



Saint James - Head of the Harbor NEIGHBORHOOD PRESERVATION COALITION

— *Protecting the Character of Our Community* —

Dear Friends and Supporters,

The below letter was submitted to the Town of Smithtown Planning Department before the most recent comment period closed regarding the Draft Comprehensive Plan, which is in its' final stages of review prior to adoption. The letter clearly outlines how Gyrodyne's development plan is in direct conflict with the Draft Comprehensive Plan. It urges the Town Board to take the necessary steps to follow their recommendations and create a meaningful Master Plan for the future. We ask you to write to the town officials listed on the letter and express your concerns regarding the conflict between Gyrodyne's proposed development and the Draft Comprehensive Plan. As always, thank you for your support!

Smithtown Planning Department
Attn: Allyson Murray, Principal Planner
99 W. Main Street
Smithtown NY 11787
and
Smithtown Department of Environment & Waterways
Att: David Barnes, Director
124 W. Main Street
Smithtown NY 11787

June 15, 2023

Re: Proposed Smithtown Comprehensive Master Plan

Dear Ms. Murray and Mr. Barnes:

I am writing in accordance with the Town Board's request for comments regarding the proposed Comprehensive Master Plan ("the Plan"). My comments take into consideration your Planning Advisory Report dated June 2, 2021 containing recommended amendments to the draft plan.

Since 1985 a large part of my law practice has consisted of real estate transactions and land use issues of all kinds. For most of that time I have also owned a title insurance agency. I am also chairman of the Zoning Board of Appeals for the Village of Head of the Harbor.

The most significant aspects of the Plan that I see as deficient are **three**, all concerning the northeast part of Town, including the Gyrodyne property, and these concerns overlap.

My review of the Plan indicates that the relevant parts thereof have not changed, despite significant public comments accepted in July, 2021. Therefore, the comments I make herein largely reiterate those I made in my July 29, 2021 letter to you, with some updates, and I hope that now, perhaps with the benefit of knowledge of the past two years' events, the decision-makers will follow my recommendations.

1. The Gyrodyne development proposal is inconsistent with and contrary to the Plan, yet that Plan does not acknowledge or address those inconsistencies.

I recognize that the Gyrodyne/Flowerfield issue is only one part of the town-wide Plan. However, it is a significant part, which thus far has not been given the attention required in order to adequately plan for the future of this region. I believe that at least in part is because the town has relied too much on representations made by Gyrodyne in its Environmental Impact Statement (EIS) and otherwise.

The Plan establishes numerous "guiding principles", including to "protect the natural and cultural resources", and "preserve, protect and enhance the historic, scenic and cultural and architectural character" of Smithtown (Introduction). The Plan calls for concentration of new high density, mixed use and commercial developments in

Allyson Murray and
David Barnes
June 15, 2023

existing downtown areas and away from heavily traveled highway corridors and recommends that the Town should “support higher density and traditional mixed-use development near transit stations...while preserving community character” (p.71). It also quotes from NY State Town Law Section 272-a stating that “future land use decisions . . . should continue to support residents . . . by ensuring compatibility with existing neighborhood character . . . while preserving and enhancing the Town’s natural resources” (p. 31).

However, while the Plan is careful not to state that the massive development that is proposed for the Gyrodyne site is in any way consistent with the Plan, it contains a neutral description of the proposal. The reason for that is obvious: for multiple reasons, the Gyrodyne development is completely inconsistent with the Plan and conflicts with its overarching goals and objectives.

Although your June 2 recommendation letter contains 21 amendments, only one concerns the Gyrodyne/ Flowerfield parcel. Frankly, that recommendation # 16 is a benign statement that ignores the significant and broad opposition to the Gyrodyne proposal expressed by hundreds of residents, numerous elected officials, and the Village of Head of the Harbor, which has made clear that the Village believes pending environmental review of the subdivision is legally defective. Inexplicably, that recommendation is written as if the subdivision application is to be approved, but only fine-tuned.

In light of what has occurred during the past two years, I would expect current recommendations to be more analytical and not take representations provided by Gyrodyne as fact without independent verification.

Which brings me to my next point: TRAFFIC.

- 2. Gyrodyne’s traffic study in its EIS, prepared in 2019, is incorrect and severely understates the devastating, intolerable traffic impact the proposed development would have on the region. The town must conduct its own analysis of future cumulative traffic levels that would result from such a development and what we now know are adjoining developed and to-be-developed properties.**

It is difficult for non-experts without generous financial resources to analyze and project future traffic levels. I have even been told by elected and appointed town officials that the traffic study proposed by the Plan is very expensive and that is part of the reason why the Plan’s study is anticipated to be restricted to “four key intersections” for the entire town. However, apparently, town officials have relied upon Gyrodyne’s representations of future traffic levels in its Draft EIS (unchanged in its Final EIS). They should not have done so. I believe this reliance is one of the reasons why some town officials have stated support for Gyrodyne’s proposal, at least until recently.

In a few short paragraphs, Gyrodyne’s opinion in the 2019 EIS was, and apparently continues to be, that traffic problems can be solved with the installation of traffic signals and turning lanes (EIS p. 1-7).

However, quite by accident, I discovered the truth about what Gyrodyne’s traffic expert stated under oath in the 2010 State Court of Claims trial in which Gyrodyne sought and received compensation from the State for its condemnation and taking of 245 acres. My research, analysis and comments, written on behalf of the St. James-Head of the Harbor Neighborhood Preservation Coalition, Inc., were submitted with my July 29, 2021 letter to you. In sum, Gyrodyne correctly believed that it would receive more money in that trial by having the value of the property appraised as residential land rather than as light industrial land. Gyrodyne’s traffic expert testified that if the property were developed with light industrial buildings, traffic would increase by 3,206% above 2005 levels (by 32 times). In contrast, he testified that if it were developed as residential property, traffic levels would “**only**” increase to 338% of the 2005 level (**more than triple**).

Allyson Murray and
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June 15, 2023

This expert testimony is completely at odds with what Gyrodyne represented to the town and the public in its EIS and other statements.

Further, in that trial Gyrodyne's appraisal and zoning and planning experts stated that the property is "not suitable for commercial development" and that "Getting traffic on and off the property is a problem for the site." **Gyrodyne itself in this 2010 trial made the case against the current proposed development.**

Knowing these facts, it is inconceivable to me that the town can finalize a Comprehensive Master Plan without a bona-fide traffic study that takes into consideration the Gyrodyne parcel, as well as the adjoining developed and to-be developed SUNY and Northwind LLC properties (former Baptist church property adjoining to the east), and other possible nearby developments, including Bull Run Farm.

The town should work with the adjoining Village of Head of the Harbor and Brookhaven Town ("intermunicipal planning", as per the Plan's recommendation on page 66) to comprehensively analyze this looming potential problem regionally and propose a solution. I believe the State Environmental Quality Review Act ("SEQRA") requires it. The Plan is deficient in that regard.

Based upon Gyrodyne's own experts' opinions, the undeveloped portion of the property should be rezoned back to residential, as it was until 1960. The Plan should recommend that. In the meantime, while the Plan is being completed, the town should enact a moratorium on approval of significant development projects until adoption of the final Plan. Otherwise, if projects are approved that are inconsistent with the goals and objectives set by the town for the Plan, its purpose will be defeated.

3. **OPEN SPACE ISSUE**

The proposed Plan states that in Smithtown hamlets other than St. James, the average percentage of open space is 18%. However, it also states that in St. James hamlet, open space constitutes only 1.6%.

Although that is a glaring imbalance, the Plan does not contain any proposal to rectify it. It should. To those who have pointed out that in other parts of town, much open space is County or State parkland, my reply is: The resident who wants to enjoy a day in a park with his or her family or friends does not care whether that park is owned by the County, State or Town. The important thing is that there is open space to enjoy.

This parcel presents an opportunity to fix the imbalance. Finding the solution should be a major goal of town officials in your efforts to create a meaningful Master Plan for the future. Thus far, it is not even a footnote. I hope for the sake of the residents of this region of town, the town board members will follow my recommendations.

I know this is a massive undertaking. Thank you for your work thus far. Like you, I look forward to the betterment of our town. I hope these comments have been helpful.

Sincerely,

Joseph A. Bollhofer
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Cc: via email:
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