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Debating new marijuana law
-See story, page 9

From The Bull to The Bluff



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Gear Up for Spring Driving



Pull-Out Inside

Mike Siderakis at Lake Ronkonkoma Monday.



Challenger calls out Kennedy at campaign kickoff, page 2.

Take a shot!



The Town of Smithtown has made arrangements through Governor Andrew Cuomo's office to offer vaccinations at the Smithtown Senior Citizens Center in Smithtown this week. See story, page 8.

Gyrodyne foes lawyered up

By DAVID AMBRO

Escalating its opposition to the controversial Gyrodyne industrial subdivision application pending before the Town of Smithtown Planning Board, the St. James-Head of the Harbor Neighborhood Preservation Coalition has hired an expert land use attorney to challenge the town's environmental review of the Gyrodyne application.

The coalition last week retained the services of Michael Gerrard, senior counsel at the Manhattan law firm of Arnold & Porter Kaye Scholer LLP. Soon after taking the case, Mr. Gerrard sent an 11-page

letter to Smithtown Director of the Department of Environment and Waterways announcing that he has been retained by the coalition. In the letter, Mr. Gerrard outlines what he views as deficiencies in the Gyrodyne review process by the Planning Board.

Foremost in his letter Mr. Gerrard alleges, as the coalition has since the Planning Board accepted the Gyrodyne final environmental impact statement (FEIS) March 10, that a supplemental environmental impact statement (SEIS) should be prepared because the development plan underwent significant revisions that were

not reviewed as is required by the New York State Environmental Quality Review Act (SEQRA).

"As demonstrated below, there are at least four instances where significant information about potential adverse impacts became available between release of the DEIS in November 2019 and issuance of the FEIS in March 2021, or where changes in the proposed project are highly relevant and the FEIS fails to take a hard look or present a reasoned elaboration of the analysis of these impacts. Any one of these issues, standing alone, would be legally sufficient to require

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Assemblyman joins Gyrodyne opposition, p. 12

Assemblyman finds faults with Gyrodyne review

By DAVID AMBRO

Assemblyman Steve Englebright (D-East Setauket), chairman of the Assembly Committee on Environmental Conservation, sent a three-page letter to Smithtown Planning Board Chairperson Barbara DeSorbe March 31 objecting to the final environmental impact statement (FEIS) for the controversial industrial subdivision of the 75-acre Gyrodyne property on the southeast corner of North Country Road (Route 25A) and Mills Pond Road.

"Because the FEIS for the Gyrodyne project is deficient in addressing the profound above-described issues, I urge at this time rejection, resubmission, and further public scrutiny of this document," Assemblyman Englebright's letter concludes.

After the Gyrodyne development plan was modified—a day spa and conference center eliminated from the proposed hotel and a 4,200 all-purpose room added, the square footage of medical offices and number of assisted living units increased—the planning board voted 3-0 March 10 to accept the FEIS. By accepting the FEIS, the planning board triggered the final 30-day phase of the New York State Environmental Quality Review Act (SEQRA), which requires an 18-day final public comment period, the deadline of which was March 31, and a vote on a "findings statement," by its meeting April 9.

The Planning Board met March 31 but the Gyrodyne findings statement was not on the agenda. The next planning board meeting is April 21 and the agenda for that meeting has not yet been made public. If the findings statement is approved, the planning board will then conduct a review of the subdivision application, which will require preliminary approval and final approval after additional public hearings.

Critics of the subdivision, led by the St. James-Head of the Harbor Neighborhood Preservation Committee have retained an attorney (*see related story, page 1*) to guide it through the final phases of the town approval process. The coalition is considering a lawsuit in New York State Supreme Court to challenge the town's review and approval of the subdivision if it is approved by the planning board.

"The Planning Board and Department of Environment and Waterways have received many comments on the FEIS for proposed Gyrodyne subdivision including letters from Assemblyman Englebright, [Suffolk County Legislator Kara] Hahn, many citizens, civic groups and their representatives. Each comment will be analyzed as part of the formal SEQRA process to determine whether or not issues identified have been adequately addressed in the DEIS and FEIS," said Smithtown Director of the Department of Environment and Waterways David Barnes about the Englebright letter. "Pending the outcome of such review the next steps in the SEQRA process will be recommended to the Planning Board. If found adequate, Findings would be prepared for consideration by the Planning Board."

At the outset of his letter, Assemblyman Englebright concludes

that the FEIS is deeply flawed and does not rise to the level of an objective and complete SEQRA study. He said there is significant omission, and the FEIS does not meet the public information and full evaluation disclosure expectations and standards that warrant governmental declaration or formal acceptance such as that voted on March 10 by the planning board.

Assemblyman Englebright categorized his concerns: 1) the historical and cultural context, 2) anticipated traffic and growth inducing impacts, and 3) harm to the natural environment. The body of his letter includes details outlining his concerns in each of those areas.

As to the historical and cultural concern, Assemblyman Englebright points out that Gyrodyne is included within the Mills Pond Historic District along the Route 25A corridor in St. James, which is listed on the National and New York State Registry of Historic Places and is recognized as culturally significant by the United States of America, the State of New York and local governments jurisdiction. "This corridor includes numerous National Register of Historic Places structures that elegantly occupy the area between the downtown portion of St. James and Old Stony Brook. Please note that the Gyrodyne site is physically centered in this extraordinary, culturally rich historic corridor," says the Englebright-to-DeSorbe letter. He points out that the Mills Pond Historic District is part of the North Shore Heritage Area designated by state law to protect the essence of its link to the past.

Assemblyman Englebright contends the FEIS is deficient by omission, ignores substantive historic review of the historic and cultural significance of the site. "It follows that for this area the SEQRA process for any major new development should be thoughtfully focused upon how to both preserve and do no harm to cultural resources before any approval of major new development within the designated area might compromise its overall sense of place," the Englebright letter says.

Assemblyman Englebright was a prime sponsor of the North Shore Heritage Area Law a decade ago, able to speak firsthand about the legislative intent of the law. He expressed in his letter being profoundly disappointed that the historical and cultural importance of the site was ignored.

As to the issue of traffic and growth impacts from the project, Assemblyman Englebright charges that the FEIS is similarly insufficient.

On its 74.98-acre site Gyrodyne proposes to subdivide the land for the development of 175,000-square feet of medical office space, a 125-room hotel with a 4,200-square-foot multipurpose room, 250 units of assisted living, a 100,000-gallon-per-day sewage treatment plant, and 1,512 parking spaces. According to Assemblyman Englebright, Route 25A past the site is already often overcrowded. He adds that through St. James and Stony Brook, Route 25A occupies a narrow right-of-way along sharp curves, and it is unlikely to be widened.

"The FEIS fails to adequately present daily traffic volumes—which are already high—just as it severely minimizes future traffic growth that the proposed

Gyrodyne development will produce," Assemblyman Englebright alleges. "The reality is that this site—if developed as proposed—will establish new, lower expectations regarding land use in the area; instigate a cascade of other similar intensive and incongruous development; and produce numerous local traffic problems that will either be impossible to correct or will require millions of taxpayer dollars to accommodate. It is very problematic that these variables are neither adequately nor accurately evaluated by the FEIS for the Gyrodyne project."

As for his concern about the natural environment, Mr. Englebright charges the FEIS is deficient for ignoring the impact the Gyrodyne industrial development will have on nearby Stony Brook Harbor. He points out that the proposed 100,000-gallon-per-day sewage treatment plant will discharge effluent into sandy soil that will allow it to eventually leach into Stony Brook Harbor.

"Within three to five years a continuous flow of marine ecosystem-disrupting nitrate-rich sewage effluent will thereafter unrelentingly contaminate the harbor," Mr. Englebright alleges. The FEIS does not discuss or outline any alternatives to this issue nor does it detail exactly in particular what specific sewer system design or level of reliability will be installed."

According to Assemblyman Englebright, Stony Brook Harbor is

Coalition gets lawyered up for Gyrodyne offensive

(Continued from page 1)

supplementation of the FEIS. The combined effect of these four issues compels the conclusion that an SEIS is required," says the Gerrard letter to the town.

In the body of his letter, Mr. Gerrard outlines the four instances. They are: 1) the FEIS fails to examine adverse impacts associated with the expanded office space now proposed and contradicts the DEIS which predicts adverse impacts, 2) because the FEIS is in the nature of a generic environmental impact statement (GEIS) it must examine cumulative impacts, 3) the economic and historic resources studies in the FEIS and DEIS are incomplete and out-of-date, and 4) the changed plans for an expanded assisted living facility are now sufficiently certain that either they should be carved out of this approval or the EIS should be supplemented.

"The requirement to address these questions and analyze these impacts is fundamental to SEQRA. Yet Gyrodyne apparently plans to ignore these questions," Mr. Gerrard concludes.

During an interview Tuesday, April 6, Mr. Gerrard said he has not yet received a reply to his letter from the town, although he acknowledged that it just went out last week.

"The Smithtown Planning Board has not yet taken any final action so litigation is premature at this point, but if and when they do take final action approving the application we will certainly take a hard look at considering our legal options," Mr. Gerrard said. "The ball is now in Smithtown's court and we'll see what happens next."

the only remaining North Shore, Long Island harbor that has an almost pristine ecosystem. "This means that the proposed Gyrodyne project is a meaningful threat to the continuation of the bathing, fishing, and other traditional activities and uses of Stony Brook Harbor," says the Englebright letter. "From my perspective as an elected member of the state legislature and chair of the Committee on Environmental Conservation, the creation of a massive new source of sewage-derived pollution into the Stony Brook Harbor is an unacceptable assault upon the communities and citizens who use the harbor and value it as part of their basic quality of life because the public essentially owns most of the bottom of the harbor. Of Stony Brook Harbor's approximately one thousand acres, almost 900 acres is owned by New York State."

"That the water chemistry of this beautiful harbor is natural and unspoiled and that this museum-quality ecosystem is intended by the Gyrodyne project's developers to be the ultimate repository of nitrate-eden sewage effluent is a first-order environmental problem. The FEIS is severely deficient because it does not adequately address, discuss, or propose any alternative for the many negative ecological and recreational losses that the Gyrodyne project is prepared to visit upon the public trust that is Stony Brook Harbor," Assemblyman Englebright concludes.

In addition to his legal work, Mr. Gerrard is a Columbia Law School environmental law professor. In a statement released Monday, April 5 announcing the retention of Mr. Gerrard, the coalition refers to him as the "state's top environmental attorney" and points out that he represented the Long Island Pine Barrens Society in a 1990s landmark litigation with Suffolk County related to preservation of the pine barrens.

"It should not have to come to this, but the town's secretive review process and shoddy environmental review leaves the coalition no choice but to prepare to fight to ensure that the requirements of state law are met in the review of the Gyrodyne mega-development," said coalition spokeswoman Judy Ogden, a Head of the Harbor Village Trustee. "The town has positioned itself as an unabashed cheerleader for the project and abandoned any pretense of an objective review of the ways that this massive development would overwhelm and smother our community. This could be a great project at the right location but this is clearly not the right location because the highway infrastructure needed to support it simply does not exist here."

"At a time when many people have lost faith in government, residents of St. James and Head of the Harbor deserve straight talk and transparency when it comes to massive development projects like Gyrodyne. The fact that local residents have banded together to invest in a top-ranked legal team to represent their interests speaks volumes about the level of concern in the community regarding the Gyrodyne plan," Ms. Ogden said.