

# EXHIBIT A

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**THE SMITHTOWN PLANNING BOARD**

**PUBLIC HEARING**

**March 30, 2022**

**Held at:**

**VIRTUAL VIA ZOOM**

**SMITHTOWN PLANNING BOARD:**

**BARBARA DeSORBE, Chairman**

**WILLIAM MARCHESI, Board Member**

**DESMOND RYAN, Board Member (Not Present)**

**THOMAS UNVERZAGT, Board Member**

**RICK LANESE, Board Member**

**HON. JOHN J. TOOMEY, JR, Attorney to the Planning Board**

**MATTHEW G. CALADO, Planner**

**PETER HANS, Town Planning Director**

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**PLANNING BOARD AGENDA VIRTUAL MEETING**

March 30, 2022

I. SEQRA FINDINGS:

1. #1178 Gyrodyne, LLC, St. James

II. PUBLIC HEARINGS/DECISIONS:

PRELIMINARY SUBDIVISION:

\* 2. #1195 Jamie Anita Estates, Nesconset - the  
Board to make a recommendation to the BZA  
- adjourned to 4/20/2022

\* 3. #1189 Meadow Glen Estates, Fort Salonga -  
adjourned to 4/20/2022

4. #1178 Gyrodyne, LLC, St. James

2 **PLEASE NOTE THAT THIS A VIRTUAL MEETING ON ZOOM**

3 For further information please contact:

4 Planning & Community Development Town Hall

5 99 W. Main Street, Smithtown, New York 11787

6 Telephone: (631) 360-7540

7 <http://smithtownny.iqm2.com/Citizens/Calendar.aspx>

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I N D E X

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| Adjourned Cases  | 6    |
| No. 1178 Gyrodyne, LLC, St. James<br>SEQRA Findings          | 9    |
| No. 1178 Gyrodyne, LLC, St. James<br>Preliminary Subdivision | 14   |
| Meeting Adjourned  | 126  |
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CHAIRMAN DESORBE: Good evening.

This is the March 30, 2022 meeting of the  
Planning Board.

MR. CALADO: Good evening, Members of  
the Planning Board. I hope everybody can see  
my screen. I've got the agenda up.

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MR. CALADO: Before we get to the first item on the agenda, I just want to take your attention to items number two and three.

Two is a recommendation to the Board of Zoning Appeals for the subdivision Jamie Anita Estates, Nesconset, and number three is a preliminary subdivision Meadow Glen Estates. Those two matters are going to be adjourned to the April 20, 2022 meeting. So for anybody that's here for those two items the Board's going to adjourn those two matters to April 20th. They'll be no hearing tonight and no decision. That will take place April 20th.

CHAIRMAN DESORBE: Thank you, Matt. Does the Board have any questions on these matters that are going to be adjourned?

(NONE HEARD.)

CHAIRMAN DESORBE: Okay. Thank you.

In the matter of No. 1195, Jamie Anita Estates, Nesconset, I move that we adjourn the hearing until to the April 20, 2022 meeting of the Planning Board.

Is there a second?

BOARD MEMBER UNVERZAGT: Second.

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CHAIRMAN DESORBE: All in favor?

Aye.

BOARD MEMBER UNVERZAGT: Aye.

BOARD MEMBER MARCHESI: Aye.

BOARD MEMBER LANESE: Aye.

CHAIRMAN DESORBE: Opposed?

(NONE HEARD.)

CHAIRMAN DESORBE: Motion is adopted.

Thank you.

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CHAIRMAN DESORBE: In the matter of Meadow Glen Estates, Fort Salonga, I move that we adjourn the hearing to the April 20, 2022 meeting of the Planning Board.

BOARD MEMBER UNVERZAGT: Second.

CHAIRMAN DESORBE: All those in favor?

Aye.

BOARD MEMBER LANESE: Aye.

BOARD MEMBER UNVERZAGT: Aye.

BOARD MEMBER MARCHESI: Aye.

CHAIRMAN DESORBE: Motion is adopted.

Thank you.

MR. CALADO: Bill, you're muted so



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MR. CALADO: Okay. For the first item is the SEQRA Findings for Gyrodyne, LLC. I have some background information for the Board.

The Town of Smithtown Planning Board issued a SEQRA Positive Declaration regarding this application on April 11, 2018. Under the SEQRA regulations in effect at that time formal scoping of an Environmental Impact Statement was optional, and a scoping requirement was not included in the SEQRA Positive Declaration issued at that time.

At the Planning Board's public hearing of that date, a letter from Town of Brookhaven Supervisor Edward Romaine requested that formal scoping be required for this application. In consideration of Supervisor Romaine's request at their meeting of May 9, 2018, the Town of Smithtown Planning Board rescinded the original SEQRA Positive Declaration and issued a revised SEQRA Positive Declaration, which included a Notice of Scoping. A Draft Scoping Document was posted on the Town's website and distributed on May

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15, 2018, with a public comment period, which closed on June 22, 2018. The Final Scoping Document was issued on June 9, 2018.

The Planning Board accepted the Draft Environmental Impact Statement on December 11, 2019, with a public comment period, which ran until January 24, 2020, and included a SEQRA public hearing on January 8, 2020.

The Smithtown Conservation Board held a public hearing regarding this application on January 30, 2020, at which additional comments were made by the Conservation Board members. All comments on the DEIS and petitioner's responses to them were addressed in the Final Environmental Impact Statement, which was accepted by the Smithtown Planning Board on March 10, 2021, with a public consideration period, which ran until March 31, 2021. The Smithtown Conservation Board held a public meeting on September 16, 2021, to discuss the SEQRA Findings to be recommended to the Planning Board. Comments on the proposed Findings were received from the public at that meeting. The next step in the SEQRA process is

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for the Smithtown Planning Board to issue SEQRA Findings regarding this proposed subdivision application.

All public notice, public hearing, and public comment period requirements contained in 6 NYCRR Part 617 have been met in the SEQRA review of this application. The regulations pertaining to the issuance of Final Environmental Impact Statements and SEQRA Findings, 6 NYCRR Part 617.11, do not include any requirements for further public comment as part of those procedural steps.

The recommended SEQRA findings found in the attached memorandum from David A. Barnes, Environmental Protection Director of the Department of Environment and Waterways, dated September 16, 2021, give full consideration of the Draft and Final Environmental Impact Statements, all agency comments, and all public comments received during the public comment periods and public hearings.

The following resolution is offered for the Board's consideration:

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WHEREAS, the Planning Board has considered the recommended SEQRA Findings and conditions of approval from the Department of Environment and Waterways and has acknowledged the recommended SEQRA Findings give full consideration to the Draft and Final Environmental Impact Statements, all agency comments, and all public comments received during the two public comment periods and the January 8, 2020 public hearing; now, therefore, be it.

FIRST RESOLVED that the Planning Board, as SEQRA Lead Agency, hereby issues SEQRA Findings and adopts the condition stated in the attached memorandum from David A. Barnes, Environmental Protection Director for the Department of Environment and Waterways, dated September 16, 2021, for the subdivision No. 1178, Map of Gyrodyne, LLC.

CHAIRMAN DESORBE: Thank you, Mr. Calado.

In the matter of SEQRA Findings and conditions No. 1178, Map of Gyrodyne, LLC, I move that we adopt the resolution as read and

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in accordance with the recommendation of the  
Department of Environment and Waterways.

Is there a second?

BOARD MEMBER MARCHESI: Second.

CHAIRMAN DESORBE: All those in  
favor?

Aye.

BOARD MEMBER MARCHESI: Aye.

BOARD MEMBER LANESE: Aye.

BOARD MEMBER UNVERZAGT: Aye.

CHAIRMAN DESORBE: Opposed?

(NONE HEARD.)

CHAIRMAN DESORBE: None. The motion  
is adopted. Thank you.

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MR. CALADO: Let me share my screen.

So we skipped over items two and three and that brings us to item four, the preliminary subdivision for Gyrodyne, LLC.

The applicant requests preliminary subdivision approval in order to subdivide a 74.98-acre site into eight lots with a proposed private road and sanitary treatment plan.

The subdivision No. 1178, Map of Gyrodyne, LLC, consists of 74.89 acres and is located on the southeast corner of New York State Route 25A and Mills Pond Road. It has approximately 1,200 feet of frontage on Mills Pond Road and approximately 2,700 feet of frontage on New York State Route 25A. The Long Island Railroad runs along the east side of the property.

The property is split zoned R-43 and Light Industrial. To the west of this site are several single-family homes and Mills Pond Road. Beyond Mills Pond Road are single-family homes zoned R-43 and land within the Village of Head of the Harbor. One of those parcels is the Mills Pond House owned by the Town and used

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as an art gallery. To the north is North Country Road. Beyond 25A are single-family homes within the Town zone R-43, as well as land within Head of the Harbor utilized for farming and the Avalon Preserve. The property is bordered on the east by the Long Island Railroad. Beyond the railroad is property once part of the Gyrodyne site that is partially within the Town of Brookhaven and is utilized as the SUNY Stony Brook Research and Development Park. To the south are single-family homes zoned R-43.

The subdivision maintains the two access points on Mills Pond Road and proposes a new access point on New York State Route 25A. The applicant is proposing a 60-foot wide right-of-way with a 30-foot wide paved private road within the subdivision called Flowerfield Drive. Each side of the road will contain a 15-foot grass drainage swale. The length of the road is approximately 2,500 feet connecting Mills Pond Road to New York State Route 25A, while providing access to the new lots. The subdivision does not propose re-opening the



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former railroad crossing. The proposed subdivision will also provide for public access to on-site open space areas. As stated in the DEIS, about two miles of walking trails and nature trails are designed within the subdivision and will be open to the public.

The preliminary subdivision proposes eight lots consisting of the following:

Lot 1 is 10.62 acres in size, split zoned LI and R-43, containing three of the four existing industrial multi-tenant buildings, drainage area, and related parking.

Lot 2 is 12.56 acres, split zoned LI and R-43, containing the existing Flowerfield Celebrations catering facility, dwelling, and small office building. The lot contains one of the New York State DEC regulated ponds.

Lot 3 is 3.35 acres, zoned LI, contains the fourth existing industrial building and related parking.

Lot 4 is 11.07 acres, zoned LI, undeveloped. The applicant conceptually proposes an office/medical office building.

Lot 5 is 9.93 acres. It's zoned LI,

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undeveloped. The applicant conceptually proposes an assisted living facility.

Lot 6 is 4.87 acres, zoned LI and is undeveloped. The applicant conceptually proposes a hotel.

Lot 7 is 50.2 acres, zoned LI and R-43, contains the common areas. These lots contain open space consisting of one of the New York State DEC regulated ponds, drainage reserve areas, and a 200-foot buffer along 25A.

Lot 8 is 7.34 acres, zoned LI. This lot proposes additional open space, as well as the proposed sanitary treatment plant and leaching field. Access to this lot is from the existing curb cut on New York State Route 25A, which would become exclusive to the plant. This lot contains a 200-foot buffer along 25A. The proposed leaching field is not located in this buffer.

The proposed uses are conceptual and are used to determine a maximum development threshold for SEQRA purposes. Approval of this subdivision is not an approval for any particular use. Any future development will

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require Site Plan approval from the Board of Site Plan Review and possibly Special Exception approval from the Town Board and Board of Zoning Appeals depending on the proposed uses.

Lot 4, 5, and 6 comply with the dimensional regulations for the LI zoning district. The existing buildings on Lots 1, 2, and 3 comply with the minimum lot area requirement; however, they most likely will require setback variances from the Planning Board. This will be reviewed during the final plat application. It is recommended that Lot 7, which contains the three common areas, be provided their own lot numbers as they are not contiguous.

As mentioned in the SEQRA Findings, portions of the Gyrodyne property are subject to existing covenants and restrictions, which limit the locations of buildings, land use, and parking areas on property. These existing covenants and restrictions are summarized on pages 2-8 through 2-20 of the DEIS and reproduced in Appendix C of the DEIS. The existing covenants and restrictions as

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applicable to the subject parcels within the site are not violated in the proposed subdivision, do not require relief, and will be maintained.

Pursuant to Section 239-m of General Municipality Law, this subdivision was referred to the Suffolk County Planning Commission. The Suffolk County Planning Commission after due study and deliberation was unable to render a determination as the necessary votes were unavailable to carry a resolution relative to referral. Therefore, no action was taken by the Suffolk County Planning Commission.

The Highway and Traffic Safety Departments have found the application acceptable. The Engineering Department has found the application acceptable subject to a condition that a Stormwater Pollution Prevention Plan be submitted.

The Planning Department offers the following resolution for the Board's consideration:

WHEREAS, the Planning Board has considered the request of Gyrodyne LLC to

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subdivide 74.98 acres into 8 lots; now,  
therefore, be it:

FIRST RESOLVED that the Planning  
Board hereby approves the preliminary  
subdivision of No. 1178, Map of Gyrodyne, LLC  
subject to the following conditions:

A. Prior to approval of the final  
plat application, the applicant shall submit a  
Stormwater Pollution Prevention Plan to the  
Engineering Department for approval per Chapter  
153 of the Town of Smithtown Code.

B. The map shall be revised to  
reflect any conditions of the SEQRA Findings.

C. The common areas designated as  
Lot 7 shall be divided into separate lot  
numbers.

SECOND RESOLVED that this conditional  
preliminary approval shall be valid for a  
six-month period to expire on September 30,  
2022.

CHAIRMAN DESORBE: Thank you,  
Mr. Calado.

Is there anyone representing the  
applicant who would like to address the Board

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at this time?

Please state your name and address for the record.

MR. SHEA: Thank you, yes. J. Timothy Shea, Junior. 100 Motor Parkway, Hauppauge for the applicant. I'm joined by Richard Zapolski of Cameron Engineering, who will also provide some testimony.

Mr. Calado's report was very thorough. If I could please have the aerial photograph put back up so that we can work off of that for one moment. All right. So if I may.

The existing Flowerfield Celebration Catering Hall existing Light Industrial are located on the western and southwestern side of the subject lot, which is located at the north, or North Country Road, and on the west by Mills Pond Road.

Those three lots are included in the subdivision. Part of, you can see in the center of the site, there's a large parking area. Part of that lot will actually go to what is going to be considered Lot 4, which is

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along the railroad tracks and as you travel to the east and you'll see the large field there with the crossing, Lot 4 would be in that particular area.

Lot 5 will be on the northern side of Lot 4, and Lot 6 would be adjacent to Flowerfield Celebration to the east.

The site design is such that we have provided a 30-foot wide private road within the subdivision that will be maintained by the applicant, and it is a country-type road in design to make sure that there is -- so people will not speed in it. We didn't want straight roads with a straightway so that people could drive quickly in it. The curvature of the road makes it a meandering road much like a country road would be, and we feel this, again, would be good for on-site traffic mitigation.

The road traverses from Mills Pond Road all the way up to 25A. It will be at an intersection that will be rights in, rights and left out, but no left-hand turns in at that particular entrance. Again, as a traffic accommodating feature.

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As provided in the Findings, there is off-site traffic mitigation, which Gyrodyne would have to engage in on Stony Brook Road in further deference to a potential traffic impact. A traffic study resulted in a low traffic volume and that was on purpose.

Gyrodyne in designing this site was very cognizant of the fact that they did not want to come in with a large warehouse or something that would not fit within the community, even though it would be permitted in the LI zoning district. And they brought in uses that would be compatible with the both Stony Brook University and the surrounding uses here such as the hotel, the assisted living, and the medical office. Again, those are potential uses. This Board is not approving any of those uses. Those were used to establish development thresholds under SEQRA, which have been adopted by this planning board adopting its findings, which limits the scope of the development rather than leaving it open ended, and we have to adhere to those thresholds when site plans come in for those



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three undeveloped lots.

It should be also noted that should the Board grant this subdivision, the total acreage of new development would be 25 acres out of the 75. It will result in three lots, 11.07 acres, 9.3 acres, and 4.89 acres. It will ultimately be developed in accordance with LI zoning district and the thresholds of the Finding Statement.

As you can see from the plan, the first 200 feet will be a vegetative buffer and will remain as such. In fact, coming up to 300 feet of vegetation on either side of the road, the internal road to be designed, as you can see the curvature right there, it will be 300 feet to about 75 feet to the east -- no, probably more. Like, 300 feet to the east and to the west of the road all the way to the Flowerfield Celebrations. So there will be substantial buffering in that area, which will limit anybody seeing anything that's going on from the outside. The only change would be the new curve cut and the area around the curve cut. The fencing along the street frontage

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will remain, and we are required under the Finding Statement to keep the fencing and repair it so, again, it acts as a shield to people looking into the site.

Mr. Zapolski I would ask be allowed to speak for a couple of minutes about the STP and would be happy to listen to any questions of the Board or of the public.

CHAIRMAN DESORBE: Thank you.

MR. ZAPOLSKI: Good evening, Members of the Board. My name is Rich Zapolski. I'm an associate partner at Cameron Engineering.

During the SEQRA process my staff has been developing the footprint of the plans, which you see before you tonight. It's a 22-sheet set that has been reviewed by the Town Engineering Department, as well as submitted to the Health Department for their review.

The plans are still under review at the Health Department. They have returned comments to us, which we are in the middle of addressing now. We've addressed several sets of comments from Town Engineering and drafted a preliminary map to a point that it could be

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heard tonight and looking for approval.

While Matthew and Tim have given the details of the plan, I'll just add a few engineering points. The private road is 30-feet wide of pavement and on either side we've developed a drainage plan that includes a vegetated swale and a series of drywells. We've done that in coordination with the DEC in an effort to clean up the rainfall runoff that would occur on the asphalt, run it through vegetated swales for certain distances, and then it would be allowed to enter into the drywell to recharge back to groundwater.

We also have three drainage reserve areas that will also provide a vegetative path by which drainage would be recharged into the ground. And those are just two of the environmental features that we considered when we developed the drainage plan.

We also have a sewage treatment facility being placed in the north end of the site. This -- even though what's allowed for the development of the site is about 23-pounds of nitrogen to -- to the ground, we've

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introduced the STP, which reduces that to 5.8 pounds of nitrogen per day, which is a reduction from the existing introduction of nitrogen to the ground, which is at 6.95 pounds per day. So by placing the STP we've improved the amount of nitrogen being introduced to the ground.

I wanted to mention also that the entrance to North Country Road is right-in and right-out only. There are no left turns allowed whatsoever. Tim mentioned that before but I just wanted to reiterate the fact that only right turns into the site and right turns out of the site will be allowed at the turn out.

Tim, I'm going to leave it at that. I will be available for any engineering and technical questions. We also have Rebecca Goldberg, who is our traffic engineer and transportation planner. She'll be available for any technical questions regarding any traffic and transportation items.

CHAIRMAN DESORBE: Thank you very much.

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And now I'd like to know if there's anyone else, members of the public, who would like to be heard in this matter, and if so, please state your name and address for the record.

MS. GARGUILO: It's your moderator, Nicole. Hi. In order just to mainstream this and keep it as organized and get everybody home to enjoy their families this evening, I'm just going to ask folks who wish to be heard tonight during this subdivision public hearing to do one of the following -- some of you already have so you don't have to do it twice if you've already done it but, please, either type your name in the comments in chat function, this is preferable; however, you can also raise your hand and if you're on a phone, if you want to raise your hand just press star nine.

Once I've typed up your names, and P.S. if you're on a phone and I don't have your actual name I'll probably just read your phone number so just bear with me for that. But once I've typed up everyone's name on a list of speakers I will lower hands, and then I'm going

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to call each individual in the order we received your request.

And to reiterate, the guidelines tonight: You'll only be called on once, and then we'll move onto the speaker. When it is your, turn please just remember to state your name and address for the record before you begin, and if you are reading from a script or a written statement, please do so clearly and slowly and keep our court reporter's hands in your consideration. Thank you.

Back to you, Chairwoman.

CHAIRMAN DESORBE: Thank you. Now if anyone would like to speak?

MS. GARGUILO: So first on our list is Mr. Bollhofer.

MR. BOLLHOFER: Thank you. I appreciate the opportunity to speak with you folks. My name is Joseph Bollhofer. My home address is 3 Fox Meadow Lane in Head of the Harbor. My office address is 291 Lake Avenue in Saint James. I'm the chairman of the Zoning Board of Appeals for the Village of Head of the Harbor.

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I've been notified that my letter to you, dated October 15th, was received by Mr. Hans and by you. If you need an addition copy, please let me know because I will not reiterate all of it to you now. I expect that you have read the several letters from the mayor of the Village of Head of the Harbor and from the village trustees explaining the problems with the Environmental Impact Statement and the Findings. I also expect that you have received the letter from Brookhaven Town Highway Superintendent Losquadro with regards to his concerns and request that the EIS and Findings Statement comments attributed to the Town of Brookhaven be corrected.

Among the problems with the EIS and the proposed Findings were -- maybe you would say now the formally proposed Findings -- to me the most obvious and complex is the failure to adequately address the required traffic study.

We now know that Gyrodyne's experts testified under oath in the 2010 eminent domain lawsuit against Stony Brook University that the roads surrounding the Gyrodyne property cannot

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handle commercial traffic that would be generated from development of the property. They were not just speaking of Stony Brook Road. They were speaking of all of the roads surrounding the property. Gyrodyne's traffic expert testified to having studied 13 intersections in the area. He also testified that if the property were to be developed as residential property traffic would more than triple above 2005 levels. That's 328 percent. His number.

Amazingly, that expert also testified that if the property were developed as commercial property, traffic would increase by more than 30 times that level. 3,206 percent to be exact.

It has become obvious that the intention of those experts was to have the Court agree to appraise the property as residential rather than as Light Industrial, thereby valuing the property higher. They achieved that result, and we are now left with their testimony confirming that if the property were developed commercially the area roads



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would be devastated.

At the Town Conservation Board hearing on this matter, a town official stated his opinion that the traffic expert's testimony in that lawsuit only dealt with the 245 acres that had been taken by Stony Brook University, and not the 75 acres that is the subject of the current application. His point apparently was that the expert was only addressing the potential traffic impact to Stony Brook Road. I'm not sure what the basis for his comments was, but it should be obvious that he was wrong because, again, the expert testified about having studied 13 area intersections.

Additionally, Gyrodyne's appraisal expert discussed the narrow, winding characteristics of both Stony Brook Road and Mills Pond Road and stated that the property was remote with no easy transportation in or out of the site and stated that the roads are not suitable for commercial development. He also said that Route 25A winds in front of the property and quote, "comes down a fairly steep curve as you head towards the eastern side of

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the property." He described this property as  
pristine and the surrounding area as bucolic.  
He said it is an extremely poor location for  
industrial purposes.

Gyrodyne's planning and zoning expert  
testified that getting traffic on and off the  
property is a problem in that it is remote from  
major roadways. He even concluded that a  
change of zone to residential would occur. In  
my letter to you of October 15th, I believe  
that I have adequately explained why that  
Smithtown official was wrong in his comment.  
In fact, it's my opinion that Gyrodyne itself  
in this trial made the case against commercial  
development of its own property.

As important, that town official  
advertently shed light on the more  
comprehensive cumulative impacts issue. If the  
increase in traffic predicted by Gyrodyne's  
experts in 2010 only concerned the 245-acre  
parcel, what about the increases that would  
result from development of this 75-acre parcel  
and from the 12-acre North Wind Group parcel on  
Route 25A contiguous to the east or from the

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Bull Run Farm immediately to the west or from the continued build-out of the rest of Stony Brook University's contiguous R and D park?

All of these properties essentially are contiguous, with Gyrodyne's parcel right in the middle. Gyrodyne's application cannot and should not be evaluated as if these other properties and their likely development will not impact traffic or other issues.

I checked with the North Wind website yesterday. Their proposed Stony Brook Meadows community, with 108 parking spaces and a community center, is still being advertised, and they invite the public to contact them for more information. That developer is not going to go away.

On this very important issue of cumulative impacts the only comment in the Findings Statement appears at the top of page 12. It calls the concerns quote, "pure speculation." It does not even mention Stony Brook University's continued build-out. To me, that is a major mistake. In fact, even the applicant states the following in the 2018 DEIS

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regarding the issue of other planned developments, it references Stony Brook's adjacent R and D park, and this is what they said: Quote "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." It references page F-38.

No explanation was given in the DEIS for this omission, and apparently none has been requested by the Town.

The testimony of Gyrodyne's experts in 2010 is completely at odds with what Gyrodyne represented to the Town and to the public in its EIS and other more recent statements. The traffic study in the EIS is rather cryptic. It only addresses peak rush hours, and frankly concludes, without any logical conclusion or explanation, that the traffic problems can be solved with the installation of traffic signals and right-hand turn lanes. Reference is EIS page 1-7.

It should be obvious that since there is such a great discrepancy between Gyrodyne's

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expert testimony and its current representations, a true traffic study is required, and it should be incorporated into a supplemental EIS. Analysis of traffic counts should not be limited to a peak morning hour and a peak afternoon hour. It should be based on daily traffic counts, thereby giving a more realistic projection, and it should cover multiple different development proposals. This is especially important because Gyrodyne has emphasized that the types of uses proposed would result in peak traffic at different times of the day and night, depending upon the use.

Now we could debate the significance of the misrepresentations in the EIS regarding whether the property is in the Mills Pond Historic District or simply as they have said, "near it," or, "in the vicinity of it."

And we could debate the significance of the conflict between the proposed development as represented in the EIS and the Town's draft comprehensive Master Plan. The plan states that its guiding principles are quote, "to protect the natural and cultural

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resources," and, "preserve, protect and enhance the historic, scenic, and cultural and the historic cultural architectural character," of Smithtown. It calls for concentration of new high density, mixed use and commercial developments in existing downtown areas and away from heavily traveled highway corridors and recommends that the Town support these developments quote, "near transit stations...while preserving community character."

In that draft plan, according to the Town's own study, only 1.6 percent of the Saint James hamlet is open space, whereas the rest of the hamlets in Smithtown average 18 percent open space. I have been told by a town official that in other parts of town, much open space is County and State parkland, over which the Town has no control. I didn't need him to tell me that. I grew up in Smithtown. My response to him was and still is: The resident who wants to enjoy a day in a park with his or her family or friends really doesn't care whether that park is owned by the State or the

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County or the Town. The important thing is that there is open space to enjoy.

This parcel presents an opportunity to fix this 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.

So we could debate the significance of that conflict, what I consider to be a rather huge discrepancy, and whether, in light of the Town's expressed focus under the draft plan, Gyrodyne's application for development of this last large piece of open space in Saint James does, in fact, fly in the face of what town officials consider to be a comprehensive Master Plan.

However, there really cannot be any dispute as to the significance of the discrepancy in Gyrodyne's representations in the EIS regarding impact on traffic of it's proposed development compared to what Gyrodyne's own experts testified in the 2010 trial. Although this discrepancy has been laid

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out to the Town in writing, in detail, there has been no explanation given and no explanation required by town officials to address it.

The obvious question is: If area roads could not support commercial development of this property in 2010, how can they now?

Is it your job to correct the EIS? I don't think so. But when you are faced with such a significant discrepancy you should raise your eyebrows, and you should scratch your head. You should be insisting that the Findings Statement be corrected. In fact, you should have insisted that the EIS be supplemented with a more meaningful traffic study.

It is my understanding this Board has now approved the proposed Findings Statement and will consider subdivision approval. Based upon what we now know, I believe that's a mistake and a disservice to the people who live in, work in, and travel through this area.

One more point about what I believe is a materially inaccurate statement in the



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Findings. On page 5, Section 6, the Town is requiring that building setbacks from Route 25A be at least 200 feet. According to one of the two covenants and restrictions recorded in 1964, the required setback is 300 feet for most of the distance along Route 25A. The additional 100 feet is limited to single-family dwellings. It's not easy to identify this area from the recorded document because there's only a metes and bounds description in the document, and there's no survey attached. But I mapped it out with the help of a CAD system. The same mistake is repeated at the top of page 7 in the Findings Statement. These should be corrected. If anyone has any questions I'd be glad to show you the proof on this.

Lastly, I understand that the purpose of this hearing is to do what you've just done; however, you should know that Gyrodyne officials have made it clear they want to sell their property. You also should know that more than just a few individuals in this town have been working diligently for more than two years in order to create a comprehensive plan whereby

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Gyrodyne would be adequately compensated for its land, and at the same time the horrendous problems that would arise if the property were developed will be avoided. You should also know that State and County elected officials in this area are on board with this proposal.

I'm not necessarily addressing this to you, because I know the limitations on your authority as a board. But I urge town officials with authority to join with those state and county officials and private parties, who are also interested in this and concentrate their efforts on finding the money to compensate Gyrodyne for its property and make what I consider to be the only logical solution a reality: Preservation of the open space.

Thank you.

CHAIRMAN DESORBE: Thank you, Mr. Bollhofer. Appreciate your comments.

MS. GARGUILO: Okay. Next I'm going to bring up Mayor Dahlgard. Just give me a minute to unmute him and start his video.

Mayor, you might have to -- there you go. Just hit the unmute button there. There

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you go. Okay. We should be able to hear you, Mayor.

MAYOR DAHLGARD: Okay, good. That's all that matters. Good evening, Madam Chair and Members of the Planning Board. I'm Doug Dahlgard, the Mayor of the Village of the Head of the Harbor. I am not a land-use attorney, but I am reflecting the views of our Village residents and maybe the greater community.

So I don't understand. The view of our community is that this subdivision application is a mistake. So how was it determined that Flowerfield property, located in a bucolic historic residential and farming community, should be zoned industrial? It's wrong. If Flowerfield was located within the boundaries of either Head of the Harbor or the Village of Nissequogue, we wouldn't be here. Both villages have zoning laws that are designed to protect the character of our villages from being forever changed by unwanted commercial development.

We all live in the same community. The Town, as the lead agency on this

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application, has the responsibility to protect our community's character.

We ask that the Members of the Planning Board be openminded on this issue. On the Town's draft Master Plan it promotes retaining open space and maintaining the character of a community.

I speak to you as a neighbor, as a resident of both the Town of Smithtown and the Village of the Head of the Harbor. Our village is just across the street from Flowerfield. We are directly impacted by what Gyrodyne does as it liquidates.

When you drive on 25A do you know when you are in Saint James or when you are in Head of the Harbor or when you are in Brookhaven? A lot of times you can't tell the difference. These areas are all part of the same community, and all the people who live in the community will be impacted by the proposed subdivision.

Overwhelmingly the residents say this proposed development is not right for our community. This is not a commercial area.

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All of the land uses on the north side of Flowerfield along 25A consist of low density residential and nature preserves and agricultural land. Gyrodyne's proposed commercial development is completely inconsistent with the character of the surrounding land use.

25A is the primary throughfare servicing our village. It splits the village, and on this road are many historic structures.

To emphasize the importance of the character of Route 25A corridor the Village established the North Country Road Historic District, which extends 500 feet along all property in the Village along 25A. Flowerfield is located well within the 500-foot historic district that would otherwise apply if the site was in the Village.

Smithtown, represented by its Planning Board, should have the same strong feelings as our residents do for the last 75 acres of open space in the Town.

This property should be used to attract families for generations and put Saint

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James on the map. Not to create an eyesore with traffic lights and turning lanes. Both villages of Head of the Harbor and Nissequogue are valued and sought for their historic, rural character. There are no traffic lights, sidewalk, and no street lighting in either village for a reason. The proposed Gyrodyne development right next door will detract and lower our property values.

Commuters today drive north to 25A to escape driving on 347. I was just there about an hour ago. Add additional traffic on 25A and the commuters will try to cut through our village. This will affect the safety of pedestrians entrancing Avalon Park, as well as the pedestrians walking on Main Street to and from the quaint Stony Brook Village Shopping Center.

Now for five years our village has been pointing out our concerns to the County and to the Town of Smithtown about this commercial project. Five years. We have asked the leadership in the Town of Smithtown, and we ask them again, to act in the interest of our

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community.

Tonight the Planning Board represents the Town leadership, and we ask you to represent the village in this important matter. We assume members of the Planning Board have made a site visit and understand that the area infrastructure, as Joe said, is just not suited for the proposed development.

Mills Pond Road is only 19-feet wide, narrow, and winding. North Country Road's only 22-feet wide and winding and already challenged by overcapacity traffic and limited sight from the west. Added traffic signals and turning lanes that only go one way will cause more commuter aggravation despite what the applicant's traffic study tries to indicate.

And what about the unsafe Stony Brook Road intersection? Haven't heard a thing about that from the DOT or from Gyrodyne.

We have proposed a much better way that will put Saint James on the map as a destination and will enhance Saint James' property values. The residents of Saint James will truly benefit if the Flowerfield property,

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the last 75 acres of open space, becomes an open-space park. Forget for the moment that the Town would have to buy the Flowerfield property. Just forget for the moment. Everyday the federal government and the New York State government give away millions and billions of dollars to projects. Right now the governor and the New York State legislature right now are talking about a multibillion dollar environmental bond fund package. Three, four, five, six. They can't figure out how many billion dollars will be in there. But this would be a perfect venue to buy the Flowerfield property.

We ask that the Town leadership take the initiative and ask for funding to buy Flowerfield. There's no excuse not to try.

Think what a park would be for the community. A large open space for all. A place for people to engage in recreation, a picnic, open air concerts, farmer's market like the Bethpage market where local restaurants and farmers participate, walking trails, a dog park. All of these activities will attract



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people to the benefit of local businesses.

We know that community parks increase property values. A park also protects natural ecosystems. Natural habits for native wildlife are protected and air pollution is removed by trees. Trees also collect stormwater and limit erosion damage from stormwater runoff.

Open space improves our physical and psychological health. It makes our neighborhoods more attractive places to live. A park provides opportunities for parents to bond with children and for children to make new friends in the neighborhood.

In today's world, more office buildings are not needed. Existing commercial spaces, such as the Smithtown mall, are either empty or being repurposed. A few weeks ago I went to City MD at the mall where for many years that was Toys-R-Us.

Think about the changes from COVID and technology like Zoom, and you know why more commercial space doesn't make any sense. Can you think of young people saying, "Wow. I want to live near an office complex and drive in

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traffic?" Or would they more likely say, "I want to live near a park?"

Smithtown does have an extensive system of well maintained parks, but I looked for open space parks near Saint James and I found nothing. I looked for horseback riding and found in the Town's recreation guide on page 33 it says, "Breathe in the fresh air and feel the stress disappear as you enjoy an hour long horseback ride in the beautiful, tranquil Connetquot River State Park Reserve." Not in Saint James, but in Central Islip.

A fabulous park owned by Smithtown with history, nature, concerts, trails, sports, and farm education is the 136-acre Hoyt Farm. But the Hoyt Farm is located in south Commack, not in Saint James.

A park at Flowerfield would be a destination for our community. I'm talking about the entire Flowerfield property as an open space park, not just squeezing in some green space next to a commercial building.

I also want to point out the -- that the Suffolk County is questioning that Task

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Force Report that was created after public hearings. The report pointed out the lack of equestrian venues and the limited trail network in the county. It's causing horse owners to relocate out of state.

Smithtown has a long history of riding and horse shows. Let's bring it back. The Flowerfield property is large enough to handle an equestrian center to hold events similar to the Hampton Classic. Imagine a Saint James Classic horse show and how it would put Saint James on the maps as a destination. We have the people in our community with the expertise to create a Saint James Classic if Flowerfield can be saved. And saved is the right word.

Long Island is almost gone. I grew up in Queens, not out here. This is back in the 1950's. I overlooked, my apartment did, Horace Harding Boulevard, a tree-lined east-west road. There were still farms in Queens back then. Horace Harding Boulevard soon became the Long Island Expressway. Most of Queens was eventually paved over and open

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space parks like Cunningham and Alley Pond remain. Nassau was paved over, but there was always Bethpage Park. Suffolk as it used to be is nearly gone. Almost all paved over.

A chance to save the last open space in the Saint James area is in your hands. We hope Members of the Planning Board are openminded and take into account the impact of the Gyrodyne liquidation and look for alternatives. Please help our community save Flowerfield as open space parkland.

Thank you for the opportunity.

CHAIRMAN DESORBE: Thank you for your comments, Mayor Dahlgard.

MS. GARGUILO: Next I have Matthew Aracich, and then I believe Supervisor Romaine wanted to speak, as well.

Supervisor, I think you're unmuted. Is that correct? You wanted to speak?

SUPERVISOR ROMAINE: Yes.

MS. GARGUILO: Okay. Okay, great. So I'll call you right after Matthew. Give me one sec to let him in here. Okay. We can hear you.

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MR. ARACICH: Okay. Ready?

MS. GARGUILO: Yes. Thank you.

MR. ARACICH: My name is Matthew Aracich. I am the president of the Building and Construction Trade Counsel for Nassau and Suffolk County, representing 65,000 members in the both Nassau and Suffolk, many of them who live in the Saint James and Smithtown area.

I wanted to make it very clear that the building trades is in favor of the Gyrodyne subdivision. This represents plenty of jobs, hundreds of jobs, in order to make sure that the people who actually live in a community can continue to live here by having good jobs. Jobs that are of good pay. Jobs that provide pensions. Jobs that provide -- that let you have health care. And also the jobs that provide revenue for both the Town, the Village, the County, and the State, as well as the federal government.

One of the things that we know is that in house stock, when we're talking about elder housing, it is insufficient, and if we want to keep people, who have lived here their

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whole life and want to continue to live here to see their grandchild and their children, we have to make sure projects like these are both sustainable and being able to build.

Otherwise, we don't have issues. We have situations such as people moving away. We'll have situations with, you know, your children going to college and not wanting to stick around. And you'll have the flight, which is what has happened over the past few years.

I can tell you one of the things that did happen with COVID is people have taken their time to move out to Long Island. Those that already had summer homes and made them their permanent residences. It has made the economy in Suffolk County, as well as Nassau County, really kinda grow. And sales tax numbers are up considerably because the people who live here spend their money here. And that is a key factor in ensuring that you cannot just survive but thrive on Long Island.

I am confident in Cameron Engineering's position to address the wastewater by making sure that the sewage

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treatment plant is an advanced MBR, Micro Biological Reactor. The reason is we have to ensure that our groundwater is clear, and this is the best way to make sure that this project is built with a state-of-the-art facility so that it meets the requirements or exceeds the requirements that are expected for any project.

Now one of the things is the building trades is the barometer for the economy. So if those that are working can go ahead and continue to work, that means that your economy is actually not only providing opportunities for everybody, but it's also making sure that your tax base is well funded, including your school systems.

But one of the other things I want to talk about is providing opportunities for those that are on Long Island who don't know what they want to do if they don't know if they're going to go to college. The reason is we want to ensure that there is equity, diversity, and inclusion in the building trades.

Without projects like this we can't go ahead and foster new people into the

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apprentice programs. Programs that give people a way to earn a living and remain here on the island. I can tell you that for many, you know, change is very difficult to understand or very difficult to embrace. And while I respect the opinions of every speaker that will be here tonight, we must acknowledge that Smithtown's future depends on making sure that we can continue to have these jobs.

When I say that, you know, we were talking about creating jobs, the apprentice programs are instrumental in ensuring that Long Island will survive. I say that because what happens is when we put these young adults or people that come right out of high school into these apprentice programs, what you're doing is you're not giving them a job. You're giving them a career. A career that will last 30 or 40 years, and when they retire, they retire with dignity.

One of the things that we also have to recognize is the training piece. So I'm gonna make a combination of making the comparison between training and also college



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education. If someone goes to college and they do not have any kind of scholarship, they incur debt. And that can prevent them from buying a home. That can prevent them from, you know, renting an apartment here. But what happens here in the building trades is we ensure that we train our individuals and we pay for that training.

That training provides additional training for later on, such as skill training, and we actually educate more people in the building trades and graduate them then all private colleges combined. That is a significant thing that everybody has to realize. That when they get out of the building trades apprentice program they incur no debt. And that's why, one more time, it's important that projects like these are actually, you know, given the ability to move forward. Because, again, if we do not acknowledge that these projects are the lifeblood of any town, any county, then we're stuck in the past and one of the things is we can just really never move forward.

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So thank you for your time. I appreciate the efforts for everybody on both [sic] the Planning Board, and once again I also acknowledge and respect those that have made their opinions known; that whether they be for or against. Thank you.

CHAIRMAN DESORBE: Thank you for your comments.

MR. ARACICH: Thank you.

MS. GARGUILO: Okay. I'm going to call on Supervisor Ed Romaine.

SUPERVISOR ROMAINE: Okay. Thank you. Can the Planning Board hear me?

BOARD MEMBER UNVERZAGT: Yes, we can hear you.

MS. GARGUILO: Yes.

BOARD MEMBER MARCHESI: Yes.

CHAIRMAN DESORBE: Yes, Supervisor.

SUPERVISOR ROMAINE: Oh, they can see me.

CHAIRMAN DESORBE: Yes.

SUPERVISOR ROMAINE: But thank you to the Planning Board of Smithtown. I appreciate them. I know they have a difficult job to do,

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and this is probably going to be a long hearing. I'm going to make it a little bit shorter because I submitted my written comments to the Planning Board earlier today. So I'm just going to talk about some of the elements.

And I listened to my good friend Matty Aracich from the building trades. He's absolutely right. But not every square inch of Suffolk County needs to be developed, and this is one area that doesn't need to be developed to the maximum.

We are talking about -- if you look at Smithtown's new draft comprehensive plan I think it points out that developments like Gyrodyne should not be approved at this location. Further more, the environmental review of this project is lacking because the supplemental Environmental Impact Statement was not completed from what I'm given to believe. And frankly there was really no real review of the traffic -- the hotel, the housing, the office complex, and the 2,000 car parking lot -- would cause.

Gyrodyne's, and this was pointed out

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by the attorney that spoke earlier, own expert testified in 2010 in a lawsuit that this site should not be developed for -- further because the roads can't handle traffic.

I'm speaking as Brookhaven Town Supervisor because there's a lot of people in my town that are adamantly opposed to this development. We're concerned about the roads. The roads, such as 25A, is already overcapacity. Mills Pond Road, I mean, if I lived in Saint James and I was off of Mills Pond Road I'd be concerned of the traffic that would be generated. And Stony Brook Road is overcapacity and can handle no traffic and the intersection of Stony Brook Road and 25A definitely needs to be redone. Unfortunately the DOT, New York State DOT, has not addressed that.

Look. This huge development that's going to take place is right on the border with our town. It's within 300 feet of Stony Brook Historic District and will be dependent on some of the infrastructure of Brookhaven Town. It will impact the groundwater and the waterways

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in our town.

Unfortunately, there's been very little outreach by the developer to the Town of Brookhaven to address our concerns.

They talk about building a hotel. What about the Three Village Inn or the Hilton Gardens at Stony Brook University or the Stony Brook Holiday Inn Express or the Danford's Hotel or the new hotel that's being proposed at the waterways? Do we really need another hotel and will it be successful?

I am concerned particularly about the traffic because I think the traffic is going to create all types of traffic jams. I'm concerned that we are building something that we really shouldn't. Other people spoke far more eloquently than I did about the lack of open space in the Saint James area.

This is a wonderful opportunity to say, "Wait a second. Some of this land should be preserved. Some of this land should be a park." I think the Mayor spoke to that. He spoke to that eloquently.

We are in absolute agreement with the

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Mayor of Head of the Harbor, the Mayor of Nissequogue, Assemblyman Englebright, County Legislator Kara Hahn, Councilman Jonathan Kornreich from Brookhaven Town, and myself. We do not think that a development of this size and the impact on the environment and on traffic is going to benefit our general area.

I've written specifically about this and I didn't want to get up on my soapbox tonight and I'd beat the drum on this. My written comments speak to this.

But in closing I'm asking the Smithtown Planning Board to consider the factors. I spoke to other people, who speak far more eloquently than I will. But I want to remember finally my friend and civic leader Cindy Smith, who fought against the project. Unfortunately she's not with us tonight. She's not alive. But if she was she'd be here urging you to do the right thing. I think that this projected development will have a negative impact on northeastern Smithtown and northwestern Brookhaven.

I would urge you to consider what is

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good, not only now, but well into the future for our towns and our hamlets in this area of the county. I don't believe that this is the area where we should be developing more office space at a time when office space is no longer needed. I don't believe this is an area we should be developing a hotel when there are plenty of hotels in the area. I don't believe that this type of development is going to benefit the community at large and after all, land use is about intelligent use of your land so it benefits and enhances your community. This does not.

I appreciate your time. I thank you for your effort, and I will just say I know Cindy Smith is looking down on us today hoping that this Planning Board and the Town of Smithtown does the right thing.

Thank you very much.

CHAIRMAN DESORBE: Thank you, Supervisor Romaine.

MS. GARGUILO: Okay. Next is Mr. John Pavaci. Please, if I mispronounced it correct me. Just hit the unmute button, and

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when you're ready give us your name and address for the record and go ahead and speak.

MR. PAVACI: Thank you very much.

Good evening. My name is John W. Pavaci. I reside at 63 Broadway in Smithtown, New York 11787. I am speaking tonight on behalf of the Saint James Head of the Harbor Neighborhood Preservation Coalition, Inc. in regard to the application of Gyrodyne, LLC at Saint James, and I will be submitting a written copy of my comments. I would just ask that at some point if you could please provide an email address or some other means of transmitting written comments, that would be greatly appreciated.

Before I begin my comments in regard to the project, I would like to just provide a brief synopsis of my background. The majority of my career involved serving more than 35 years in public service, primarily in the areas of environmental protection, environmental analysis, land use planning, and open space preservation. This included serving in various capacities in the Town of Brookhaven Division of Environmental Protection, New York State



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Department of Environmental Conservation,  
Suffolk County Department of Parks, Recreation  
and Conservation, and most recently with the  
Central Pine Barrens Joint Planning and Policy  
Commission.

In the course of my tenure I was  
responsible for or oversaw the preparation and  
review of countless documents prepared in  
accordance with the New York State  
Environmental Quality Review Act, better known  
as SEQRA. This has included Declarations of  
Significance, Environmental Impact Statements,  
and Findings, so I am quite familiar with  
SEQRA-required document content and substance.  
In addition, throughout my career I have  
lectured widely on the application of SEQRA.  
So along with my comments on the Gyrodyne  
application, I will be submitting a copy of my  
curriculum vitae.

First and foremost, I would like to  
speak about the cumulative impact analysis.  
The most glaring deficiency of the Gyrodyne,  
LLC environmental impact review process was its  
lack of a truly adequate, sufficient, and

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detailed comprehensive cumulative impacts analysis. This deficiency was first apparent in the DEIS but has been continued and sustained through the FEIS and Findings, as well.

The FEIS and Findings are improperly dismissive of comments made regarding the need for an adequate cumulative impacts analysis, instead of ensuring that the requisite hard look has been undertaken as required by SEQRA. During the SEQRA process it was implied that in order to conduct a cumulative impact review formal development applications must first have been publicly proposed for adjacent and nearby parcels. This is a fallacy.

A good cumulative impact analysis will consider the development potential of all adjacent undeveloped and underdeveloped parcels, as well as those non-adjacent parcels that have a meaningful proximity to the subject site, whether or not actual development applications have been submitted. During the Gyrodyne SEQRA process the zoning, size, and other characteristics of adjacent and proximate

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parcels could have been utilized to determine potential build-out and therefore future cumulative impacts, especially synergistic and incremental impacts, within a specific radius of the project site, such as one quarter to one half mile, but there was a failure to do so.

The cumulative impact methodology I have described has been successfully utilized and applied to other towns on Long Island, so the Town of Smithtown should certainly be capable of ensuring that this is accomplished. Until that occurs, the Town should rescind its SEQRA Findings and require that a Supplemental Environmental Impact Statement be prepared to address this cumulative impact issue, as well as other deficiencies in the Gyrodyne SEQRA process.

As has been stated during the Gyrodyne review process, New York State Route 25A, the main thoroughfare adjacent to the Gyrodyne parcel, is severely constrained in its right-of-way and its capacity to accommodate significant and meaningful traffic mitigation, such as road widening, in response to traffic

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impacts generated by the project. Therefore, without project changes that could significantly reduce traffic generation it can be expected that significant adverse traffic impacts will remain, even after mitigation.

Furthermore, the traffic counts used as the basis of the DEIS and FEIS traffic analysis were conducted in 2017, more than four years ago, and are therefore significantly outdated. Factors such as the impacts of the COVID-19 pandemic and its effects on traffic patterns have not been adequately considered nor have the potential traffic factors generated by the Brookhaven Town side of the project, as well as those from Stony Brook University. Furthermore, the exclusion of the 6:00 a.m. to 7:00 a.m. time period from traffic counts may have missed local school traffic, including that generated by educators, students, and parents. Finally, as has been noted previously, there is a significant disparity between the traffic analysis conducted by Gyrodyne's prior traffic expert during the 2010 court proceedings and that

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contained in the DEIS and FEIS.

For all of these reasons the Town Planning Board should rescind its Findings and require that a Supplemental Environmental Impact Statement be prepared to address these traffic impact deficiencies in the Gyrodyne SEQRA process.

In addition, the Findings state that limits on the maximum hourly trips generated by the Gyrodyne project would be established and then enforced; however, a number of issues with this process have been highlighted and include:

Who will determine these limits and how?

Who will be responsible for monitoring trips generated by the project and how? For example, will the Smithtown Traffic Safety Division install traffic counters on adjacent roads and collect and review traffic count data?

How frequently will such data be reviewed to ensure that the project is not exceeding these limits? What entity will enforce these limits and how? For example,

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once trips reach a certain threshold, will the Town place a moratorium on additional occupancies within the project site?

What entity will enforce these limits on both State and Town roads?

If exceedances of these trip limits are detected how will they be addressed?

Overall, at this time, the Smithtown Planning Board should rescind its SEQRA Findings and require that a Supplemental Environmental Impact Statement be prepared to address this issues, as well as other deficiencies in the Gyrodyne SEQRA process.

As has been discussed during its review, this project involves a number of steps, which includes the subdivision of the site into multiple lots and then the subsequent development of those individual lots. Section 617.3(g) of the SEQRA regulations states that, "Considering only or part of a segment [sic] of an action is contrary to the intent of SEQRA." This is what is known as segmentation.

In order to avoid the occurrence of segmentation, the SEQRA regulations require

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that Environmental Impact Statements address,  
"each part of the action at a level of detail  
sufficient for an adequate analysis of the  
significant adverse environmental impacts."

The Findings, as currently proposed,  
do not contain the level of specificity SEQRA  
mandates to ensure that the future  
site-specific actions generated by this  
project, future individual site plans, are  
considered now.

Pursuant to Sections 617.11(d) and  
(e) of the SEQRA regulations, Findings must  
contain certain elements. These include:

(3) Provide a rationale for the  
agency's decision;

(5) certify that...adverse  
environmental impacts will be avoided or  
minimized to the maximum extent practicable by  
incorporating as conditions to the decision  
those mitigative measures that were identified  
as practicable.

The requirement to include such  
conditions, including any that lie outside of  
the scope of the Planning Board's jurisdiction,

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for example, those that may be the purview of the Board of Site Plan Review and the New York State Department of Transportations, is further emphasized in this most recent edition of the SEQRA Handbook.

Accordingly, the Town Planning Board should rescind its SEQRA Findings and require that a Supplemental Environmental Impact Statement be prepared to address these issues, as well as other deficiencies in the Gyrodyne SEQRA process. Any SEQRA Findings it seeks to adopt should describe, enumerate, and specify the particular standards that will be applied to all subsequent individual site plans arising from the Gyrodyne subdivision including specific traffic limits, sewage and water quality standards, building height limits, architecture, signs, lighting, and related standards to ensure consistency and uniformity and to ensure that environmental impacts are minimized to the greatest extent possible. This will also ensure that impermissible segmentation does not occur.

As was demonstrated during the review



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of the project, a significant portion of the project site is located in a National Historic District and contains several National Register historic structures. Although there has finally been an acknowledgment about the presence and existence of these historic elements, no plan has been put forth to ensure the continued maintenance and repair of the historic structures nor the perpetual protection of the integrity of the historic district and the viewscape of which it is a part.

No plan has been formulated to:

Require the preparation and submittal to the Town of annual architectural and engineering reports on the status of the structures;

Describe the measures the applicant will undertake to stabilize, repair, maintain, and ultimately restore the historic structures while ensuring their historic integrity and monitoring by the Town to ensure that these measures are implemented;

Describe particular design features,

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again, including specific height limits, building architecture, signs, lighting, etc., that will be required of the project to minimize potential impacts of any future Gyrodyne development proposals on the historic district.

Accordingly, the Town Planning Board should rescind its SEQRA Findings and require that a Supplemental Environmental Impact Statement be prepared to address these issues, as well as other deficiencies previously mentioned.

In regard to open space, there continues to be a misapplication of that term to include the 13.5 acres of managed landscape to be established on the project site. Actively maintained areas, such as lawn and landscaped areas, are not generally included in a formal open space definition. Areas that are not formally dedicated to or covenanted as open space are suspect, especially if the land-banked parking spaces are being counted as open space.

Although statements have been made

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that public access will be provided to open space areas on the project site, including walking and nature trails, no mechanism for formally ensuring public access is provided, especially if the interior roads are private.

Until these open space issues are adequately addressed the Smithtown Planning Board should rescind its Findings and require a Supplemental Environmental Impact Statement.

During the SEQRA process, references continued to be made to the fact that additional supplemental plantings, consisting solely of native plant species, will be provided in the existing buffer.

In its Findings the Town should have outlined the specific parameters for native plantings that should be applied to every subsequent site plan. This should include a requirement that a sufficient minimum number of woody, native trees and shrubs be utilized because herbaceous plants do not provide significant visual buffering. Furthermore, the Findings should provide a listing of the specific native species to be used, minimum