



# Albemarle County

## Legislation Text

---

**File #:** 22-507, **Version:** 1

---

**AGENDA DATE:** 12/7/2022

**TITLE:**

Music Hall - Manning Easement Approval Request

**SUBJECT/PROPOSAL/REQUEST:** Request for permission to increase permitted primary dwelling size on property under an Acquisition of Conservation Easements (ACE) conservation easement co-held by the Albemarle Conservation Easement Authority (ACEA) and the County in exchange for elimination of one secondary dwelling and restriction on remaining secondary dwelling size.

**ITEM TYPE:** Regular Action Item

**STAFF CONTACT(S):** Richardson, Walker, Rosenberg, DeLoria, Filardo, Rapp, McDermott, Maliszewski, Clark

**PRESENTER (S):** Scott Clark, Richard DeLoria

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** In April 2007, the County purchased an open-space easement on the Music Hall/Chester property (Tax Map 65 Parcels 11, 11B, 11C; 76.461 acres - please see Attachment A for location map) through the Acquisition of Conservation Easements (ACE) program. The easement is co-held with the Albemarle Conservation Easement Authority (ACEA) pursuant to the County Code. The deed of easement is provided as Attachment B.

The restrictions in the easement limit the property to one main dwelling of no more than 7,000 square feet of above-ground livable space, "unless prior written approval is obtained from each Grantee." The easement also permits two "accessory dwellings," without specifying a size limit for those dwellings. The property currently has one existing dwelling, on parcel 65-11B (5383 Stony Point Pass - 1,339 square feet).

In March 2022, the owner of the property asked the ACEA for permission to increase the main dwelling size limit to 12,800 square feet. The landowners also offered to limit the size for the accessory dwellings to 4,500 square feet. The ACEA deferred consideration, suggesting the owner amend the proposal to be more consistent with the existing easement terms.

In June 2022, the ACEA considered a modified proposal. In response to the ACEA's previous comments, the landowner reduced the requested primary dwelling size to 11,500 square feet. The Authority voted 5:2 to deny the revised proposal and suggested that the landowner return with a proposal that adheres to the permitted sizes typically included in ACEA-accepted deeds of easement.

In August 2022, the ACEA considered another revised proposal that kept the proposed primary dwelling size at 11,500 square feet but reduced the proposed limits for the accessory dwellings to 2,000 square feet each. After discussion with the landowner, the ACEA voted 6:0 to approve a maximum size of 11,500 square feet for

the proposed primary dwelling, provided that only one accessory dwelling be permitted and that it be limited to 2,000 square feet.

**STRATEGIC PLAN:** Rural Area Character - Preserve the character of rural life with thriving farms and forests, traditional crossroad communities, and protected scenic areas, historic sites, and biodiversity.

**DISCUSSION:** The ACEA's approval considered the total impact of permitted dwelling footprints on the site. It would permit a fixed, total residential square footage (13,500 square feet) that is less than what is currently permitted in the deed of easement (7,000 square feet in a main dwelling plus two secondary dwellings without defined size limits). Staff's assessment is that the change to the permitted dwelling sizes as approved by the ACEA would preserve and slightly improve the conservation values protected by the easement.

In order to alter the terms of the deed of easement consistent with the ACEA's action, the County Attorney's Office recommends that an "Amendment to Deed of Easement & Written Approval" be executed and recorded. That amendment document is attached (Attachment C).

As the deed is co-held by the ACEA and the County, Board action is needed for the proposal to be approved.

**BUDGET IMPACT:** The approval of this request would have no budget impact to the County.

**RECOMMENDATION:**

Staff recommends that the Board adopt the provided Resolution (Attachment D) to Approve the Proposed Amendment to Deed of Easement & Written Approval (Attachment D) once approved as to form and substance by the County Attorney.

**ATTACHMENTS:**

- A - Location Map
- B - Approved and Recorded Music Hall Deed of Easement
- C - Proposed Amendment to Deed of Easement & Written Approval
- D - Resolution to Approve Proposed Amendment to Deed of Easement & Written Approval