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By email and first class mail

June 2, 2021

Hon. Edward R. Wehrheim, Supervisor
Town of Smithtown
99 W. Main St.
Smithtown, NY 11787

Re: Gyrodyne Application

Dear Supervisor Wehrheim:

Per your request at our recent meeting, this is to summarize for you some of the more important issues that I believe make Gyrodyne's application for development of the Flowerfield property an ill-conceived proposal that should not be approved.

1. TRAFFIC

The proposed development of this property will cause what currently are daily frustrating traffic conditions to become intolerable. The roads were not made to handle the existing volume, let alone the projected volume, and I believe the applicant's count of projected daily vehicle trips is significantly underestimated and, in any case, from 2017 and out of date.

Although the EIS does not clearly disclose the 2017 traffic counts found, it does acknowledge that in some respects the intersections of North Country Road with Mills Pond Road and with Stony Brook Road received E and F ratings ("congested") during peak weekday am and pm hours and Saturday peak hours. (Page 9-3)

Note that this study has not been updated during the past four years.

At the recent County Planning Commission zoom meeting, David Barnes stated the projected vehicle trips resulting from this project. Although it was not clear at first, he ultimately clarified that the projections are for new (**additional**) trips resulting from Gyrodyne's proposed development:

Per hour: weekday a.m. peak: 382
 weekday p.m. peak 507
 Saturday peak 308

Considering that there are many more hours in each day, these are significant numbers, especially when added to existing traffic. It is frustrating that the applicant has stated its belief that the two-lane roads bordering the property can handle the projected traffic volume with "traffic signaling and

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right-turn-only lanes”. I have been saying it for a few years: A traffic nightmare will result if this project is built. If you take a trip on Stony Brook Road and North Country Road during peak hours, you will see what I mean, especially when the University is in session.

Additionally, the 2017 and projected traffic counts, even if close to accurate, do not take into consideration the additional traffic that would be produced if/when the following projects are developed:

- the adjoining Baptist Church property now owned by Jim Tsunis/Northwind LLC with a proposal to Brookhaven for multi-family housing;
- the adjoining ongoing Stony Brook University R&D development (“*These projects have the potential to generate traffic through one or more of the key intersections by 2020, but that traffic would not have been included in the field counts.*”) DEIS pg 4-2);
- the Bull Run Farm property; and
- the BB&GG farm.

In the DEIS the potential traffic counts from the Northwind property are not included because “*the sale is very recent and there is no known application*” for development. DEIS pg 4-3). Now, four years later, we know that an application is being made and the projected traffic from it should be disclosed and counted.

As you know, the additional University development is a given, and at least two of the other three of these projects are likely to be presented for approval in the near future. At the very least, Smithtown should require a supplemental EIS that includes projected traffic counts showing the cumulative impact of all of these projects, the University’s included. How else can informed decisions be made on these applications? Ignoring the effects of the other projects would be grossly unfair to those who live in, work in and pass through this area of town.

2. MILLS POND HISTORIC DISTRICT

I am surprised that the statements made by Gyrodyne in its EIS apparently were not fact-checked by Town officials. Approximately one-third of Gyrodyne’s property is located in the Mills Pond Historic District, on the National Register of Historic Places (along with two houses on the property) since 1973. However, in its EIS, Gyrodyne incorrectly stated the following:

*“There are several historic sites and historic districts **within the vicinity** of the site.”* (Section 1.15)

*“The site is **near** several historic sites and districts that are listed on the National Register of Historic Places”* (Sect. 16.1)

*“The portion of the project site that is within the Mills Pond Road [sic] District is currently **occupied for the most part, by the existing industrial development.**”* (Sect. 16.2)

None of those statements is true. In fact, the existing industrial development is located OUTSIDE of the Historic District. The proposed hotel and it’s parking lot are located totally WITHIN The Historic District. Attached are:

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- a. The NYS CRIS website screenshot showing the Historic District. Note that Gyrodyne's property also is outlined on this map.
- b. My hand-drawn overlay of the Historic District on Gyrodyne's proposed site plan from the FEIS. It also shows the 300-foot residential restrictive covenant explained below.

When you compare these overlays, which I believe are accurate, you can readily see that a proposed hotel and its parking lot would be fully located within the Historic District.

3. RESTRICTIVE COVENANTS

As you likely know, the requirement of a 200-foot natural buffer has existed on this property along the south side of North Country Road. since 1960, when the Town granted Gyrodyne's application (without public notice) to rezone the property from a single-family residence district to light industry. The ensuing lawsuit brought by the Village of Head of the Harbor and 21 other neighboring landowners, including the Garguilos, the Perrys and the Elderkins, resulted in an additional restrictive covenant being put on the property in 1964.

This additional covenant restricts development of an area of the property to only single-family residences for a distance of 300 feet south from North Country Road and parallel thereto for almost the entire length of the property along that road.

It was not easy for me to discover this because that additional covenant area is not mapped out in the recorded covenant, nor in Gyrodyne's EIS (in which they incorrectly state that the 1964 covenant "sets forth covenants and restrictions already encompassed" within the 1960 restrictive covenant that established the 200-foot natural buffer along the south side of North Country Road. DEIS pg 2-8) That statement simply is not true. Using the courses and distances described in the 1964 covenant, and with the aid of a CAD system, I was able to show that this 300-foot residential line runs through one of Gyrodyne's proposed commercial parking lots and likely part of a proposed assisted living facility. This is another example of no one independently verifying the statements made in the EIS. If allowed, the development would violate the 1964 covenant.

The overlay of this covenant by use of the CAD and hand-drawn is shown on the attached two maps. If there is doubt about this, the applicant should be required to map out the covenant by the courses and distances contained in the recorded restrictive covenant.

I know you asked me for some "bullet points". These are complex issues that I have tried to summarize as best I can. Since the issue of a sewage treatment plant is also complex, I will leave that for another time. However, in comparing the disclosures regarding this proposed project to the Town's Draft Comprehensive Master Plan, I am struck at the conflicts between the two. I am also concerned that, although eighteen areas of Town are proposed to be included in this study, the North Country Road Historic Corridor apparently is not one of them. This is an oversight that I hope will be corrected. If it were, the Town of necessity would have to take a harder look at the Gyrodyne proposal and it would become clearer how it conflicts with several stated objectives in the proposed Master Plan, including open space and natural resource preservation, historic and cultural preservation, and concentration of new high density, mixed use and commercial developments in existing downtown areas.

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One glaring example is the fact revealed in the Draft Plan that at 1.6%, St. James hamlet has by far the least percentage of open space of any hamlet in the Town (the other hamlets averaging 18%). The last 75 acres of open space should be preserved at all costs, Even Mayor Dahlgard has agreed and, I understand, written to you about this.

Please understand, I am an advocate for the business owners in St. James. One way or another, there ultimately will be a working sewer line on Lake Avenue. But I am also a resident who cares deeply about this community, and its citizens, history and environment. To approve this project because the sewer line is needed is narrow-minded and unfairly ignores the looming gigantic traffic problem that will impose an unreasonable burden on the residents of the northeastern part of this Town and those traveling through it. The magnitude of the proposed project will have regional consequences that, with all due respect, have not yet been appreciated.

No one should begrudge the right of a property owner to legally develop its property. However, that right must be reconciled with the greater public good. When an imbalance might occur, as is likely in this matter, it is the job of government to make sure that an injustice does not result.

Finding the money to pay Gyrodyne fair compensation for its property should be the goal. You and I have both been told about possible alternatives, including potentially its use as an equestrian center. I believe that the directors of Gyrodyne would be amenable to discussing these alternatives, and I am ready to assist in any way that you believe could be helpful.

Approval of the proposed project would be a major mistake that I predict we would all come to regret. I urge you and the Town Board to work with the other municipalities, including the County, State and Federal governments, and even private interested parties, to find a way to resolve this matter so that we can all live with it. This property deserves it.

Thank you.

Sincerely,



JOSEPH A. BOLLHOFER, ESQ.

JAB:ccm