

EXHIBIT 13



Town of Brookhaven
Long Island

Edward P. Romaine, Supervisor

April 13, 2021

Town of Smithtown Planning Board
124 West Main Street
Smithtown, NY 11787

Re: Final Environmental Impact Statement (FEIS) for the Gyrodyne LLC Subdivision

Dear Smithtown Planning Board Chairman Erhardt and Members:

I am writing to express my concern regarding the Town of Smithtown Planning Board's acceptance of the Final Environmental Impact Statement (FEIS) for the subdivision approval for Gyrodyne LLC. The FEIS is deficient in that it does not adequately address the substantive comments received at the January 8, 2020 public hearing and the subsequent written comment period ending on January 24, 2020. Specifically, the comments and concerns of the Town of Brookhaven as expressed at the hearing and in the January 17, 2020 letter to the Town of Smithtown Planning Board have not been adequately addressed pursuant to the State Environmental Quality Review Act (SEQRA).

Despite the lack of communication by the Town of Smithtown and a substandard SEQRA process that consisted of one public meeting and a minimum written comment period, the Town of Brookhaven has responsibly provided the Town of Smithtown Planning Board, as lead agency, with information and concerns, with respect to the Town of Brookhaven's areas of expertise and jurisdiction, which should have been addressed during the Environmental Impact Statement (EIS) process. It seems that the concerns, comments, and recommendations of the Town of Brookhaven have gone unanswered in the acceptance of the FEIS and the corresponding FEIS Development Plan.

The Town of Brookhaven has expressed their significant concerns regarding the proposed project including impacts to traffic, preservation of open space, impacts to aesthetics, historical concerns, lack of suitable alternatives, siting of the sewage treatment plant, water quality, adverse impacts to Stony Brook Harbor, economic impacts, and climate change. These substantive concerns were dismissed and responded to in a series of non-answers that simply preserved the preferred alternative of the applicant. A 125-room hotel, 153,110 square feet of office/medical office, and a 250 unit assisted living facility in addition to the existing development on the property as described in the FEIS and the associated traffic and environmental impacts were never envisioned nor do they belong in the Three Villages area and certainly not within the Long Island North Shore Heritage Area (LINSHA). The proposed project will adversely impact the overall scenic, aesthetic, historic, cultural, and physical character of the NYS Route 25A corridor area and the historic communities and landscapes that it connects.

The significant historical and aesthetic resources exist at the intersection of NYS 25A/North Country Road and Stony Brook Road and along NYS 25A/North Country Road east of the proposed Gyrodyne LLC Subdivision which are under the jurisdiction of the Town of Brookhaven. These resources need to be vigorously protected from the substantial adverse environmental impacts of the overdevelopment of the Gyrodyne property. Furthermore, any construction or alteration of the area roadways to increase the capacity for access to the

Town of Brookhaven

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development would be inconsistent with the *Route 25A - Three Village Area: Visioning Report for the Hamlets of Stony Brook, Setauket and East Setauket* and will be addressed accordingly in any approvals sought from the Town of Brookhaven by the applicant.

The Town of Brookhaven believes that the proposed office/medical office use will not be developed in the current real estate market, as evidenced by the continuing inability to lease the condemned Gyrodyne properties currently in the ownership of the State. This proposed use seems like a strategy to complete the SEQRA review process in an expedited manner with less opposition from area residents and the local school district. Once a findings statement is adopted by the Town of Smithtown Planning Board, Brookhaven Town is concerned that there will likely be a future amendment to any approval to replace the proposed use with a market friendly multi-family housing component to be served by the proposed sewage treatment plant.

The proposed sewage treatment plant is planned to be located on land directly abutting land located in the Town of Brookhaven and does not take into account the impacts to the adjoining neighbors in terms of odor, visual impacts, and use. The placement of the sewage treatment plant immediately adjacent to single family homes is unacceptable. Furthermore, the proposed sewage treatment plant with a 100% expansion capacity for 200,000 gallons per day of sanitary effluent to be released to the subsurface leaching fields will taint Stony Brook Harbor for generations and perpetuate the current status quo of harmful toxic algal blooms, low dissolved oxygen, fish kills, and waters closed to shellfishing.

A failing of the EIS is the lack of consideration of the *2020 Suffolk County Subwatersheds Wastewater Plan* (SWP). According to the SWP, Stony Brook Harbor is an impacted embayment with high levels of nitrogen and is identified as a high priority area for nitrogen reduction. The EIS claims that the volume of sanitary flow will increase due to the proposed development and that the resultant nitrogen will only slightly decrease at final development due to the sewage treatment plant. This does not comply with the SWP recommendations to reduce the current amount of nitrogen in Stony Brook Harbor by 37% which would require the sanitary flow from Gyrodyne to decrease by 37%, otherwise nitrogen traveling to Stony Brook Harbor will remain at levels that will continue to endanger the viability of the harbor. This impact is compounded by the fact that the proposed location of the STP is in a rapid transit watershed near Stony Brook Harbor and will be magnified by the fact that Stony Brook Harbor is poorly flushed due to the gyre in Smithtown Bay that prevents dispersal of the nitrogen load for an additional four (4) days as determined by SUNY Stony Brook. This retention results in the largest hypoxic dead zone east of New York City and requires further study.

The EIS does not address how to mitigate the significant amounts of pharmaceuticals that will be contained in the sanitary effluent from patients and residents in the proposed medical offices and nursing home uses. It is generally accepted that current sewage treatment technologies are not effective at removing pharmaceuticals in the wastewater stream. More significantly, the EIS ignores the potential for doubling the projected sanitary flow due to the real possibility of the St James business district connecting and sending the sanitary effluent to the proposed sewage treatment plant. Gyrodyne has been somewhat duplicitous in offering to hook up the St James commercial district and process its sanitary effluent of approximately another 79,000 gallons per day and has not addressed that option in the EIS. This is commonly considered segmentation and contrary to the SEQRA. It is obvious that the groundwater and surface water issues associated with the realization of the FEIS Development Plan are more complicated than analyzed in the EIS. The protection of Stony Brook Harbor requires a "hard look" and honest analysis of impacts from the proposed sewage treatment plant.

Current planning for subdivisions utilizes the cluster or conservation subdivision design that results in developments where half or more of the buildable land area is designated as undivided and permanent open space. The subject property, consisting of previously developed and undeveloped areas that constitute a significant

ecological value exist on the property in an alignment that would be best served by concentrating the development to the southern half of the property and preserving a portion of the well-established natural and undisturbed areas in the northern half of the property adjacent to the existing residential development. These undisturbed areas are not suitable for the siting of a sewage treatment plant with a 100% expansion but rather would best be utilized as a preserved contiguous open space component incorporating the 200-foot buffer along NYS 25A/North Country Road. The evaluated development alternatives do not even consider an alternative subdivision layout and do not meet the SEQRA requirements for subdivision alternatives. A true conservation subdivision design was not properly analyzed in the EIS process and leads to the conclusion that the SEQRA process for the proposal is flawed.

Finally, as I had discussed at the public hearing, it is unusual for a Town Supervisor to speak in opposition to a land use project in another Town. However, the impacts that this project will have on the adjacent communities in the Town of Brookhaven will be far reaching for our residents. Please consider a true alternative that represents the rural and bucolic nature of the community while preserving natural resources for future generations rather than the monstrosity that is the FEIS Development Plan.

Sincerely,



Edward P. Romaine
Supervisor

EPR/pef

cc: Steve Englebright, Assemblyman, District 4, New York State Assembly
Jonathan Kornreich, Councilmember, District 1, Town of Brookhaven
Annette Eaderesto, Esq., Town Attorney, Town of Brookhaven Department of Law
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George Hoffman, Three Village Civic Association