

# NEWS RELEASE

**Contact:** Dominique Mendez @ 631-886-1895.

## **RNPC CLARIFIES INTENT OF SPLIT ZONING IN LEGAL MEMO COUNTERING ATTEMPT TO RENDER ZONING USELESS**

**August 1, 2012:** In an effort to prevent further undermining of Riverhead Town Code, the Riverhead Neighborhood Preservation Coalition (RNPC) released its second legal memo in July countering a bold assertion underpinning the North Shore Country Plaza site plan. According to a legal memo prepared by the Northern Environmental Law Center of Sag Harbor (attached), the applicant's argument that lot coverage requirements should basically disregard split zoning and be calculated as if the entire parcel were zoned commercially is "clearly erroneous."

The July 30 legal memo submitted on behalf of the RNPC states that, "According to the Applicant, any application of the Town Code that differentiates between the split portions of the parcel would be a re-write of the definition of 'lot' under town code." It goes on to say that "the Applicant's proposed interpretation would frustrate the purpose of the zoning districts and renders the distinction between the districts on the zoning maps irrelevant and/or meaningless" and that "This is clearly at odds with the Board's intent in adopting zoning legislation. If the town wanted the entire lot to be considered as part of a commercial zoning district it would have drawn the district lines that way."

A close look at the site plan and letters from the attorney, Peter Danowski, representing the owners of the parcel of land, the Partridges, reveals that the current North Shore Country Plaza plan utilizes the full 10.9 acres to calculate its dimensional requirements. These dimensional requirements represent maximums allowable and instead of using solely the 6 plus acres of the commercially zoned portion of the lot to calculate them, as is standard practice, the applicant used the entire 10.9 acres (that includes the four plus acres zoned two-acre residential). In doing so, the applicant claims a right to 40% additional impervious surface and the ability to fit an oversized parking lot in order to accommodate all the excess seating in the oversized restaurants enabled by their using the wastewater capacity derived from the residential acreage.

RNPC President, Dominique Mendez, explains the direct link between these new interpretations (this one and the one cited in the RNPC's July 17 press release) and the "Plaza"

site plan. “The two unsupportable ‘interpretations’ combine to create an oversized, unattractive group of stores and restaurants and the commercial use of several acres that would have otherwise remained natural open space. All the excesses they claim they’re allowed by basically disregarding the residential zoning on over four acres leaves them no room to have the central square, pedestrian walkways and parking lot landscaping specified in the design guidelines for the Business CR zone. So instead of decreasing the size of the overdevelopment to fit these important features, they fabricated a theory that these supplementary guidelines are voluntary. They also plan to use over two acres of the residentially zoned portion for a service road and huge drainage basin needed to support this overdevelopment. It’s a vicious cycle of excess.”

A few months into the corridor study, the Town Board contemplated removing the existing split zoning on four parcels in Wading River but decided to retain it after much discussion. Sid Bail, Wading River Civic Association President, notes that he and others “fought to keep the split zoning intact because it was put there for a good reason. Eliminating it would have enabled developers to build more while encroaching on residential areas and, in the end, would have left us with less open space. These are all things the community made clear we do not want during the Wading River 25A Corridor Study process and thus this attempt to render the split zoning meaningless is very alarming for Wading River — and for all the other areas in Riverhead where similar split zoning exists.”

A pattern is emerging according to Ms. Mendez who says “It seems as though whenever an applicant wants to circumvent Town Code they merely invent a wild theory that would enable them to get what they want and then try to spin it as a valid interpretation of Town Code. These so-called interpretations are becoming more and more outlandish as applicants and their representatives appear to become emboldened by the various boards’ apparent willingness to act as if the most unsubstantiated and illogical ‘interpretations’ are reasonable.” The RNPC claims it has little choice but to seek their own legal representation in such situations, especially when the issues have far-reaching, town-wide implications. Ms. Mendez adds, “It makes you wonder why such a bizarre interpretation wasn’t immediately dismissed by the Planning Board and its council. That wasn’t the case this time but I remain hopeful that it will happen the next time.”

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