JOINT MEETING
STATE REVIEW BOARD and BOARD OF HISTORIC RESOURCES
9:00 a.m. June 16, 2022
Florence Elston Inn and Conference Center of Sweet Briar College
450 Sweet Briar Drive, Sweet Briar, Virginia 24521

EASEMENT PROGRAM
BOARD PACKET

PROJECT SUMMARIES

Provided to the
Virginia Board of Historic Resources

June 8, 2022
NEW
EASEMENT OFFERS
**Easement Summary**  
*Shiflett Tract, Piedmont Battlefield*

<table>
<thead>
<tr>
<th>BHR Meeting Date: June 16, 2022</th>
<th>DHR No.: 007-5095-0002</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant:</strong> Shenandoah Valley Battlefields Foundation</td>
<td><strong>County:</strong> Augusta</td>
</tr>
<tr>
<td><strong>Acres:</strong> ±141.318</td>
<td></td>
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</table>

### Property Features and Current Use:

The Shiflett Tract is composed of a single ±146.414-acre parcel in Augusta County. The owners propose to exclude 5.096 acres, which includes all of the agricultural buildings from the easement, as well as a Confederate commemorative monument (installed in 2021), resulting in a proposed easement area of ±141.318 acres (the “Property”). The Property is located on Battlefield Road (Route 608) and Piedmont Road (Route 774) just north of the town of New Hope. The Property features a rolling topography and includes significant frontage (2,698.7 feet) along the Middle River as well as frontage on an unnamed intermittent stream and a small pond. The Shiflett Tract has been used for agricultural purposes since at least the early twentieth century to the present time. The current owners use the property for crop production and animal husbandry (cattle production). The Shiflett Tract is improved with seven early to mid-twentieth century agricultural buildings, all located near the center of the Property. Shenandoah Valley Battlefields Foundation (“SVBF”) has contracted with the owners to purchase an easement and convey it to the Board of Historic Resources (“BHR”). SVBF plans to close on this easement purchase by December 31, 2022. The owners will grant SVBF a public access easement over the proposed 0.256-acre Battlefield Road pull-off area, which will allow SVBF to use this area for historic interpretation and install wayfinding signage, and up to three interpretive markers (not including DHR’s existing Piedmont Battlefield highway marker). As part of this public access easement, the owners will also grant SVBF the right to conduct guided group tours on the Property. SVBF will apply for an American Battlefield Protection Program (“ABPP”) grant, a Virginia Land Conservation Fund (“VLCF”) grant, and has been awarded a Virginia Battlefield Preservation Fund (“VBPF”) grant to assist with the purchase of the historic preservation and open-space easement.

### Conservation Values:

#### Historic/Landscape:

1. The proposed easement area contains ±141.318 acres of land entirely within the core and study areas of the Piedmont Battlefield, which has been given a Preservation Priority Rating of II.2 Class B by the Civil War Sites Advisory Commission (“CWSAC”). Sites with a priority rating of II are those that are in relatively good condition with opportunities for comprehensive preservation. Battlefield sites rated Class B are those that had a direct and decisive influence on their campaigns, in this case the Lynchburg Campaign from May to June 1864.

   - Following the Union loss at New Market, Major General David Hunter took command of Union forces in the Shenandoah Valley. Hunter employed an aggressive approach to his command and moved south through the Valley quickly to meet with Brigadier General George Crook’s troops and Brigadier General William W. Averell’s forces near Staunton. Hunter’s swift advance surprised the Confederates who scrambled to block Hunter’s forces. Confederate Brigadier General William E. “Grumble” Jones’s infantry arrived from Tennessee just in time to set up a defensive line north of the Village of Piedmont. On June 5, 1864, Hunter’s forces engaged the Confederate forces resulting in intense fighting through the morning. By mid-afternoon, Federal Colonel Joseph Thoburn saw a gap in the Confederate line and ordered his troops to attack at Jones’ vulnerable point. While trying to thwart this breach, Jones was shot and killed. Following the loss of their leader, the Confederate forces collapsed and began their retreat south, and Hunter’s forces continued their march to Staunton. During the early stages of the battle, the Property included the Confederate center and left flank. The Battle of the Piedmont ended in a Union victory with approximately 1,500 Confederate casualties and 875 Union casualties.

2. The Property is within the Shenandoah Valley Battlefields National Historic District, an eight county region in the Shenandoah Valley of Virginia designated by Congress in the 1996 “Shenandoah Valley Battlefields National Historic District and Commission Act” (P.L. 104-333). The purpose of the district is to preserve, conserve, and interpret the region’s significant Civil War battlefields and related historic sites.

#### Archaeological:

1. The Property includes part of two known archaeological sites, one which contains features associated with Native American occupation and the other which relates to the 1864 Battle of Piedmont. Both sites are formally recorded in the Department of Historic Resources’ (“DHR”) VCRIS inventory.

2. The Property is significant for its archaeological potential as a Civil War battlefield. Although the entire Property has not been subjected to professional archaeological survey, the Property has the potential to contain archaeological sites, deposits and features associated with the Civil War, specifically the Battle of Piedmont, based on the concentration of troop movements and engagement of the opposing armies across or on the Property.
3. The Property’s proximity to the Middle River, as well as its topography and land use, indicate that it possesses a moderate to high probability of containing prehistoric and/or early historic archaeological resources.

Open Space:
The Property contains ±141.318 acres of open space land; of which 13.16 acres is under forested cover.

Water Quality:
The Property includes ±2,698.7 feet of frontage along the Middle River, ±1,583.4 feet of frontage on an unnamed intermittent stream, and ±1,006.2 feet of frontage on a small pond. The Property is within the Chesapeake Bay watershed.

Agricultural:
The Property contains ± 68.9 acres of Prime Farmland as determined by the Natural Resource Conservation Service (“NRCS”).

ConserveVirginia:
The Property lies entirely within the “Cultural and Historic Preservation” (±141.318 acres) and partially within the “Agriculture and Forestry” and “Water Quality Improvement” layers in ConserveVirginia, Virginia’s land conservation strategy that identifies high value lands and conservation sites across the Commonwealth of Virginia.

Other Supporting Governmental Policy:


State: (i) Virginia Outdoors Plan (2018) Region 6: Central Shenandoah (12.2, 12.3, 12.7, 12.8, 13.37); (ii) Chapter 22 of Title 10.1, Sections 10.1-1220 through 10.1-2214 of the Code of Virginia; (iii) The Open-Space Land Act, Chapter 17 of Title 10.1, Sections 10.1-1700 through 10.1-1705 of the Code of Virginia; (iv) the Board’s practices in reviewing and accepting an easement over this property, which include review by VDHR’s Easement Program staff, review by a committee comprised of VDHR staff from different divisions and review and acceptance by the Board at a public meeting, as set forth in the Board’s written adopted policies; (v) ConserveVirginia; and (vi) Virginia Land Conservation Foundation, Chapter 10.2, Title 10.1, Virginia Code §§ 10.1-1017 through 10.1026.

Local: Augusta County has zoned this property General Agriculture (GA); the future land use designation for this parcel is Agricultural Conservation Area in Augusta County’s 2007 Comprehensive Plan (updated 2015). The Augusta County Comprehensive Plan Update provides support for the placement of a conservation easement at pages 18 and 34. Per letter dated June 1, 2021, Augusta County has confirmed that a conservation easement on this property is consistent with Augusta County’s 2007 Comprehensive Plan (updated 2015).

Existing Structure within the Proposed Easement Area:
- DHR Highway Marker
- Septic drainfield
- Subsurface drain tiles (3 lines)

Existing Buildings and Structures Excluded from the Proposed Easement Area:
- Seven agricultural buildings (all early to mid-20th century)
- Confederate commemorative monument (2021)

General Easement Terms:

Maintenance and Preservation: Property shall be maintained, preserved, and protected in same or better condition
Division: no subdivision or division permitted
Permitted New Buildings Structures and Amenities: (i) reconstructions of documented historic buildings/structures; (ii) pervious roads/drives; (iii) pervious paths/trails; (iv) new outbuildings ancillary to use as a historic site, not to exceed 300 square feet in collective footprint; (v) utilities that serve only the property; and (vi) drainage or irrigation improvements associated with the agricultural use of the Property
New Construction & Alterations: all new construction and alterations to existing buildings/structures requires prior written approval; use Secretary of the Interior’s Standards for Treatment of Historic Properties as standard for review
Archaeology: ground disturbance may require professional archaeological survey; owner must take precautions to protect archaeological sites; no relic hunting
Impervious Surface Coverage: cap at 1% or less for collective footprint
Activities: prohibits activities inconsistent or incompatible with the Conservation Values protected by easement
Ground Disturbance: (i) any Ground Disturbing Activities are subject to prior written approval; (ii) mining by any method, dredging on or from the Property, or drilling for oil, gas or any natural resource (excluding fresh water), is prohibited
**Forest Management:** easement shall address forest management including timbering, replanting, and land conversion consistent with current easement template; review and approval required prior to battlefield landscape rehabilitation

**Riparian Protection Zone:** minimum 35’ vegetated buffer required on perennial streams and waterways

**Agricultural Management Plan:** easement shall address continued agricultural use of the Property and, per the requirements of the VLCF grant, adherence to an agricultural conservation plan developed in consultation with the Soil and Water Conservation District or the NRCS

**Trash:** accumulation or dumping of trash/refuse/junk, or hazardous/toxic material is prohibited

**Signs:** restrictions on size and number of signs permitted

**Public Access:** easement requires 2 days minimum public access

**Grant Funding:** ABPP grant requires specific easement language for Section 6(f)3 of Land and Water Conservation Fund Act; VLCF grant requires riparian buffer language for all perennial streams and agricultural plan.

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### Documentation Information:

<table>
<thead>
<tr>
<th>Tax Map Number:</th>
<th>038 48</th>
<th>USGS Quad:</th>
<th>Fort Defiance</th>
</tr>
</thead>
</table>

| Property Address: | Between 1230 and 1344 Battlefield Road, Grottoes, Virginia 24441 |

### Statement of Public Benefit:

The Shiflett Tract is of historic and archaeological significance and is within the boundaries of the Piedmont Battlefield with preservation priority rating from the CWSAC. The Property also includes part of a known archaeological site. Restrictions on ground disturbance, archaeological resources and historic resources will ensure the Property retains its historic integrity as a Civil War battlefield landscape. Preservation of the Shiflett Tract will augment efforts to preserve historic properties in Augusta County, including approximately 327.5 acres of land already subject to perpetual easements held by the Board. Preservation of the open-space and wooded character of the Property preserves a local landscape that attracts tourism and commerce to the area and enhances the quality of life for area residents. The Property is visible from Battlefield Road (Virginia Route 608) and Piedmont Road (Virginia Route 774). In addition to visibility from a public right-of-way, the easement will require physical public access two calendar days per year. The Property is also located within the Chesapeake Bay watershed. Requiring a 35-foot wide riparian buffer on perennial streams and limiting new construction, timbering, ground disturbing activities and uses of the Property in the Easement will support protection of water quality in the Chesapeake Bay. The protection of the Shiflett Tract by the easement will also fulfill the intent of the 2018 Virginia Outdoors Plan to protect Virginia’s historic and cultural resources, including Civil War battlefield landscapes and resources, and to place historic preservation and open-space easements on historic properties.

**Easement Acceptance Committee Recommendation:**

The Easement Acceptance Committee recommends approval of the Shiflett Tract easement offer pursuant to the following condition:

1. Final review of title work, title commitment, survey, draft easement, and other recorded and unrecorded documents affecting title to the property by the Office of the Attorney General. Per this review, counsel may identify additional issues that require documentation or action.
Shiflett Tract, Piedmont Battlefield
Augusta County, Fort Defiance Quad
DHR ID: 007-5095-0002

Created By: D. Bascone 5/17/2022

Records of the Virginia Department of Historic Resources (DHR) have been gathered over many years and the representation depicted is based on the field observation date and may not reflect current ground conditions. The map is for general illustration purposes and is not intended for engineering, legal or other site-specific uses. The map may contain errors and is provided "as-is." Contact DHR for the most recent information as data is updated continually.
### Easement Summary

**Dowdall’s Tavern Tract, Spotsylvania Court House Battlefield**

<table>
<thead>
<tr>
<th>BHR Meeting Date: June 16, 2022</th>
<th>Staff: K. Edwards</th>
<th>DHR No.: 088-5180-0014</th>
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<tbody>
<tr>
<td><strong>Applicant:</strong> American Battlefield Trust</td>
<td><strong>County:</strong> Spotsylvania</td>
<td><strong>Acres:</strong> ±41.188</td>
</tr>
</tbody>
</table>

#### Property Features and Current Use:

The Dowdall’s Tavern Tract (the “Property”) is composed of a single 42.188-acre parcel. The Property is located on the south side of Plank Road (Route 3/Germanna Highway) approximately twelve miles west of Fredericksburg. The Property features a rolling topography and includes a small (±0.28 acre) manmade pond with earthen dam. The Property borders the Wilderness Presidential Resort to the southeast and the McGhee Tract to the west. The Dowdall’s Tavern Tract has been used for residential and agricultural purposes since at least the late-eighteenth century to the present time and was part of a 315-acre planation known as Locust Grove. The original tavern building was constructed prior to 1820 along Plank Road and also served as the primary dwelling for Locust Grove. During the Civil War, Menzi Chancellor, his wife, and 10 children lived on the Property. Seven enslaved persons also lived and worked on the Property. During the Battle of Chancellorsville, the tavern served as Union General Oliver O. Howard’s headquarters and Union forces were entrenched on the Property (Civil War maps show an extensive line of earthworks crossing the Property but it is unknown if these earthworks still exist). Following Jackson’s surprise flank attack and the Union retreat, the Property served as a field hospital where an estimated 1,100 wounded Union troops were treated. In 1869, the original tavern burned and was replaced with a two-story frame dwelling. Historic photos of the dwelling show that it underwent a number of changes over the next 100 years, including the construction of a two-story rear addition. In 1971, the widening of Route 3 to four lanes required that the house be moved 200 yards south into the interior of the Property. State highway plat maps show that there were three outbuildings of unknown age in 1971 located near the original tavern site and only one of these outbuildings, a frame barn, survived until the 1980’s when it was demolished. A two-car frame garage was added to the Property following the relocation of the dwelling. The Property is currently used for residential and open-space purposes. The American Battlefield Trust (the “Trust”) has contracted with the current owner, the Carl M. Grenn Sr. Survivor’s Trust, to acquire the Property in fee-simple. The Trust plans to close on the Property by August 13, 2022. If funding permits, the Trust will install a trail and interpretive signage. The Trust will apply for an American Battlefield Protection Program (“ABPP”) grant, a Virginia Land Conservation Fund (“VLCF”) grant, and a Virginia Battlefield Preservation Fund (“VBPF”) grant to assist with the fee-simple purchase of the Property. After conveying an easement on the Dowdall’s Tavern Tract, the Trust plans to use it for agricultural, open-space and battlefield interpretation purposes.

#### Conservation Values:

**Historic/Landscape:**

1. The Property contains ±42.188 acres of land within the core and study areas of the Chancellorsville Battlefield, which has been given a Preservation Priority Rating of II.2 Class A by the Civil War Sites Advisory Commission (“CWSAC”). Sites with a priority rating of II are those with opportunities for comprehensive preservation. Battlefield sites rated Class A are those that had a direct and decisive influence on their campaigns and direct impact on the course of the war, in this case the Chancellorsville Campaign from April 20 to May 6, 1863.
   - The Battle of Chancellorsville is considered by many historians to be Confederate General Robert E. Lee’s most significant victory. After marching from Fredericksburg and crossing the Rappahannock River, Union Major General Joseph Hooker’s forces adopted a defensive position at Chancellorsville, just east of the Dowdall’s Tavern Tract. Union General Oliver O. Howard set up his headquarters at Dowdall’s Tavern and Union forces constructed a long line of earthworks running east-west (facing south) on the Property. The 154th New York Infantry, 27th Pennsylvania Infantry, 73rd Pennsylvania Infantry, and the Battery I, First New York Light Infantry were all entrenched on the Property. On May 2, Confederate General Stonewall Jackson’s Second Corps attacked the Union right flank from the west, overrunning the Union forces who were expecting an attack from the south. The Union forces were driven east towards Chancellorsville. After three more days of fighting near Chancellorsville, and the Union defeat at the Battle of Salem Church, Hooker withdrew his forces across the Rappahannock on May 6th. In the aftermath of the battle, the Property served as a field hospital treating an estimated 1,100 Union soldiers behind Confederate lines. The Battle of the Chancellorsville ended in a Confederate victory with approximately 10,000 Confederate casualties and 14,000 Union casualties.

2. The Property is within the Journey Through Hallowed Ground National Heritage Area, an 180-mile corridor stretching from Gettysburg, Pennsylvania to Monticello, near Charlottesville, Virginia designated a National Heritage Area by Congress in 2008.
Archaeological:
1. The Property includes part of a known archaeological site that contains features associated with mining. This site is formally recorded in the Department of Historic Resources’ (“DHR”) VCRIS inventory, but the site was potentially disturbed by construction of the southbound lanes of Route 3.
2. The Property is significant for its archaeological potential related to historic period domestic and commercial use of the Property as well as for being a Civil War battlefield. Although the entire Property has not been subjected to professional archaeological survey, it has the potential to contain archaeological sites, deposits and features associated with the Civil War, specifically the Battle of Chancellorsville, based on the concentration of troop movements and engagement of the opposing armies across or on the Property.

Open Space/Forestal:
The Property contains ±42.188 acres of open space land; of which ±24.41 acres is under forested cover.

Water Quality:
The Property includes frontage along 0.28-acre manmade pond. The Property is within the Chesapeake Bay watershed.

ConserveVirginia:
The Property lies entirely within the “Cultural and Historic Preservation” layer of ConserveVirginia, Virginia’s land conservation strategy that identifies high value lands and conservation sites across the Commonwealth of Virginia.

Other Supporting Governmental Policy:


State: (i) Virginia Outdoors Plan (2018) Region 16: George Washington (12.2, 12.3, 12.7, 12.8, 13.99); (ii) Chapter 22 of Title 10.1, Sections 10.1-2200 through 10.1-2214 of the Code of Virginia; (iii) Chesapeake Bay Program for permanent land conservation in Bay watershed; (iv) The Open-Space Land Act, Chapter 17 of Title 10.1, Sections 10.1-1700 through 10.1-1705 of the Code of Virginia; (v) the Board’s practices in reviewing and accepting an easement over this Property, which include review by VDHR’s Easement Program staff, review by a committee comprised of VDHR staff from different divisions and review and acceptance by the Board at a public meeting, as set forth in the Board’s written adopted policies; (vi) ConserveVirginia; and (vii) Virginia Land Conservation Foundation, Chapter 10.2, Title 10.1, Virginia Code §§ 10.1-1017 through 10.1026.

Local: Spotsylvania County has zoned this property Rural (RU); future land use for this parcel is designated as Rural Residential and Open Space in the Spotsylvania County Virginia Comprehensive Plan (adopted December 14, 2021). The Spotsylvania County Comprehensive Plan provides support for preservation generally at Chapter 5, pages 2-6, and for the placement of an open-space easement at Chapter 2, pages 20-22, 24 and 31 and Chapter 5, page 5. By letter dated May 25, 2022, Spotsylvania County confirmed zoning, future land use and consistency of the historic preservation and open-space easement with the comprehensive plan.

Existing Buildings and Structures:
Frame Dwelling (ca. 1869 with later additions)
Frame Garage (ca. 1971)

General Easement Terms:

Note: provisions in italics below indicate non-standard easement template language

Maintenance and Preservation: Property shall be maintained, preserved, and protected in same or better condition
Division: no subdivision or division permitted
Permitted New Buildings Structures and Amenities: (i) reconstructions of documented historic buildings/structures; (ii) pervious roads/drives; (iii) pervious paths/trails; (iv) new outbuildings ancillary to use as a historic site, not to exceed 300 square feet in collective footprint; and (v) utilities that serve only the Property
New Construction & Alterations: all new construction and alterations to existing buildings/structures requires prior written approval; use “Secretary of the Interior’s Standards for Treatment of Historic Properties” as standard for review
Permitted Infrastructure Expansion: easement permits future widening and/or improvement of Route 3/Plank Road subject to conditions regarding archaeological survey and avoidance of known archaeological sites; acquisition of land for such purposes shall not be considered a division of the Property
Archaeology: ground disturbance may require professional archaeological survey; owner must take precautions to protect archaeological sites; no relic hunting
Impervious Surface Coverage: cap at 1% or less for collective footprint
### Activities:
- prohibits activities inconsistent or incompatible with the Conservation Values protected by easement

### Ground Disturbance:
- (i) any Ground Disturbing Activities are subject to prior written approval;
- (ii) mining by any method, dredging on or from the Property, or drilling for oil, gas or any natural resource (excluding fresh water), is prohibited

### Forest Management:
- easement shall address forest management including timbering, replanting, and land conversion consistent with current easement template; review and approval required prior to battlefield landscape rehabilitation

### Trash:
- accumulation or dumping of trash/refuse/junk, or hazardous/toxic material is prohibited

### Signs:
- restrictions on size and number of signs permitted

### Public Access:
- easement requires 2 days minimum public access

### Grant Funding:
- ABPP (application pending), VLCF (application pending), and VBPF (application pending)

### Documentation Information:
- Tax Map Number: 9-A-92
- USGS Quad: Chancellorsville

### Property Address:
- 9600 Plank Road, Spotsylvania

### Statement of Public Benefit:
The Dowdall’s Tavern Tract is of historic and archaeological significance and is within the boundaries of the Chancellorsville Battlefield with preservation priority rating from the CWSAC. The Property also includes part of a known archaeological site. Restrictions on ground disturbance, archaeological resources and historic resources will ensure the Property retains its historic integrity as a Civil War battlefield landscape. Preservation of the Dowdall’s Tavern Tract will augment efforts to preserve historic properties in Spotsylvania County, including approximately 1,078 acres of land already subject to perpetual easements held by the Board, in addition to other lands protected by the National Park Service. Preservation of the open-space and wooded character of the Property preserves a local landscape that attracts tourism and commerce to the area and enhances the quality of life for area residents. The Property is visible from Plank Road Road (Virginia Route 3/Germanna Highway). In addition to visibility from a public right-of-way, the easement will require physical public access two calendar days per year. The Property is also located within the Chesapeake Bay watershed. The protection of the Dowdall’s Tavern Tract by the easement will also fulfill the intent of the 2018 Virginia Outdoors Plan to protect Virginia’s historic and cultural resources, including Civil War battlefield landscapes and resources, and to place historic preservation and open-space easements on historic properties.

### Complexities:
1. The 2021 boundary survey includes two overhead utility lines for which there are no corresponding utility easements.
2. Phase I ESA found that an underground oil storage tank is no longer in use because water had leaked into the tank. Due to the potential for petroleum leakage and contamination, this is considered to be a recognized environmental condition. The Trust plans to remove the tank and the area inspected for leakage. Pending the results of this inspection, a Phase II ESA may be required.
3. By letter dated May 25, 2022, Spotsylvania County confirmed its comprehensive plan anticipates widening and/or improvement of Route 3/Plank Road and requested that the historic preservation and open-space easement does not preclude such activities. The easement will include language that permits widening of Route 3/Plank Road in the historic preservation and open-space easement held by the BHR, subject to conditions regarding archaeological survey and avoidance of known archaeological sites.

### Easement Acceptance Committee Recommendation:
The Easement Acceptance Committee recommends approval of the Dowdall’s Tavern Tract subject to the following conditions:
1. Receipt of documentation (recorded easement or containment letter) for the overhead utility lines on the Property.
2. Receipt of documentation for the removal of the underground storage tank; should there be any evidence of petroleum leakage, a Phase II ESA will be required.
3. DHR staff will work with the Trust to draft language to DHR’s satisfaction that acknowledges and permits the potential widening and/or improvement of Route 3/Plank Road in the historic preservation and open-space easement held by the BHR, subject to conditions regarding archaeological survey and avoidance of known archaeological sites.
4. Final review of title work, title commitment, survey, draft easement, and other recorded and unrecorded documents affecting title to the Property by the Office of the Attorney General. Per this review, counsel may identify additional issues that require documentation or action.
Dowdall Tavern Tract (Chancellorsville Battlefield)
Spotsylvania County, Chancellorsville Quad
DHR ID: 088-5180-0014

Created By: D. Bascone 5/2/2022
Sources: VDHR 2022, ESRI 2022, VDOT 2022, VGIN 2022

Records of the Virginia Department of Historic Resources (DHR) have been gathered over many years and the representation depicted is based on the field observation date and may not reflect current ground conditions. The map is for general illustration purposes and is not intended for engineering, legal or other site-specific uses. The map may contain errors and is provided “as-is”. Contact DHR for the most recent information as data is updated continually.
### Easement Summary
#### Phillips Tract, Reams Station II Battlefield

<table>
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<tr>
<th>BHR Meeting Date: June 16, 2022</th>
<th>Staff: Wendy Musumeci</th>
<th>File No. 026-0050-0007</th>
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<tr>
<td>Owners/Applicants: American Battlefield Trust</td>
<td>County: Dinwiddie</td>
<td>Acres: ±100.018</td>
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</table>

#### Property Features and Current Use:

The Phillips Tract (the “Property”) is comprised of two tax parcels totaling approximately 100.018 acres. The Property is located on Reams Drive (Route 606), approximately twelve miles southwest of Petersburg. The Phillips Tract shares its eastern boundary with the Durham Tract, a property owned by the American Battlefield Trust (the “Trust”) and located within the Petersburg National Battlefield boundary. The Phillips Tract has a relatively flat topography with approximately ±39.79 acres under forested cover. The Property also includes two manmade ponds, frontage on two intermittent streams and a small area of wetlands. It is currently used for agricultural and open-space purposes and includes four mid to late twentieth century agricultural structures (two garages, one open shed and one turn-out shed). The Phillips Tract includes part of an identified archaeological site that contains Native American components as well as evidence of domestic and Civil War occupation. The Property also includes a large (235-foot wide) utility corridor that runs north-south at the eastern edge of the Property and comprises ±7.67 acres of the Property. The American Battlefield Trust acquired the Phillips Tract in January 2020 with the assistance of a Virginia Battlefield Preservation Fund (“VBPF”) grant. Conveyance of an easement to the Board of Historic Resources (“Board” or “BHR”) is a condition of the grant. The Trust is also applying for an American Battlefield Protection Program (“ABPP”) grant to cover the remaining costs associated with its fee-simple acquisition of the Property. After conveying an easement on the Property, the Trust plans to use it for agricultural, open-space and battlefield interpretation purposes. The Property will be open to the public year-round and, if funding permits, the Trust will extend a trail from the adjacent Durham Tract to the Phillips Tract.

#### Conservation Values:

**Historic/Landscape:**

1. The Phillips Tract is entirely within the core and study areas of the Ream’s Station II Battlefield, which has been given a Preservation Priority Rating of II.2 Class B by the Civil War Sites Advisory Commission (“CWSAC”). Sites with a priority rating of II are those that are in relatively good condition with opportunities for “comprehensive preservation.” Battlefield sites rated Class B are those that had a direct and decisive influence on their campaign, in this instance, the Richmond-Petersburg Campaign from June 1864 to March 1865.

   - The Petersburg Railroad, also known as the Weldon Railroad, was one of the major arteries supplying Lee’s besieged army at Petersburg. In mid-August 1864, General Grant’s forces cut off the railroad and stopped supplies to Petersburg. Union General Winfield Hancock ordered the II Corps under General Henry Heth to destroy 14 miles of tracks from Globe Tavern to Reams Station. Union troops occupied poorly constructed earthworks at Reams Station while undertaking their orders to destroy the railroad. Meanwhile, General Lee ordered Confederate forces under General A. P. Hill to drive off the Union forces and save the railroad. On August 25, 1864, Hill’s Third Corps routed Hancock’s II Corps at Reams Station and stopped further destruction of the Weldon Railroad, thus saving this important supply line for the troops in Petersburg. The Confederate victory at the Second Battle at Reams Station resulted in 3,492 total casualties.

   - During the battle, the Phillips Tract served as the marshaling area of Heth’s Confederate forces. The Confederate troops crossed the Property during their three assaults on the Union forces that were attempting to destroy the Weldon Railroad located to the east of the Property within the current Petersburg National Battlefield Boundary.

3. The Phillips Tract is partially within the core (±43.59 acres) and study (±57.41 acres) areas of the Ream’s Station I Battlefield, which has been given a Preservation Priority Rating of III.3 Class C by the CWSAC. Sites with a priority rating of III are those that need additional protections. Battlefield sites rated Class C are those “having an observable influence” on the outcome of their campaign, in this instance, the Richmond-Petersburg Campaign from June 1864 to March 1865.

**Archaeological:**

1. The Property includes part of a known archaeological site that contains features associated with Native American occupation, Civil War battlefields and domestic occupation, which site is formally recorded in the Department of Historic Resources’ (“DHR”) VCRIS inventory.

2. The Property is also significant for its archaeological potential as a Civil War battlefield. Although the entire Property has not been subjected to professional archaeological survey, the Property has the potential to contain archaeological sites, deposits and features associated with the Civil War, specifically the Battles of Reams Station I and II, based on the concentration of troop movements and engagement of the opposing armies across or on the Property.
3. The Property may also contain archaeological sites associated with its previous agricultural and domestic uses.

**Open Space/Forestral:**
The Phillips Tract contains approximately 100.018 acres of open-space land, of which ±39.79 acres is under forested cover.

**Water Quality:**
The Property contains ±3,222.2 feet of frontage on two manmade freshwater ponds (per historic aerials and topographic maps, the larger pond was constructed between 1952 and 1968; the smaller pond between 1974 and 1981), as well as two small areas of wetlands. The Property also includes ±2,039.8 feet of frontage on two unnamed intermittent streams which drain to the Nottoway River. The Property is located within the Chowan watershed.

**Other Supporting Governmental Policy:**


**State:** (i) Virginia Outdoors Plan: Region 19 - Crater (Pages 12.2, 12.3, 12.7, 12.8, 13.113-117); (ii) Chapter 22 of Title 10.1, Sections 10.1-2200 through 10.1-2214 of the Code of Virginia; (iii) The Open-Space Land Act, Chapter 17 of Title 10.1, Sections 10.1-1700 through 10.1-1705 of the Code of Virginia; and (iv) the BHR’s practices in reviewing and accepting an easement over this Property, which include review by VDHR’s Easement Program staff, review by a committee comprised of VDHR staff from different divisions and review and acceptance by the BHR at a public meeting, as set forth in the Board’s written adopted policies.

**Local:** The Property is currently zoned A-2 (Agriculture), and its future land use designation is Rural Conservation Area which recommends preservation of the rural character for this general area. The *Dinwiddie County Comprehensive Plan, 2006, Updated February 2014* provides support for the placement of a conservation easement on the Property at Chapter X, Future Land Use, page 15, Chapter XI, Policies Goals & Objectives, pages 5-7. Dinwiddie County confirmed that a historic preservation and open-space easement placed on the Property would be consistent with Dinwiddie County’s comprehensive plan.

**Existing Buildings and Structures:**

<table>
<thead>
<tr>
<th>Frame turn-out shed (ca. 1950)</th>
<th>Vehicle shed with metal siding (ca. 2000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frame garage (ca. 1985)</td>
<td>Concrete slab</td>
</tr>
<tr>
<td>Frame garage (ca. 1995)</td>
<td>Underground utility boxes (2)</td>
</tr>
</tbody>
</table>

**Easement Terms:**

**Maintenance and Preservation:** Property shall be maintained, preserved, and protected in same or better condition.

**Division:** no subdivision or division permitted

**Existing Buildings and Structures:** existing non-historic agricultural buildings and structures to be retained

**Permitted New Buildings Structures and Amenities:** (i) reconstructions of documented historic buildings/structures; (ii) pervious roads/drives; (iii) pervious paths/trails; (iv) new outbuildings ancillary to use as a historic site, not to exceed 300 square feet in collective footprint; and (v) utilities that serve only the Property.

**New Construction:** all new construction and alterations to existing buildings/structures requires prior written approval; use *Secretary of the Interior’s Standards for Treatment of Historic Properties* as standard for review

**Utility Corridor Conservation Plan:** plan between VDHR & the Trust that mitigates the impact of the existing utility corridor, protects preservation and conservation values, and enables opportunities for battlefield interpretation.

**Archaeology:** ground disturbance may require professional archaeological survey; owner must take reasonable precautions to protect archaeological sites; no relic hunting

**Impervious Surface Coverage:** cap at 1% or less for collective footprint

**Activities:** prohibits activities inconsistent or incompatible with the Conservation Values protected by easement

**Ground Disturbance:** (i) any Ground Disturbing Activities are subject to prior written approval; (ii) mining by any method, dredging on or from the Property, or drilling for oil, gas or any natural resource (excluding fresh water), is prohibited

**Forest Management:** easement shall address forest management including timbering, replanting, landscape rehabilitation and land conversion consistent with current easement template; review and approval required prior to battlefield landscape rehabilitation

**Riparian Protection Zone:** 35’ vegetated buffer required on intermittent streams; wetland areas subject to specific conditions.

**Trash:** accumulation or dumping of trash/refuse/junk, or hazardous/toxic material is prohibited

**Signs:** restrictions on size and number of signs permitted
Public Access: easement requires 2 days minimum public access; Property also visible from public-right-of-way
Grant Funding: ABPP (application pending) and VBPF (awarded 2018)

Documentation Information:
Tax Map Numbers: 48-38C, 48-39A  USGS Quad: Carson
Property Address: 27520 Reams Drive, Petersburg, VA 23805

Statement of Public Benefit:
The Phillips Tract is of historic and archaeological significance and is within the boundaries of the Reams Station I and Reams Station II Battlefields with preservation priority ratings from the CWSAC. The Property also includes part of a known archaeological site. Restrictions on ground disturbance, archaeological resources and historic resources will ensure the Property retains its historic integrity as a Civil War battlefield landscape. Preservation of the Phillips Tract will augment efforts to preserve historic properties in Dinwiddie County, including approximately 1,068 acres of land already subject to perpetual easements held by the Board. Preservation of the open-space and wooded character of the Property preserves a local landscape that attracts tourism and commerce to the area and enhances the quality of life for area residents. Additionally, restrictions on development, new construction, and ground disturbing activities and requirements for forest management in the easement will protect the forested landscape and forest resources on the Property and the natural benefits associated with forest conservation such as clean air and water. The Property is visible from Reams Drive (Virginia Route 606). In addition to visibility from a public right-of-way, the easement will require physical public access two calendar days per year. The Property is also located within the Chowan watershed. Requiring a 35-foot wide riparian buffer on intermittent streams and limiting new construction, timbering, ground disturbing activities and uses of the Property in the Easement will support protection of water quality in the watershed. The protection of the Phillips Tract by the easement will also fulfill the intent of the 2018 Virginia Outdoors Plan to protect Virginia’s historic and cultural resources, including Civil War battlefield landscapes and resources, and to place historic preservation and open-space easements on historic properties.

Complexities:
1. There is an ingress-egress easement over the Property that serves an adjacent property (Parcel 48-38B); however, the existing driveway diverges from the prescribed ingress-egress easement area for a span of approximately 200 feet. Staff is working with the Trust to determine if this warrants additional consideration.
2. The 2019 boundary survey shows two underground power boxes for which there are no corresponding utility easements.
3. The Property includes a 7.67-acre utility corridor along its eastern boundary. Given its size and location, it is an appropriate candidate for a utility corridor conservation plan to mitigate the impact of the utility corridor and protect preservation and conservation values while enabling opportunities for battlefield interpretation.

Easement Acceptance Committee Recommendation:
The Easement Acceptance Committee recommends approval of the Phillips Tract easement offer subject to the following conditions:
1. Receipt of documentation [recorded easement(s) or containment letter(s)] for the two underground power boxes shown on the 2019 boundary survey.
2. The Trust agrees to implement a utility corridor conservation plan that mitigates the impact of the utility corridor, protects preservation and conservation values and enables opportunities for battlefield interpretation.
3. Final review of title work, title commitment, survey, draft easement, and other recorded and unrecorded documents affecting title to the Property by the Office of the Attorney General. Per this review, counsel may identify additional issues that require documentation or action.
Phillips Tract, Reams Station Battlefield - Easement
Dinwiddie County, Carson Quad
DHR ID: 026-0050-0007
Easement Summary
Drexel-Morrell Center Tract, Powhatan County

BHR Meeting Date: June 16, 2022
Staff: W. Musumeci
File No: 072-0169_ep
Applicant: Belmead on the James, Inc. (“BOJI”)
County: Powhatan
Acres: 56.4

Property Features and Current Use:

Located in northern Powhatan County, the Drexel-Morrell Center Tract (the “Property”) is composed of two tax parcels totaling 56.4 acres. The Drexel-Morrell Center Tract is largely forested (±40 acres) with one perennial stream (Lick Creek) and a number of intermittent streams crisscrossing the southern part of the Property. The Property includes Rosemont House (ca. 1898) and stable (ca. 1898) which were listed on the Virginia Landmarks Register (“VLR”) and the National Register of Historic Places (“NRHP”) in 2008. These buildings are located in the northwest corner of the Property near the intersection of Cosby Road (Route 621) and Bell Road (Route 621). Rosemont House is a unique example of the Queen Anne-Eastlake style in Virginia, designed and built by a northern builder, C. L. Dodd. Little is known about Dodd’s background before he was hired by Mother M. Katherine (formerly Catherine M. Drexel) in 1895 to build the St. Frances de Sales Institute, a Catholic school for African American girls located just north of the Property across Cosby Road. Needing a convenient place to live during the construction of the school, Dodd and his wife, Rosezilla, purchased 27.5 acres of the Property in 1898 and built a frame dwelling and stable. William Sturdivent Taylor, an African American skilled artisan and builder, was primarily responsible for construction of the dwelling. Following completion of the school, the Dodds sold Rosemont (which had grown to include approximately 52 acres) in 1901 to Edwin Meacham. Meacham and his family lived there until 1940, and established a private family cemetery containing six graves (active from 1912 to 1961). The Property passed through two subsequent owners before it was conveyed to BOJI in 2020. BOJI is in the process of obtaining a new forest management plan that will preserve the forest by removing unhealthy trees and adding native hardwood trees where possible. The Drexel-Morrell Center, which currently operates from Rosemont House, is a community gathering place that also houses an archival repository, museum, and spaces for storytelling, ancestry research, and related educational activities such as lectures and workshops. The center focuses on telling the history of the African Americans who lived, worked, built, and facilitated the growth of the nearby Belmead Plantation, owned by Philip St. George Cocke in the pre-Civil War period. It will also highlight the vision and commitment of St. Katharine Drexel to educate African American students during the Jim Crow period of American history. BOJI also plans to use the Property for environmental education, eco-social justice awareness and passive recreational activities. They intend to develop a publicly accessible trail system that centers on the natural streams, forested areas, and meadows present on the Property as well as amenities such as outdoor classrooms, exhibit spaces, restroom, and demonstration agricultural gardens. The Property will be open and accessible to the public on a year-round basis. BOJI was awarded a Virginia Land Conservation Fund (“VLCF”) grant and a Virginia Outdoors Foundation (“VOF”) Preservation Trust Fund grant to assist with the fee-simple acquisition of the Property. Conveyance of an easement is a requirement of the grants. Per staff’s March 2022 conference call with VOF, it was agreed that VOF’s required protections would be incorporated into DHR’s easement.

Conservation Values:

Historic/Architectural:

1. A 20-acre portion of the Property was individually listed on the VLR on March 20, 2008 and the NRHP on May 29, 2008 under Criterion C for architectural significance.
   • The Property is listed under Criterion C as it embodies “the distinctive characteristics of a type, period or method of construction”. Constructed in 1898 by builder C. L. Dodd, Rosemont is a unique example of the Queen Anne-Eastlake architectural style in late 19th century Virginia. The three bay frame house features a single story front porch and a side-gabled roof clad in asbestos shingles (originally it likely had a slate shingle roof). The front of the house includes a large triangular dormer that is the same height as the roof. The central bay on the second floor projects to form an unusual two-sided bay that is triangular in plan. Two-sided single-story bays like this one are located on the north and south sides of the building. The side elevations feature brick chimneys with recessed panels rising to just below the attic level with chimney stacks emerging on the roof. The windows throughout the main part of the house vary in size, type and placement, with stained glass windows used in the vestibule, and the first floor northwest and southeast rooms. The floor plan of the house features four rooms on the first floor, each one with a unique tiled corner fireplace and mantel. The central Eastlake-style staircase rises from the northwest room to a central hall on the second floor with four bedrooms and a bathroom. A two-story kitchen building is connected to the rear of the house by single story hyphen. The kitchen sits on a raised basement that serves as cool storage. The kitchen is capped by a pyramidal roof.
   • The Property includes a combination carriage house/stable that is designated as a contributing historic structure in the VLR/NRHP nomination for Rosemont. The frame structure was likely built at the same time or shortly after the dwelling (ca. 1898) and has a single carriage bay and a central door flanked by windows asymmetrically placed on
either side. The interior has room for a carriage or vehicle, a central room and animal stalls. The second floor loft was used for storage. The roof retains its original slate shingles. This hybrid type of carriage house/stable was once common on estates during the late 19th to early 20th century, but few have survived in central Virginia.

- The Meacham Family Cemetery is located just southwest of the house near Bell Road. Dr. Edwin T. Meacham and his wife Olive were the second owners of Rosemont from 1901 to her death in 1921. The Property passed to their adult children, some of whom lived there until 1940. Following Dr. Meacham’s death in 1912, the Meacham Family established the cemetery which includes the following six graves: Dr. Edwin T. Meacham (1839-1912), Olive J. Meacham (1844-1921), Bret Heber Meacham (1870-1940), Winifred Meacham Whitfield (1877-1961) and Lloyd C. Meacham (1880-1861).

2. The Property is partially (approximately 12.5 acres) located within the VLR/NRHP boundary for Belmead which was listed on the VLR on May 13, 1969 and the NRHP on November 12, 1969. While Rosemont is not specifically mentioned in the Belmead nomination, it has historical and geographical ties to Belmead. Rosemont served as the home of C. L. Dodd, the builder of the St. Francis de Sales High School, which is located across Cosby Road on the Belmead property.

Archaeological:
1. The Property includes the Meacham Family Cemetery, designated a contributing resource in the VLR/NRHP nomination for Rosemont.
2. Although the Property has not been subjected to professional archaeological survey, in the opinion of the DHR, the Property is significant for its potential to contain archaeological sites, deposits or features directly associated with the historic domestic occupation and agricultural use of the Property.

Open Space:
The Property contains approximately 56.4 acres of open-space land in a rural area. The Property is substantially undeveloped, is used primarily for museum, educational, and community gathering purposes, and contains features such as agricultural fields, meadows, forests and riparian areas, all of which provide general open-space benefits to the public.

Forestal:
The Property contains approximately 40 acres of forested cover, primarily in mature successional growth, which will be managed according to a Forest Stewardship Management Plan developed in consultation with the Virginia Department of Forestry (“DOF”). The DOF ranks approximately 79% of the Property as belonging to categories 3 (High) or 4 (Very High) of Forest Conservation Value. The FCV model is a tool to strategically identify the highest priority forestland for conservation in Virginia.

Agricultural:
Approximately 15 acres of the Property are open fields and meadows appropriate for agricultural uses. Some of this area has been previously used for pastureland. As identified in the Natural Resources Conservation Service (“NRCS”) Web Soil Survey of the United States Department of Agriculture, the Property contains approximately 26.5 acres of Prime Farmland and 28.4 acres of Farmland of Statewide Importance.

Water Quality:
The Property includes 861.3 feet of frontage on Lick Creek, a perennial stream that drains to the James River. The Property also includes significant frontage on a number of intermittent streams. The Property is within the Middle James-Willis watershed, the Deep Creek-Sallee Creek subwatershed, and the Chesapeake Bay watershed. Approximately 87% of the Property’s total acreage has been designated as a Class IV (61-80) or V (81-100) conservation priority in the Watershed Model developed by the Virginia Department of Conservation and Recreation (“DOF”), which model provides a measure of watershed integrity. Class V is the highest conservation priority.

Conserve Virginia Conservation Values:
The Property lies partially (approximately 14.3 acres) within the “Cultural and Historic Preservation” layer of ConserveVirginia, Virginia’s land conservation strategy that identifies high value lands and conservation sites across Virginia. ConserveVirginia is based on a data-driven process for identifying Virginia’s highest priority lands for protection.

Other Supporting Governmental Policy:
Federal: (i) National Historic Preservation Act (NHPA) of 1966 (54 U.S.C. §§ 300101-307108), which authorizes the National Register of Historic Places (NRHP); (ii) standards and guidelines promulgated by the Secretary of the Interior for the appropriate treatment of historic properties listed on the NRHP (36 C.F.R. Part 68); (iii) review and formal recommendation by the State Review Board of the Commonwealth of Virginia of eligibility for listing on the NRHP, made on 03/20/2008; (iv) formal determination by the Keeper of the NRHP that the Property meets the Criteria for Evaluation and subsequent listing of the Property on the NRHP on 05/29/2008; and (v) NRCS Web Soil Survey.
State: (i) Virginia Code §§ 10.1-2200 - 10.1-2214; (ii) Open-Space Land Act (Virginia Code §§ 10.1-1700 through 10.1-1705); (iii) BHR’s determination at a public meeting on 03/20/2008 that the Property meets the criteria for listing on the VLR and BHR’s designation of the Property for inclusion on the VLR; (iv) BHR’s practices in reviewing and accepting an easement over...
this Property, which include review by VDHR’s Easement Program staff, review by a committee comprised of VDHR staff from different divisions and review and acceptance by the BHR at a public meeting, as set forth in the BHR’s written adopted policies; (vi) Virginia Outdoors Plan (2018): Region 15 – Richmond Region, Pages 12.2, 12.3, 12.7, 12.8, 13.91, 13.93; (vii) ConserveVirginia; (viii) Forest Conservation Value Model, DOF; (ix) Agricultural Model, DCR; (x) Virginia Watershed Model, DCR; (xi) Virginia Code § 10.1-1017 et. seq; and (xii) Virginia Code § 10.1-1801.1.

**Local:** Current zoning is Agriculture (A-10) and future land use is designated as Rural. *The Powhatan County 2021 Long-Range Comprehensive Plan*, adopted October 25, 2021, offers general support for historic preservation at pages 42, 43 and 50; open space and recreation at pages 43-46, and the use of conservation easements at page 46. Per Map 2, Natural Resources (page 44), the Property is located within the county’s Priority Conservation Area (“PCA”). The PCA identifies ecologically sensitive land that is qualified for inclusion in the county’s Agricultural and Forestal District program. By letter dated May 11, 2022, Powhatan County confirmed that a preservation easement placed on this Property would be consistent with the comprehensive plan.

### Existing Buildings and Structures:

| Frame dwelling (ca. 1898) | Portions of an unimproved historic road bed |
| Frame stable (ca. 1898) | Well (date unknown) and pump house/pressure tank |
| Meacham Family Cemetery (active 1912-1961) enclosed by chain link fence | Gravel and asphalt paved driveway |

### Easement Terms:

**Note:** provisions in italics below indicate non-standard easement template language

**Maintenance and Preservation:** Property shall be maintained, preserved, and protected in same or better condition.

**Division:** no subdivision.

**Existing Historic Buildings and Structures:** exterior and interior of Rosemont dwelling and stable must be maintained in existing condition or better; demolition prohibited; alterations/additions require prior review and written approval.

**Cemetery:** the following require prior review and written approval: repair or physical or chemical cleaning or treatment of headstones, Ground Disturbing Activities, or tree removal; descendant consultation required.

**Permitted New Dwellings:** replacement dwelling should Rosemont dwelling be completely destroyed.

**Permitted New Buildings, Structures and Amenities:** (i) reconstructions of documented historic buildings/structures; (ii) pervious paths/trails; (iii) utilities that serve the Property; (iv) outbuildings/structures accessory to use of the Property as an educational, museum, and community gathering center, such as a shed, greenhouse, restroom facility, picnic shelter/pavilion, or events building; (v) parking facilities; (vi) pervious roads/drives and limited impervious roads/drives per ADA requirements; (vii) agricultural buildings and structures; (viii) one caretakers cottage/guest house not to exceed 1,000 square feet in footprint; and (ix) limited small-scale renewable energy structures to serve the Property, with allowance for sale of excess power generated incidentally.

- **Note:** The applicant has requested that the easement contain the flexibility to construct a greenhouse (4,000 sq. ft.), pavilion (2,000 sq. ft.), public restroom facilities (1,000 sq. ft), and alternative energy structures. DHR staff has discussed this request with the applicant, noting that while the proposed structures may be permitted, the footprint will likely need to be reduced and subject to a cap. Staff will continue to negotiate this provision with the applicant.

**New Construction & Alterations:** all new construction and alterations to existing buildings/structures requires prior written approval; use “Secretary of the Interior’s Standards for Treatment of Historic Properties” as standard for review.

**Archaeology:** ground disturbance may require professional archaeological survey; owner must take reasonable precautions to protect archaeological sites; no relic hunting.

**Impervious Surface Coverage:** 1% or less cap on collective footprint.

**Activities:** prohibits activities inconsistent or incompatible with the Conservation Values protected by easement.

**Ground Disturbance:** (i) any Ground Disturbing Activities are subject to prior written approval; (ii) mining by strip surface or subsurface mining (including extraction/removal of gravel or similar material), dredging on or from the Property, or drilling for oil, gas or any natural resource (excluding fresh water), is prohibited.

**Forest Management:** trees and vegetation shall be managed according to established arboreal and horticultural practices and to prevent damage to existing buildings and structures; easement shall address forest management including timbering, replanting, and land conversion consistent with current easement template; forest management plan and pre-harvest plan required prior to timber harvest.

**Riparian Protection Zone:** minimum 35’ vegetated buffer required on perennial streams and waterways; may also include 35’ buffer on intermittent streams.

**Agricultural Resources Management:** agricultural activities conducted in accordance with a written agricultural conservation plan that requires the use of appropriate Best Management Practices.

**Trash:** accumulation or dumping of trash/refuse/junk, or hazardous/toxic material is prohibited.
**Signs:** restrictions on size and number of signs permitted.

**Public Access/Viewshed:** (i) public access required 365 days per year (requirement per VLCF and VOF grants)

**Grant Funding:** VLCF (2021) and VOF (2021); easement to include recitals and restrictions per each grant program.

**Documentation Information:**

| GPIN Number: 014-77 and cemetery parcel | USGS Quad: Powhatan |
| Property Address: 4747 Cosby Road, Powhatan, VA 23139 |

**Statement of Public Benefit:**

The 20-acre portion of the Property known as Rosemont is historically significant, meets the National Register Criteria for Evaluation in 36 C.F.R. 60.4, and is individually listed on the VLR and NRHP. Restrictions on alterations of historic resources on the Property, including archaeological sites, and requirements for the maintenance of such resources, will ensure the Property retains its historic integrity and eligibility for listing on the state and federal historic registers. Preservation of Rosemont will augment efforts to preserve historic properties in Powhatan County, including approximately 10 acres of land already subject to perpetual easements held by the BHR. Preservation of the open-space and wooded character of the Property preserves a local landscape that attracts tourism and commerce to the area and enhances the quality of life for area residents. The Property is visible from Crosby Road (Route 621) and Bell Road (Route 684), both public rights-of-way. Much of the 40-acres of forested land on the Property is designated of high or very high Forest Conservation Value by the DOF. Restrictions on development and ground disturbing activities and the requirements for sustainable forest management practices in the easement will protect the forested landscape on the Property and preserve portions of it for future production and promote the natural benefits associated with forest conservation such as clean air and water and wildlife habitat. The Property includes approximately 861 feet of frontage on Lick Creek, a perennial stream as well as frontage on a number of intermittent streams that drain to Lick Creek. It is also within the Middle James-Willis watershed, Deep Creek-Salle Creek subwatershed, and the Chesapeake Bay watershed. More than 87% of the Property’s total acreage has been designated a high conservation priority in the DCR Watershed Model. Limiting new construction, timbering, ground disturbing activities and uses of the Property in the easement will support protection of water quality in these watersheds and the Chesapeake Bay. The easement requires daily public access to the Property and Grantor plans to install a pedestrian trail and other related amenities to facilitate access by the public. The protection of the Property by the easement will also fulfill the intent of the 2018 Virginia Outdoors Plan to protect Virginia’s historic and cultural resources and to place historic preservation and open-space easements on historic properties.

**Easement Acceptance Committee Recommendation:**

The Easement Acceptance Committee recommends approval of the Drexel-Morrell Center Tract easement offer subject to the following condition:
1. Final review of title work, title commitment, survey, draft easement, and other recorded and unrecorded documents affecting title to the Property by the Office of the Attorney General. Per this review, counsel may identify additional issues that require documentation or action.
**Easement Summary**  
**Bois Doré, Fairfax County**

<table>
<thead>
<tr>
<th><strong>BHR Meeting Date:</strong></th>
<th>June 16, 2022</th>
<th><strong>Applicant:</strong></th>
<th>Charlotte Fredette Smith Eagle</th>
<th><strong>County:</strong></th>
<th>Fairfax</th>
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</thead>
<tbody>
<tr>
<td><strong>File No:</strong></td>
<td>286-5017_ep</td>
<td><strong>Acres:</strong></td>
<td>1.2901</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Property Features and Current Use:**  
Located in McLean in Fairfax County, Bois Doré occupies a single 7.77-acre parcel on a prominent hill overlooking the Potomac River. The property features a French Villa-style house designed in 1950-1951 by noted architectural historian Thomas Tileston Waterman and National Park Service architect William Max Haussman for Washington socialite Karen Gram Scott. The house is designed in an H-plan with a three-bay center block flanked by single bay wings and covered with a hipped roof clad in Ludowici-Celadon tiles. It is constructed of masonry walls overlayed with a concrete stucco finish. The house retains its original floor plan (with minor kitchen modifications) and original finishes, including cove ceilings, parquetry flooring, marble fireplace surrounds and wood moldings. The current owner, Charlotte Fredette Smith Eagle, purchased the property in 1967 and converted the original Waterman-Haussman detached two-car garage into a guesthouse. She also added a six-bay cinder block garage and a formal garden with several garden structures. In 2006, Mrs. Eagle placed the 7.77-acre parcel under easement to the Northern Virginia Conservation Trust (“NVCT”). The focus of this easement is the conservation of the landscape surrounding the house and residential structures (Mrs. Eagle’s children own the surrounding 62.77 acres and have also placed these lands under easement to the NVCT). The 7.77-acre easement designated a 1.2901-acre area encompassing the main house, non-historic outbuildings and garden as a “Development Area” which afforded only limited protections to the historic dwelling and permitted construction of new residential buildings and structures. In 2020, the property was listed on the Virginia Landmarks Register (“VLR”) and the National Register of Historic Places (“NRHP”) under Criterion C for architectural significance. Mrs. Eagle now intends to convey an overlay easement on the 1.2901-acre Development Area (the “Property”) to the Board of Historic Resources (“Board” or “BHR”) to provide historic preservation protections for the interior and exterior of the main house. Mrs. Eagle will continue to use the Property for residential and open-space purposes and plans to claim Virginia Land Preservation Tax Credits and a federal income tax deduction for the donation.

**Conservation Values:**

**Historic/Architectural:**
The 7.77-acre Bois Doré property was individually listed on the VLR on September 17, 2020 and the NRHP on December 7, 2020 under criterion C for architectural significance.

- The Property is individually listed under Criterion C as it embodies “the distinctive characteristics of a type, period or method of construction.” Bois Doré is a well preserved example of an mid-20th century French Villa-style dwelling designed Thomas Tileston Waterman and William Max Haussman.
- Situated on a hill overlooking the Potomac, Bois Doré embodies distinctive characteristics of a type, period and method of construction representing the mid-20th century French Villa-style in Virginia. The main house and detached garage were designed and constructed in 1950-1951 for Washington socialite Karen Gram Scott by Thomas Tileston Waterman, a prominent architectural historian, and William Max Haussman, the chief architect of the National Park Service Capital Region. The main house is one and a half stories and features an H-plan with a three bay center block and one bay wings. The hipped roof is clad in Ludowici-Celadon tiles. The interior retains its original floorplan, materials and finishes in all of its primary spaces including cove ceilings, parquetry floors laid in a herringbone pattern, marble fireplace surrounds, chair rails and other original moldings. Since acquiring the Property in 1967, the current owner has undertaken only minor modifications to the kitchen floor plan. The current owner also converted the original Waterman-Haussmann detached two-bay garage into a guesthouse and added a detached six-car garage and a formal garden with a number of garden structures (gazebo, teahouse, koi pond, impervious sidewalks and garden walls). The heavily modified guesthouse, garage, garden and garden structures are non-contributing resources. Despite these later changes and additions to the landscape, the Property has retained its integrity as a mid-twentieth century residential dwelling (the “Historic Dwelling”) designed by a respected architectural historian and architect.

**Archaeological:**
Although the Property has not been subjected to professional archaeological survey, in the opinion of the VDHR, the Property is significant for its potential to contain archaeological sites, deposits or features directly associated with the historic domestic occupation of the Property.

**Open Space:**
The Property contains approximately 1.2901 acres of land, comprised of landscaped gardens, grass lawn, and tree cover.
**Conserve Virginia Conservation Values:**
The Property lies entirely within the “Cultural and Historic Preservation” and the “Natural Habitat and Ecosystem Diversity” layers of ConserveVirginia, Virginia’s land conservation strategy that identifies high value lands and conservation sites across Virginia.

**Other Supporting Governmental Policy:**

**Federal:** (i) National Historic Preservation Act (NHPA) of 1966 (54 U.S.C. §§ 300101-307108), which authorizes the NRHP; (ii) standards and guidelines promulgated by the Secretary of the Interior for the appropriate treatment of historic properties listed on the NRHP (36 C.F.R. Part 68); (iii) review and formal recommendation by the State Review Board of the Commonwealth of Virginia of eligibility for listing on the NRHP, made on 9/17/2020; and (iv) formal determination by the Keeper of the NRHP that the Property meets the Criteria for Evaluation and subsequent listing of the Property on the NRHP on 12/7/2020.

**State:** (i) Virginia Code §§ 10.1-2200 - 10.1-2214; (ii) Open-Space Land Act (Virginia Code §§ 10.1-1700 through 10.1-1705); (iii) BHR’s determination at a public meeting on 09/17/2020 that the Property meets the criteria for listing on the VLR and BHR’s designation of the Property for inclusion on the VLR; (iv) BHR’s practices in reviewing and accepting an easement over this Property, which include review by VDHR’s Easement Program staff, review by a committee comprised of VDHR staff from different divisions and review and acceptance by the BHR at a public meeting, as set forth in the BHR’s written adopted policies; (v) *Virginia Outdoors Plan* (2018): Region 8 – Northern Virginia Pages 12.2, 12.3, 12.7, 12.8, 13.50; and (vii) ConserveVirginia.

**Local:** Current zoning is Residential-Estate (R-E) and future land use is designated as Residential. The Fairfax County Comprehensive Plan, 2017 edition offers support for historic preservation generally in its Heritage Resources chapter and the use of conservation easements specifically at Policy G on page 4. The Property is included in Fairfax County’s “Eagle Local Agricultural and Forestal District” which limits development of the Property, places it under a Soil and Water Quality Conservation Plan, and provides a lower tax assessment. By email dated May 2, 2022, Fairfax County confirmed its support for an historic preservation and open-space easement on the Property.

**Existing Buildings and Structures:**

| Main House (1950-1951) | Tea House (late 20th century) |
| Single Car Garage (1950’s) | Koi Pond |
| Six Car Garage (1967-1968) | Garden Walls |
| Garden Shed (late 20th century) | Impervious sidewalks |
| Gazebo (late 20th century) | Sandstone and Flagstone Terraces |

**Easement Terms:**

*Note: provisions in italics below indicate non-standard easement template language*

**Maintenance and Preservation:** Property shall be maintained, preserved, and protected in same or better condition.

**Division:** no subdivision.

**Existing Historic Buildings and Structures:** exteriors and interiors of Historic Dwelling must be maintained in existing condition or better; demolition prohibited; alterations/additions require prior review and approval.

**Existing Non-Historic Buildings and Structures:** provision for potential demolition and removal of existing non-historic buildings and structures; no demolition is currently planned.

**Permitted New Dwellings:** replacement dwelling should Historic Dwelling be completely destroyed.

**Permitted New Buildings, Structures and Amenities:** (i) reconstructions of documented historic buildings/structures; (ii) pervious paths/trails; (iii) utilities that serve the property; (iv) outbuildings/structures accessory to residential use; (v) drive/driveway; and (vi) one guest house not to exceed 800 square feet in footprint.

**New Construction & Alterations:** all new construction and alterations to existing buildings/structures requires prior written approval; use “Secretary of the Interior’s Standards for Treatment of Historic Properties” as standard for review.

**Archaeology:** ground disturbance may require professional archaeological survey; owner must take reasonable precautions to protect archaeological sites; no relic hunting.

**Impervious Surface Coverage:** 3% cap (1,683 square feet) on collective footprint for permitted new improvements only.

**Activities:** prohibits activities inconsistent or incompatible with the Conservation Values protected by easement.

**Ground Disturbance:** (i) any Ground Disturbing Activities are subject to prior written approval; (ii) mining by strip surface or subsurface mining (including extraction/removal of gravel or similar material), dredging on or from the Property, or drilling for oil, gas or any natural resource (excluding fresh water), is prohibited.

**Forest Management:** trees and vegetation shall be managed according to established arboreal and horticultural practices and to prevent damage to existing buildings and structures.
Trash: accumulation or dumping of trash/refuse/junk, or hazardous/toxic material is prohibited.
Signs: restrictions on size and number of signs permitted.
Public Access/Viewshed: easement requires 2 days minimum public access.

<table>
<thead>
<tr>
<th>Documentation Information:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GPIN Number:</strong> 0202-01-0048z</td>
</tr>
<tr>
<td><strong>Property Address:</strong> 8008 Georgetown Pike, McLean, Virginia 22102</td>
</tr>
</tbody>
</table>

**Statement of Public Benefit:**

Bois Doré is historically significant and meets the National Register Criteria for Evaluation in 36 C.F.R. 60.4, and is individually listed on the VLR and NRHP. Restrictions on alterations of historic resources on the Property, including archaeological sites, and requirements for the maintenance of such resources, will ensure the Property retains its historic integrity and eligibility for listing on the state and federal historic registers. Preservation of Bois Doré will augment efforts to preserve historic properties in Fairfax County, including approximately 15.25 acres of land already subject to perpetual easements held by the BHR. Preservation of the open-space character of the Property preserves a local landscape that attracts tourism and commerce to the area and enhances the quality of life for area residents. The Property is within the Chesapeake Bay watershed. Limiting new construction, ground disturbing activities and uses of the Property in the Easement will support protection of water quality in the Chesapeake Bay. The easement requires the Property to be open to the public two days per year. The protection of the Property by the easement will also fulfill the intent of the 2018 Virginia Outdoors Plan to protect Virginia’s historic and cultural resources and to place historic preservation and open-space easements on historic properties.

**Easement Acceptance Committee Recommendation:**

The Easement Acceptance Committee recommends approval of the Bois Doré easement offer subject to the following condition:

1. Final review of title work, title commitment, survey, draft easement, and other recorded and unrecorded documents affecting title to the Property by the Office of the Attorney General. Per this review, counsel may identify additional issues that require documentation or action.
Bois Doré
Fairfax County, Falls Church Quad
DHR ID: 029-6641

- 029-6641
- Listed Resources
- ABPP Core Areas (2014)
- ABPP Study Areas (2014)

Created By: D. Bascone 4/1/2022
Sources: VDHR 2022, ESRI 2022, VDOT 2022, VGIN 2022

Records of the Virginia Department of Historic Resources (DHR) have been gathered over many years and the representation depicted is based on the field observation date and may not reflect current ground conditions. The map is for general illustration purposes and is not intended for engineering, legal or other site-specific uses. The map may contain errors and is provided "as-is". Contact DHR for the most recent information as data is updated continually.
EASEMENT OFFERS
FOR
RECONSIDERATION
Easement Summary
Jamerson Tract, Appomattox Station Battlefield

BHR Meeting Date: June 16, 2022
Staff: Kyle Edwards
File No.: 165-5001-001

Applicant: American Battlefield Trust (“Trust”)
County: Appomattox
Acres: ±45.77 acres

Property Features and Current Use:
The Jamerson Tract (“the Property”) consists of three parcels containing ±45.77 acres, located roughly between Jones Street and Patterson Street at the terminus of Jamerson Lane in Appomattox, Virginia. The Property is currently vacant, consisting of ±34.45-acres of wooded cover and ±11.32-acres open space/field. The Jamerson Tract is located entirely within the study area of the Appomattox Station Battlefield, which has been given a Preservation Priority Rating of IV.2 Class B by the Civil War Sites Advisory Commission (“CWSAC”). Sites with a priority rating of IV.2 as those that are fragmented with poor integrity. Battlefields rated Class B are those “that had a direct and decisive influence on their campaign” in this instance, the Appomattox Campaign of March to April 1865. While relatively flat, a low-rise cuts across the Property running roughly southwest to northeast and was a significant feature of the battlefield landscape. During the Civil War, the Property was a mix of dense forest and brush, impeding the Union attack. Existing improvements include two interpretive markers, a wooden kiosk, wooden fences, wooden benches, a 20th c. concrete block building, and a gravel parking area. Additional conservation values associated with the Property include 34 acres of wooded cover, 689.39 linear feet of frontage on an intermittent stream known as Plain Branch Run, 1,042.45 linear feet of frontage on an unnamed intermittent stream, and 0.94 acres of freshwater forested/shrub wetlands. The Trust acquired the Property in January 2010. The acquisition was funded by grants from the American Battlefield Protection Program (“ABPP”) and the Virginia Battlefield Preservation Fund (“VBPF”). Conveyance of an easement to the Board of Historic Resources (“BHR”) is a condition of the grant. Since its acquisition of the Property, the Trust has removed the former Jamerson Trucking Company building and associated underground storage tanks, but a gravel parking area and a concrete block building remain. Public access is permitted year-round.

BHR Approval:
The BHR approved the easement offer for the Jamerson Tract at its December 12, 2009 meeting, subject to continued negotiation on the terms and provision of the easement deed.

Update to BHR Approval:
Since the initial approval by the BHR:
1. The Appomattox Town Council initially planned to adopt a resolution in support of the easement as the comprehensive plan identified the Property as within an area designated for development. Subsequently, in 2016, the Town provided a letter indicating that the Property’s zoning designation was now “Public” and the proposed easement was consistent with the 2015 comprehensive plan and zoning designation.
2. In 2018, the title company originally contracted to provide a title insurance policy (Southern Title) went out of business and a new title company had to be procured.
3. A non-historic steel garage/office on the Property and an associated underground storage tank have been removed from the Property.

Documentation Information:
Tax Map Numbers: 64A2(4)2, 64A2(4)4C, and 64A2(4)3A
USGS Quad: Appomattox
Property Address: 249 Jamerson Lane, Appomattox, Virginia, 24522

Easement Program Policy #2: Criteria for Acceptance of Easements
Per Easement Program Policy #2: Criteria for Acceptance of Easements, standard approvals given by the Board are valid for two calendar years from the date of the BHR approval. The approval for the Jamerson Tract easement was issued by the BHR on December 12, 2009 and expired on December 12, 2011.

Easement Acceptance Committee Recommendation:
The Easement Acceptance Committee recommends reapproval of the Jamerson Tract easement offer, subject to the following condition:
1. Final review of title work, title commitment, survey, draft easement, and other recorded and unrecorded documents affecting title to the Property by the Office of the Attorney General. Per this review, counsel may identify additional issues that require documentation or action.
Jamerson Tract
Appomattox County, Appomattox Quads
DHR ID: 165-5001-0001

Created By: D. Bascone
3/8/2022
Sources: VDHHR 2022, ESRI 2022, VDOT 2021, VGIN 2022

Records of the Virginia Department of Historic Resources (DHR) have been gathered over many years and the representation depicted is based on the field observation date and may not reflect current ground conditions. The map is for general illustration purposes and is not intended for engineering, legal or other site-specific use. The map may contain errors and is provided "as-is". Contact DHR for the most recent information as data is updated continually.
Easement Summary
Morris Farm, Tom’s Brook Battlefield

BHR Meeting Date: June 16, 2022  Staff: K. Edwards  File No. 085-5045-006

Applicant: Shenandoah Valley Battlefields Foundation (“SVBF”)  County: Shenandoah  Acres: ±123.36 acres

Property Features and Current Use:
The Morris Farm consists of twelve parcels totaling ±133.98 acres stretching along Brook Creek Road (Route 653), Country Brook Road (Route 641), and Manor Hill Drive in Shenandoah County. Since the property is a working dairy farm, owner Anna Morris has elected to exclude three parcels from the easement totaling approximately 9.04 acres that include non-historic agricultural and residential buildings. An additional 1.5778 acres will be excluded due to unresolved title issues, leaving a total proposed easement including nine parcels with an area of ±123.36 acres (the “Property”). Characterized by rolling pastureland, the Property is currently used for residential, agricultural (dairy farm), and open-space purposes. The Property includes ±115.8 acres of open-space agricultural land and ±7.29 acres of land under forested cover. Tom’s Brook, a perennial stream, runs along Brook Creek Road through six parcels, and drains to the Shenandoah River. Morris Farm also includes ±79.14 acres of land that lie within the study area of the Tom’s Brook Battlefield which has a Preservation Priority Rating of II.3, Class C as determined by the Civil War Sites Advisory Commission. The Property is visible from Brook Creek Road, Country Brook Road, Manor Hill Drive, and Interstate 81. SVBF will purchase a portion of the value of an historic preservation and open-space easement on the Property and Anna Morris will convey the easement to the Virginia Board of Historic Resources (“BHR”). SVBF will use grant funds from the American Battlefield Protection Program (awarded 2021) and Virginia Battlefield Preservation Fund (awarded 2018) to assist with acquisition of the easement. In order to provide year round public access to the Property, SVBF will record a trail easement on adjacent parcels 22-A-131 and 23-A-108A that will include a grass trail and small parking area off Brook Creek Road. Mrs. Morris will claim Virginia Land Preservation Tax Credits and a federal income tax deduction for the value of the easement not covered by the above grants.

BHR Approval:
The BHR approved the easement offer for the Morris Farm at its June 18, 2020 meeting, subject to the following conditions:
1. Final revisions to the survey and title commitment.
2. Final review of title work, survey, title commitment and draft easement by the Office of the Attorney General.

Update to BHR Approval:
1. SVBF and DHR staff have finalized revisions to the survey and title commitment. This satisfies BHR condition #1 above.
2. An updated draft easement has been provided to SVBF and the Morris family and was submitted for OAG review on May 13, 2022.

Documentation Information:
USGS Quad: Toms Brook

Property Address: 1390 Brook Creek Road, Toms Brook, VA 22660

Easement Program Policy #2: Criteria for Acceptance of Easements
Per Easement Program Policy #2: Criteria for Acceptance of Easements, standard approvals given by the Board are valid for two calendar years from the date of the Board approval. The last reauthorization for the Morris Farm easement was issued by the Board on June 18, 2020 and expires on June 18, 2022.

Easement Acceptance Committee Recommendation:
The Easement Acceptance Committee recommends reapproval of the Morris Farm easement offer, subject to the following revised condition:
1. Final review of title work, title commitment, survey, draft easement, and other recorded and unrecorded documents affecting title to the Property by the Office of the Attorney General. Per this review, counsel may identify additional issues that require documentation or action.
POLICY UPDATE
The historic preservation and open-space easements held by the Virginia Board of Historic Resources (“Board”) are administered by staff at the Virginia Department of Historic Resources (“DHR”). These easements are legally binding contractual agreements that contain specific reserved rights and restrictions unique to an individual property. The majority of easements held by the Board require prior written approval by DHR Easement Program staff for construction, alteration, rehabilitation, restoration, renovation, replacement, extension, demolition, or removal of historic and non-historic buildings and structures on the property, whether existing or new. They also typically prohibit an owner from engaging in certain ground disturbing activities without prior review, and require the maintenance of properties to established standards.

In determining what changes are appropriate for each easement property, DHR consults The Secretary of the Interior’s Standards for the Treatment of Historic Properties (Standards), published by the National Park Service, as guidance. The Secretary’s Standards are intended to be flexible, apply to a wide variety of building types, and accommodate different project goals. However, because the terms of each easement are different, the specific restrictions on alterations and requirements for review will vary by property.

DHR’s Easement Program strives to keep its easement templates current and to provide recommended updates to Board policies. Board policies are intended to provide guidance; however, the specific language contained in a recorded deed of easement is always the primary legal authority. Importantly, the language of easements held by the Board has evolved over time. Language in an easement recorded in 1970 will differ markedly from the language of an easement recorded in 2022. Regardless of the recordation date, DHR follows a routine procedure when considering proposed modifications to easement properties. It is the responsibility of the property owner to notify DHR Easement Program staff when any major alterations are contemplated. This policy outlines the review and approval process for such changes.

This guidance may not be universally applicable to all easement deeds, projects, or properties. For this reason, DHR considers each project individually. In all cases, the recorded easement is
the governing document and will dictate whether prior written approval is required and how that
review and approval will be conducted. DHR always appreciates the opportunity to provide
technical assistance to property owners and update the easement property file, regardless of
whether formal review is required. Please contact Easement Program staff with any questions
regarding how to interpret or apply the specific language contained in an easement.

**REVIEW AND APPROVAL PROCESS**

DHR’s Easement Program staff administer the easements held by the Board. Any work requiring
the Board’s (as Grantee) approval will be reviewed by the Easement Program staff according to
the terms of the applicable easement and by applying the *Secretary of the Interior’s Standards*,
as set forth below. Decisions regarding a project review request will be provided to the property
owner or their designated representative in writing via U.S. or electronic mail. The property
owner may appeal a written decision or determination made by Easement Program staff in
accordance with the process outlined below.

All written communication approving proposed work on an easement property will include a
sunset clause, or a timeframe within which the work must be completed. If the work exceeds
this timeframe, the property owner must request re-approval of the work in writing. A property
owner must seek new approval for any change in project scope. Prior written approval of work
is not transferable to a new property owner.

If a property owner wishes to designate a person or entity, such as an architect, attorney or
consultant, to serve as their representative with respect to a project review request, they must
provide written authorization to DHR’s Easement Program. DHR’s Easement Program cannot
accept project review requests submitted by anyone other than the property owner without such
written authorization. Furthermore, all communications regarding such project review request
will be limited to the property owner and any designated representative(s).

In the event that a property is cited with an easement violation (*Easement Program Policy #7:
Easement Violations*), no additional project review requests will be considered until the violation
is addressed to the satisfaction of DHR and the Board (if applicable).

Property owners are reminded that with limited exceptions, all materials and communications
regarding their easement and their property are subject to the Virginia Freedom of Information
Act (FOIA). DHR is legally required to provide copies of all documents in its possession in
response to a request under FOIA.

**PROJECT REVIEW PROCESS**

a. All requests for review and approval as required by the terms of the easement must be
submitted in writing to DHR’s Easement Program as follows:

   (i) Hard copy requests should be sent to:   Easement Program Director
                                              Department of Historic Resources
                                              2801 Kensington Avenue
                                              Richmond, VA 23221
(ii) Electronic format requests should be sent to the attention of the Easement Program Director: [first name.last name]@dhr.virginia.gov

(iii) Easement property owners seeking to utilize the rehabilitation tax credit program must file all project review requests according to tax credit program policies (see https://www.dhr.virginia.gov/tax-credits/rehabilitation-tax-credits-forms/). An additional copy of all required materials must be submitted for inclusion in the easement property file. Once submitted to the Tax Credit Specialist, Easement Program staff will complete a single review on behalf of both program areas.

b. It is the responsibility of the requestor to confirm that the written request for review has been received by DHR’s Easement Program.

c. To help ensure that the necessary information is provided with the initial request, the requestor should complete the Project Review Request form (available online at http://www.dhr.virginia.gov/easement/easement.htm or by request) with the submission and include all applicable supplemental materials.

d. Easement Program staff shall respond to a written request for review within thirty (30) business days of receipt of such request, unless otherwise specified by the terms of the applicable easement.

   (i) Easement Program staff will endeavor to issue a written approval or denial within that thirty (30) day period for a request that includes the necessary information and no other circumstances warrant an extension or delay of that review period.

   (ii) Easement Program staff shall notify the property owner or designated representative in writing of the need for an extension or delay within the initial thirty (30) day review period.

   (iii) In instances where project review involves potential impact to architectural and archaeological resources, DHR Easement Program Staff will coordinate a single written response to address all aspects of the project.

   (iv) Circumstances warranting an extension or delay of the review period include, but are not limited to, the following:

       a. Receipt of additional materials or information requested in writing by the Easement Program staff;

       b. Archaeological survey and/or investigation as determined by Easement Program staff archaeologists;

       c. A site visit as determined by Easement Program staff;

       d. Consultation with the property owner and his/her representatives or consultants regarding the proposed project;

       e. Review of the existing historic or archaeological resources on the property by DHR’s Architecture and/or Archaeology Evaluation Committees to determine historic significance applying the National Register Criteria for Evaluation (36 C.F.R. 60);
f. Review of the request by DHR’s Treatment Committee upon referral by the Easement Program staff;

g. Complexity of the request;

h. Extent to which the request is consistent with the terms of the easement; and

i. Extent to which the request is consistent with the applicable Secretary of the Interior’s Standards as set forth below in Paragraph E.

e. In reviewing a project request, the Easement Program staff person assigned to review that request shall determine whether the proposed project is consistent with the terms of the easement and the applicable Secretary of the Interior’s Standards (the “Standards”).

   (i) The Secretary of the Interior’s Standards shall include:

   a. Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation (National Park Service, as amended).

   b. Secretary of the Interior’s Professional Qualifications Standards (48 F.R. 44716 (Sept. 1983, as amended)).

   c. Secretary of the Interior’s Standards for Rehabilitation (36 C.F.R. 67, as amended).


f. In the event of a written denial issued by the Easement Program staff, the property owner may appeal such denial to the DHR Treatment Committee.

   (i) The DHR Treatment Committee is comprised of staff, appointed by the DHR Director and representing different divisions within DHR, who meet on as-needed basis. The Treatment Committee is not a public body pursuant to Virginia Code § 2.2-3701 and its meetings are not open to the public.

   (ii) Such appeal must be filed in writing with Easement Program staff within forty-five (45) business days of the date of such written denial.

   (iii) The appeal should state the reason(s) for the appeal and include any information relevant to the appeal that the property owner would like considered.

   (iv) The property owner shall be notified in writing within five (5) business days of the Treatment Committee’s recommendation.

g. If the Treatment Committee concurs with the denial, the property owner may appeal such denial to the DHR Director.
i. A notice of appeal must be submitted in writing by the property owner and/or any designated representative to the DHR Director, with a copy to the Easement Program staff, within forty-five (45) business days of the date of Treatment Committee’s written recommendation.

ii. The appeal should state in detail the reason(s) for the appeal and should include any information relevant to the appeal that the property owner would like considered.

iii. Within thirty (30) business days of receipt of a written appeal, the DHR Director shall respond to the appeal in writing and shall approve or deny the review request consistent with the review process set forth in Paragraphs A-F above.

iv. The decision of the DHR Director on appeal is the final administrative action.

Please contact DHR’s Easement Program staff with any questions regarding the applicable project review process. Contact information for Easement Program staff is located within the Preservation Incentives Division at: https://www.dhr.virginia.gov/easements/easement-stewardship/

Electronic mail addresses for staff are as follows: first name.last name@dhr.virginia.gov

[Adopted by the Virginia Board of Historic Resources on March 8, 2006; Revised December 18, 2008; Revised March 17, 2011; Revised December 11, 2014; Revised September 17, 2015; Revised June 16, 2022.]
While the placement of an historic property under easement is generally with the understanding that its historic character should be protected, the Virginia Board of Historic Resources (“Board”) and the Virginia Department of Historic Resources (“DHR”) recognize that there is a need for balance between maintaining historic preservation values and the continued use of an historic property. This dynamic balance requires careful consideration of any proposal to alter a property—including the review of restoration or rehabilitation projects as well as new construction. In addition, there are instances where maintenance and other work are necessary to maintain the property.

It should be noted that each easement is drafted with specific reserved rights and restrictions, and that some easements may allow or prohibit certain alterations. This policy is meant to outline the review and approval process and to provide general guidance as to which types of work require prior written approval. This guidance may not be universally applicable to all deeds, projects, or properties. In all cases, the easement is the governing document and will dictate whether prior written approval is required and how that review and approval will be conducted.

**REVIEW AND APPROVAL PROCESS**

DHR’s Easement Program staff administers the easements held by the Board. Any work requiring the Board’s (as Grantee) approval will be reviewed by the Easement Program staff according to the terms of the applicable easement and by applying the relevant *Secretary of the Interior’s Standards*, as set forth below. Decisions regarding a request for review and approval made by easement program staff will be provided to the property owner or their designated representative in writing, either by regular U.S. Mail, electronic mail or both. The property owner may appeal any decision or determination made by Easement Program staff in accordance with the process outlined below. Decisions of the Board are final administrative agency decisions and may only be appealed to a court having jurisdiction within the Commonwealth of Virginia.

All written letters or correspondence approving proposed work on an easement property will include a sunset clause, or a timeframe within which the work must be completed. If the work is
not done within the specified timeframe, the property owner must request re-approval of the work or seek new approvals if the project has changed in any way from the previously approved proposal. Prior written approval of work is not transferable to a new property owner.

If a property owner wishes to designate a person or entity, such as their attorney or a consultant, to serve as their agent or representative with respect to a project review request or any appeal thereof, they must provide proof of such authorization in writing to DHR’s Easement Program. DHR’s Easement Program cannot accept project review requests submitted by anyone other than the property owner without such written authorization. Furthermore, all communications regarding such project review request will be directed to the property owner at the address on file with DHR or as listed in the tax assessor’s records for the relevant city or county where the property is located. The property owner is responsible for ensuring that DHR’s Easement Program has the property owner’s accurate contact information. Upon receipt of written authorization, a designated agent or representative may also receive a copy of all communications.

Property owners should be reminded that with limited exceptions, all materials and communications regarding their easement and their property are subject to the Virginia Freedom of Information Act (FOIA). DHR is legally required to provide copies of all documents in its possession in response to a request under FOIA made by the property owner or any third party, whether public or private.

Language within the easements held by the Board has evolved over the years. Language in an easement recorded in 1973 will differ markedly from the language of an easement recorded in 2003. These changes are driven by a number of factors including changes in state law, the requirements of the Internal Revenue Service, and recommended best practices within the field of conservation easements. DHR’s Easement Program strives to keep its easement templates current and to provide recommended updates to Board policies. Board policies are intended to provide guidance; however, the specific language contained in a recorded deed of easement is always the primary legal authority. Please contact Easement Program staff with any questions regarding how to interpret or apply the specific language contained in an easement.

**Easements Recorded After September 2014**

The Board voted to approve new easement language regarding review and approval by DHR’s Easement Program staff for all activities and projects where prior approval is required by the easement and to approve corresponding changes to this policy in December 2014. The new approvals language in the easement template reads as follows, with minor variations to satisfy grant funding requirements:

**APPROVALS:**

(a) Whenever a written request for Grantee’s approval is submitted pursuant to the requirements imposed by this Easement and Grantee fails to respond in writing within thirty (30) business days of receipt of such request, then Grantee shall be deemed to
have approved the request, and Grantor may proceed with the action for which approval was requested.

(b) Nothing herein shall be construed, however, to require Grantee to issue a final decision on such request within such thirty (30) business day period, provided that such final decisions are issued as timely as is practicable under the circumstances. Such circumstances may include, but are not limited to, the complexity of the request or proposed project, the adequacy of the information submitted with the request, the degree to which the request or project complies with the Easement, whether the request or project is consistent with the Secretary’s Standards as set forth in Section II, Paragraph 2.7 (Standards for Review) above, the need for archaeological investigation pursuant to Section II, Paragraph 2.11 (Archaeology) above, and the need for on-site inspections or consultations.

(c) In the event that Grantor proceeds with the action without having obtained the prior written approval of Grantee, Grantor shall remain obligated to protect and preserve the Preservation and Conservation Values and Grantee may undertake remedial action as set forth in Paragraph 3.1 (Right of Inspection) above and/or pursue any remedies set forth in Section III, Paragraph 3.3 (Enforcement) if such action is in violation of this Easement or diminishes or impairs the Preservation and Conservation Values.

(d) No approval required hereunder shall be unreasonably withheld or delayed by Grantee.

(e) [if applicable] Nothing herein shall be construed to affect the authority of the Secretary of the Interior under Section 6(f)(3) of the Land and Water Conservation Act.

(f) Grantee is not liable to Grantor or any third party for any damage, injury, liability or consequence arising out of or resulting from Grantor’s failure to obtain Grantee’s prior written approval as required under this Easement.

As a general rule, easements recorded after September 2014 would include this new approval language. For any easement containing the above referenced approvals language, the following project review process shall apply:

PROJECT REVIEW PROCESS – For Easements Recorded After September 2014

A. All requests for review and approval as required by the terms of the easement must be submitted in writing to DHR’s Easement Program as follows:

   (i) Hard copy requests should be sent to:  
       Easement Program  
       Department of Historic Resources  
       2801 Kensington Avenue  
       Richmond, VA 23221
(ii) Electronic format requests should be sent to: EasementProjectProposals@dhr.virginia.gov

B. It is the responsibility of the requestor to confirm that the written request for review has been received by DHR’s Easement Program.

C. Easement Program staff shall respond to a written request for review within thirty (30) business days of receipt of such request, unless otherwise specified by the terms of the applicable easement.

   (i) Approval or denial is not required within that thirty (30) day period. Easement Program staff will endeavor to issue an approval or denial within that thirty (30) day period for a request that includes the necessary information and no other circumstances warrant an extension or delay of that review period.

   (ii) The Easement Program staff shall notify the property owner or designated agent or representative of the need for an extension or delay in writing within the initial thirty (30) day review period.

   (iii) Circumstances warranting an extension or delay of the review period include, but are not limited to, the following:

       (a) Receipt of additional materials or information requested in writing by the Easement Program staff;

       (b) Archaeological survey and/or investigation as determined by the Easement Program Archaeologist;

       (c) A site visit as determined by Easement Program staff;

       (d) A site visit by other staff within DHR as determined by the Easement Program staff;

       (e) Consultation with the property owner and his/her representatives or consultants regarding the proposed project;

       (f) Review of the existing historic or archaeological resources on the property by DHR’s Architecture and/or Archaeology Evaluation Committees to determine historic significance applying the National Register Criteria for Evaluation (36 C.F.R. 60);

       (g) Review of the request by DHR’s Treatment Committee upon referral by the Easement Program staff;

       (h) Complexity of the request;

       (i) Extent to which the request is consistent with the terms of the easement;

       (j) Extent to which the request is consistent with the applicable Secretary of the Interior’s Standards as set forth below in Paragraph D.

D. In reviewing a project request, the Easement Program staff person assigned to review that request shall determine whether the proposed project is consistent with the terms of the easement and the applicable Secretary of the Interior’s Standards (the “Standards”).

   (i) The Secretary of the Interior’s Standards shall include:
E. Failure to submit additional materials or information requested by Easement Program staff within thirty (30) days of such written request may result in denial of the request for review submitted by the property owner or his/her agent or representative.

   (i) To help ensure that the necessary information is provided with the initial request, the requestor should complete the Project Review Request form available online at http://www.dhr.virginia.gov/easement/easement.htm or by request with their submission and include all supplemental materials referenced or requested in the Project Review Application.

F. In the event of a written denial issued by the Easement Program staff, the property owner may appeal such denial to the Treatment Committee.

   (i) The Treatment Committee is comprised of staff representing different divisions within DHR appointed by the Director and it meets on as-needed basis. The Treatment Committee is not a public body pursuant to Virginia Code § 2.2-3701 and its meetings are not open to the public.

   (ii) Such appeal must be filed with Easement Program staff within forty-five (45) business days of the date of such written denial.

   (iii) The reviewer may refer the initial project request to the Treatment Committee for guidance. In the event of prior review by the Treatment Committee, the property owner may appeal such denial directly to the Board at its next regularly scheduled meeting.

   (iv) The property owner shall be notified in writing within fourteen (14) business days of the Treatment Committee’s recommendation.

G. If the Treatment Committee concurs with the denial, the property owner may appeal such denial to the Board at its next regularly scheduled meeting.

   (i) Notice of such appeal shall be filed with the Easement Program staff, the Easement Program Manager or the Director of DHR within forty-five (45)
business days of the date of written notice of the Treatment Committee’s recommendation.

(ii) Appeals filed less than fourteen (14) business days in advance of the next regularly scheduled meeting of the Board will be delayed until the following regularly scheduled meeting.

H. In the event of a tacit denial, the property owner may appeal such denial in writing to the Easement Program Manager or the Director of DHR.

(i) Tacit denial is defined as an automatic denial resulting from the failure of the Easement Program staff to respond to a written project review request submitted by the property owner or his designated agent as specified above within the applicable timeframe.

(ii) Such appeal shall be filed within forty-five (45) business days of such denial.

I. Within thirty (30) business days of receipt of a written appeal, the Easement Program Manager or designated staff person shall respond to the appeal in writing and shall approve or deny the review request consistent with the review process set forth in Paragraphs A-E above.

J. If the Easement Program Manager or designated staff person fails to respond to the written appeal within thirty (30) business days, the property owner shall submit a written appeal to the Board and may appear personally or through a designated agent or representative before the Board at its next regularly scheduled meeting.

(i) Appeals filed less than fourteen (14) business days in advance of the next regularly scheduled meeting of the Board will be delayed until the following regularly scheduled meeting.

(ii) The property owner will be notified in writing of the Board’s decision within ten (10) business days following the Board meeting.

**Easements Recorded Prior to September 2014**

Prior to September 2014, the majority of easements held by the Board contained the following language, with some minor deviations:

**APPROVALS:**
Whenever a written request for Grantee’s approval is submitted pursuant hereto and Grantee fails to respond in writing within thirty (30) days of receipt of such request, then Grantee shall be deemed to have approved the request, and Grantor may proceed with the action for which approval was requested. Nothing herein shall be construed, however, to require Grantee to issue a final decision on such request within such thirty (30) day period, provided that such final decisions are issued in as timely a fashion as is practicable under the circumstances. Such circumstances shall include, but are not limited to, the complexity of the request or proposed project, the amount of information submitted with the initial request, and the need for on-site inspections or consultations. No approval required hereunder shall be unreasonably withheld by Grantee.
For easements recorded prior to September 2014, which contain approvals language similar to that listed immediately above, the following project review process shall apply:

PROJECT REVIEW PROCESS - Prior to September 2014

A. All requests for review and approval as required by the terms of the easement must be submitted in writing to DHR’s Easement Program as follows:

   (i) Hard copy requests should be sent to:
        Easement Program
        Department of Historic Resources
        2801 Kensington Avenue
        Richmond, VA 23221

   (ii) Electronic format requests should be sent to:
        EasementProjectProposals@dhr.virginia.gov

B. It is the responsibility of the requestor to confirm that the written request for review has been received by DHR’s Easement Program.

C. Easement Program staff shall respond to a written request for review within thirty (30) business days of receipt of such request, unless otherwise specified by the terms of the applicable easement.

   (i) Approval or denial is not required within that thirty (30) day period. Easement Program staff will endeavor to issue an approval or denial within that thirty (30) day period for a request that includes the necessary information and no other circumstances warrant an extension or delay of that review period.

   (ii) The Easement Program staff shall notify the property owner or designated agent or representative of the need for an extension or delay in writing within the initial thirty (30) day review period.

   (iii) Circumstances warranting an extension or delay of the review period include, but are not limited to, the following:

      (a) Receipt of additional materials or information requested in writing by the Easement Program staff;

      (b) Archaeological survey and/or investigation as determined by the Easement Program Archaeologist;

      (c) A site visit as determined by Easement Program staff;

      (d) A site visit by other staff within DHR as determined by the Easement Program staff;

      (e) Consultation with the property owner and his/her representatives or consultants regarding the proposed project;

      (f) Review of the existing historic or archaeological resources on the property by DHR’s Architecture and/or Archaeology Evaluation Committees to determine historic significance applying the National Register Criteria for Evaluation (36 C.F.R. 60);
(g) Review of the request by DHR’s Treatment Committee upon referral by the Easement Program staff;

(h) Complexity of the request;

(i) Extent to which the request is consistent with the terms of the easement;

(j) Extent to which the request is consistent with the applicable Secretary of the Interior’s Standards as set forth below in Paragraph D.

D. In reviewing a project request, the Easement Program staff person assigned to review that request shall determine whether the proposed project is consistent with the terms of the easement and the applicable Secretary of the Interior’s Standards (the “Standards”).

(i) The Secretary of the Interior’s Standards shall include:

(a) Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation (National Park Service, as amended).

(b) Secretary of the Interior’s Professional Qualifications Standards (48 F.R. 44716 (Sept. 1983, as amended)).

(c) Secretary of the Interior’s Standards for Rehabilitation (36 C.F.R. 67, as amended).

(d) Secretary of the Interior’s Standards for the Treatment of Historic Properties (36 C.F.R. 68, as amended).

(e) Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (National Park Service, as amended).

(f) Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes (National Park Service, as amended).

E. Failure to submit additional materials or information requested by Easement Program staff within thirty (30) days of such written request may result in denial of the request for review submitted by the property owner or his/her agent or representative.

(i) To help ensure that the necessary information is provided with the initial request, the requestor should complete the Project Review Request form available online at http://www.dhr.virginia.gov/easement/easement.htm or by request with their submission and include all supplemental materials referenced or requested in the Project Review Application.

F. In the event of a written denial issued by the Easement Program staff, the property owner may appeal such denial to the Treatment Committee.

(i) The Treatment Committee is comprised of staff representing different divisions within DHR appointed by the Director and it meets on as-needed basis. The Treatment Committee is not a public body pursuant to Virginia Code § 2.2-3701 and its meetings are not open to the public.
(ii) Such appeal must be filed with Easement Program staff within forty-five (45) business days of the date of such written denial.

(iii) The reviewer may refer the initial project request to the Treatment Committee for guidance. In the event of prior review by the Treatment Committee, the property owner may appeal such denial directly to the Board at its next regularly scheduled meeting.

(iv) The property owner shall be notified in writing within fourteen (14) business days of the Treatment Committee’s recommendation.

G. If the Treatment Committee concurs with the denial, the property owner may appeal such denial to the Board at its next regularly scheduled meeting.

(i) Notice of such appeal shall be filed with the Easement Program staff, the Easement Program Manager or the Director of DHR within forty-five (45) business days of the date of written notice of the Treatment Committee’s recommendation.

(ii) Appeals filed less than fourteen (14) business days in advance of the next regularly scheduled meeting of the Board will be delayed until the following regularly scheduled meeting.

Please contact DHR’s Easement Program staff with any questions regarding the applicable project review process. Contact information for Easement Program staff is located within the Division of Preservation Incentives at:
http://www.dhr.virginia.gov/homepage_features/staff3.htm

GUIDANCE FOR DETERMINING WHEN PRIOR WRITTEN APPROVAL IS REQUIRED

In order to guide a property owner in understanding the type of work that can and cannot be conducted without prior written approval pursuant to the easement, the Easement Program has developed a list of examples of major and minor work, which is provided below. Except as otherwise provided for in the relevant deed of easement, work defined as minor may be conducted without prior written approval by Easement Program staff. Work defined as major requires review and written approval by Easement Program staff before any work may be undertaken.

The term “in-kind” means the replacement of existing historic fabric with the same material of the same dimension, design and workmanship.

Examples of Major and Minor Alterations

Alterations of a minor nature generally do not require review by Easement Program staff. Minor alterations are considered to be ordinary maintenance and repair.

This list is not intended to be comprehensive; it is only a sampling of some of the more common types of alterations which may be contemplated by property owners.
PAINT

Minor – Exterior or interior hand scraping and repainting of painted non-decorative and non-significant surfaces as part of periodic maintenance.

Major – Painting of previously unpainted surfaces or painting over, removing and/or stripping historic decorative surfaces or distinctive and historic stylistic features including murals, stenciling, wallpaper, ornamental woodwork, stone, decorative or historically significant original plaster

WINDOWS AND DOORS

Minor – Regular maintenance including caulking, painting, and necessary reglazing. Repair or in-kind replacement of existing individual deteriorated window parts.

Major – Replacement of windows or doors, including sashes, frames, thresholds, or trim, change in window sash configuration or fenestration patterns (relationship of existing door and window openings), or creation of new window or door openings.

MECHANICAL, ELECTRICAL AND CONDITIONING SYSTEMS

Minor – Repair and/or replacement of existing systems and their components, which would have no effect on the historic fabric of the building or structure or would not alter the exterior appearance of nonhistoric buildings or structures. Such work includes the installation of new pumps, units such as a furnace, replacement of valves and pipes within existing chases, rewiring within existing chases, replacement of existing above-ground tanks or fuel storage containers.

Major – Installing new systems or upgrading existing systems which would affect the historic fabric of the building or structure; require significant ground disturbance for a new well, new piping, underground electrical conduit or a geothermal system; require new ducts or chases; result in major appearance changes (i.e. dropped ceilings, disfigured walls or floors, exposed wiring, ducts, and piping); or require the removal of existing fabric or material such as original plaster or floorboards or affect the exterior appearance of a nonhistoric building or structure.

EXTERIOR

Minor – Spot repair of existing cladding and roofing including in-kind replacement of cladding/siding, shingles, slates, and in-kind replacement of porch elements.

Major – All work to masonry, whether exterior or interior. Extensive repair or replacement of building components such as cladding or roofing or architectural features such as decorative trim, shutters, cupolas or finials. Change involving the removal or addition of materials or building elements (i.e. removal of a porch or shutters or installation of architectural detail, such as moldings, carved porch supports or stained glass windows); construction of a new addition, or altering or demolishing building additions. Structural stabilization of an historic building or structure is also considered a major alteration.
OUTBUILDINGS AND LANDSCAPE

Minor – Routine maintenance of outbuildings and landscape including lawn mowing, pruning, gardening, and routine repair of outbuildings or landscape features, such as walkways, terraces, patios, fountains, etc.

Major – Ground disturbance or grading other than routine gardening, installation of drainage or irrigation systems, demolition of existing outbuildings, altering, installing or removing significant landscape features such as gardens, changes to forested cover, view sheds, walks, or plantings that define the historic setting or create a landscape feature, and ground disturbance affecting archaeological resources.

NEW CONSTRUCTION

Minor – Installation of a new mailbox; replacement of an existing fence line with the same material; installation or erection of removable exterior furniture such as birdhouses, benches, swing sets, small above-ground pools etc. that are not attached to any historic building, structure or fabric or temporary or seasonal items such as political signs, netting for fruit trees or vines, holiday decorations, etc.

Major – Construction of any new buildings, structures, features or amenities including but not limited to farm buildings, residential outbuildings, garden sheds, pergolas or arbors, in-ground pools or fishponds, terraces, walkways, garden features such as fencing, fountains.

CHANGES TO LEGAL STATUS OF PROPERTY

Minor – Conveyance to a new owner; execution of a will bequeathing or gifting the property. Note that some easements specifically require that DHR be notified prior to any sale or conveyance.

Major – Subdivision of the property; boundary line adjustments; execution of any easement for any purpose, including access easements, utility easements or overlay easements in favor of any private person or entity or any public utility.

Changes classified as major alterations are not necessarily unacceptable. The intent of the easement is to enable DHR to review proposed alterations and assess their comprehensive impact on the integrity of the protected historic and archaeological resources, not to preclude future change. DHR Easement Program staff will work with property owners to provide technical assistance and to develop mutually satisfactory solutions that are consistent with the Standards, the terms of the easement and in the best interests of the property.

It is the responsibility of the property owner to notify the DHR in writing when any major alterations are contemplated.

[Adopted by the Virginia Board of Historic Resources on March 8, 2006; Revised December 18, 2008; Revised March 17, 2011; Revised December 11, 2014; Revised September 17, 2015]
EASEMENTS RECORDED SINCE THE MARCH 17, 2022 MEETING
The Shenandoah Valley Battlefields Foundation (SVBF) has conveyed a perpetual historic preservation and open-space easement over the Brill Tract in Warren County. The easement, recorded on June 1, 2022, protects 73.828 acres of historically significant land. Located east of the town of Strasburg, the property is situated in a rural, agricultural area. It is currently utilized for residential purposes and grazing of livestock. Fronting on Bowmans Mill Road (Virginia Route 635), the property is distinguished by its rolling topography with a generally south-southwestern gradient. Existing improvements include non-historic buildings and structures associated with residential and agricultural uses. The property also contains two unnamed intermittent streams that drain to Cedar Creek and a freshwater pond.

The Brill Tract is entirely within the core area of the Cedar Creek Battlefield, which has been given a Preservation Priority Rating of I.1 Class A by the Civil War Sites Advisory Commission as described in *The Report on the Nation’s Civil War Battlefields* (1993). By mid-October 1864, the Federals believed that the Confederates no longer presented a threat and camped in the high ground north of Cedar Creek. Jubal Early discovered that the Union defensive position – despite the protection of earthworks – was vulnerable. He decided to attack on October 19, 1864 with his main thrust directed at the Federals’ left flank. Although Union Col. Joseph Thoburn’s division manned an imposing position on high ground overlooking Cedar Creek and the North Fork of the Shenandoah River, Thoburn’s force was isolated from other Federal units. His line consisted of six cannon under Col. Thomas M. Harris’s brigade, six cannon under Lt. William Munk, and Col. Thomas Wildes’s brigade. Harris’s brigade and Munk’s artillery were located on the northern edge of the property. As Confederate Gen. Joseph Kershaw’s men proceeded up the slope towards Thoburn’s line, the Federal pickets did not notice the advancing troops. Col. Peter A.S. McGlashan saw that the Union troops had constructed a formidable line of entrenchments strengthened by a thicket hedge of abatis. However, the men surged forward toward a gap in the line. The Federals tried to shift troops to plug the opening. However, the Confederates unleashed a volley and the line rushed up the slope on the property, dashed at the entrenchments and poured through the gap in the Union line. Meanwhile, Union commander Gen. Philip Sheridan upon hearing news of the battle rode quickly from Winchester, rallying his straggling troops along the way. In the afternoon, Sheridan launched a counterattack, which recovered the morning losses and routed Early’s forces. The Confederates held at first, but eventually began to retreat, some of them moving across the property, to the fords over the North Fork of the Shenandoah River located to the south. Sheridan’s victory at Cedar Creek broke the back of the Confederate army, ended effective Confederate resistance in the Valley, and helped propel Abraham Lincoln to re-election.

The historic battlefield landscape consists of a combination of wooded cover and open fields and meadows. Critical features associated with the 1864 battle remain intact, including (i) the high ground in the northern and eastern portions of the property that overlooks Cedar Creek and the North Fork of the Shenandoah River, and (ii) the linear earthwork along Bowman’s Mill Road. The rural character and quality of the property and surrounding area contribute to the landscape’s historic battlefield integrity.

In addition to the battlefield landscape, the property contains two Known Archaeological Sites associated with Late Archaic period Native American occupation of the property and Civil War period use, both of which are recorded in VCRIS. Additional conservation values protected by the easement include 30.89 ± acres of forested cover, 41.07 ± acres of open fields and meadows, 17.1 ± acres of Prime Farmland and 1,030 feet of frontage on two unnamed intermittent streams. The property is also within the boundaries of (i) the Shenandoah Valley Battlefields National Historic District, (ii) the Cedar Creek Battlefield and Belle Grove site, which was individually listed in the VLR (1968), the NRHP (1969), and designated an NHL (1969), and (iii) the Cedar Creek and Belle Grove National Historical Park.

SVBF acquired the property in May 2022 with assistance from Virginia Battlefield Preservation Fund and Virginia Land Conservation Fund grants. Conveyance of the easement is a requirement of the grants. SVBF intends to install a pedestrian trail and interpretive signage related to the Battle of Cedar Creek on the property and provide daily public access. The residential buildings and agricultural fields will be leased to tenants.

**Statement of Public Benefit:**

The Brill Tract is of historic and archaeological significance and is within core and study areas of the Cedar Creek Battlefield, which has a preservation priority rating from the Civil War Sites Advisory Commission. Restrictions on ground disturbance, archaeological resources and historic resources will ensure the property retains its historic integrity as a Civil War battlefield landscape. Preservation of the property will augment efforts to preserve historic properties in Warren County, including approximately 588 acres of land subject to easements held by the Board in Warren County, in addition to other lands protected by the American Battlefield Trust and the Virginia Outdoors Foundation. Preservation of the open-space and wooded character of the property preserves a local landscape that attracts tourism and commerce to the area and enhances the quality of life for area residents. Additionally, restrictions on development, new construction, and ground disturbing activities and
requirements for forest management in the easement will protect the forested landscape and forest resources on the property and the natural benefits associated with forest conservation such as clean air and water. The property is located within the Chesapeake Bay watershed. Limiting new construction, timbering, ground disturbing activities and uses of the property in the Easement will support protection of water quality in the Chesapeake Bay. The property will be accessible to the public year round, and it is visible from Bowmans Mill Road (Route 635), a public right-of-way. Restrictions on new construction and viewshed requirements in the easement will protect scenic and historic views from these roads used by the public. The protection of the Brill Tract will also fulfill the intent of the 2018 Virginia Outdoors Plan to protect Virginia’s historic and cultural resources, and to place historic preservation and open-space easements on historic properties.

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<td><strong>Property Address:</strong> 964 Bowmans Mill Road, Middletown, VA 22645</td>
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<td><strong>Board Approval:</strong> June 17, 2021</td>
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<td><strong>Easement Recordation Date:</strong> June 1, 2022</td>
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The Shenandoah Valley Battlefields Foundation (SVBF) has conveyed a perpetual historic preservation and open-space easement to the Virginia Board of Historic Resources (BHR) over the West Woods Additional Property in Frederick County. The easement, recorded on June 1, 2022, protects 8.7784 acres of historically significant land. In 2017, SVBF conveyed an easement over the 26.29-acre West Woods Tract to the BHR. SVBF has now conveyed an easement over 8.7784 acres of adjoining land (the “Property”). The acreage is associated with SVBF’s Third Winchester Battlefield Park, and contains interpretative signage and a pedestrian trailhead entrance marked by gravel. Primarily characterized by cleared areas of mown grass, brush, and scrub trees, the Property also includes an asphalt paved parking area south/east of Getty Lane and the asphalt paved roads known as Getty Lane and Gateway Drive. Although located adjacent to a commercial shopping center, the Property connects to and facilitates access to the larger West Woods Tract and associated battlefield park by the public.

The preservation of the Property by the easement will enlarge a contiguous corridor of 600 acres of perpetually protected historic landscape on the Third Winchester (Opequon) Battlefield.

The Property contains 8.7784 acres of land that lie within the core area of the Third Winchester (Opequon) Battlefield as determined by the Civil War Sites Advisory Commission (“CWSAC”) and described in The Report on the Nation’s Civil War Battlefields (1993). The CWSAC has given the Third Winchester (Opequon) Battlefield a Preservation Priority IV.1 Class A Rating. On September 19, 1864, Confederate cavalry of Brig. Gen. Bradley Johnson’s command were posted along the eastern edge of the Property, known as West Woods or Dinkle Woods. According to eyewitness accounts from the battle, West Woods was a stand of mature hardwoods with a relatively open understory free of brush and low growth. Soon after the first shots were fired near the Berryville Pike (modern State Route 7), the advance guard of Confederate infantry under Brig. Gen. Robert D. Johnston marched east along the pike toward Winchester and the main Confederate line positioned just south of the Property. Johnson’s cavalry charged down the pike toward the oncoming Federal cavalry, allowing the Confederate infantry enough time to escape and regroup. The Confederates were now in a defensive position as the VI and IX Corps of the Federal Army pushed through the Berryville Canyon, moving west and south along the Berryville Pike. Just before noon, the Union XIX Corps launched its coordinated assault toward West Woods. After heavy fighting the Confederate troops retreated. Gen. Robert Rodes’ division arrived to bolster the Confederate line and, reaching the field immediately west of the West Woods, quickly deployed his troops into the woods, charging east against the XIX Corps. Although seemingly unbreakable, the Confederate position in West Woods was tenuous and the superiority of Federal numbers began to impact the battle. As the afternoon continued, Union Brig. General Emory Upton led his troops south and east across the Middle Field and into West Woods, driving back the weakened Confederate soldiers so quickly that many were captured among the trees.

Critical features associated with the 1864 battle remain intact, including the alignment of the Berryville Turnpike (State Route 7), views toward the turnpike from the Property, a ravine along the western Property boundary, and thick woods that were critical to the actions of the battle. In 1864, the mature woods and topography of the Property were made tactically even more important by their adjacency to the vast expanse of open fields immediately to the east. The relationship between West Woods and Middle Field to the east allowed this woodlot to be a stronghold from which the Confederates defended against Union forces attacking across the open Middle Field.

The Property also contains 8.7784 acres of land that lie within the study area of the Second Winchester Battlefield, which has been given a Priority IV.1 Class B Rating by the CWSAC, and is further significant for its archaeological potential as a Civil War battlefield. SVBF acquired the Property in 2016 with assistance from an American Battlefield Protection Program grant.

Conveyance of the easement is a requirement of the grant. SVBF plans to continue using the Property for open-space purposes, passive recreation, and battlefield site interpretation. It is regularly open to the public.

**Property Description:**

The Shenandoah Valley Battlefields Foundation (SVBF) has conveyed a perpetual historic preservation and open-space easement to the Virginia Board of Historic Resources (BHR) over the West Woods Additional Property in Frederick County. The easement, recorded on June 1, 2022, protects 8.7784 acres of historically significant land. In 2017, SVBF conveyed an easement over the 26.29-acre West Woods Tract to the BHR. SVBF has now conveyed an easement over 8.7784 acres of adjoining land (the “Property”). The acreage is associated with SVBF’s Third Winchester Battlefield Park, and contains interpretative signage and a pedestrian trailhead entrance marked by gravel. Primarily characterized by cleared areas of mown grass, brush, and scrub trees, the Property also includes an asphalt paved parking area south/east of Getty Lane and the asphalt paved roads known as Getty Lane and Gateway Drive. Although located adjacent to a commercial shopping center, the Property connects to and facilitates access to the larger West Woods Tract and associated battlefield park by the public.

The preservation of the Property by the easement will enlarge a contiguous corridor of 600 acres of perpetually protected historic landscape on the Third Winchester (Opequon) Battlefield.

The Property contains 8.7784 acres of land that lie within the core area of the Third Winchester (Opequon) Battlefield as determined by the Civil War Sites Advisory Commission (“CWSAC”) and described in The Report on the Nation’s Civil War Battlefields (1993). The CWSAC has given the Third Winchester (Opequon) Battlefield a Preservation Priority IV.1 Class A Rating. On September 19, 1864, Confederate cavalry of Brig. Gen. Bradley Johnson’s command were posted along the eastern edge of the Property, known as West Woods or Dinkle Woods. According to eyewitness accounts from the battle, West Woods was a stand of mature hardwoods with a relatively open understory free of brush and low growth. Soon after the first shots were fired near the Berryville Pike (modern State Route 7), the advance guard of Confederate infantry under Brig. Gen. Robert D. Johnston marched east along the pike toward Winchester and the main Confederate line positioned just south of the Property. Johnson’s cavalry charged down the pike toward the oncoming Federal cavalry, allowing the Confederate infantry enough time to escape and regroup. The Confederates were now in a defensive position as the VI and IX Corps of the Federal Army pushed through the Berryville Canyon, moving west and south along the Berryville Pike. Just before noon, the Union XIX Corps launched its coordinated assault toward West Woods. After heavy fighting the Confederate troops retreated. Gen. Robert Rodes’ division arrived to bolster the Confederate line and, reaching the field immediately west of the West Woods, quickly deployed his troops into the woods, charging east against the XIX Corps. Although seemingly unbreakable, the Confederate position in West Woods was tenuous and the superiority of Federal numbers began to impact the battle. As the afternoon continued, Union Brig. General Emory Upton led his troops south and east across the Middle Field and into West Woods, driving back the weakened Confederate soldiers so quickly that many were captured among the trees.

Critical features associated with the 1864 battle remain intact, including the alignment of the Berryville Turnpike (State Route 7), views toward the turnpike from the Property, a ravine along the western Property boundary, and thick woods that were critical to the actions of the battle. In 1864, the mature woods and topography of the Property were made tactically even more important by their adjacency to the vast expanse of open fields immediately to the east. The relationship between West Woods and Middle Field to the east allowed this woodlot to be a stronghold from which the Confederates defended against Union forces attacking across the open Middle Field.

The Property also contains 8.7784 acres of land that lie within the study area of the Second Winchester Battlefield, which has been given a Priority IV.1 Class B Rating by the CWSAC, and is further significant for its archaeological potential as a Civil War battlefield. SVBF acquired the Property in 2016 with assistance from an American Battlefield Protection Program grant.

Conveyance of the easement is a requirement of the grant. SVBF plans to continue using the Property for open-space purposes, passive recreation, and battlefield site interpretation. It is regularly open to the public.

**Documentation Information:**

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<td><strong>Board Approval:</strong> June 17, 2021</td>
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