



United States Department of the Interior

NATIONAL PARK SERVICE

Fredericksburg and Spotsylvania
National Military Park
120 Chatham Lane
Fredericksburg, Virginia 22405

IN REPLY REFER TO:

January 4, 2013

Charlene Dwin Vaughn, Assistant Director
Federal Permitting, Licensing, and Assistance Section
The Advisory Council on Historic Preservation
Old Post Office Building
1100 Pennsylvania Avenue, NW, Suite 803
Washington, DC 20004

Re: Subdivision of a Parcel in the Green Springs National Historic Landmark District,
Louisa County, Virginia
Virginia Department of Historic Resources File No. 2012-0706

Dear Ms. Vaughn:

This letter conveys a request for Advisory Council review of a proposed finding of No Adverse Effect by the National Park Service (NPS) for a parcel-subdivision for which a private landowner is requesting NPS permission under the terms of a conservation easement. The subdivision would occur in the Green Springs National Historic Landmark District in Louisa County, Virginia ("NHL District"). NPS, represented by Fredericksburg and Spotsylvania National Military Park, manages easements over privately owned properties there totaling some 6,000 acres (map of Landmark District: enclosure 1).

NPS submits this request for Council review under 800.5(c)(2)(i) since the Virginia Department of Historic Resources (SHPO) and one of the consulting parties, Historic Green Springs, Inc. (HGSI), have notified the NPS in writing (letters: enclosures 2 and 3) of their disagreement with its proposed finding of No Adverse Effect. Further consultation with HGSI did not resolve the disagreement. Further consultation with the SHPO considered possible resolution via a Programmatic Agreement that, upon additional reflection, NPS felt it could not enter into, for the reasons given below. Even after further consideration, NPS believes that a No Adverse Effect finding is indeed appropriate.

We are grateful for the Council's time and attention to this matter. It is perhaps the first-ever such request in the park's history and is made only after protracted and detailed consideration among park management and Section-106 advisors at the park- and agency levels, in accordance with the Section-110 mandate for maximized planning when NHL's are involved.

Description of Undertaking

Federal Involvement

The undertaking consists of NPS review of and proposed "No Adverse Effect" determination for a parcel-subdivision for which a private landowner is requesting permission under the terms of an NPS-managed easement (easement: enclosure 4). A final No Adverse Effect determination at the close of the Section 106 process would result in NPS granting permission to the landowner for the subdivision. NPS assumed management of the easement after it was transferred with a number of others from HGSI to the Department of the Interior in the late 1970s.

The easements in the NHL District allow only for NPS approval or disapproval of actions for which permission is requested by private, non-federal landowners—a simple "yes" or "no"—and do not provide legally binding means for more complex landowner- or agency obligations that could be embodied in a Programmatic Agreement, such as mitigation options that would be feasible if the lands in question were federal fee simple, rather than private under-easement.

The Subdivision Request

The NPS' proposed No Adverse Effect determination responds to the owner's request (plat enclosed) to subdivide a triangular-plan, 43.67-acre parcel situated at 8888 West Jack Jouett Road (tax map 36 4A) in Louisa County and within the NHL District on its western fringe.

This proposed action would divide the 43.67-acre parcel into (1) one parcel of 23.67 acres and straddling Rt. 640; and (2) a second parcel, to the north of and adjoining the first, of 20.00 acres and situated on the west side of the same road (site plan: enclosure 5).

The landowner's request includes an aspect that is worthy of special note at the outset: under the terms of the easement, *the subdivision for which permission is sought will not, and cannot, involve the construction of any new buildings as part of the same permission request.* Should specific plans for any buildings be proposed for any of this same land in the future, each proposed structure or set of structures would require an additional, full Section-106 review, with attendant consideration of visual and archaeological effects among other aspects, and the same "yes" or "no" permission-response available to NPS at the end of the review.

General Background and Easement Stipulations

The property's easement allows its owner to submit for NPS approval proposed subdivisions of 20 acres or greater in size. In considering the current request, the NPS needed to first agree with the parcel's owner, in the terms of the easement, that the proposed subdivision's

"...boundary lines and permitted building sites will not impair the visual order, integrity, or character of the NHL District."

Regarding this reference to "permitted building sites": a total of four drainfields have been located and surveyed (enclosed plat) on the 43 acres. NPS reviewers understood these drainfields as the "permitted building sites"—the locations where structures, should they be envisioned in the future, would most likely be proposed in order to meet the requirements of county building permits but, again, be subject first to full Section-106 reviews by NPS.

Regarding the reference to "boundary lines": NPS reviewers understood these as the possible routes of fences, hedgerows, or other property demarcations not currently present on the landscape but that could result from the subdivision.

The easement's specific language, and additional stipulations, include

- one new "main house" and certain other buildings may be proposed for either of the subdivided parcels, but those would require separate, full reviews by the NPS to ensure that "no building or structure shall be constructed expect in a way that would...be in keeping with the historic and scenic character" of the NHL District (section 1).
- trees may be "selectively cut from time to time," or cleared to provide agricultural land, without seeking NPS permission (section 6).

Physical Characteristics

The 43-acre parcel is forested, mainly with hardwoods, with the exception of a small clearing around a story-and-a-half cottage near the eastern end, where the triangle narrows. Forest on neighboring properties, with the exception of the cleared fields of Hawkwood to the south, likewise surrounds the 43-acre parcel (photo: enclosure 6). Rt. 640 extends through the eastern third of the parcel, where that narrowing occurs, on a prescriptive easement.

The cottage (photo: enclosure 7) dates to the early 20th-century and lacks windows but is now partially rehabilitated with a new roof. Its National Register aspects are discussed below. (The cottage would fall within the 23-acre sub-parcel in the event of a subdivision approval.)

Topographically (folded plat), the 43-acre parcel is highest at its western end, due to a pair of wooded, low ridges. The southernmost ridge crests at about 455 feet and would fall within the 23-acre sub-parcel. The northernmost ridge crests at about 465 feet and would fall within the 20-acre sub-parcel.

The requested 20-acre sub-parcel contains one large drainfield, situated 1000 feet from the boundary with Hawkwood and near the 465-foot ridge-crest. The requested 23-acre sub-parcel contains three: a large drainfield situated near the 455-foot ridge crest and 200 feet from the Hawkwood boundary; and two small drainfields that nearly adjoin one another at the 420-foot level and are situated within a few feet of both the edge of Rt. 640 and the Hawkwood boundary.

Area of Potential Effects

The area of potential effects (site plan with APE marked in yellow: enclosure 8) consists of the 43-acre parcel itself and all that portion of the adjoining Hawkwood lands that are not forested and extend some six-tenths of a mile between the southern boundary of the parcel and the ridge occupied by the Hawkwood villa, Bachelor's Quarters, and other structures.

Steps Taken to Identify Historic Properties

NPS staff, including Section-106 Advisor for Historic Landscape Architecture Lucy Lawliss, conducted several site visits to the 43-acre property and the adjoining Hawkwood property, and also examined visually the nearby properties of Sylvania and Grassdale. NPS staff also conducted archival research into the management files for the NHL District, including its National Register documentation.

In addition, Dr. Matthew R. Laird, NPS Section-106 Advisor for Archaeology, evaluated the property through soil-survey records, historic maps, and the Virginia Department of Historic Resources' database for archaeological sites reported in the vicinity, and supplied an opinion on the 43-acre parcel's potential to contain archaeological resources.

Historic Properties Identified

The inclusion of the 43-acre property in the NHL District attests to its contributing status, although neither the parcel nor its cottage is listed specifically on the National Register. Rather, this status of contributing to the NHL District is described in the preamble to the property's easement, which makes no mention of the cottage but which does note a purpose of "preserving, protecting, and maintaining the historical, architectural, cultural and scenic values and character" of the land and the adjacent properties in the NHL District.

For the purposes of this review, NPS considered the cottage eligible for National Register listing. The cottage is separated from the nearest drainfield by about 50 yards of forest.

The 43-acre parcel is situated within a mile and a half of three neighboring properties listed on the National Register and designated by it as being “outstanding” in their “order of importance” to the NHL District: Sylvania, Grassdale, and Hawkwood (map of Landmark District: enclosure 1).

Grassdale and ancillary structures are located 1.2 miles north of the nearest boundary of the 43-acre parcel and separated visually from it by roughly 3/4ths of a mile of woods located outside the parcel. Sylvania and ancillary structures are situated about a mile to the northeast of the nearest boundary, and separated visually from it by about 1/3 of a mile of woods located outside the parcel.

The cluster of structures at the adjoining property at Hawkwood occupy a ridge lower than the ridges on the 43-acre parcel. The Hawkwood structures are in direct view of the nearest boundary of the 43-acre parcel, as well as in view of the pair of higher wooded ridges within it (panoramic photo: enclosure 9). Hawkwood’s National Register listing cites the importance of its “rural landscape setting intact and undisturbed by intrusive factors.” Hawkwood’s two largest dwellings are:

- an A.J. Davis-designed Tuscan Revival villa, dating from the 1850’s, that is two stories in height and features a Tuscan tower. Topographically, the villa occupies approximately a 440’ contour level. The approximate distances, all in a northwesterly direction, between the villa and the drainfields on the 43-acre parcel and its sub-parcels are: .82 miles to the large drainfield on the requested 20-acre sub-parcel (occupying a point at or near the 465-foot contour level); .71 miles to the large drainfield on the requested 23-acre sub-parcel (occupying a point at or near the 455-foot contour level); and .61 miles to the pair of small, adjacent drainfields on the 23-acre sub-parcel (occupying points at or near the 415-foot contour level).
- a Bachelor’s Quarters, antedating the villa, that is two stories in height. Topographically, the Bachelor’s Quarters occupies approximately a 435-foot contour level. The approximate distances, all in a northwesterly direction, between the Bachelor’s Quarters and the drainfields on the 43-acre parcel and its sub-parcels are: .81 miles to the large drainfield on the requested 20-acre sub-parcel (occupying a point at or near the 465-foot contour level); .69 miles to the large drainfield on the requested 23-acre sub-parcel (occupying a point at or near the 455-foot contour level); and .63 miles to the pair of small, adjacent drainfields on the 23-acre sub-parcel (occupying points at or near the 415-foot contour level).

The requested subdivision would create a new, interior boundary line, nearly all of which would follow a swale between the low ridges and thus leave any future fence or other boundary demarcation not visible from Hawkwood and likely not visible from the cottage

extant on the 43-acre parcel. (The remainder of the new boundary would follow a short stretch of the edge of Rt. 640.)

Dr. Laird's search of the Virginia database revealed no previously recorded sites situated within the parcel. He concluded that "the probability of identifying significant historic archaeological resources beyond the extant house-site [the extant, early 20th-century cottage] is low."

A cluster of six previously recorded sites—prehistoric Native American campsites, of which two yielded diagnostic artifacts suggesting occupation during the Early and Middle Archaic periods—are situated some 500 yards *outside* the 43-acre parcel, beyond its southern boundary and in the valley of a (now-dammed) stream in the center of the Hawkwood pasture. Two additional, previously recorded prehistoric sites are situated close together and some 3/4ths of a mile northwest of and *outside* the 43-acre parcel's northern boundary.

Potential Effects of the Undertaking on Identified Historic Properties: What was Included in the APE

Given the visually unobtrusive nature of a new, potential internal boundary on the 43-acre parcel; the archaeological advisor's opinion on the likely scarcity of subsurface resources within the parcel's boundaries; the intervening distances and forest-cover between the parcel and Grassdale and Sylvania; and the forest-cover intervening between the cottage and the nearest drainfield, NPS narrowed the set of potential effects from that broader set of considerations down to the 43-acre parcel's topography, specifically to its potential for visual impacts upon the cluster of Hawkwood buildings to the south, and especially in light of the National Register's noting the significance of an undisturbed setting for those buildings.

The NPS area of potential effects is therefore the 43-acre parcel itself and all that portion of the adjoining Hawkwood lands that are not forested and extend some six-tenths of a mile between the southern boundary of the parcel and the ridge occupied by the Hawkwood villa, Bachelor's Quarters, and other structures.

Criteria of Adverse Effect found Inapplicable to Properties Within APE

After further consideration in the wake of receiving the two letters of disagreement, NPS still believes that the proposed subdivision would have No Adverse Effect upon identified historic properties.

In applying the criteria of adverse effect, NPS recognized that one or more, future proposals to build new structures on the 42-acre parcel would be a reasonably foreseeable, future effect of granting permission for the subdivision.

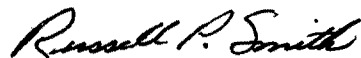
New structures on one or both of the newly subdivided lots on the 42-acre parcel could, in turn, diminish the integrity of Hawkwood's setting by introducing visual elements into the view from Hawkwood's cluster of extant buildings. Given the larger size of the drainfields at the 42-acre parcel's higher, western end, NPS assumed that those would most likely mark the general location of planned dwellings for which permission would be asked of NPS in the future. And at that western end, as I note above, each of the projected sub-parcels has wooded ridge-crests that are 25-30 feet higher than the ridge crests hosting the Hawkwood villa and Bachelor's Quarters.

Yet NPS also views the easement's requirement of a separate, future review for any specific building proposed for either of the two sub-parcels as a vitally important condition that allows for actions to avoid adverse effects. Specifically, the NPS could approve only those proposals for buildings that occupy downslope locations or other unobtrusive sites; have low profiles; and/or have muted colors.

NPS review of the subdivision request also took into account the considerable distance to the drainfields, between six- and eight-tenths of a mile from the Hawkwood villa and Bachelor's Quarters, which in the view of the NPS Section-106 advisor for historic landscape architecture would also help reduce the potential of new buildings on the 42-acre parcel to introduce visual elements that could diminish the integrity of Hawkwood's setting.

Again, NPS is grateful to the Advisory Council on Historic Preservation for considering our request for review of this matter. Noel Harrison, this park's manager of easements for the NHL District, would be happy to field any questions that Council staff may have, or supply any additional information. Noel may be reached at noel_harrison@nps.gov or at 540-621-9060 (c), in addition to the address given on the letterhead above.

Sincerely yours,



Russell P. Smith
Superintendent