

**SUMMARY OF  
PLANNING BOARD ACTION**

**Subject:** Resource Conservation District Text Amendment findings for a variance

**Meeting Date:** October 6, 2009

**Recommendation:**

That the Council enact the attached Ordinance to amend Section 3.6.3(j)(2) of the Chapel Hill Land Use Management Ordinance with the following change to the proposed language (new language underlined):

B. Subject to the provisions of paragraph A above, in making such findings, the Board of Adjustment shall consider the uses available to the owner of the entire zoning lot that includes area within the Resource Conservation District. Private covenants and deed restrictions shall not be the sole basis for a variance. The board shall consider other factors such as the project's impact on environmental resources and the legally available use of the property."

**Vote:** 5-2

Ayes: Michael Collins (Chair), Jason Baker, James Stroud, Andrea Rohrbacher, Michael Gerhardt

Nays: Del Snow (Vice-Chair) and Judith Weseman

**Issues:** Two dissenting voices cited the concern that this new language would create a litigious situation for homeowner associations and the concern that homeowner associations would suffer financial penalties as a result of people purchasing restricted property knowing they could challenge the association. The planning board expressed a desire that only homeowners who owned property at the time the Resource Conservation District regulations went into effect should be able to seek relief from private covenants.

Prepared by: Michael Collins, Chapel Hill Planning Board Chair  
Mary Jane Nirdlinger, Staff