



COMMONWEALTH of VIRGINIA

Department of Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

JOINT MEETING

STATE REVIEW BOARD and BOARD OF HISTORIC RESOURCES

10:00 a.m., December 12, 2024

Halsey Lecture Hall, Virginia Museum of History and Culture
428 North Arthur Ashe Boulevard, Richmond, Virginia

EASEMENT PROGRAM
BOARD PACKET

PROJECT SUMMARIES

**Provided to the
Virginia Board of Historic Resources**

December 4, 2024

**NEW
EASEMENT OFFERS**

BHR Meeting Date: December 12, 2024	Staff: Kyle Edwards	DHR File No. 023-0376-0005
Applicant: Shenandoah Valley Battlefields Foundation (“SVBF”)	County: Rockingham	Acres: ±124.168

Property Features and Current Use:

The Diehl II Farm (the “Property”) contains ±124.168 acres over two parcels and is owned by Victory Hill Land, LLC. The Property is located seventeen miles southeast of Harrisonburg and is bisected by Port Republic Road (Route 253). It is adjacent to the Diehl [I] Farm and the Miller Farm, two properties under easement to the Board of Historic Resources (“BHR”). The Diehl II Farm has a rolling topography with ±6.28 acres under forested cover. The Property features three intermittent streams which drain to Mill Creek and approximately one acre of wetlands. The Property has been in agricultural use since the Civil War and residential use since at least 1896. The Property is currently used for agricultural, residential, and open-space purposes and includes a two-story frame dwelling (ca. 1896) and a frame shed. Approximately 9.103 acres on the eastern side of the Property that includes several buildings relating to an industrial poultry operation will be excluded from the proposed easement area. The Property is encumbered by a Deed of Trust which will be subordinated to DHR’s easement prior to easement recordation. SVBF will record a trail easement on the Property which will allow for public access, however the location and length of this trail are still to be determined. SVBF will apply for an American Battlefield Protection Program (“ABPP”) grant and has been awarded a Virginia Battlefield Preservation Fund (“VBPF”) to assist with acquisition of a historic preservation and open-space easement. The conveyance of an easement to the BHR is a condition of both grants.

Conservation Values:

Historic/Landscape:

1. The Diehl II Farm is entirely within the core and study areas of the Cross Keys 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 Jackson’s Shenandoah Valley Campaign from March to June 1862.
 - On June 8, 1862, Confederate forces under Major General Richard Ewell took up a strong defensive position along the heights of Mill Creek Ridge located southwest the Diehl II Farm. Union Major General John Fremont deployed his army across the fields on both sides of the Port Republic Road, including the Diehl II Farm. Union Brigadier General Robert Milroy’s brigades left flank crossed the Property as the line moved south toward the Confederate defenses on Mill Creek Ridge. Union artillery was deployed on the property west of Port Republic Road. On the east side of Port Republic Road, Brigadier General Henry Bohlen’s and Brigadier General Julius Stahel’s brigades crossed the Diehl II Farm as it moved toward the Confederate defensive line near the Widow Pence Farm. Stahel’s and Bohlen’s brigades were surprised by the resistance on the eastern side of the battle line and were strongly repulsed and flanked, retreating across the Diehl II Farm. With the Union collapse on the east, the western line was forced to retreat across the Diehl II Farm. The Union forces retreated from the field and Richard Ewell’s Confederates were able to move toward Port Republic to join up with Maj. Gen. Thomas Jackson and the rest of the Confederate army. The Battle of Cross Keys ended in a Confederate victory with a combined total of 951 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).

Archaeological: Although the Property has not been subjected to professional archaeological survey, in the opinion of DHR, the Property has the potential to contain archaeological sites, deposits and features associated with the Civil War, specifically the Battle of Cross Keys, based on the concentration of troop movements and engagement of the opposing armies across or on the Property.

Agricultural: As identified in the Natural Resources Conservation Service (“NRCS”) Web Soil Survey of the United States Department of Agriculture, the Property contains ±37.8 acres of Prime Farmland and ±49.1 acres of Farmland of Statewide Importance.

Open Space: The Property includes ±124.168 acres of open-space land, of which ±6.28 acres is under forested cover.

Wetlands: The Property includes ±7,253.5 feet of frontage on three unnamed intermittent streams that drain to Mill Creek and one acre of freshwater emergent wetlands. The Property is located within the Chesapeake Bay watershed.

ConserveVirginia: The Property lies entirely within the “Cultural and Historic Preservation” layer and partially within the “Water Quality Improvement” 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:

Federal: (i) “The Report on the Nation’s Civil War Battlefields,” issued by the CWSAC in 1993, authorized under 54 U.S.C. § 100507; (ii) Battlefield Land Acquisition Grant Program administered by ABPP (54 U.S.C. §§ 30801 – 308103); (iii) The Land and Water Conservation Fund Act, 54 U.S.C. §§ 200301 – 200310; (iv) 1996 “Shenandoah Valley Battlefields National Historic District and Commission Act” (P.L. 104-333); (v) NRCS Web Soil Survey and (vi) the NWI published by the USFWS.

State: (i) Section 1 of Article XI of the Constitution of Virginia; (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; (iv) Virginia Board of Historic Resources 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) Virginia Outdoors Plan (2018) Region 6: Central Shenandoah (Pages 12.2, 12.3, 12.7, 12.8, 13.37); (vi) ConserveVirginia; and (vii) Virginia Battlefield Preservation Fund.

Local: The Property is currently zoned Agricultural, and its future land use designation is Agricultural. The Rockingham County Comprehensive Plan (adopted in 2015) provides support for the placement of a historic preservation easement on the Property at pages 2-76 and 2-77. By email dated May 18, 2024, Rockingham County confirmed that a historic preservation and open-space easement placed on the Property would be consistent with its comprehensive plan.

Existing Buildings and Structures:

Frame dwelling (ca. 1896)	Fences
Frame shed (date unknown)	Utility polls
Dirt/gravel roads	

General Easement Terms:

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

Division: Permits one division of the Property along Port Republic Road only.

Existing Buildings and Structures: Existing dwelling and shed will be treated as non-historic and may be demolished subject to prior approval by DHR.

New Buildings Structures and Amenities: walking trails, footpaths, parking facilities, signs, for interpretation of the Property as a Civil War battlefield.

New Construction: construction of new buildings, structures, and amenities, 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: cap at 1% or less for all construction.

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

Ground Disturbance: (i) grading, blasting, earth removal, or other ground disturbing activities shall not alter topographic aspects of Property, except as for construction of permitted buildings, structures, and roads; (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.

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

Forest Resource Management: easement shall address forest management including timbering, replanting, landscape rehabilitation and land conversion consistent with the current standard 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 location of signs on property; interpretative signage permitted.

Public Access: easement requires 2 days minimum public access and Property is also visible from a public-right-of way.

Grant Funding: ABPP grant requires specific easement language for Section 6(f)3 of Land and Water Conservation Fund Act.

Documentation Information:

Tax Map Number: 140-A-L18 and 140-A-L18C

Property Address: 6273 Port Republic Road, Rockingham, VA 22801 | **USGS Quad:** Grottoes

Statement of Public Benefit:

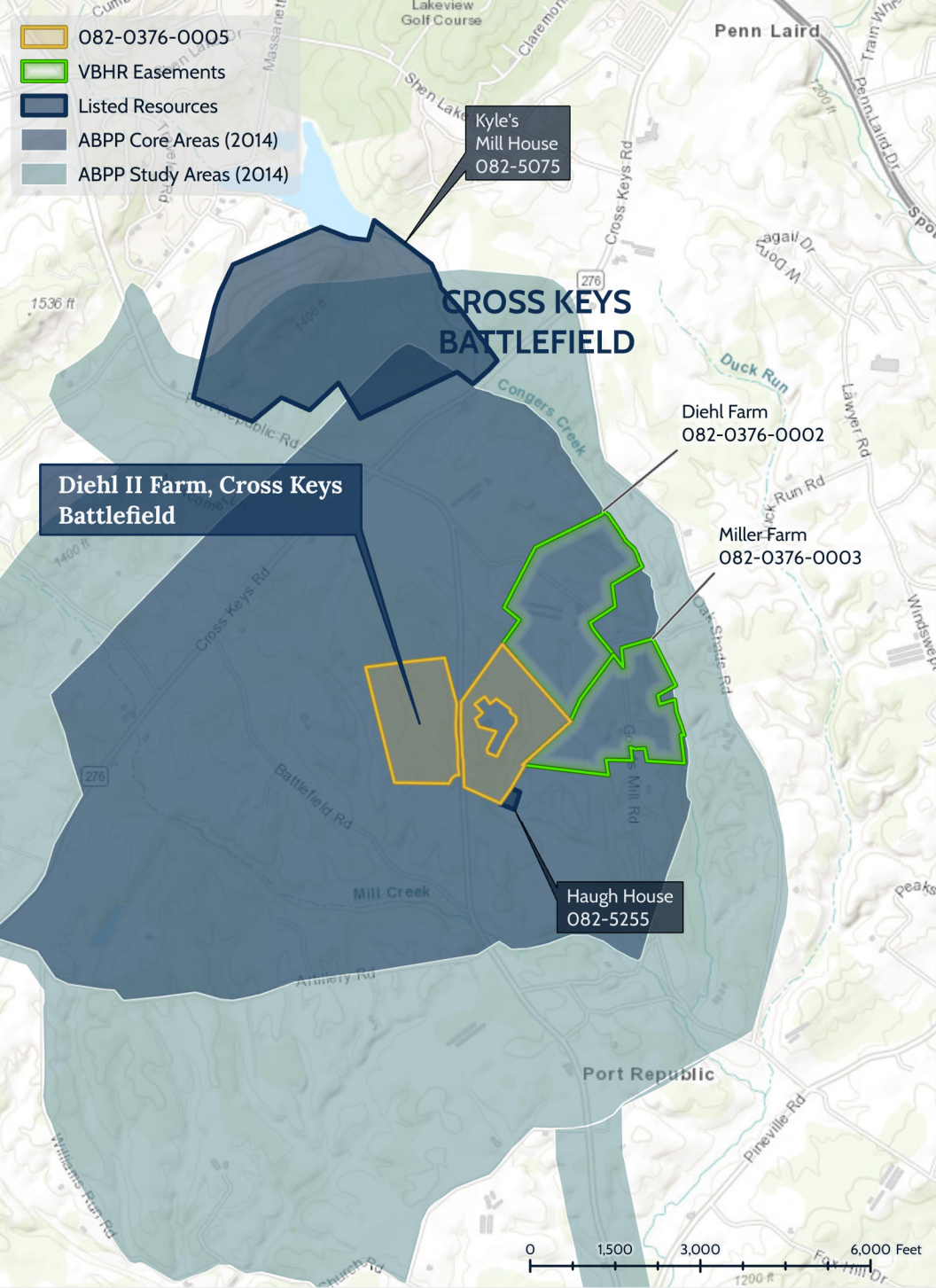
The Diehl II Farm is of historic and archaeological significance and is within the boundary of a battlefield with a preservation priority rating from the CWSAC. Restrictions on ground disturbance, and protections for archaeological and historic resources in the easement will ensure the Property retains its integrity as a Civil War battlefield landscape. Preservation of the Property will augment efforts to preserve historic properties in Rockingham County, including ±1,033.45 acres of land already subject

to perpetual easements held by the BHR. Preservation of the open-space, wooded and agricultural 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, forest and ecological resources on the Property and the natural benefits associated with forest conservation such as clean air and water. The Property includes frontage on two intermittent streams and is 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 watershed. The Property is visible from Port Republic Road (Virginia Route 253). In addition to visibility from a public right-of-way, the easement will require physical public access two calendar 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, 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 Diehl II Farm easement offer subject to the following conditions:

1. The existing Deed of Trust must be subordinated to DHR's easement prior to easement recordation.
2. SVBF is required to work with Shenandoah Valley Electric Cooperative ("SVEC") to locate any existing recorded or unrecorded easements for two undocumented utility lines located on the Property. If the utility easements are unrecorded or do not exist, SVBF will work with SVEC and Victory Hill Land, LLC to record new utility easements prior to recordation of DHR's easement.
3. Final review of the title work, title commitment, survey, draft easements, 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.



Diehl II Farm, Cross Keys Battlefield
Rockingham County, Grottoes Quad
DHR ID: 082-0376-0005

Created By: D. Bascone 4/15/2024
 Sources: VDHR 2024, ESRI 2024, VDOT 2024, VGIN 2024
 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.



BHR Meeting Date: December 12, 2024	Staff: Kyle Edwards	DHR File No. 023-0376-0005
Applicant: Shenandoah Valley Battlefields Foundation (“SVBF”)	County: Shenandoah	Acres: ±51.3108

Property Features and Current Use:

The ±51.3108-acre Three Amigos Tract (the “Property”) is located southeast of Interstate 81 at the town of Maurertown in Shenandoah County. The Property fronts on Maurertown Mill Road and features a rolling topography which slopes to the southeast. The Property is characterized by open fields and forested lands in the upland portions of the Property and forested shrublands in the southern area. During the Civil War, the Property was the site of a Union cavalry flank attack during the Battle of Tom’s Brook. Since the Civil War, the Property has been in agricultural use. A late nineteenth or early twentieth century dwelling/agricultural building site was located along the northwestern boundary. This site was demolished by the 1980s. The Property is currently unimproved and in agricultural (hay production) and open-space use. The former owners, Three Amigos, LLC, had planned to develop the Property into a 122-unit residential subdivision but their plans failed and SVBF was able to acquire the Property in fee-simple on April 26, 2024. SVBF will use the Property for open space, agricultural and battlefield interpretation purposes. SVBF plans to install a ±3,500 square foot gravel parking area in the western corner of the Property along Maurertown Mill Road. The Property will be accessible to the public 365 days per year. SVBF will apply for American Battlefield Protection Program (“ABPP”) and Virginia Battlefield Preservation Fund (“VBPF”) grants to assist with the fee-simple acquisition of the Property. Conveyance of an easement to the Board of Historic Resources is a condition of these grants.

Conservation Values:

Historic/Landscape:

1. The Three Amigos Tract is partially (±50.24 acres) within the core and entirely within and study areas of the Tom’s Brook Battlefield, which has been given a Preservation Priority Rating of II.3 Class C 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 C are those that had a direct and decisive influence on their campaigns, in this case Sheridan’s Shenandoah Valley Campaign from August to December 1864.
 - Following Confederate losses at Third Winchester and Fisher’s Hill in late September 1864, Union Major General Philip Sheridan’s army moved through the upper Shenandoah Valley burning anything of possible military significance including homes, agricultural buildings, mills and crops. On orders of Lieutenant General Jubal A. Early, the outnumbered Confederate cavalry followed and harassed the Union cavalry to slow the “Burning”. As Sheridan began his withdrawal north to join other Union forces, Confederate cavalry reinforcements led by Brigadier General Thomas L. Rosser and Brigadier General Lunsford Lomax arrived and began aggressively skirmishing with the Union Army as it moved north. Early on the morning of October 9, Union cavalry under Brigadier General Alfred Torbert attacked the Confederates on two fronts just north of Tom’s Brook. The Confederate cavalry was outnumbered with no infantry reinforcements. Union cavalry outflanked the Confederates on both fronts forcing Rosser and Lomax to retreat hastily to the south for almost twenty miles in what was famously known as the Woodstock Races. The Battle of Tom’s Brook ended in a decisive Union victory with a combined total of 407 casualties.
 - During the battle, a Confederate cavalry brigade under the command of Colonel William Thompson was positioned north of the Three Amigos Tract. Thompson’s brigade attempted to charge the Union cavalry during its attack but was repulsed and fell back to a position closer to the Property. Meanwhile Union cavalry under the command of General Thomas Devin attacked the Confederate flank engaging Thompson’s brigade on the Property before the Confederates retreated south towards Woodstock
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).

Archaeological: Although the Property has not been subjected to professional archaeological survey, in the opinion of DHR, the Property has the potential to contain archaeological sites, deposits and features associated with the Civil War, specifically the Battle of Tom’s Brook, based on the concentration of troop movements and engagement of the opposing armies across or on the Property. The Property may also include archaeological sites, deposits and features associated with its previous residential and/or agricultural uses.

Agricultural: As identified in the Natural Resources Conservation Service (“NRCS”) Web Soil Survey of the United States Department of Agriculture, the Property contains ±25.6 acres of Prime Farmland and ±25.1 acres of Farmland of Statewide

Importance.

Open Space: The Property includes ±51.3108 acres of open-space land, of which ±20.22 acres is under forested cover.

Other Supporting Governmental Policy:

Federal: (i) “The Report on the Nation’s Civil War Battlefields,” issued by the CWSAC in 1993, authorized under 54 U.S.C. § 100507; (ii) Battlefield Land Acquisition Grant Program administered by ABPP (54 U.S.C. §§ 30801 – 308103); (iii) The Land and Water Conservation Fund Act, 54 U.S.C. §§ 200301 – 200310; (iv) 1996 “Shenandoah Valley Battlefields National Historic District and Commission Act” (P.L. 104-333); and (v) NRCS Web Soil Survey.

State: (i) Section 1 of Article XI of the Constitution of Virginia; (ii) Chapter 22 of Title 10.1, Sections 10.1-2200 through 10.1-2214 of the Code of Virginia; (iii) 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; (iv) BHR 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; (v) Virginia Outdoors Plan (2018) Region 7: Northern Shenandoah (Pages 12.2, 12.3, 12.7, 12.8, 13.44); (vi) ConserveVirginia; and (vii) Virginia Battlefield Preservation Fund.

Local: The Shenandoah County Comprehensive Plan (adopted June 28, 2005, amended in 2014, 2016 and 2019) provides support for historic preservation generally at Chapter 1, page 1-8, and Chapter 10, page 10-2. The plan provides support for the placement of conservation easements at Chapter 2, page 2-21. By letter dated July 25, 2024, Shenandoah County confirmed that a historic preservation and open-space easement placed on the Property would be consistent with the 2019 comprehensive plan.

Existing Buildings and Structures:

Fences

Utility polls

General Easement Terms:

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

Division: no subdivision or division permitted.

New Buildings Structures and Amenities: walking trails, footpaths, parking facilities, signs, for interpretation of the Property as a Civil War battlefield.

New Construction: construction of new buildings, structures, and amenities, 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: cap at 1% or less for all construction.

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

Ground Disturbance: (i) grading, blasting, earth removal, or other ground disturbing activities shall not alter topographic aspects of property, except as for construction of permitted buildings, structures, and roads; (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.

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

Forest Resource Management: easement shall address forest management including timbering, replanting, landscape rehabilitation and land conversion consistent with the current standard 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 location of signs on property; interpretative signage permitted.

Public Access: easement requires 2 days minimum public access and Property is also visible from a public-right-of way.

Grant Funding: ABPP grant requires specific easement language for Section 6(f)3 of Land and Water Conservation Fund Act.

Documentation Information:

Tax Map Number: 033 A 239

Property Address: near 49 Ritenour Lane, Maurertown, VA 22644

USGS Quad: Tom’s Brook

Statement of Public Benefit:

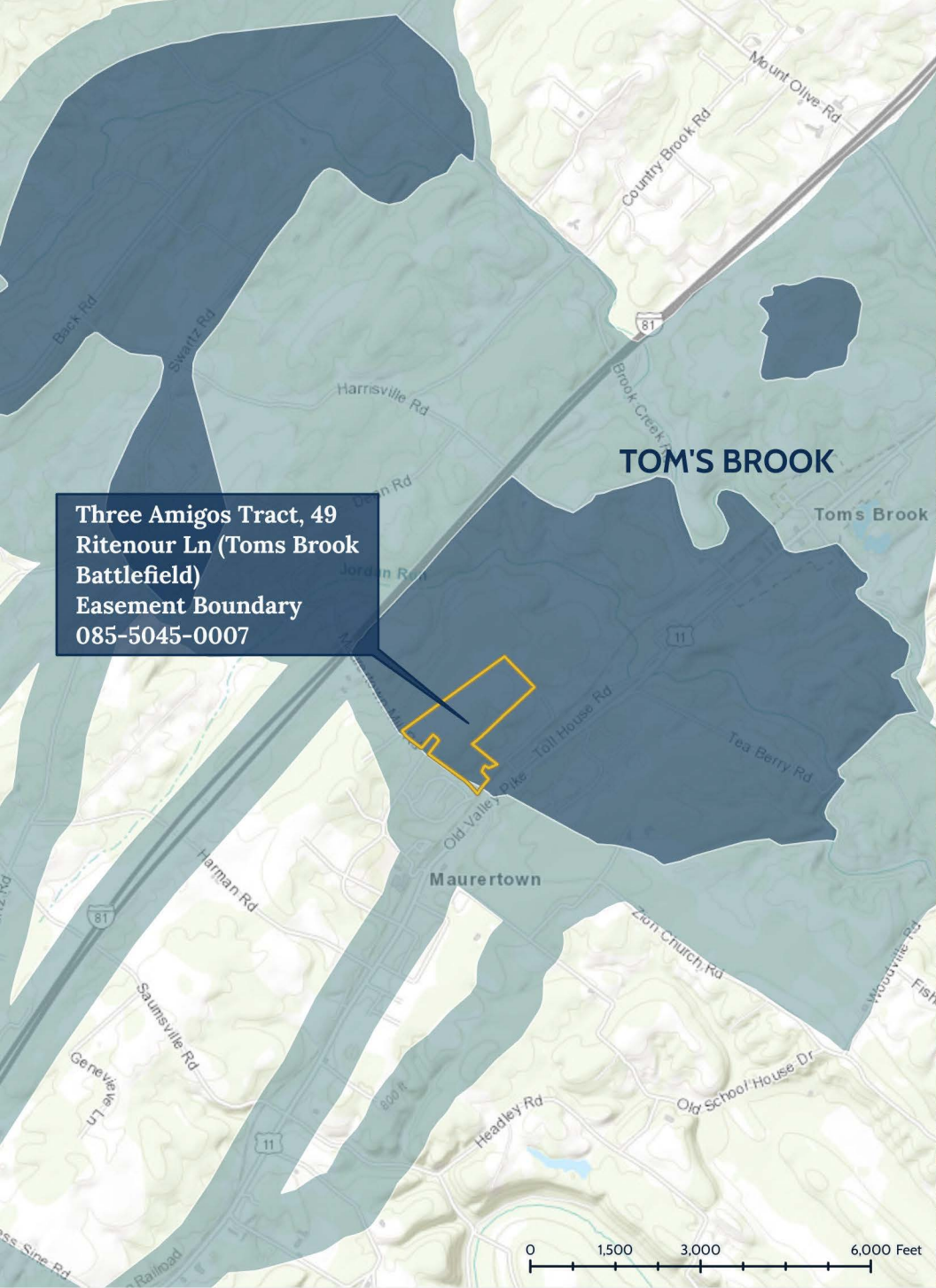
The Three Amigos Tract is of historic and archaeological significance and is within the boundary of a battlefield with a preservation priority rating from the CWSAC. Restrictions on ground disturbance, and protections for archaeological and historic resources in the easement will ensure the Property retains its integrity as a Civil War battlefield landscape. Preservation of the Property will augment efforts to preserve historic properties in Shenandoah County, including ±1,193.77 acres of land already subject to perpetual easements held by the BHR. Preservation of the open-space, wooded and

agricultural 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, forest and ecological resources on the Property and the natural benefits associated with forest conservation such as clean air and water. The Property is visible from Maurertown Mill Road, a public right-of-way. In addition to visibility from a public right-of-way, the easement will require physical public access at least two calendar 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, 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 Three Amigos Tract easement offer subject to the following conditions:

1. Receipt of an amended agricultural lease that includes DHR's standard subordination language.
2. Receipt of a draft revised (or new) boundary survey which includes DHR's standard requirements.
3. Final review of the title work, title commitment, survey, draft easements, 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.



Three Amigos Tract, 49 Ritenour Ln (Toms Brook Battlefield) Easement Boundary 085-5045-0007



**Three Amigos Tract, 49 Ritenour Ln (Toms Brook Battlefield)
Shenandoah County, Toms Brook Quad
DHR ID: 085-5045-0007**

- 085-5045-0007
- ABPP Core Areas (2014)
- ABPP Study Areas (2014)

Created By: D. Bascone 1/12/2024
Sources: VDHR 2024, ESRI 2024, VDOT 2024, VGIN 2024
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BHR Meeting Date: December 12, 2024	Staff: Wendy Musumeci	DHR File No. 085-0001-0017
Applicant: Shenandoah Valley Battlefields Foundation (“SVBF”)	County: Shenandoah	Acres: ±146.078

Property Features and Current Use:

The ±146.078-acre French Tract (the “Property”) is comprised of four tax parcels located on Battlefield Road, approximately 1.5 miles west of the village of Fishers Hill. The Property is bounded on the northeast by Battlefield Road, on the north by Tumbling Run Lane and an unnamed intermittent stream and on the west and south by other residential/agricultural parcels. The South Fork of Tumbling Run runs through the northern section of the Property and drains to Tumbling Run. The northern area of the Property is generally flat and used for crop production (±43.64 acres). The southern area of the Property features a rolling terrain and is under forested cover (±98.44 acres). The French Tract has been in agricultural and residential use since at least the late 18th century and includes the log and frame Funkhouser House (ca. 1790-1810 with later 19th and 20th century additions), stone outbuilding (ca. 1831), bank barn (ca. 1800-1850), silo (ca. 1920), cooling/milk house (ca. 1920), metal shed (ca. 1980) and a frame tenant house (ca. 1910). The Funkhouser House has been vacant for two years and appears to be in fair condition despite a roof leak and signs of animal infiltration. The ca. 1831 stone outbuilding also appears to be in fair condition with vegetation covering the exterior. SVBF plans to stabilize and secure the Funkhouser House and stone outbuilding within one year from the date the BHR’s approval of this easement offer. Treatment options for the remaining buildings will be established after DHR determines their eligibility pursuant to the Section 106 Review process. The Property also includes the Funkhouser family cemetery with burials dating to the early 19th century. The cemetery includes 16 marked graves and possibly other unmarked graves. SVBF will preserve the cemetery according to a Cemetery Management and Maintenance Plan developed by DHR. SVBF acquired the Property in 2022 and has recorded an agricultural lease and a hunting license and indemnity agreement, both for the lifetimes of the lessees and their minor children. SVBF plans to use the Property for open space, agricultural and battlefield interpretation purposes and will install three to five interpretive signs and a gravel parking area near the Funkhouser House. The Property will be accessible to the public year-round, except in the months of April and November if hunting occurs. SVBF has been awarded two Virginia Land Conservation Foundation (“VLCF”) grants and will apply for an American Battlefield Protection Program (“ABPP”) grant to assist with its acquisition costs. Conveyance of an easement to the Board of Historic Resources (“BHR”) is a condition of these grants.

Conservation Values:

Historical/Landscape:

- The French Tract is partially (±136.28 acres) within the core area and entirely within the study area of the Fisher’s Hill Battlefield, which has been given a Preservation Priority Rating of I.3 Class B by the Civil War Sites Advisory Commission (“CWSAC”). Sites with a priority rating of I are those that have a critical need for action. Battlefield sites rated Class B are those that had a direct and decisive influence on their campaign, in this instance, Sheridan’s Shenandoah Valley Campaign from August to December 1864.
 - Following his defeat at Third Winchester (Opequon) on September 19, 1864, Confederate Lieutenant General Jubal Early withdrew his forces to defensive positions along a five-mile stretch of earthworks dug into the line of high hills and ridges south of Tumbling Run, an area known as Fisher’s Hill. Entrenched on high ground, Early hoped to deter the advance of Union Major General Philip Sheridan’s troops marching south from Strasburg. However, they were thinly spread over a four-mile line and vastly outnumbered. On September 21, the Union army advanced and captured the high ground opposite the Confederate earthworks, driving back skirmishers positioned along the heights. On the 22nd, Union troops commanded by General George Crook moved around North Mountain (to the west) and behind the Confederate position. Crook attacked Early’s left flank from the rear while Sheridan mounted a frontal assault on the ridge. Taken by surprise, the Confederate defense collapsed from west to east. Early retreated south to Rockfish Gap near Waynesboro, opening the Valley to a Union invasion. Mills and barns from Staunton to Strasburg were burned in what became known as the “Burning” or “Red October,” leaving the Shenandoah Valley devoid of supplies and ineffective in the Confederacy’s war effort.
 - Confederate forces under the command of Major General Stephen D. Ramseur were entrenched on the eastern side (the Confederate left flank) of the French Tract as part of the four-mile line defending Fishers Hill. Following the Union’s advance on the high ground on the morning of September 22, Confederate forces were ordered to withdraw by nightfall. However, Crook’s attack from the west coupled with the advance of Union forces under Major General William W. Averell and Brigadier General James B. Ricketts led to the complete collapse of the Confederate lines and the immediate retreat of the entire Confederate Army.

2. The French Tract is partially (±113.65 acres) within the study area of the Cedar Creek Battlefield, which has been given a Preservation Priority Rating of I.1 Class A from the CWSAC. Battlefields with a priority rating of I are those that are in critical need of action, while those rated Class A had a decisive influence on a campaign (in this instance Sheridan’s Shenandoah Valley Campaign) from August to December of 1864, and a direct impact on the course of the war.
3. 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).

Archaeological: The Property includes two recorded archaeological sites consisting of two lines of Civil War earthworks. The French Tract also includes the Funkhouser family cemetery. Although the entire Property has not been subjected to professional archaeological survey, in the opinion of the VDHR, the Property has the potential to contain other archaeological sites, features and or deposits associated with the battles of Fisher’s Hill and Cedar Creek as well as domestic and agricultural occupation and uses of the Property.

Open Space: The Property includes ±146.078 acres of land, of which ±98.44 acres is under forested cover.

Agricultural: As identified in the Natural Resources Conservation Service (“NRCS”) Web Soil Survey of the United States Department of Agriculture, the Property contains ±30.5 acres of Prime Farmland and ±33.5 acres of Farmland of Statewide Importance.

Water Quality: The Property includes ±5,552.7 feet of frontage on the South Fork of Tumbling Run (perennial), ±2,373 feet of frontage on two unnamed intermittent streams, ±0.97 acre of riverine wetland habitat and a ±0.13 acre freshwater pond. The Property is within the Chesapeake Bay watershed.

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

Other Supporting Governmental Policy:

Federal: (i) “The Report on the Nation’s Civil War Battlefields,” issued by the CWSAC in 1993, authorized under 54 U.S.C. § 100507; (ii) Battlefield Land Acquisition Grant Program administered by ABPP (54 U.S.C. §§ 30801 – 308103); (iii) The Land and Water Conservation Fund Act, 54 U.S.C. §§ 200301 – 200310; (iv) 1996 “Shenandoah Valley Battlefields National Historic District and Commission Act (P.L. 104-33); (v) NRCS Web Soil Survey; and (vi) the NWI published by the USFWS.

State: (i) Section 1 of Article XI of the Constitution of Virginia; (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; (iv) BHR 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 7: Northern Shenandoah Valley (12.2, 12.3, 12.7, 12.8, 13.44); (vi) ConserveVirginia; and (vii) Virginia Land Conservation Foundation, Chapter 10.2 Title 10.1, Virginia Code §§ 10.1-1017 through 10.1-1026.

Local: The future land use designation for the Property is Agricultural. The Shenandoah County Comprehensive Plan (adopted June 28, 2005, amended in 2014, 2016 and 2019) provides support for historic preservation generally at Chapter 1, page 1-8, and Chapter 10, page 10-2. The plan provides support for the placement of conservation easements at Chapter 2, page 2-21. By letter dated June 17, 2022, Shenandoah County has confirmed that DHR’s proposed historic preservation and open-space easement is consistent with the 2019 comprehensive plan.

Existing Buildings and Structures:

Funkhouser House (ca. 1790-1810 with later additions) Stone Outbuilding (ca. 1831) Bank Barn (ca. 1800-1850) Silo (ca. 1920) Cooling/Milk House (ca. 1920)	Metal shed (ca. 1980) Residential well and septic Fences Gravel and earthen drive/road(s)
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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.

Existing Buildings and Structures: *The Funkhouser House and Stone Outbuilding must be stabilized and secured within one year from the date of approval of the easement offer by the BHR. Treatment of the remaining buildings/structures (bank barn, silo, cooling house, shed/hangar and tenant house) in the easement shall be consistent with any determinations of eligibility for listing on the historic registers per the Section 106 Review process associated with the ABPP Battlefield Land Acquisition Grant.*

New Dwellings: no new residential dwellings other than replacement dwelling permitted.

Permitted New Buildings, Structures and Amenities: (i) reconstructions of documented historic buildings/structures; (ii) pervious roads/drives/parking area; (iii) pervious paths/trails; (iv) utilities that serve the Property (v) fences, gates, mailboxes; (vi) outbuildings/structures ancillary to use as a historic site or battlefield park; (vii) replacement dwelling for the Funkhouser House (no greater than the existing footprint) should it be destroyed; and (viii) residential buildings such as a garage or shed, provided the collective footprint does not exceed five hundred (500) square feet.

New Construction and Alterations: construction of new buildings, structures, and amenities, 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.

Cemetery: Cemetery Management and Maintenance Plan addressing repair and cleaning of stones/markers, Ground Disturbing Activities, landscaping, tree removal, and descendant consultation to be incorporated into easement by reference.

Impervious Surface Coverage: cap at 1% or less for existing and permitted new improvements. *Cap may be adjusted to apply to permitted new improvements only and reduced if the existing footprint exceeds 1%. Footprint of new parking area shall be capped.*

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

Ground Disturbance: (i) grading, blasting, earth removal, or other ground disturbing activities shall not alter topographic aspects of Property, except as for construction of permitted buildings, structures, and roads; (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.

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

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

Water Resources/Riparian Buffer: minimum 35' wide forested or vegetated buffer required along the South Fork of Tumbling Run and tentatively along two intermittent streams. Protections for wetland habitats included.

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

Signs: restrictions on size and location of signs on Property; interpretative signage permitted.

Public Access: *easement requires Property to be accessible to the public year-round (per VLCF grant), except for the months of April and November if hunting occurs.*

Grant Funding: ABPP grant requires specific easement language for Section 6(f)3 of Land and Water Conservation Fund Act; VLCF grant requires specific language per Virginia Code Section 10.1-1017 et. seq.

Documentation Information:

Tax Map Numbers: 23-A-136, 23-A-138F, 23-A-138C, and 23-A-154B

Property Address: 428 Tumbling Run Lane, Strasburg

USGS Quad: Toms Brook

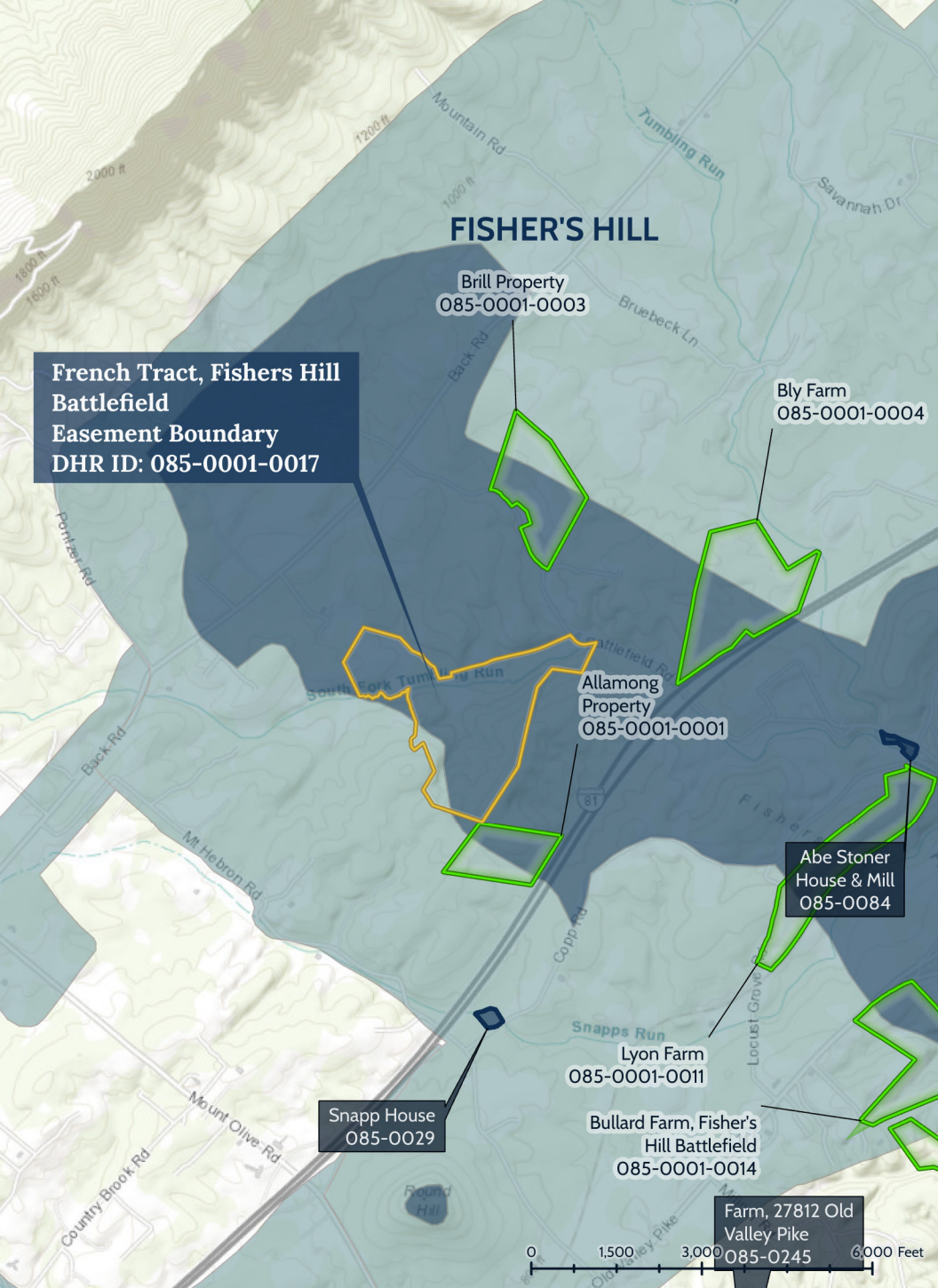
Statement of Public Benefit:

The French Tract is of historic and archaeological significance and is within the boundaries of two Civil War battlefields which have preservation priority ratings from the CWSAC. Restrictions on ground disturbance, and protections for archaeological and historic resources in the easement will ensure the Property retains its integrity as a Civil War battlefield landscape and historic site. Preservation of the Property will augment efforts to preserve historic properties in Shenandoah County, including approximately 1,193.77 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. Additionally, restrictions on development, new construction, and ground disturbing activities and requirements for forest management in the easement will protect the forested landscape, forest and ecological resources on the Property and the natural benefits associated with forest conservation such as clean air and water. The Property includes frontage on the South Fork of Tumbling Run, a perennial stream, and two unnamed intermittent streams and is 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 is visible from Battlefield Road (Virginia Route 106) and Tumbling Run Lane. In addition to visibility from a public right-of-way, the easement will require physical public access 365 days per year. The protection of the French 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 acceptance of the French Tract easement offer by the Virginia Board of Historic Resources, subject to the following conditions:

1. The Funkhouser House and Stone Outbuilding will be stabilized and secured within one year from the date of BHR approval. Stabilization shall include: (a) repair of the active leak in the roof over the bay window in the 19th century wing of the house; (b) securing the building envelopes from weather and human or animal intruders by (i) covering or repairing doors, windows, and other openings and (ii) inspecting the roof for the entire dwelling and ensuring any necessary roof repairs are completed; (c) capping chimneys as necessary; (d) reconnecting electricity to the dwelling to provide conditioned air circulation OR remediating existing visible mold and securing window openings with ventilated boards; (e) ensure plumbing lines are protected from freezing; (f) quarterly visits to inspect the buildings and make sure the building envelope remains secure and there is no active deterioration of historic materials.
2. Treatment of the remaining buildings/structures (bank barn, silo, cooling house, shed/hangar and tenant house) in the easement shall be consistent with any determinations of eligibility for listing on the historic registers per the Section 106 Review process associated with the American Battlefield Protection Program's Battlefield Land Acquisition Grant.
3. The Funkhouser family cemetery will be preserved and maintained according to a Cemetery Management and Maintenance Plan developed by DHR and incorporated into the easement by reference.
4. Subordination of Agricultural Lease: The agricultural lease, a memorandum of which is recorded as Instrument #2022206010 among the Shenandoah County Circuit Court land records must be revised or amended with DHR's standard subordination language. The revised lease or amendment must be executed by all parties and recorded in Shenandoah County Circuit Court.
5. Subordination of Hunting License: Subordination, to DHR's satisfaction, of the existing hunting license, a memorandum of which is recorded as Instrument #202206009 among the Shenandoah County Circuit Court land records. Such subordination may include, in DHR's sole discretion, additional documentation subordinating the hunting license to the historic preservation and open-space easement (referred to as a "conservation easement" in the recorded hunting license) held by the Commonwealth of Virginia, Board of Historic Resources.
6. Final review of the 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.



French Tract, Fishers Hill Battlefield
Shenandoah County, Toms Brook Quad
DHR ID: 085-0001-0017

- 085-0001-0017
- VBHR Easements
- Listed Resources
- ABPP Core Areas (2014)
- ABPP Study Areas (2014)

Created By: D. Bascone 3/31/2023
 Sources: VDHR 2023, ESRI 2023, VDOT 2023, VGIN 2023
 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

