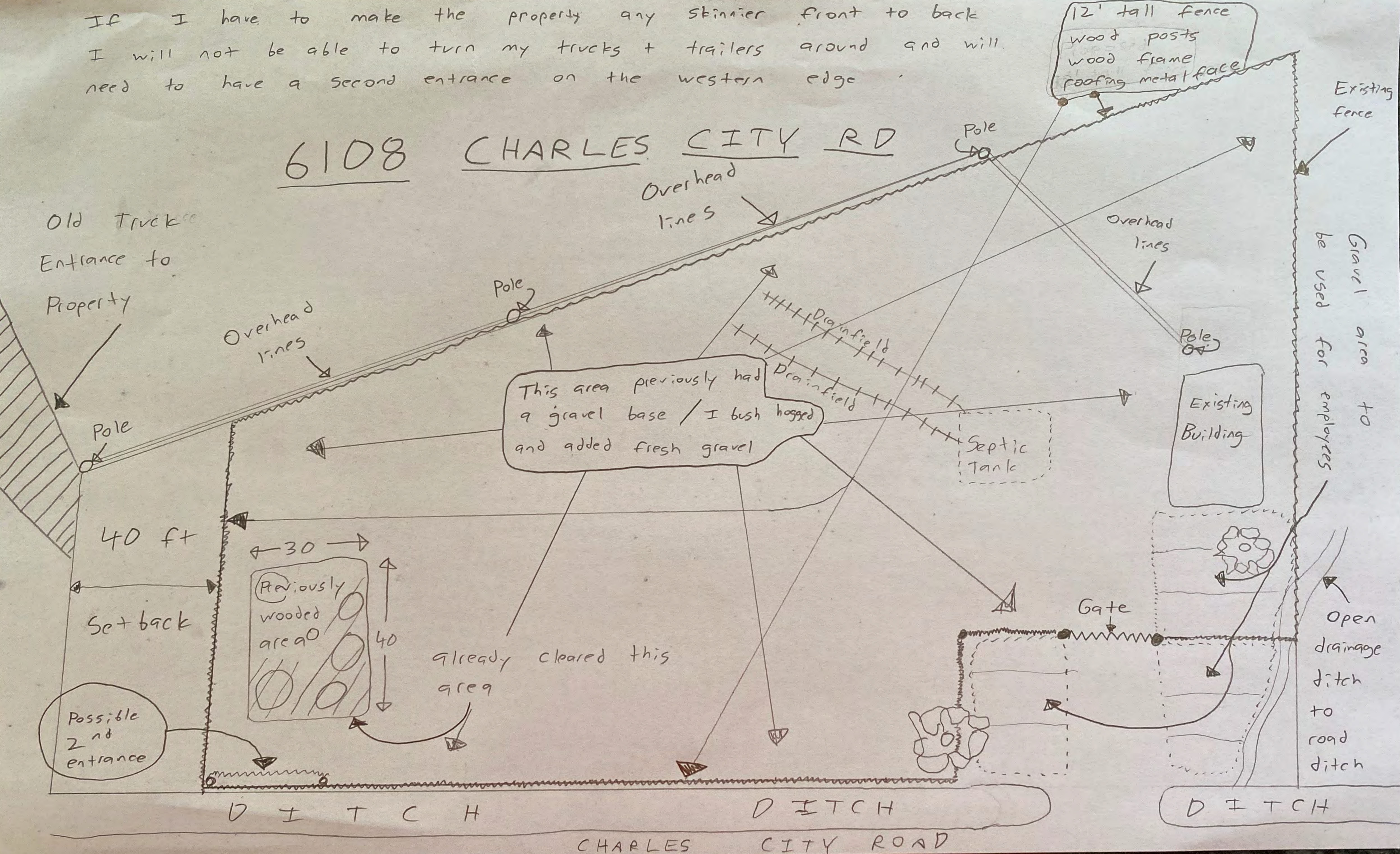


John D. McChesney
Assistant County Attorney

cc: Earl Douglas
R. Joseph Emerson, Jr. (by email)
Benjamin W. Blankinship (by email)

If I have to make the property any skinnier front to back I will not be able to turn my trucks + trailers around and will need to have a second entrance on the western edge.

6108 CHARLES CITY RD



From: [P.T.D., Inc.](#)
To: [Weddel, Patrick](#)
Subject: Re: 6108 Charles City Road - Stop Work Order
Date: Monday, March 23, 2020 6:17:27 PM

Sent from AOL Mobile Mail
Get the new AOL app: mail.mobile.aol.com

On Monday, March 23, 2020, Weddel, Patrick <wed@henrico.us> wrote:
The light in question on Charles City Road was a graveled lot years ago. Over time vegetation has grown up through the gravel base. There was still asphalt and number three gravel under the vegetation. There was a small area at the west end of the property with about 20 trees that I cut down and ground the stumps with a stock grinder. I did put gravel there where there was no apparent Gravel before. There used to be a fence around the whole property years ago and there was a gated entrance at both ends and trucks were parked on the property. It was a Vdot yard from what I hear. I sent pictures of what the old gravel look like under the vegetation. I would've taken more pictures if I knew I would need them later but I did not know so those are the only pictures I happen to have. Either way, I have stopped spreading gravel on the property. I will not Gravel anymore or deserve any more land so I hope that takes care of the issue.

Earl douglas
Ptd inc
8046409094

Mr. Earl Douglas,

Thank you for speaking with me over the weekend. Per our conversation, this email to advise you that I conducted a site inspection at the address referenced above on Friday, March 20th. I noticed that land disturbance in excess of 2,500 square feet appears to have taken place, as evidenced by mulch debris from wood chipping (tree/shrub clearing) and placement of stone over approximately 1 acre of land. Based on this inspection, you are in violation of Section 10-34 of the Henrico County Code by: engaging in land disturbing activity without an approved soil erosion and sediment control plan. All land disturbance must immediately stop. No further work shall be performed until an erosion and sediment control plan has been approved by Henrico County, in accordance with Chapter 10 of the Henrico County Code. I have attached a Stop Work Order for your records. I welcome your response if you have any questions, thoughts, or concerns regarding the attached document.

Sincerely,

Patrick Weddel

ENVIRONMENTAL COMPLIANCE SPECIALIST SUPERVISOR



1998



2002



2013



2016



2018



2020



6108 Charles City Rd – street view of office & site entrance



Western view of site and Charles City Rd

APL2020-00007



Western view of trucks & lot



View of tanks along northern property line

APL2020-00007

