

**Town of Rotterdam Planning Commission  
Minutes of June 18, 2024 Meeting**

The Rotterdam Planning Commission held a meeting on Tuesday, June 18, 2024, at 7:30 p.m. at the Rotterdam Town Hall, 1100 Sunrise Boulevard, Rotterdam, New York 12306.

Present:	Kimberly Ricker Scannell, Chairman Lynn Flansburg, Vice Chairman Clark Collins Wayne Calder Joseph Signore Joseph Miglucci Peter Comenzo, Town Planner Courtney Heinel, Attorney Marlo Carter, Secretary	Excused: Mark D'Alessandro
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Chairman Scannell called the workshop to order at 7:00 p.m.

Attendance was taken and it was determined that there was a quorum.

**Waivers:**

1. **Gary & Lalleta Rai & Guy Bassi – 1971 Hamburg Street and 1985 Hamburg Street.** The applicant requests a Waiver of Subdivision to Boundary Line Adjust ±579 square feet from 1985 Hamburg Street (Tax Map No.49.19-7-14) to 1971 Hamburg Street (Tax Map No. 49.19-7-15) and ±86 square feet from 201 Schermerhorn Street (Tax Map No. 49.19-7-13) to 1971 Hamburg Street (Tax Map No. 49.19-7-15). Surveyor: Koch Land Surveyors.

Motion was made by Mrs. Flansburg to approve the Waiver conditioned on the following:

1. The final maps (with all necessary changes discussed at the Planning Commission) need to be submitted for signature and filing with Schenectady County.
2. The Planning Commission Chairman will sign up to two (2) Mylar's (one for Schenectady County and one for the applicant).
3. The signed Mylar's need to be filed with Schenectady County Clerk's Office within 10 days.
4. After signature and filing with Schenectady County, six paper copies shall be returned to the Planning Commission office.

Mr. Collins seconded the motion and vote resulted in unanimous approval of the motion.

2. **Damian Castro – 93 W. Campbell Road.** The applicant requests a Waiver of Site Plan review to hold a circus at Rotterdam ViaPort Mall from August 2, 2024 – August 11, 2024 in parking Lot E (southern portion of former K-Mart lot).

Motion was made by Mr. Calder to approve the Waiver conditioned on the following:

1. Compliance with all NYS Building and Fire Codes.
2. Compliance with all applicable state and county laws and regulations, including as applicable, Department of Labor safety inspection/approval requirements and Department of Health inspection/approval requirements.
3. Applicant must obtain a Fire Inspection and/or Building Permit and be issued a Certificate of Occupancy from the Town of Rotterdam Building Inspector/Code Enforcement Officer prior to operation.
4. Applicant shall receive a carnival permit from the Town of Rotterdam Town Clerk prior to operation.

5. Applicant to comply fully with Town Sign Code and obtain a building permit for any signage.
6. All applicable NYS and CDC Guidelines shall be followed. Please visit [forward.ny.gov](http://forward.ny.gov) and [www.cdc.gov](http://www.cdc.gov).

Mr. Miglucci seconded the motion and vote resulted in unanimous approval of the motion.

3. **Benjamin Flower – 903 Old Mariaville Road & 1630 Mariaville Road.** The applicant requests a Waiver of Subdivision review to Boundary Line Adjust ±0.58 acres from 903 Old Mariaville Road (Tax Map No. 37.-4-10) to 1630 Mariaville Road (Tax Map No. 37.-4-9).

Motion was made by Mr. Collins to approve the Waiver conditioned on the following:

1. The final maps (with all necessary changes discussed at the Planning Commission) need to be submitted for signature and filing with Schenectady County.
2. The Planning Commission Chairman will sign up to two (2) Mylar's (one for Schenectady County and one for the applicant).
3. The signed Mylar's need to be filed with Schenectady County Clerk's Office within 10 days.
4. After signature and filing with Schenectady County, six paper copies shall be returned to the Planning Commission office.

Mrs. Flansburg seconded the motion and vote resulted in unanimous approval of the motion.

Attendance was taken and a determined there is a quorum.

The Pledge of Allegiance to the Flag was recited.

**Ms. Scannell:** First up is approval of the summary minutes of May 21<sup>st</sup>.

**Mr. Collins:** I will make that motion.

**Mrs. Flansburg:** I'll second it.

**Ms. Scannell:** Marlo, could you please call the roll.

**Ms. Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Ms. Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Ms. Carter:** Mr. Calder?

**Mr. Calder:** Yes.

**Ms. Carter:** Mr. Signore?

**Mr. Signore:** Yes.

**Ms. Carter:** Mr. Miglucci?

**Mr. Miglucci:** Yes.

**Ms. Carter:** Ms. Scannell?

**Ms. Scannell:** Yes.

1. **Gary Rai – 1971 Hamburg Street. Waiver of Site Plan/Special Use Permit Public Hearing to install a 26.9' x 34.4' (±925 square feet) garage on a ±0.36-acre parcel with an existing two-family residence and existing upholstery/canvas shop. Surveyor: Koch Land Surveyors PLS.**

**Ms. Scannell:** Please come up to the podium, Mr. Rai.

**Mr. Rai:** We had to, we were, we had some issues with being too close to a neighbor and we had to have an easement and I think Peter knows that we had that all corrected and we presented it...

**Mr. Comenzo:** It's been a long process.

**Mr. Rai:** It's been a very long process. We took a couple of steps forward and then we had to go backwards and then we were in a stalemate and now we have everything pretty much resolved.

**Ms. Scannell:** Does anyone have any questions, let's see Mr. Miglucci, questions, concerns or comments?

**Mr. Miglucci:** No. I think everything looks cut and dry to me with what he wants to do.

**Ms. Scannell:** Mr. Calder?

**Mr. Calder:** I just wanted to double check, that is going to be cold storage and no services in there at all.

**Mr. Rai:** No storage, no running water, no electricity, just cold storage.

**Mr. Calder:** No electricity?

**Mr. Rai:** No.

**Mr. Calder:** That is all that I have, thank you.

**Ms. Scannell:** Mr. Signore?

**Mr. Signore:** I'm okay with it. I went by there today and you really keep the property neat. It looks nice.

**Mr. Rai:** It's been a long process. My father was there in that upholstery shop for 50 years. I took it over about ten (10) years ago and I really went to work to make it look pretty and functional as a shop. I was debating whether to move into another place to have more but I wanted to stay there because my dad was there. But at the same time, I have to make it work to make it work for me.

**Ms. Scannell:** We are glad that you stayed. We really are. How is your business going over there?

**Mr. Rai:** This has probably been one of the best years for me being in business for 40 years. It's been going great.

**Ms. Scannell:** Great, I'm so glad to hear that. Very good. Mr. Collins?

**Mr. Collins:** No questions.

**Ms. Scannell:** Mrs. Flansburg?

**Mrs. Flansburg:** No questions.

**Ms. Scannell:** With regard to SEQR and this is a Type II Action so, no further review is required. I'm going to open the public hearing right now. If there is anyone that would like to come up and speak. Is there anyone here for the public hearing that would like to come up and speak? Since there is no one here, I'm going to close the public hearing.

**Ms. Scannell:** I would entertain a motion for the special use permit.

**Mr. Collins:** I will make that motion.

**Ms. Scannell:** Do I have a second?

**Mr. Signore:** I'll second.

**Ms. Scannell:** Marlo, can you call the roll please.

**Ms. Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Ms. Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Ms. Carter:** Mr. Calder?

**Mr. Calder:** Yes.

**Ms. Carter:** Mr. Signore?

**Mr. Signore:** Yes.

**Ms. Carter:** Mr. Miglucchi?

**Mr. Miglucchi:** Yes.

**Ms. Carter:** Ms. Scannell?

**Ms. Scannell:** Yes.

I will also entertain a motion for a Waiver of Site Plan Review.

**Mrs. Flansburg:** I will make the motion that we approve the waiver of site plan.

**Mr. Calder:** I'll second it.

**Ms. Scannell:** Marlo, can you please call the roll, please.

**Ms. Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Ms. Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Ms. Carter:** Mr. Calder?

**Mr. Calder:** Yes.

**Ms. Carter:** Mr. Signore?

**Mr. Signore:** Yes.

**Ms. Carter:** Mr. Miglucci?

**Mr. Miglucci:** Yes.

**Ms. Carter:** Ms. Scannell?

**Ms. Scannell:** Yes.

Congratulations, you are all set with that, and it looks like your final fees were due in the amount of \$40.15 and you can just figure that out with Lisa and Peter.

**Mr. Rai:** Thank you, guys, so much. I appreciate it.

**Ms. Scannell:** Thank you and congratulations and continued success.

**Mr. Rai:** Thank you.



Town of Rotterdam  
Office of the Planning Commission

Kimberly Ricker Scannell, Chairman  
Peter J. Comenzo, Senior Planner

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Resolution Number Planning Commission 32-2024

Moved by Mr. Collins seconded by Mr. Signore

Applicant: Gary Rai

- Applicant:** Gary Rai
- Project Location:** 1971 Hamburg Street  
Rotterdam, New York
- Tax Number or Numbers:** 49.19-7-15
- Proposed Project:** Special Use Permit Public Hearing to install a 26.9' x 34.4' (±925 square feet) garage on a ±0.36-acre parcel with an existing two-family residence and existing upholstery/canvas shop.

**WHEREAS**, a public hearing was conducted by the Town of Rotterdam Planning Commission on June 18, 2024, to consider the above referenced Special Use Permit; and,

**WHEREAS**, this matter was discussed and approved, as meeting the standards for a Special Use Permit Review as set forth in Chapter 270 of the Code of the Town of Rotterdam entitled ZONING; and,

**WHEREAS**, the Town of Rotterdam Planning Commission after careful consideration of the application, testimony of the applicant and/or representative and members of the public in attendance at the hearing, and all other materials of record **HEREBY APPROVES THE SPECIAL USE PERMIT; NOW**

**IT IS HEREBY RESOLVED THAT** this Special Use Permit is approved with the following conditions as stipulated by the Planning Commission:

1. Compliance with all NYS Building and Fire Codes.
2. Applicant must obtain a Fire Inspection and/or Building Permit and be issued a Certificate of Occupancy from the Town of Rotterdam Building Inspector/Code Enforcement Officer prior to operation.
3. Applicant to comply fully with Town Sign Code and obtain a building permit for any signage.
4. Applicant shall file the Boundary Line Adjustment Subdivision of ±579 square feet from 1985 Hamburg Street (Tax Map No. 49.19-7-14) to 1971 Hamburg Street (Tax Map No. 49.19-7-15) and ±86 square feet from 201 Schermerhorn Street (Tax Map No. 49.19-7-13) to 1971 Hamburg Street (Tax Map No. 49.19-7-15). Proof of filing must be submitted to DPW.
5. Final Fees Due: \$40.15

Peter J. Comenzo  
Senior Planner

Kimberly Ricker-Scannell  
Planning Commission Chairman



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*Office of the Planning Commission*

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**Resolution Number PC33-2024**

Moved by Mrs. Flansburg seconded by Mr. Calder  
Applicant: Gary Rai

**WAIVER OF SITE PLAN REVIEW**

**Date:** June 18, 2024

The Town Planning Commission Office has received the attached application and accompanying documents. The below-identified applicant requests a waiver of Article XVII "Site Plan Approval", stating that a site plan review and approval is unnecessary and would not serve the purpose of the Article.

**APPLICANT:** Gary Rai  
**ADDRESS:** 1124 Owen Road  
Schenectady, NY 12303

**PROJECT ADDRESS:** 1971 Hamburg Street, Rotterdam, New York

**APPLICANT IDENTIFIED AS:**  Owner     Lessee     Contract Vendee

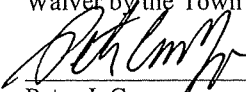
**REQUEST:** The applicant requests a Waiver of Site Plan Review to install a 26.9' x 34.4' (±925 square feet) garage on a ±0.36-acre parcel with an existing two-family residence and existing upholstery/canvas shop.

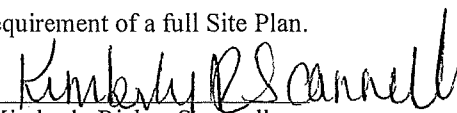
**Action Taken by Commission:**

In accordance with Chapter 270 of the Town of Rotterdam Zoning Ordinance, Article XVII, "Site Plan Approval", Section 270-130(C) the Planning Commission waives the requirements set forth in said Article, conditionally. Conditions imposed, if any, are as follows:

1. Compliance with all NYS Building and Fire Codes.
2. Applicant must obtain a Fire Inspection and/or Building Permit and be issued a Certificate of Occupancy from the Town of Rotterdam Building Inspector/Code Enforcement Officer prior to operation.
3. Applicant to comply fully with Town Sign Code and obtain a building permit for any signage.
4. Applicant shall file the Boundary Line Adjustment Subdivision of ±579 square feet from 1985 Hamburg Street (Tax Map No. 49.19-7-14) to 1971 Hamburg Street (Tax Map No. 49.19-7-15) and ±86 square feet from 201 Schermerhorn Street (Tax Map No. 49.19-7-13) to 1971 Hamburg Street (Tax Map No. 49.19-7-15). Proof of filing must be submitted to DPW.
5. Final Fees De: \$40.15

The Commission action on the Waiver application took place at the Planning Commission meeting of June 18, 2024, and authorized the Commission Chairman to execute the Waiver. The issuance of this Waiver is contingent upon the applicant complying with all conditions as stated above. Failure to adhere to conditions may result in revocation of Waiver by the Town of Rotterdam Planning Commission and requirement of a full Site Plan.

  
Peter J. Comenzo  
Senior Planner

  
Kimberly Ricker Scannell  
Planning Commission Chairman

**2. Poentic Kill, LLC (Lessee) – 635 Mariaville Road. Request for an extension to an approved Special Use Permit issued on June 20, 2023, for the location of a 5-megawatt battery storage facility on a ±2.23-acre parcel. Engineer: Empire Engineering, PLLC.**

**Ms. Scannell:** It looks like the engineer is Empire Engineering. Is someone here. Hi, how are you?

**Mr. Lariscy:** I'm well, thanks.

**Ms. Scannell:** Should I call you Empire?

**Mr. Lariscy:** Actually, I'm with Bluewave. I think we listed the engineer.

**Ms. Scannell:** What is your name?

**Mr. Lariscy:** Josh Lariscy. I am Director of Development at Bluewave, Storage Development.

Nice to meet you all and I know we haven't had a chance to speak. I've met Peter once before with my colleague Alex. Obviously, we have requested an extension of our existing permit for the 5MW battery storage facility. I know that we also talked with Peter about it and I'm sure you're all well aware that we are contemplating a switch to a lithium battery system. I would like to kind of keep that separate from the conversation on the extension of the permit. Primarily, for a few reasons, one, part of the extension, the use of the current permit, is due to the fact that the PTR process with utility has taken longer than expected. The other reason is that even though we are considering or evaluating the switch to potential lithium, we understand that is different than what was permitted with the Commission. Certainly, our intent is not to extend the permit and try to push through some change to a lithium system through some administration action or anything like that. It is different than what was permitted with you. If that were to be something that we would want to do, we expect we would be submitting something new to the board to come back, have that discussion or even have that discussion on whether or not it could be under the existing permit or not or whether it would constitute a new permit and I would assume that would need to be determined with Town Counsel, the Commission, and the Planner.

The other reason would be that the existing permit, which still certainly has a hope that something emerges, that the zinc system is still viable in some way. So, the primary reason we are no longer looking at it at the current moment is just that unfortunately, these systems require very complex financing to build. Find a financer who is comfortable with what I will call a new technology, lithium is fairly proven, and it has been around for a while now with larger scale systems. The zinc system is something that has not yet been proven on a large enough scale to get financed in a relatively straightforward commercial sense.

That being said, I have been working on battery projects for three (3) to four (4) years, things change really rapidly and it's certainly possible that something changes within the next six (6) months to a year where, our owners, Bluewave or we find a financer who is comfortable financing the zinc system and if that is the case it is something we can evaluate and still look to moving forward under the existing system that was permitted by the Commission. So, that is one of the reasons why we want to keep that existing permit active to keep the opportunity alive so that we can still do a system with the zinc. I, personally, would really like to see that happen just in an interest of the industry, diversification of technology, there's the obvious safety concerns and risks after you mitigate it with lithium systems and that is one of the reasons why we wanted to look at zinc in the first place.

I will stop there. I'm happy to answer questions about either the extension or what we are considering with the potential to switching to lithium and how that might happen. I will open it up to the Commission for thoughts and questions.

**Ms. Scannell:** Thank you. I want to thank you for being forthright about the possible future for lithium battery. I do appreciate that. What is going on with National Grid?

**Mr. Lariscy:** So, communication has been slow with National Grid. That has been our situation regardless of the avenue we are going under, whether it's pursuing an easement, interconnection agreement itself. We have continued to talk with them and right now, we have sent over data on a lithium system with respect to UL9548 testing which documents temperature, grades of heat release, these tests involve causing a lithium system, specifically the one that we would like to use to undergo thermal runaway and then observe the affects to see is there fire, what it looks like, again, there's measurement of gas, temperature, heat, the general condition of the system after the event. So, we submitted that information to National Grid, their gas engineering department. What we want to do, before we would ever come back to the Board to formally request a switch to lithium, we would want to have everything settled with National Grid's Gas Engineering Department with respect to their comfort and approval, if you will. We are still working out what that would look like in terms for them to approve a lithium system in terms of setbacks, general requirements of the system from specification standpoint. That is what we are doing right now. We wouldn't come back to the Board to really discuss the switch to lithium until all that has been worked out with National Grid.

**Ms. Scannell:** How has the progress been with National Grid with regard to the zinc battery?

**Mr. Lariscy:** With the zinc battery, technically speaking, that's progressed as we expected. I would say again, the PTR to cross National Grid's gas easement, that's been the hang up. We had submitted docs for that and they are still, that is what is taking longer this past year, more than we expected and then once we realized that the zinc system might not be financeable at the current moment, that is when we also started talking to them about a potential switch, so, that kind of further slowed things down.

**Ms. Scannell:** Does Bluewave have other zinc batteries in New York?

**Mr. Lariscy:** No, we do not.

**Ms. Scannell:** Where do you have them?

**Mr. Lariscy:** We don't have any. This would have been our first commercially financed and constructed system. The provider of the zinc batteries, EOS, they have deployed some systems elsewhere. I can certainly get a list of that to provide to the Commission. I think part of the trouble is that it's been difficult to find financing for it. So, typically financiers rely across, really many development industries solar, battery storage, they rely on independent engineers and list of specifications of technology and basically kind of rubber stamp that this is a tier 1 system. So, in solar there is tier 1 panels, kind of likewise in storage, there is Tier 1 storage systems and pretty much all of those are exclusively lithium at the current time.

**Ms. Scannell:** One of the questions that I've had since reviewing the DPW comments from last year and I notice that you never came in to finalize your special use permit. The sound study was never followed up on. The noise study, so, did you guys just say we are probably not going to be able to move forward with the zinc battery. I'm just trying to understand why Bluewave never followed up with actually finalizing the special use permit.

**Mr. Lariscy:** I think it just has to do with the doubt of whether or not we could get the zinc system financed. There was an effort, again, I know I wasn't involved with the time, there was an effort to permit the system with the zinc battery. There were documents submitted as part of that process, the initial sound analysis. I think at the time or once we didn't follow up on additional permit conditions such as follow up sound study or any additional analysis that was required that would have been because at the time we were unsure if we would be able to continue. We were basically given a pencil down to not move forward, mainly because of additional costs. Not incurring additional costs until we know whether or not it is something we can move forward with. That was the main reason. There was certainly some internal delay on that with respect to that.

**Ms. Scannell:** Mrs. Flansburg, questions, comments, or concerns?

**Mrs. Flansburg:** I'm a little confused. So, you're here asking for an extension on the zinc storage which you said that they kind of stopped thinking about and in pursuit of this other opportunity. So, I'm not sure why you would want us to extend something if you're either not going to use it because it's not going to get financed or because you're going to switch to lithium, which would be, to me, a different project.

**Mr. Lariscy:** That's a good question. So, for the development team, it's an issue of or not an issue but due to the fact that everything has moved very rapidly with respect to batteries. Just yesterday it was announced that the first transmission scale battery storage system was financed in Massachusetts. One of the first few in Northeast to that scale have been financed. I bring up that example just to illustrate everything happening with batteries right now. There are a lot of new things happening whether that's new products, safety certifications, recommendations, regulations from the state or federal government. My, even though right now, we do not have an indication that a zinc system could be financed and built and I don't want to lose the opportunity for it to happen should say in six (6) months, EOS, the provider we have worked with on the zinc system suddenly deploys more systems and then there is a financier that emerges that is comfortable using EOS batteries on its site.

I know that there was a lot of work with the Planning Commission to come to the conclusion then comfort with the zinc system that it was safe, and I would just hate to see that permit expire should conditions change. I'm not going to sit here and say that I think that it's likely that they will, and I absolutely agree that a lithium system is different than what was permitted so we would have to come back and be before this board again. I know you are also in a moratorium, so, there is also discussions around that and how that interacts with any potential change or new application, but I just want to preserve the opportunity should things in the unlikely direction that we could still pursue the zinc system.

**Mrs. Flansburg:** Quick sort of legal question, could we be here another year from now to extend again? Is there a limit on the number of asks.

**Ms. Heinel:** We discussed earlier that there have been other properties that have gotten multiple extensions for their site plan approvals. It's up to the board on whether or not they want to put a limit on that number. There is none written into it. There is no finite limit. It's up to the board to make a determination of what is in the best interest of the Town to stop extending something.

**Mrs. Flansburg:** As long as it can be clearly delineated that I would be okay with an extension of this project as it is now and that it would not therefore mean that I would be open to it being converted to a lithium. I think that would be a new project, new application.

**Mr. Lariscy:** We have no intent to six (6) months from now submit a building permit application as a lithium system. That would be tossed out immediately. That's not our intent.

**Mrs. Flansburg:** That way, that it is clearly on the record it wouldn't be our intent to have it just replace this one and it would be something separate.

**Mr. Lariscy:** I have no issues with it being made a condition of extension or some language that specifies that any kind of specification from zinc to really anything else, lithium or otherwise, that we would have to come back before the Planning Commission.

**Ms. Scannell:** Have you ever received any direction from the Task Force?

**Mr. Lariscy:** That's a great question. They just released another revision to their recommendations this past week. We are active in New York Best conversations, the state battery working groups as well as we continue to talk to as many folks that are involved with the Task Force as possible. I have read through their recommendation's multiple times. There are a few that the Bluewave and the developer community have, I'll call pushback on or really more discuss with

the state like feasibility of certain requirements or proposed requirements. Mainly things like response times, sometimes people are contemplating what's an appropriate response time like physical on site versus remote, who is that person who responds, does it have to be a company representative or can it be, or directly with the company, those kinds of things. But for the vast majority of recommendations are ones that Bluewave supports and would implement on any project.

**Ms. Scannell:** Do you see this going to be state guidance that is going to be legislation? I'm just curious what your take is because this is what you do.

**Mr. Lariscy:** I think there's a potential for, I think it's possible that in the future there could be state legislation that deals with battery systems, specifically "Inaudible" jurisdiction right now doesn't cover battery systems. I would say that I think it will change at some point in the future. I don't know when. Just given that particularly for large scale, when I say large scale, I mean 100's of megawatts.

**Ms. Scannell:** California has legislation now, right?

**Mr. Lariscy:** Yes, I believe so. Massachusetts and Connecticut have state permitting, well Connecticut has any generating facility above 5MW does too. So, by default, all those projects go to the state. I think state permitting processes could be really good. They are usually much more rigorous than the town process and the state typically can pull in resources that towns may struggle to find or have resources. There has been a discussion of developers paying peer review fees for towns to bring in special engineers, more subject matter experts to review lithium systems. I think that would be a great idea. I think developers should pay money to have the right people to come in for towns to review these projects. To answer your question concisely, I do think there could be changes at the state level for legislation and incorporate those recommendations. I think it is more likely that in the near term it will be things like you can't get a fire permit, you can't get the fire department to sign off and say that this system is an "Inaudible" Certified or meets fire code without incorporating those recommendations or regulations.

**Ms. Scannell:** Thank you. Mrs. Flansburg, do you have anything else? I'm sorry.

**Mrs. Flansburg:** No, thank you.

**Ms. Scannell:** Mr. Signore?

**Mr. Signore:** Would it make more sense if you came, you want the permit extended I understand that but would it make more sense when you knew for sure which type of battery it's going to be for instance and if Nimo gives you the easement to cross or to have the financing? Would you kind of get all of those ducks in a row and then approach us?

**Mr. Lariscy:** I'd say were this to be a complete new project, there were no permits, if we were starting with no permit and we were still unsure some of these things I would take care of all those things before coming to the Planning Commission to request anything. It goes without saying, but applications even if they are, let's say if the permit were to expire and were to come back and say it turns out we can do zinc and we want to get a new permit that is basically the same as before, let's say that goes pretty quickly or smoothly with the Planning Commission it still costs an amount of time and money on our part. There has to be a public hearing. It would still take at least several months and obviously we are in the business of having projects being developed as quickly as possible. So, for us it's a matter of months can make a big difference at times whether it's with financing or hurdles with the federal regulations with respect to tax credits, those types of things. So, sometimes months really matter and that is why we would want to keep the permit active.

**Mr. Signore:** I don't believe the permit be extended before all of this other stuff is in place. There must be discussion going on outside of the permit extension about the financing and everything that is involved in here.

**Mr. Lariscy:** There is. I guess it would be, it sounds like it's almost getting to that you could extend the permit conditional that these other things line up or we work through them. That is effectively, I mean we can't proceed with the project regardless of whether or not we finish the PTR process and obviously if it's extended and the financing doesn't work out the project will not get built. So, again, I think the way I view this is purely additional time and money for this permit to expire and should the zinc option no longer be available. I will say, if we no longer have the active permit of the zinc battery there is still going to be a push to certainly to, as I just mentioned, we want to develop projects quickly and that is basically our mandate. We would still be evaluating the potential switch to lithium but if the zinc permit is active then that certainly factors into our decision. Maybe that makes us on our end more of an impetuous to wait and to still evaluate lithium but maybe to wait and see if the zinc financing can materialize and come through.

**Mr. Signore:** Thank you.

**Ms. Scannell:** Thank you, Mr. Signore. Mr. Miglucchi?

**Mr. Miglucchi:** Hearing the word lithium you are talking about putting 5 million watts of power in tin cans within a stone throw behind a flagship Stewart's and a natural gas plant. I would have to actually talk to our fire chief and to make sure that we could handle anything that could go wrong with that. That is where I am at right now.

**Ms. Scannell:** Thank you, Mr. Miglucchi. Mr. Collins?

**Mr. Collins:** I have a question for the Town Attorney. Since they didn't complete the paperwork, "Inaudible..." extension they didn't complete what they were supposed to complete.

**Ms. Heinel:** They have final site plan approval. They were supposed to conduct a post approval study on noise study to make sure that it was accurate and if there was anything additional that was determined by the TDE that we needed it to be "Inaudible" then they would have to complete that. What the board could do, if it wants to extend the special use permit, is that that unmet condition be met within a certain amount of time. Like a sunset clause. If it's not met within that time frame, then their extension dies at that point and the board could set that as the condition to ensure that it gets done if they are going for an extension of the site plan.

**Ms. Scannell:** I would also say that if we're going to have any conditions, another condition would be if the chemistry of the battery changes you would agree that an all-new site plan would have to be submitted and you would be back starting from square one.

**Mr. Lariscy:** My assumption was given the moratorium we kind of be construed as that regardless. I think that is a reasonable condition.

**Ms. Heinel:** I think particularly due to the nature and location of where this is proposed and what is next door to it that is why the chemistry would come in and our SEQR was designated based off the zinc battery not the lithium.

**Mr. Lariscy:** It just wouldn't be appropriate for us to try to change it without a more formal process with the Planning Commission to review information. That is not something, we are not in the business of trying to do things irresponsibly.

**Ms. Scannell:** Are you good Clark?

**Mr. Collins:** I would be okay with it, but I would like the 90-day sunset because you took so long to do it now that if after 90 days it automatically, that's just my personal opinion since given an extension, we've done that before, but I would like 90 days cut off. If it didn't happen within 90 days and you didn't finish your study, then it just goes away.

**Mr. Lariscy:** That's specific to the acoustic noise analysis.

**Ms. Heinel:** I believe the unmet condition is that there was supposed to be a post approval evaluation of the noise study to ensure that it was accurate because there have been some issues with it prior to that. So, we wanted to make sure that the noise study is accurate and if there are any additional measures were needed as part of that review that those would be incorporated into the final plans.

**Ms. Scannell:** There is also some final site plan updates that haven't been completed so, I would make it conditional on whatever DPW comments and the list from Peter and from DPW with the 90 days and if the chemistry battery were going to change were done and they would have to come back.

**Ms. Heinel:** We would give you an opportunity to extend that 90 days if it were necessary, but we probably wouldn't exceed 120 days.

**Mr. Lariscy:** I think that is reasonable. Just thinking for the acoustic analysis, we will need to do on site sound measurements for a continuous seven (7) days and that data will have to be used in the modeling so, there is some lead time there but I think it should all be doable in 90 days but if we could demonstrate that the work is in progress with the consultant.

**Mr. Comenzo:** Does the equipment change? You are talking about inverter and fans and all these other things that is part of the component of noise studies, you do not know which battery.

**Ms. Heinel:** It would be for the site plan for the zinc battery specifically because that is what we are extending. As we said, there is going to be a second condition that if anything with the battery chemistry changes it is going to be a condition of a new site plan. It would be a completely new review, completely new site plan review.

**Mr. Lariscy:** So, this would just be the sound assessment utilize in the zinc specifications that were submitted with the original application.

**Ms. Scannell:** It will be everything on this list just for zinc. Mr. Calder, questions, concerns?

**Mr. Calder:** I personally was a little concerned about the zinc project where it was by the gas factory over there. That concerned me because we are dealing with something that we never have before but then the second thing you're telling us is that you want Rotterdam to be the first one to ever have a lithium battery and that concerns me.

**Ms. Scannell:** Zinc battery.

**Mr. Calder:** Zinc rather. It was going to be zinc and now want to change it to lithium.

**Ms. Scannell:** They wanted the zinc, but we would be the first zinc battery that Bluewave has done.

**Mr. Calder:** But if it goes lithium, we are still first because you said there was none in New York State.

**Mr. Lariscy:** For zinc, I would have to check. I think EOS may have a deployment on their battery in New York State. I am happy to submit to the Planning Commission any examples, but Bluewave has not deployed a zinc system.

**Mr. Calder:** National Grid hasn't gotten back to you as far as they didn't like the location either, am I correct?

**Mr. Lariscy:** National Grid Gas Engineering Department they never raised an issue. It wasn't until we started talking about a potential switch to lithium that is when they raised a concern and that is what we've been working through.

**Mr. Calder:** You're also putting it into an area where there is a lot of residential homes. I don't particularly like the project at all to be honest with you. Again, I know things are changing and we have to change with them. We are dealing with solar the same way and we have to change that way too. Just to let you know and I'm only one person and I know the sunset clause would work. I'm against the project for a couple of reasons.

**Ms. Scannell:** I understand what you are saying, and I was outspoken before I was sitting up here, and I was sitting out there. I'm not a big fan of pinky promises with developers and when I was acting strictly as a resident, I was very concerned that Bluewave's ultimate was going to be a switch-a-roo to lithium. So, when I tell you that I appreciate you being forthright, I truly appreciate you being forthright. It shows a really good faith relationship that we can have.

We already have approved the project as a zinc-based project. I like the idea of a conditional extension and I would entertain a motion for that if there would be one. The condition would be that if the chemistry of the battery changes at all from anything that is not zinc based, you're coming back to the drawing board and that everything single thing, Peter, were the final fees ever paid?

**Mr. Comenzo:** I believe so. I can't say for certain.

**Ms. Scannell:** Everything on this list that needs to be done for you to get the special use permit will be done within 90 days which at maximum extension would be 120 days. I would entertain that motion or not.

**Mr. Collins:** I will make that motion.

**Mr. Miglucci:** I'll second it.

**Ms. Scannell:** Marlo, will you call the roll, please.

**Ms. Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Ms. Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Ms. Carter:** Mr. Calder?

**Mr. Calder:** No.

**Ms. Carter:** Mr. Signore?

**Mr. Signore:** No.

**Ms. Carter:** Mr. Miglucci?

**Mr. Miglucci:** No.

**Ms. Carter:** Ms. Scannell?

**Ms. Scannell:** No.

**Mr. Lariscy:** Would it be possible to clarify the nature of the subsequent submittal for either the zinc or the lithium. The extension is now denied then just so I can clarify. I guess it would be a completely new site plan submittal or how would it work since now there is a moratorium.

**Ms. Heinel:** The site plan lasts as long as the special use permit lasts, which I understands expires tomorrow, if I am understanding that correctly. At which point, whether it's zinc or it's lithium, you are going to have to resubmit as a completely new site plan process once that expires. Unless Peter wants to correct me on that, but that is my understanding. There is the moratorium in existence now. You were exempted under the original project but if that expires that exemption expires. The procedures in place in the moratorium to ask for a waiver of that from the Town Board. It is up to you guys as to how you want to process that and go forward with that, and you wanted to try for it but that is for your company to make that decision. As soon as that special permit expires, the project is no longer approved under that condition.

**Mr. Lariscy:** I understand. I also just want to double check and let's just say, as I mentioned and something changes and we were able to finance this zinc system and we wanted to effectively make the same submittal that was under the previous special use permit, since now the special use permit is expiring is there any restriction on, basically since that application would really not be materially different from the original permit would there be limitations on us to apply for a new permit with effectively the same application.

**Ms. Heinel:** Not that I'm aware of. I can't think of anything, Peter? Not legally at least.

**Mr. Comenzo:** No, obviously the engineering has been almost completed on everything there. The one thing that I will say in terms of there was a point in period where pencils down, in my conversations with National Grid, they are having a real hard time with the easements changing from what was originally approved for storage to this facility. The other thing is the location next to their existing gas facility. They had expressed concerns to me about the project and had asked even before the lithium was contemplated and the zinc proposed they had called over to the Town Hall and were asking for some of the documentation and rationale behind the approval of it. I think once you hear from National Grid, I guess you will know whether to come back and pursue it or not. I think that maybe that is going to be your bigger challenge rather than the Planning Commission at this point. I know they are in the process right now they are going to be resubmitting for a redevelopment of that gas facility over on Burdeck Street there.

**Mr. Lariscy:** Thank you.

**Ms. Scannell:** Thank you very much, Josh. It was a pleasure having you here.

**Mr. Lariscy:** I appreciate your time.



*Town of Rotterdam*  
*Office of the Planning Commission*

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Peter J. Comenzo, Senior Planner

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**Resolution Number Planning Commission 34-2024**

Moved by Mr. Collins seconded by Mr. Miglucci

Applicant: Poentic Kill, LLC (Lessee)

**DENIED**

**Applicant:** Poentic Kill, LLC (Lessee)

**Project Location:** 635 Mariaville Road  
Rotterdam, New York

**Tax Number or Numbers:** 48.17-1-1.112

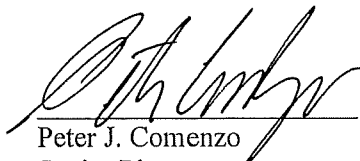
**Proposed Project:** Request for an extension to an approved Special Use Permit issued on June 20, 2023, for the location of a 5-megawatt battery storage facility on a ±2.23-acre parcel.

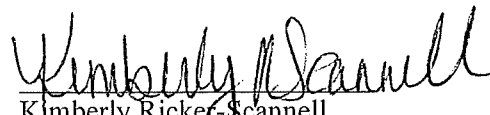
**WHEREAS**, a hearing was conducted by the Town of Rotterdam Planning Commission on June 18, 2024, to consider the above referenced request for an extension to an approved Special Use Permit; and,

**WHEREAS**, this matter was discussed and approved, as meeting the standards for a Special Use Permit Review as set forth in Chapter 270 of the Code of the Town of Rotterdam entitled ZONING; and,

**WHEREAS**, the Town of Rotterdam Planning Commission after careful consideration of the application, testimony of the applicant and/or representative and members of the public in attendance at the hearing, and all other materials of record **HEREBY DENIES THE REQUEST FOR AN EXTENSION TO AN APPROVED SPECIAL USE PERMIT; NOW**

**IT IS HEREBY RESOLVED THAT** the request for an extension to an approved Special Use Permit was **DENIED** in a vote of 4 to 2.

  
Peter J. Comenzo  
Senior Planner

  
Kimberly Ricker Scannell  
Planning Commission Chairman

**3. Primax Properties, LLC (Contract Vendee) – 2945 Hamburg Street. Final Site Plan review to construct a ±10,640 square foot Dollar General retail store on a ±2.24-acre parcel. Engineer: Bohler Engineering.**

**Mr. Boyea:** Good evening, for the record, my name is Chris Boyea and I'm with Bohler Engineering and we are here tonight to continue our discussion about the site plan for the proposed Dollar General located at 2945 Hamburg Street. It is currently a vacant lot right across from the cemetery. I'm sure you're familiar with the project. It's been in front of the Planning Commission for some time. I've got an aerial showing the location of it. We are proposing to build a 10,640± square foot Dollar General Store.

We last met with this Planning Commission on May 7<sup>th</sup>. The plans have come along way. Originally, there was a Dollar General Store that we proposed with parking out in front and through working with the Town we were asked to pull that building up forwards and put some green space out in front of it, parking on the side. A lot of progress has been met. We have decided to use one curb cut. There are two curb cuts on that state road. We have located that curb cut as far away from the residential street. It's south of us. We have also proposed a crosswalk that was asked for to help people cross the street as a midpoint and it would match the same design as the one that is further south of us.

There are 35 parking spaces proposed here. We would just like to remind the Planning Commission that this is less parking than what the code would require. We did land bank some parking here so that we could provide more green space. We just don't need that much impervious surfaces but we did show that it could be met if, for some reason, we ever needed to.

We have also located it so that we took everyone's comments into consideration where delivery and service yards are in the rear of the site. I will just put up the render that is here that shows that site plan with the delivery in the rear of the site. And we have also showed how a tractor trailer can come in and off the site without backing in off of the state road and we made sure that that works.

We have proposed trees out front, which you'll see here on the render. This Planning Commission asked for us to do concrete paving out in front of the parking spaces that are adjacent to the store. So, you will see on the updated render that there is a concrete pad to allow for that.

The Town also requested to have a six-foot-tall vinyl privacy fence along the north side and that is along apartment side to the north of us. There is a six-foot-tall vinyl fence that the town requested. We originally had a different kind of fence there, but we have gone ahead and changed that and that has been submitted on the plans.

The Town also asked us to provide pedestrian connectivity with the sidewalk and we have done that and that is shown here on the plans included on the resubmission. The Town asked and requested that we provide additional bollards around the building which we have done. We have placed those around some key points and those are shown on the plans.

The Town has also requested that we do gooseneck lighting for the sign on the building and that has been provided. The Town has actually requested a lot and there are a few more that I'm not done with it and I was talking a little bit earlier with the Chair and I'm filling in for Caryn, who you guys have seen from my office before and when she showed me this building elevation, I said holy cow and she said I know, it's nice. It's definitely a sharp-looking building and I've never seen one quite like this in all the Dollar General's that we have done through the 20 years that I've been with Bohler. We were prepping for this meeting in our own office and she showed me, I said this is a slam dunk because I've never seen something as gorgeous as this.

The Town requested that we lower the light poles from 20' to 14' tall along the north edge of our property and that is to take into consideration the apartments that are to the north of us so that the light would be lower. That has been adjusted. We did also have a light meter plan. A lighting plan that captures the heat map for where the lights would be and how they would impact. So, the Town was looking for this as well. We have modeled those lights and Caryn in true fashion has these handouts that show this. You will see a sheet with numbers on it and then you'll see the heat map.

**Ms. Scannell:** Can you explain why you're talking about this or maybe you're already going to how the fence affects how "Inaudible" it is here. This map doesn't take the fence into account which is my understanding.

**Mr. Boyea:** Let's look at that. With the fence, it's important to note the location of the fence. This fence is typically on the property line for two (2) feet from the property line. In this particular case, the fence is well into our property way over here. So, it's almost like a driver by is going to look and think the apartment complex owns more land than they actually do. The fence is way onto our property. We have tremendous green space here. By lowering the light poles over here to 14' height, by the time we get to the fence the light falls at a 45-degree angle and there would be no light on the other side of the fence attributed to the 14' tall light poles. It's fairly abrupt. You will see bright red on that side and that is because when you lower a light pole, the light gets more intense right underneath that light pole. It doesn't cast as far and it doesn't disperse as much so, it's much more intense. So, lowering the light pole does have some good impact of not letting light spill off the property. It does make it a little bit brighter right underneath that light pole.

**Ms. Scannell:** Are shields a possibility?

**Mr. Boyea:** If they are needed, they are easily added. These are a 14' tall poles. They are pretty short.

**Ms. Scannell:** We are keeping in mind that it's a residential neighborhood that isn't accustomed to having such bright lighting. We appreciate the lower lights and I really like this map. When we were talking to Caryn earlier today we had discussed the shields and on those ones up against the building it would probably be useful just to make sure, the residential units next door and the upstairs and I'm assuming because you can see air conditioners in the windows, I'm assuming those are people's bedrooms.

**Mr. Boyea:** You jumped to my next item that the Town asked us to do which was reduce them to 3,000 Kelvin light fixtures which we have done that as well. These models take that into consideration.

The Town also asked us to do a dumpster enclosure to be made out of Trex. It's an updated dumpster enclosure and similar to the one in Rotterdam Junction. It's done and we have updated the plan to show that as well.

We have a large landscaping bed along the freestanding sign and that has been shown on the plans that have been submitted here as well.

If the Board would like, I can address the two sets of comments that we have received, or we can pause here in case there are any comments or questions.

**Ms. Scannell:** Does anyone have any comments or questions about what we have discussed so far?

**Mr. Collins:** Myself, personally, I like the bright parking lot. I'm good with it. I appreciate everything you have done for us. I know sometimes we are tough but we are just looking for the best product for our community and Caryn was great to work with. I think it's a great project and I was the one that insisted on the fencing. I appreciate everything you've done.

**Ms. Scannell:** Does anyone else have any comments at this moment or should we let Chris continue?

**Mr. Boyea:** The only other two things that Caryn has here on the list for me to talk about, we received comments from LaBella, and they all seem pretty straightforward. They are the Town consultant. The only item that we would like to clarify that in that comment letter it talks about a traffic study and we would like to just say that we do not agree with that. It is going to be up to the NYSDOT if a traffic study is required. So, we need to go through NYSDOT permit process so, if the DOT requires us to have the study, we will do one, but we wouldn't do one for just no specific reason. That was the only item on that one that we had.

**Ms. Scannell:** I think that is reasonable. Peter, do you want to weigh in on that?

**Mr. Comenzo:** I think as of today we received the comments regarding the PERM-2, I think that is it? So, they are pretty far along with DOT, and I think they are comfortable in reading the comments that they are comfortable with the access point. I think the other mitigating factor that really helps is the fact that the applicant agreed to get rid of the second curb cut, which is a great thing. Normally developers are looking for extra curb cuts and fighting to get the second curb cut and, in this case, they actually eliminated the two existing curb cuts and it's going to cost them to remove the granite curbing and repair the sidewalk and everything else that goes along with that. I think the Town should be comfortable in moving forward with this without requiring any traffic studies.

**Ms. Scannell:** Thank you.

**Mr. Boyea:** On the other letter, which was the DPW comments, there was a couple of comments in there and the only comment that we had on that was there was a comment that says we should install the landbank parking within 60 days, if needed. We have no problem installing the landbank parking if at some point is required but the 60 days just seems a little tough for a company to mobilize and get out there and hire a contractor, go out to bid and those types of things. We don't know what the weather is going to be like and those types of things. We just asked that it would be within a reasonable amount of time depending on weather conditions.

**Ms. Scannell:** I think that is very reasonable. I know Peter and I had a conversation with Caryn earlier. Your firm and Primax has just been two (2) great companies to work with and there is no reason for us to think that if my gosh we need all this extra parking, of course you're going to put the extra parking in. I don't have any problems with that, but I would open that up to the Planning Commission.

**Mr. Collins:** I don't have any problems with you. Like she stated, you're great to work with. I would refer to you if you had to do it and you would know better than us.

**Mrs. Flansburg:** I had two (2) points that I had circled as questions and that was one of them. We have allowed banked parking in the past but this is the first time when I saw a specific number and my question was does it depend on the time of year, how does that actually work. Couldn't there be some sort of language in it that says you acknowledge it in writing and give a reasonable amount of time. Think about Christmas time and you need more parking, December is not the time to do it. You acknowledge that you need more parking, and we'll do it by April 15<sup>th</sup> or May 1<sup>st</sup> or whatever. I think it is more a communication between, it's going to be a good problem to have if you get there but you are going to want to rectify it as quickly as we would want you to rectify as well. Maybe just some language for some sort of written acknowledgement.

**Ms. Scannell:** I think that you guys could probably put right onto the plan or does Courtney have language that she would like?

**Ms. Heinel:** My suggestion would be instead of setting a finite date for it to be completed by is that should the location that there is a need for the extra parking that Primax, Dollar General whichever one it ends up being will respond to the Town within 30 days with a plan of action for that work to be completed within a reasonable amount of time.

**Mr. Boyea:** That's fine.

**Ms. Scannell:** I'm very comfortable with that. I know Caryn, Peter and I discussed this, and you and I did discuss this briefly before the meeting, but I know originally one of the DPW comments that we would like to see a different kind of fence than what is being proposed. I noted that on one of the site plans it mentioned or maybe it was on your notes that you were going to keep it the post and rail fence because it would match the one around the stormwater basin but since the

Town is not requiring you to have a fence around the stormwater basin, we don't have to worry about it matching that so, that kind of brings me back to the ornamental fence with brick peers.

**Mr. Boyea:** We are willing to work with the Town as we have been. Our thought here is a post and rail fence goes really well with this design that you guys have selected here for the building. We really like the post and rail fence, and we would like you to consider that, however, if a more substantial structural peers are needed, we could put in four well placed peers. That would be our preference to stick with the post and rail fence and if that is not good enough, we can look at maybe four well placed peers and if that is not good enough, we can maybe look at a different type of fence.

**Mr. Comenzo:** So, you're thinking at the terminus of the northern boundary, the terminus of the southern boundary and then I'm assuming at the pedestrian connection.

**Mr. Boyea:** I was thinking the driveway.

**Mr. Comenzo:** I guess that is really going to be up to the Board if that is the direction they want to go in.

**Ms. Scannell:** I think that the brick and railing with the brick pavers and I know that Caryn had talked to Primax they were agreeable to doing a monument sign, if that could be done in brick as well with the goose neck lighting, I think that is perfection. All of the Dollar General's in the world are going to want to look as wonderful. This is really a feather in everyone's cap.

**Mr. Boyea:** I'm worried about that.

What is the direction on the fencing.

**Mrs. Flansburg:** Do you have a rendering of one that you are talking about or are we just philosophizing about them?

**Mr. Boyea:** Just a spilt rail fence. I don't have a rendering of it. It's just a typical fence that you would see in the front.

**Ms. Scannell:** The other one would be kind of like the one you guys did at O'Reilly's except not quite as many bricks.

**Mr. Boyea:** That's right, that would be a block metal fence. We call it an ornamental fence. You have these four kinds of anchor, we call them "Inaudible" or gears that kind of accentuate the terminus.

**Mr. Collins:** My only concern with the rail fence is kids might break them.

**Ms. Scannell:** I agree.

**Mr. Collins:** I'm not saying that they will. Kids have a tendency sometimes to see them and climb on them and do things on them and I hate to have something constructed and six (6) months later you have a broken one and then you go through the hassle to have to repair it. That is why I requested the vinyl fence versus the other one. Sometimes you pay a little bit more in the beginning but in the long run you save money. Kids could break them. Not saying they will but you never know. That is just my opinion. Sometimes it's better to pay up front and save money in the long run.

**Ms. Scannell:** Mr. Calder, any questions, comments or concerns.

**Mr. Calder:** No, I think we've bothered them quite enough and I think they are doing a good job with the project and I'm happy with it.

**Ms. Scannell:** Mrs. Flansburg, thoughts on the fencing?

**Mrs. Flansburg:** I don't want it to be that it was not said that we appreciate every standard and request that you guys have met thus far. Your company has been phenomenal to work with. I guess fence wise, the Town isn't requiring the other fence so there may be a little cost savings towards the one that the Chairwoman is asking for. Just looking off my own notes here, this is just kind of random but other stores have outdoor display of merchandise during store hours and then they wheel them in at night. I see that's a very common note on our plans. Is that something the store is going to be able to accommodate is not having stuff placed outside?

**Mr. Boyea:** That's correct. We shared that with them.

**Mrs. Flansburg:** Just because it is fairly common in any other one that I have seen whether it's pool noodles at pool time of year or hoodie sweatshirts at another time of year.

**Mr. Boyea:** They are aware of the comment and item that is in writing here.

**Ms. Scannell:** I would like to say again on the record, I know that we spoke privately and Peter and I and all of us have spoken to Caryn, but we truly appreciate Primax, you, Dollar General, our residents weren't exactly thrilled at first with this project and people have really come around. I went from getting not happy emails and not happy phone calls and I was inviting people to come tonight and they kind of agree that the Planning Commission is doing a really good job because you guys are doing a really good job. So, I think in the long run you are also going to get a lot more customers coming to this store that are not going to boycott it based on principal.

**Mrs. Flansburg:** It fits in, the changes that we are asking for or the higher end things we are asking for is Hamburg Street has had a huge overhaul in these last few years and it really is beautiful and it's the gateway for our community on that end so, we just want this to be up to that standard as well.

**Ms. Scannell:** Mr. Signore?

**Mr. Signore:** No, I'm good.

**Ms. Scannell:** Mr. Miglucci?

**Mr. Miglucci:** I'd like to make a couple of comments here. We have a Dollar General in Rotterdam Junction and I just want to let people know that yes, in the beginning a lot of the residents were against it. Dollar General is a lot different from Dollar Tree and Dollar Store. The one down in the Junction is immaculate. It's clean, everything is stocked and faced. It's a great store. The people that work there are great. That's one thing that shows me that Dollar General, I don't know what they are doing where your headquarters is, but I do know that they share the same thing people are feeling such as tough economy and they have decent prices. A welcoming store and a nice crew with happy people that work there and especially what you guys have done as far as engineers and Dollar General in working with us to get this kind of upscale store. I've said this before and people know it, my vision for Rotterdam is I want people to know that they are coming into Rotterdam. I want to know what kind of Town we have here. I want it to be like the Wizard of Oz when Dorothy goes from black and white into color and that is my vision for this Town. One other thing I would like to thank for Dollar General you hired a 20-year combat marine down in your Rotterdam Junction store and I think that was a real nice thing to do. That is all that I have.

**Ms. Scannell:** Excellent. Thank you very much, Mr. Miglucci.

I would also like to state on the record when the Dollar General in Rotterdam Junction was out of commission for a little bit, the residents really missed it and when it came back online for lack of a better term, social media was going crazy. They were just so happy that they could have their store back. Again, a little goes a long way. I know we've had a lot of asks but overall it's very good for your client's firm.

Any other questions, concerns or comments?

It is a negative declaration for SEQR. I need a motion for that.

**Mr. Collins:** I make a motion for the negative dec SEQR.

**Mrs. Flansburg:** I'll second.

**Ms. Scannell:** Marlo, could you call the roll, please.

**Ms. Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Ms. Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Ms. Carter:** Mr. Calder?

**Mr. Calder:** Yes.

**Ms. Carter:** Mr. Signore?

**Mr. Signore:** Yes.

**Ms. Carter:** Mr. Miglucci?

**Mr. Miglucci:** Yes.

**Ms. Carter:** Ms. Scannell?

**Ms. Scannell:** Yes.

I will entertain a motion to accept final site review based on all of the different written and verbal agreements that we have here and for the condition for the parking will be changed to Courtney's wording. I will entertain that motion.

**Mr. Miglucci:** I make the motion.

**Mrs. Flansburg:** I'll second.

**Ms. Scannell:** Marlo, could you please call the roll.

**Ms. Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Ms. Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Ms. Carter:** Mr. Calder?

**Mr. Calder:** Yes.

**Ms. Carter:** Mr. Signore?

**Mr. Signore:** Yes.

**Ms. Carter:** Mr. Miglucchi?

**Mr. Miglucchi:** Yes.

**Ms. Carter:** Ms. Scannell?

**Ms. Scannell:** Yes.

**Mr. Boyea:** I do have one question, just to make sure we did this correct. Does the parking waiver need to be voted on or is that part of the site plan approval?

**Ms. Heinel:** It's part of the site plan approval.

**Mr. Boyea:** Thank you. We look forward to starting construction.



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**Resolution Number PC35-2024**

Moved by Mr. Miglucci seconded by Mrs. Flansburg  
Applicant: Primax Properties, LLC (Contract Vendee)

**Applicant:** Primax Properties, LLC (Contract Vendee)

**Project Location:** 2945 Hamburg Street  
Rotterdam, New York

**Tax Number or Numbers:** 59.19-1-7.1

**Proposed Project:** Final Site Plan review to construct a ±10,640 square foot Dollar General retail store on a ±2.24-acre parcel.

**WHEREAS**, public meetings were conducted by the Town of Rotterdam Planning Commission on January 23, 2024, February 20, 2024, May 7, 2024 and June 18, 2024, to consider the above referenced Site Plan; and,

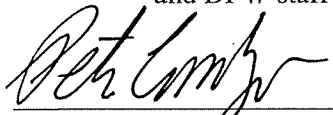
**WHEREAS**, this matter was discussed and approved, as meeting the standards for a Site Plan Review as set forth in Chapter 270 of the Code of the Town of Rotterdam entitled ZONING; and,

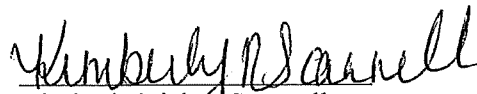
**WHEREAS**, the Town of Rotterdam Planning Commission after careful consideration of the application, testimony of the applicant and/or representative and members of the public in attendance at the hearing, and all other materials of record **HEREBY APPROVES THE SITE PLAN; NOW**

**IT IS HEREBY RESOLVED THAT** this Site Plan is approved with the following conditions as stipulated by the Planning Commission:

1. Final Fees Due: Final Site Plan \$350.00
2. Prior to Chairman's Signature, the final lighting plan shall be modified to the satisfaction of DPW and the TDE and shall meet the suggested lighting modifications as outlined in the letter from LaBella Engineering dated May 7, 2024, and restated June 13, 2024.
3. Approval is conditioned upon applicant addressing all Rotterdam DPW and TDE comments and full and final approval of the DPW.
4. The applicant must receive Highway Work Permits from the New York State DOT for grading, utility, sidewalk, and entryway work onto Hamburg Street (SR 156). Copies of all correspondence with NYS DOT should be provided to the Town.
5. Prior to issuance of grading and/or building permits, the Town Stormwater Management Officer shall review and approve the Stormwater Pollution Prevention Plan. Applicant must then be issued a NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity before any earthwork can commence on site.

6. Prior to the issuance of certificate of occupancy, all work in the NYSDOT right-of-way must be completed.
7. Add note to plan: "No outdoor display of merchandise shall be permitted."
8. Add note to plan: "Utility carts, boxes, and refuse shall not be stored outside."
9. +One water meter shall be installed on the service connection. Final type and location to be approved by DPW."
10. Add note to plan: "Owner/applicant shall install Knox Box for emergency personnel." Check with Fire District #3 for specifications.
11. Add note to plan: "Sign permits shall be obtained for the proposed project identification signage including any proposed pylon, monument and/or building mounted signage."
12. Add note to plan: "Building design shall be in substantial conformance to the proposed Exterior Elevations dated May 7, 2024, and prepared for Primax ad Dollar General and presented to the Planning Commission on June 18, 2024."
13. Add note to Landscaping Plan: "Landscaped areas shall contain a sprinkler system."
14. Add note to Landscaping Plan: "Landscaping shall be maintained in perpetuity and dead/dying plant materials shall be replace in-kind."
15. Add note to plan: "No stockpiling or burying of construction debris, slash, stumps, or construction material is permitted."
16. Add note to plan: "Banked parking spaces shall be installed according to the approved specifications and plan details for parking and pavement within a reasonable amount of time of either a written determination by the building inspector or an order of the Planning Commission that improvement of the banked parking spaces appear to be necessary or desirable to provide for sufficient off-street parking and loading."
17. Final approval is contingent upon the applicant receiving permits (site development and building) from the DPW Building Inspector.
18. Final approval is contingent upon Town DPW, Water and Sewer Department review and approval of the proposed water supply and sanitary sewer service for the project.
19. The applicant shall provide the Town of Rotterdam DPW paper and electronic AutoCAD fil copies of the utility "As-Built Record Drawings" upon completion and testing of the utilities.
20. Prior to the issuance of Site Development and/or Building Permit(s) by the Town of Rotterdam, the applicant shall attend a pre-construction meeting with the Building Inspector and DPW staff to confirm the completion of the above stated conditions.

  
Peter J. Comenzo  
Senior Planner

  
Kimberly Rickett Scannell  
Planning Commission Chairman



*Town of Rotterdam*  
*Office of the Planning Commission*

Kimberly Ricker Scannell, Chairman  
Peter J. Comenzo, Senior Planner

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**6NYCRR PART 617**  
**State Environmental Quality Review**  
**NEGATIVE DECLARATION**  
**Notice of Determination of Non-Significance**

**Date:** June 18, 2024

This notice has been prepared in accordance with Article 8 of the Environmental Conservation Law by the Town of Rotterdam Department of Public Works Department (Reference: 6 NYCRR 617.5 Unlisted Action)

**SEQRA Status:** Type I   
Type II   
Unlisted

**Conditioned Negative Declaration:** Yes   
No

**Owner:** Emilio and Lynn Pennacchia  
310 Trinacria Court  
Schenectady, NY 12303

**Contract Vendee:** Primax Properties, LLC  
c/o Caryn Mlodzianowski  
Bohler Engineering  
17 Computer Drive West  
Albany, NY 12205

**Location:** 2945 Hamburg Street  
Rotterdam, NY 12303

**Tax Map Number(s):** 59.19-1-7.1

**Action:** Site Plan review to construct a ±10,640 square foot Dollar General retail store on a ±2.24-acre parcel.

**Reasons Supporting This Determination:**

(See 617.7(a)-(c) for requirements of this determination)

The Department of Public Works for the Town of Rotterdam transmitted the application information to all involved and interested agencies for review on February 20, 2024. All comments and concerns have been addressed. The applicant has supplied an Environmental Assessment Form and the Planning Commission has or has caused to complete Part 2 of this checklist.

Primax Properties, LLC are working with Dollar General and proposing the redevelopment of land located at 2945 Hamburg Street in the Town of Rotterdam, Schenectady County, New York. The total property area is approximately ±2.24 acres. The general area surrounding the site consists of both commercial and residential properties. The project site is currently vacant. The site was formerly occupied by a bowling alley that was demolished approximately 24 years ago. The existing site is currently cleared with an existing vegetative buffer in the rear of the property that is proposed to remain. Associated site improvements include grading, drainage, utilities, pavement, landscaping, fencing, access, and parking improvements.

The developer and the Town of Rotterdam entered into an agreement in March of 2024 to provide the town with funds for the appointment of a Town Designated Engineer (TDE) to assist the Planning Commission with the technical review of this project pursuant to 6 NYCRR 617 and Local Law. The project engineer completed additional investigative work and site design modification as requested by the Planning Commission, the NYS Department of Transportation, and the Town Designated Engineer. As set forth below, the Planning Commission has determined that the project will not result in significant adverse environmental impacts and that the preparation of an Environmental Impact Statement is therefore not necessary.

The Town of Rotterdam Planning Commission, as lead agency, has reviewed the Short Environmental Assessment Form Part One completed by the Project Sponsor along with supporting reports, studies and plans. The submitted plans, reports and studies include the following:

Plan sheets entitled, “Primax Properties LLC – 2945 Hamburg Street,” dated November 21, 2023 and last revised June 4, 2024. The plans were reviewed by the Town Department of Public Works and the Town Designated Engineers with modifications made addressing any potential environmental impacts that were raised.

**STORMWATER**

A Stormwater Pollution Prevention Plan (SWPPP) and narrative dated was prepared by Bohler Engineering and submitted to the Town of Rotterdam describing the proposed on-site stormwater management facilities and their ability to convey, store, and recharge runoff.

Based upon comments from the TDE, a revised SWPPP report and narrative was submitted to the Town of Rotterdam on June 4, 2024 the TDE has determined that this report sufficiently addresses stormwater impacts associated with the redevelopment of this project site. The applicant will file a Notice of Intent with the New York State Department of Environmental

Conservation in order to gain coverage under the SPDES General Permit for stormwater discharges from construction activities for the project.

## **TRAFFIC**

The property is located in the commercial corridor of State Route 146 (Hamburg Street) which was recently reconstructed with new sidewalks on both sides of the roadway. In addition, this property was provided with two curb cuts for access. NYSDOT commented on the proposed project in a letter dated March 19, 2024.

### **Vehicular Access:**

1. The proposed development will close the existing southern curb cut and create one access point onto Hamburg Street. This action will improve safety in the area by reducing potential conflict points for both vehicles and pedestrians.

### **Pedestrian Access:**

1. New sidewalk will be constructed on site with a pedestrian connection to the existing sidewalk on Hamburg Street. Sidewalks and pedestrian crosswalks will be provided throughout the site as shown on the site plan. At the request of the Planning Commission and NYSDOT a mid-block crosswalk shall be constructed crossing Hamburg Street which will assist in improving pedestrian safety and multi-modal connectivity.

The existing entrance at onto Hamburg Street has received conceptual approval from the New York State Department of Transportation and a permit for Utility/Non-Utility work will be issued prior to construction.

## **LIGHTING AND VISUAL IMPACTS**

The project proposes to redevelop a site that has sat vacant for several years in the Hamburg Street commercial district of Rotterdam. The project will change the existing site into a newly constructed retail business with appropriate access drives, parking, sidewalks, and landscaping. In this respect, the project will have a positive visual impact. The applicant worked extensively with the Planning Commission to enhance the site plan and visual elements of the building elevations.

In addition, based upon comments received on the initial proposed site lighting plan, the applicant reduced the site lighting on the site which is adjacent to residential units. After review at the May 7, 2024 Planning Commission meeting, the applicant was asked to revise the lighting plan and look to reduce the height and the kelvins of the proposed. A revised Site Illumination Plot Plan prepared by US LED and dated June 12, 2024 was submitted. This illumination plan was reviewed by the Planning Commission, TDE, and DPW to evaluate the proposed site lighting and any potential off-site impacts. This plan has been deemed acceptable and the Planning Commission has determined that the project will not result in significant adverse environmental impacts.

After a review of the modified application materials, Short Environmental Assessment Form, Stormwater Management Plan and comments received on this proposal, the Town of Rotterdam

Planning Commission has determined that this proposal will not have a significant adverse impact on the environment.

**The Planning Commission has considered the following criteria to determine if this proposal has significant adverse impacts on the environment:**


- (i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
- (ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;
- (iii) the impairment of the environmental characteristics of a Critical Environmental Area.
- (iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;
- (v) the impairment of the character or quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character;
- (vi) a major change in the use of either the quantity or type of energy;
- (vii) the creation of a hazard to human health;
- (viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;
- (ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;
- (x) the creation of a material demand for other actions that would result in one of the above consequences;
- (xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or
- (xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

**The Planning Commission has also considered the reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions, which are:**

- (i) included in any long-range plan of which the action under consideration is a part;
  - (ii) likely to be undertaken as a result thereof; or
  - (iii) dependent thereon.
- (3) The significance of a likely consequence (i.e., whether it is material, substantial, large or important) has been assessed in connection with:
- (i) its setting (e.g., urban or rural);
  - (ii) its probability of occurrence;

- (iii) its duration;
- (iv) its irreversibility;
- (v) its geographic scope;
- (vi) its magnitude; and
- (vii) the number of people affected

The environmental effects of the above-described action were discussed at regularly scheduled Planning Commission Public Meeting held on June 18, 2024 at the Rotterdam Town Hall, 1100 Sunrise Boulevard, Rotterdam, NY 12306. Adoption of this negative declaration was moved by Mr. Collins, seconded by Mrs. Flansburg and approved by the Rotterdam Planning Commission.

  
Kimberly Ricker Scannell  
Planning Commission Chairman

**4. Bernice & Earl Avery – 774 & 778 Duanesburg Road. Report and Recommendation not the Town Board on a Change of Zone from Agricultural (A-1) to General Business (B-2) for the construction of a ±22,000 square foot retail store on a combined ±13.35-acre parcel. Engineer: Bohler Engineering.**

**Mr. Boyea:** For the record, Chris Boyea with Bohler Engineering.

We are here tonight representing Primax Properties as they are looking to purchase and are under contract to purchase a piece of property located at 774 to 778 Duanesburg Road. These are two pieces of property that total 13.35 acres.

**Mr. Signore:** That is actually Old Duanesburg Road.

**Mr. Comenzo:** I believe the frontage is on both.

**Mr. Boyea:** Yes, it is.

**Mr. Comenzo:** I think the curb cut is proposed for Duanesburg Road. If you look at it Old Duanesburg Road...

**Mr. Signore:** Wasn't the address on Old Duanesburg Road?

**Mr. Comenzo:** No, Duanesburg.

**Mr. Boyea:** To further that discussion along, two pieces of property. It's approximately a little over 13 acres. One of the properties is quite large and it is on Duanesburg Road. It's this property all here. And then there is a second piece of property that is in our application and that actually does front on Old Duanesburg Road and on that property today is a house that is in need of a lot of love, and we would be buying both properties together. It's a package deal. You take the good and you take the bad. That is why we have two lots here.

Currently they are zoned A-1 and what we have asked the Town Board for the Town of Rotterdam is to consider a change of zone to make these B-2. Currently today, our neighbor, I guess this would be plan left, here is already zoned B-2. So, we wouldn't be creating a new zoning district or an isolated zoning spot. This would just be extending that B-2 zoning to include these two properties so that we could then consider constructing a retail project and it would be about 22,000 square feet of retail.

**Ms. Scannell:** Can you specify at this time what that project would be?

**Mr. Boyea:** It would be like a farm and garden type store who we are looking to construct for. One of the things that is important to note about this type of facility over here in this type of market in Rotterdam is that there is no sanitary sewer here. So, it takes certain types of uses that can work over here on septic systems so a farm and garden type store can work on a septic system. It's very low flows. It's equivalent to like a house. They do have a men's room and woman's room and they may use 400 gallons a day which is similar to a house as far as usage. There's no food prep or odors or things of that nature that would be nuisances and it would work with the overall community that is over there and it does seem to work with the Comprehensive Plan and increasing the zoning district. Again, we are not creating a new one. We are asking for us to take this zoning district line and bring it over to include our two properties that are there.

We are here tonight to answer any questions or receive comments. I believe the Town has sent us here to you for a recommendation and thoughts and the Town Board can be aware of any concerns that the Planning Commission may have on the request. It would require a change of zone in changing the zoning map for the Town, which I believe is a Town Board action.

**Ms. Scannell:** Mr. Calder, questions, concerns, or comments?

**Mr. Calder:** No concerns or no questions. I'm good.

**Ms. Scannell:** Mr. Collins?

**Mr. Collins:** I think it's a good location for a farm and garden outlet especially since it's in a rural part of town. There will not be a lot of traffic congestion and I think it's a good use of land and it's moving Rotterdam forward so, I'm happy with it.

**Ms. Scannell:** Thank you. Mrs. Flansburg?

**Mrs. Flansburg:** I agree with what Mr. Collins said and I also think it's in line with our Comprehensive Plan in that particular area as well and we would appreciate a project that can accommodate the fact that there are no sewers out that way. So far so good and I would support the recommendation.

**Ms. Scannell:** Mr. Signore?

**Mr. Signore:** I was up there today, and a farm and garden would fit perfect up there. It's a farm setting and the property is very nice. I'm fine with it.

**Ms. Scannell:** Mr. Miglucchi?

**Mr. Miglucchi:** I agree with Joe and Lynn, and it is a corridor, and we could use something like that. That goes straight out to the country. I live right next door to a farm, and I have a garden so I'm pretty good with it.

**Ms. Scannell:** Peter, do you have any feedback?

**Mr. Comenzo:** No, I have no comments.

**Ms. Scannell:** I'm going to have to talk for just a minute. Courtney, do you have any comments or questions?

**Ms. Heinel:** You mentioned what is plan left but what is plan right of the property which looks like a dirt bike trail?

**Mr. Boyea:** I believe that is equestrian type use that was there. I don't know how active it is anymore and I don't know what the plan is for those properties or if there is a plan for the properties. What I do know is that is still A-1 zoning over there.

**Ms. Heinel:** How about across the street? It looks residential on the plan.

**Mr. Boyea:** It's residential. It is A-1 in those areas. That is correct.

**Ms. Heinel:** Is the plan left the only B-2 property or is everything plan left B-2?

**Mr. Boyea:** Plan left is currently zoned B-2.

**Mr. Comenzo:** There are two (2) parcels there owned by Mastrianni across from the entrance from Schalmont and the property that is the Mohawk Library there and then a little bit west of that is the proposed BJ's change of zone which is also to B-2.

**Ms. Heinel:** Just for my clarification where are you theoretically proposing to put the curb cut for the entrance. Is it going to be on the house that needs a lot of love which I'm assuming isn't going to get a ton of love in this scenario or is it going to be closer to, you've got the two (2) roads there. Is it going to be on the offshoot road or on the main road there?

**Mr. Boyea:** We would be in front of you guys for site plan approval so there is a lot of “Inaudible...” (*Board members talking and cannot hear what the representative is saying*). What I can tell you right now is that for our use it is a well-known farm and garden, and they have national stores. It is going to have a driveway that comes out to the main road. I have one curb cut that goes out to the main road and we would not be looking to access the house with a lot of love over there on Old Duaneburg Road and what I would tell you about the house is there is no plans for it yet. Maybe we fix that house up, it needs a lot of love. It would take a lot and rent it but we’re...

**Ms. Heinel:** I’m assuming it’s probably not going to get a lot of love in this scenario. I’m assuming it’s going to be a go down the ground of scenario but if you buy both parcels and that house needs a lot of love and it’s a code compliance and as an attorney, I’d tell you to fix it up or you’ll get a call from me and get a letter that says you’re not in compliance so it’s just something to consider for buying both parcels. You will become the owner of a piece of property that is potentially non-compliant and that would have to be addressed one way or another. Whether that’s demo the building or whether it’s fix up the building. It’s just something to be aware of in this scenario if you are buying that piece of property and it still exists there as the project goes along.

And if you are combining the parcels and the house stays then you would have to consider easements and things like that for access and all of that with the business of farm and garden and I also live next door to a farm and have a garden. Just take that into consideration with the house part of the parcel. If you do come back for the site plans, we would like to see what would be done with that whether it’s being kept or whether it’s not and what reciprocal easements, if any, would need to be in place for that to happen to keep it and if not, if it’s not code compliance now, how what is the plan of action for getting it there.

**Ms. Scannell:** A little heads up for what we might be looking for if you should be coming back this way, which hopefully you will be. I also like farms and gardens and I think this is a good project. I think it’s a wonderful company, Primax to work with as I stated before and you guys at Bohler aren’t so bad either. So, I guess we will keep you around.

I will entertain a motion for a positive recommendation at this point.

**Mr. Collins:** I will make a motion for a positive recommendation for the change.

**Mr. Calder:** I’ll second it.

**Ms. Scannell:** Marlo, could you call the roll please.

**Ms. Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Ms. Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Ms. Carter:** Mr. Calder?

**Mr. Calder:** Yes.

**Ms. Carter:** Mr. Signore?

**Mr. Signore:** Yes.

**Ms. Carter:** Mr. Miglucci?

**Mr. Miglucci:** Yes.

**Ms. Carter:** Ms. Scannell?

**Ms. Scannell:** Yes.

**Mr. Boyea:** We'll see you soon. We'll go to the Town Board and I'm not sure whether Peter or the Attorney could help us. I don't know the process for this. Does this go...

**Mr. Comenzo:** The next step in the process is the Planning Commission will forward their report and recommendation and the verbatim minutes to the Town Board and they will set a public hearing and start the SEQR process or not. They could just decide not to move forward with it but I would anticipate taking some action in July to start the process of review and set a public hearing so they can weigh in on the project.

**Mr. Boyea:** Would there be two (2) SEQR's done one for the zone change...

**Ms. Heinel:** Just one (1) for the whole project.

**Mr. Comenzo:** You will have to do all the environmentals up front.

**Mr. Boyea:** What about site plan?

**Mr. Comenzo:** Site plan will have its own review.

**Mr. Boyea:** This board will do its own SEQR for site plan.

**Mr. Comenzo:** No.

**Ms. Heinel:** The SEQR is going to be the project as a whole including both Town Board and Planning, but Planning will still do their review of site plan.

**Mr. Comenzo:** One of the other items on the agenda tonight is Stewart's and they have completed SEQR with the Town Board so there will not be another SEQR review and it will be very similar. You will do traffic analysis and swales and everything else during the Town Board review process because we are not going to segment SEQR and have two (2) separate SEQR and just do one (1) SEQR.

**Mr. Boyea:** Thank you.

**Ms. Scannell:** Thank you very much.



*Town of Rotterdam*  
*Office of the Planning Commission*

Kimberly Ricker Scannell, Chairman  
Peter J. Comenzo, Senior Planner

Telephone (518) 355-7575  
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**Resolution Number PC36-2024**

Moved by Mr. Collins seconded by Mr. Calder  
Applicant: Bernice & Earl Avery

**Resolution Adopting a Report and Positive Recommendation on  
the Change of Zone Request by Primax Properties, LLC (Contract Vendee)**

**WHEREAS**, the Town Board of the Town of Rotterdam ("Town Board") has received an application from Primax Properties, LLC ("Contract Vendee") for Change of Zone request on a  $\pm 22,000$  square foot from Agricultural (A-1) to General Business (B-2) for the construction of retail store on a combined  $\pm 13.35$ -acre parcel. Currently, the parcels are known as 774 Duanesburg Road (Tax Map No. 57.7-1-14) & 778 Duanesburg Road (Tax Map No. 57.-3-6.1); and

**WHEREAS**, the Town Board referred the Change of Zone application to the Planning Commission on June 12, 2024 for a report and recommendation thereon; and

**WHEREAS**, the Change of Zone application was presented to the Planning Commission at its regularly scheduled meeting held on June 18, 2024; and

**WHEREAS**, the Planning Commission reviewed the proposed Change of Zone at its regularly scheduled meeting held on June 18, 2024; and

**WHEREAS**, the Planning Commission has deliberated on the proposed Change of Zone;

**NOW, THEREFORE**, upon motion of Member Collins, seconded by Member Calder,

**BE IT RESOLVED**, by the Planning Commission of the Town of Rotterdam as follows:

1. The Planning Commission hereby adopts the following as its report on the proposed Change of Zone:

The Change of Zone request concerns a total of  $\pm 13.35$  acres consisting of two separate parcels located on the north side of Duanesburg Road east of the entrance ramps to Interstate 88 and west of the intersection with Old Duanesburg Road. The properties contain a single-family residential structure, a single-family residence, and a barn and associated outbuildings that are in very poor shape. The applicant seeks the change of zone to facilitate the construction of a new  $\pm 22,000$  square foot retail store with some outdoor display of merchandise. There is a recently constructed gas station/convenience store, liquor store, and a fast-food establishment (Wendys) located to the west of the I-88 entrance and a truck stop fueling center with fast food (Pilot/Dunkin Donuts/Subway) also located to the west. Additional properties to the west of these parcels in the vicinity of the site are currently zoned B-2 and contain retail businesses and a wellness center. Lands of the Schalmont Central

School District and single-family residences are located to the south and the entrance to the school campus is located approximately 1000 feet west of the proposed entrance to the property to be rezoned.

Rezoning the parcel would expand the allowable uses to include, in addition to uses allowed in the B-2 zoning district, the following:

- Establishments for making, assembling, or repairing articles, with all such activities and Storage located entirely within an enclosed building;
- Commercial health and recreation establishments;
- Wholesale business and storage conducted entirely within an enclosed building;
- Data processing and computer services;
- Motor vehicle repair shops (special use permit);
- Propane gas filling stations (special use permit);
- Car washes (special use permit);
- Dry-cleaning laundry facilities (special use permit);
- Mass transportation facilities (special use permit);
- Drive-in establishments (special use permit);
- Public utility or communications installations (special use permit);
- Hotels and motels (special use permit);
- Contractor's shops and equipment storage yards (special use permit);
- Veterinary hospitals (special use permit);
- Motor vehicle sales and rental establishments (special use permit);
- Motor vehicle fuel filling stations (special use permit); and
- Convenience stores (special use permit).

There would be a change in the required lot area and lot frontage; the current zoning requires a 1-acre minimum lot area with 150 feet of lot width. The proposed B-2 zoning district would require a minimum lot area of 15,000 square feet, with a minimum lot width of 100 feet.

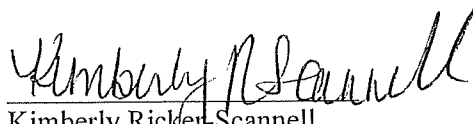
2. Subject to the considerations set forth below in Paragraph 3, the Planning Commission hereby adopts a **positive recommendation** on the Primax Properties, LLC (contract vendee) for a Change of Zone request for the following reasons: The proposed Change of Zone would permit the construction of a new ±22,000 square foot retail store with some outdoor display of merchandise. Permitting a commercial development at this site meets the objectives of the Comprehensive Plan. This property has been identified as a key property for development in the western portion of town given its location in close proximity to the interstate entrance/exit. It was identified in the 2001 Comprehensive Plan and in various subsequent planning studies as being a commercial parcel that if designed correctly, could be of a benefit to the community. The proposed Change of Zone would be consistent with the neighborhood and existing land use development in the area.

3. This recommendation is subject to the following considerations:

- a. The applicant should prepare a traffic study and work in coordination with NYSDOT to address traffic impacts due to the location and high volume of traffic in the area of this highway interchange.
- b. Neither a positive recommendation by the Planning Commission, nor any rezoning action taken by the Town Board, should be construed as an approval or other favorable position concerning any proposed conceptual development plan. Any proposed development shall remain subject to full review by the Planning Commission and, as necessary, by the Zoning Board of Appeals.



Peter J. Comenzo  
Senior Planner



Kimberly Ricker-Scannell  
Planning Commission Chairman

**5. Carmine Petti & Frank Audino – 1725 Tower Avenue. Report and Recommendation to the Town Board on a Change of Zone from General Business (B-2) to Multi-Family Residential (R-3) for the conversion of existing building containing two (2) businesses to two (2) apartments and two (2) existing apartments to remain for a total of four) apartments on a ±0.156-acre parcel. Engineer: ABD Engineers.**

**Mr. Petti:** November will be three (3) years that we purchased the property and the property at 1725 and 1727 Tower Place.

**Ms. Scannell:** I'm sorry to interrupt you. Are you...

**Mr. Petti:** I'm Carmine Petti.

November will be three (3) years that we purchased the property which consists of 1725 Tower and 1727 Tower. The larger building is an 11-unit building where you have three (3) units that face Seward Street, the old Recovery Room/new medical building and in the front of the building is eight 2-bedroom units on a different deed but the same parking lot. Share the parking lot with a 4-unit building which was originally with two (2) bedrooms on the second floor which enter from the far left/far right with two (2) small offices. The builder who originally built was Viscusi Homes and he built it for his office and a rental. He had a cigar shop, and it didn't work from day one. It didn't last long so he put a penetration through and used both offices for his rental and building business.

He has since sold the property to me and has since built a new project which is a new apartment building and office in Guilderland. We've tried and he's tried and unsuccessfully been able to rent it due to it off of the main road. The largest part is the concern of the tenants. When I purchased the building I have a lot of standing tenants from Viscusi. They are elderly and sweet and they are great. It's a great community there. It's a parking concern. The cohabitating with the parking and trying to find a unique tenant that doesn't, trying to rent to someone and tell them they can't have the parking, or you have to control the parking which is easy for the tenant for their customers and has just been challenging. With dealing with the elderly tenants and saying they don't want, people today are weary about cars in and out of the parking lot. When they are in these apartment buildings, they feel safe and feel like a community. If a strange vehicle pulls in, I get phone calls.

We are just trying to take, they are about 800 square feet a unit, all level, and we are trying to cater to elderly. There are curb cuts and it's all ground level and try to put in stand-up showers, no tubs and really make it more or less not 100% handicap accessible but able to be handicap accessible if there is an elderly person that takes it that needs provisions in the future. The doors will be large. No tub. It's really a parking issue and cohabitating and keeping the existing tenants in the building. We have a great little community of people in a neighborhood that is wonderful.

That is my request to be able to keep it the way it is for everyone that is originally there and keep the tenants happy.

**Ms. Scannell:** It looks like you have plenty of parking.

**Mr. Petti:** Yes, there are four (4) spots in front of the small building and there are three (3) extra overflow spots that if they have guests over. Being one (1) bedroom, they would have a maximum of two (2) people in the unit and hopefully one (1) car. If they had two (2), there will be parking for them.

**Ms. Scannell:** Mr. Miglucci, questions, comments, or concerns?

**Mr. Miglucci:** It's pretty standard and he says it's a close-knit community and senior there. I think these modern times I think we should make things a little bit easier for our seniors and people of that sorts. I have no problem with any of this and I think it looks pretty good.

**Ms. Scannell:** Thank you. Mr. Signore?

**Mr. Signore:** It's a good fit. It's nice and quiet over there.

**Ms. Scannell:** Mrs. Flansburg?

**Mrs. Flansburg:** I think when this project originally came before the Board, we were kind of excited to have something that had retail business on the bottom and apartments on the top. It was sort of an up-and-coming thing and a way to have mixed development in theory but in practice if that wasn't a right location for a business or the types of businesses that would need that size space or that kind of location and it was kind of a bit of a learning curve for everyone on that part. I can appreciate the need for the change and moving from business to multi-family is sort of a lesser intensive use in the scope of things and it's a buffer between the businesses in the area and the residential communities behind it as well. I have no issue with it at all. I think it's perfectly fine.

**Ms. Scannell:** Thank you. Mr. Collins?

**Mr. Collins:** I'm good with the change. You have to do what you have to do and like Lynn said it was always a tough place for retail so, I think you are moving it in the right direction, and it fits with the area. I'm good with it.

**Ms. Scannell:** Mr. Calder?

**Mr. Calder:** No questions.

**Ms. Scannell:** Peter, would you like to weigh in on anything?

**Mr. Comenzo:** No. I'm good. Thanks.

**Ms. Scannell:** Courtney?

**Ms. Heinel:** No.

**Ms. Scannell:** I think it's a great idea and I think it's very nice that you're concerned about your tenants and you're a hands-on active landlord. The property is well maintained, and you have plenty of parking. It's a great idea for you guys.

I would entertain a motion for a positive recommendation on the change of zone.

**Mr. Signore:** I'll move.

**Ms. Scannell:** Do I have a second?

**Mr. Miglucci:** I'll second.

**Ms. Scannell:** Marlo, can you call the roll please.

**Ms. Carter:** Mr. Collins?

**Mr. Collins:** Yes.

**Ms. Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Ms. Carter:** Mr. Calder?

**Mr. Calder:** Yes.

**Ms. Carter:** Mr. Signore?

**Mr. Signore:** Yes.

**Ms. Carter:** Mr. Miglucchi?

**Mr. Miglucchi:** Yes.

**Ms. Carter:** Ms. Scannell?

**Ms. Scannell:** Yes.

Thank you, Carmine.

**Mr. Petti:** Thank you very much. It was nice meeting you all.



*Town of Rotterdam*  
*Office of the Planning Commission*

Kimberly Ricker Scannell, Chairman  
Peter J. Comenzo, Senior Planner

Telephone (518) 355-7575  
Facsimile (518) 355-2725

**Resolution Number PC37-2024**

Moved by Mr. Signore seconded by Mr. Miglucci  
Applicant: Carmine Petti & Frank Audino

**Resolution Adopting a Report and Positive Recommendation on  
the Change of Zone Request by Carmine Petti & Frank Audino**

**WHEREAS**, the Town Board of the Town of Rotterdam ("Town Board") has received an application from Carmine Petti & Frank Audino ("Applicant") for Change of Zone request on ±0.156-acre parcel from General Business (B-2) to Multi-Family Residential (R-3) for the conversion of existing building containing two (2) businesses to two (2) apartments and two (2) existing apartments to remain for a total of four (4) apartments. Currently, the parcels are known as 1725 Tower Avenue (Tax Map No. 59.9-7-6.2); and

**WHEREAS**, the Town Board referred the Change of Zone application to the Planning Commission on June 12, 2024 for a report and recommendation thereon; and

**WHEREAS**, the Change of Zone application was presented to the Planning Commission at its regularly scheduled meeting held on June 18, 2024; and

**WHEREAS**, the Planning Commission reviewed the proposed Change of Zone at its regularly scheduled meeting held on June 18, 2024; and

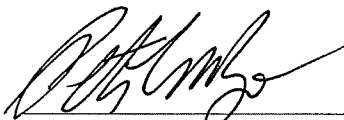
**WHEREAS**, the Planning Commission has deliberated on the proposed Change of Zone;

**NOW, THEREFORE**, upon motion of Member Signore, seconded by Member Miglucci,

**BE IT RESOLVED**, by the Planning Commission of the Town of Rotterdam as follows:

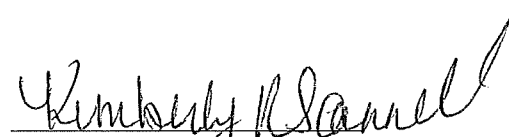
1. This Change of Zone from General Business (B-2) to Multi-Family Residential (R-3) for the conversion of two (2) existing retail tenant spaces on the first floor into two (2) apartments. The property is serviced by municipal water and sewer. The building is existing and the conversion of two commercial tenant spaces into 2 apartments will have less impact on the surrounding neighborhood. No external renovations are proposed as result of this action and traffic will decrease.

2. This recommendation is subject to the following considerations:
- a. The applicant should prepare a traffic study and work in coordination with NYSDOT to address traffic impacts due to the location and high volume of traffic in the area of this highway interchange.
  - b. Neither a positive recommendation by the Planning Commission, nor any rezoning action taken by the Town Board, should be construed as an approval or other favorable position concerning any proposed conceptual development plan. Any proposed development shall remain subject to full review by the Planning Commission and, as necessary, by the Zoning Board of Appeals.



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Peter J. Comenzo  
Senior Planner



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Kimberly Ricker Scannell  
Planning Commission Chairman

**6. Stewarts Shops Corp – Highbridge Road. Conceptual Site Plan/Special Use Permit review for the construction of a ±3,975 square foot Stewarts with three (3) fueling islands on a consolidated ±2.23-acre parcel. Engineer: Scott Edward Kitchner PE.**

**Ms. Scannell:** We are not going to be taking any action on this. This is an FYI for us. It's great to see you.

**Mr. Marshall:** I'm Chuck Marshall from Stewart's. With me is Molly Russell. Molly started just after the zone change referral in January. This is her first project she's seeing the whole way through.

As discussed, the Town Board did support the change to B-2 which allows a gas station per the Code. I think you guys saw it in concept. We're going to flip it over and show you the color rendering and I will walk you through the steps. I'm going to go through what I think are the easy kind of low hanging fruit as indicated by the Board's desire by Chris' fence choices and then we will go from there about what other site plan elements we have to address particularly the building placement.

So, we have an entrance off of Sherman and an entrance off of Highbridge. The Highbridge would be permitted by Schenectady County. It's a 3,975 square foot which is the same size of the other Stewart's in the town. The Stewart's that was most recently developed at Guilderland Avenue does have the decorative fence with the stone and I would recommend the stone veneer that matches the building be brought out to the columns for the decorative fence that surrounds the site and I also saw one of the DPW comments be placed on the can be column so, my only comment or request is that all stone, we have the same so it's matching in uniform throughout the site.

We did not submit a lighting plan, but I do think that a 3,000 calvin light would be appropriate. I will make sure that the lighting plan that is submitted in the next generation of submission includes that clavin lighting and then from there I am going to go through questions or changes. I will start with the building.

In having heard Chris' presentation and the materials that he presented, I can go to goose neck lighting. Remove all internal illumination. I can go to a monument sign and again have the monument sign stone match the stone from the building. The question is would you rather have goose neck lighting or light bar? The light bar just illuminates the overhang and has one led strip instead of the overhanging goose necks.

**Ms. Scannell:** The goose necks look really pretty, and they will match the new Dollar General that is going to be right down the street and around the corner.

Is there a cupola on that?

**Mr. Marshall:** There's not. Would you like a cupola?

**Ms. Scannell:** It would kind of blend in nicely with a residential neighborhood. Kind of like the store in Charleton. That has a lovely stone monument.

**Mr. Mashall:** It does. Cupola. I'm just going through the DPW comments. So, now, what I would like to do is I would like to get into what I'm going call the hard piece and that is the building placement. I think the building placement kind of deals with some of the other subsequent areas that stem from that. The use of the existing or vacant lot along Sherman, sidewalk connections and stuff like that.

Chris hasn't admitted this but he's a Stewart's alumni. I'm sure he can remember making these transparencies. I actually made transparencies. So, what I would like to do is discuss the building and the gas placement. Today we are like about there. And one of the comments that we received during the zone change is the building there and the problem there is the back of the building is to Sherman and "Inaudible" and I don't think that is the gateway look that you guys want. In addition to that, Elizabeth and Tim who live at 107 Mercer, that would place the gas canopy right in their view. So, the head nodding is showing me that is not the best.

**Ms. Scannell:** Did you gain a pump one way and lose a pump the other way?

**Mr. Marshall:** I lost a pump because after I met with them at their house, the premise was the way the building was situated with the fourth pump it extended over and was in their sight line. So, I removed it to use the building, and the building became the buffer. Again, something like this. We don't have to have lights on the back of the building. Let me rephrase that, we don't have to have lights that are on the timer along with everything else on the site. So, we can have lights, we are going to need lights in the back to fix equipment and that's pretty much it and that is the only reason we need lights in the back. We can use the back of the building to shield them from the most intense use, which is the gas canopy because we can't as you talk about lighting, the light refracts and doesn't really dissipate under the canopy. There is no place for it to go. With the three (3) pumps voluntarily after speaking with them and for us, and I saw a DPW comment that there is concern about a number of pumps and the potential for waiting. We are not nervous about that.

**Mr. Collins:** I never seen cars backed up at Stewart's getting gas.

"Inaudible..." (*Multiple Board Members speaking at the same time.*)

**Mr. Comenzo:** The concern was that a lot of times people will pump and walk into the store and then there are people waiting. They are not courteous. They don't pull forward and park and go into the store.

**Mr. Marshall:** I definitely agree with the premise but if we are going to add the fourth pump back, I just think we add it going towards Sherman and not towards Mercer.

**Ms. Scannell:** A store this size in a neighborhood like this...

**Mr. Marshall:** Curry Road has three (3). Just so...

**Mr. Collins:** Hamburg Street only has three (3).

**Mr. Marshall:** Correct. Burdeck Street has four (4). Burdeck Street moved diagonal across the street to make it more spacious. That needed to be done. My kid skis a lot at Maple Ridge and having navigating that on a Sunday and my wife was like can't you do something, and I was like I can do something about this.

**Mr. Signore:** Does adding a fourth pump affect this family at all?

**Mr. Collins:** If it affects this family, I wouldn't put it in.

"Inaudible..." (*Multiple Board Members speaking at the same time.*)

**Mr. Marshall:** It would have to be towards Sherman. We can't move towards Mercer. So, that is why, to me, the building placement where it is. I understand that it's not a gateway entrance. I understand that but I think some of the tradeoffs that we can work through are more site elements like sidewalks, lighting...

**Ms. Scannell:** If we had some sort of gateway feature there.

**Mr. Marshall:** Like a cupola?

**Ms. Scannell:** No, that is something goes on top of a house to make it look like a residential business.

**Mr. Marshall:** So, the stone fence or like incorporating the sign into like welcome to Highbridge.

**Mr. Comenzo:** You're talking like Charleton.

**Ms. Scannell:** Kind of like the welcome to Charleton. That would make it look like a gateway.

**Mr. Marshall:** So, let's talk through that. Welcome to Highbridge here. You want the pricing sign included in the welcome to Highbridge.

**Ms. Heinel:** With the gas prices and everything on that.

**Mr. Marshall:** Like it is in Charleton.

**Ms. Scannell:** Charleton has a separate one. It's got the little block on it and it's not like in your face.

**Mr. Collins:** Charleton is separate than the gas pump prices.

**Mr. Marshall:** It's in the sign. It's on like the wall over here, but it has its own little Stewart's sign. So, what I was thinking was welcome to Highbridge be like on the "Inaudible..." crest and then further down the gas signage.

**Ms. Scannell:** Yes.

**Mr. Marshall:** Okay and the extension off that would be the decorative fence.

**Ms. Scannell:** Yes. Sounds nice. What about other sidewalks there?

**Mr. Marshall:** We're getting there.

Let's go back one step, the building placement stays.

**Mr. Signore:** The least impact on this family.

**Mr. Marshall:** The only other thing that you could do which is "Inaudible" I would say, if you do this, you could put the pumps along here and do like a corner door but I think that is what they are trying to get away from.

**Mr. Comenzo:** I think the Town was looking to get away from that and part of coming into Highbridge there, at least the comments that I heard and even from the Town Board was that you do not want to have this big open parking lot area. You're looking at something when you're coming into Highbridge. Like a gateway and I think that was the original discussion was in terms of talking with the county. I understand the placement of the building and I think we really need to nail that down and that is why we are not doing a whole lot tonight. Engineering is going to follow the building placement. If we are moving the building around then you're going to have to go back.

**Mr. Marshall:** This is one (1) option. I'm sorry, let's start with the worst option is "Inaudible..."

**Mr. Comenzo:** We don't want that.

**Mr. Marshall:** We have in our back pocket the one (1) that we submitted.

**Mr. Comenzo:** The building itself, makes the best buffer because it's tall and you're saying it's going to be block, you won't see the canopy because it will be behind there and there is nothing really behind the building but an occasional maintenance person that might have to go back there.

**Mr. Marshall:** Correct, the building is 24' tall. The canopy is only 14' so the building will block the canopy.

If you don't put the building like this...

**Mr. Comenzo:** You're welcome to come around and look so you can see the plans.

**Mr. Marshall:** If you don't put the building here, the only other thing to do would be to spin it and then you are really impacting the neighbors.

**Mrs. Flansburg:** With your front and back where because I don't like that one.

"Inaudible..." (*Multiple Board Members speaking at the same time.*)

**Mr. Marshall:** The back would be to Mercer.

**Mrs. Flansburg:** That's terrible.

**Mr. Marshall:** I'm still with you. Let me tell me you one (1) reason why it's better than the back to Sherman. As you approach, the back of the building is less visible than from up here.

**Ms. Heinel:** It blends in with the neighborhood.

**Mr. Marshall:** It's hidden from the neighborhood until you are on top of it.

**Ms. Scannell:** Peter, what are your thoughts?

**Mr. Marshall:** If the building placement is here and again, we want a defining piece and we do the wall, do you think that's enough because the other option is you make the canopy a "Inaudible."

**Mr. Collins:** You what?

**Mr. Marshall:** You put a roof on the canopy and make it look like a true structure.

**Mrs. Flansburg:** Would it be visible or still lower than the building?

**Mr. Marshall:** It would be lower than the building. It's not like a full peak. It's just a start of a roof.

**Mrs. Flansburg:** Do you have examples of ones that exist?

**Mr. Marshall:** Stewart's in Middleburgh. That has three (3) pumps...

**Mr. Comenzo:** Did you redevelop that recently?

**Mr. Marshall:** Probably about five (5) years ago.

**Mr. Comenzo:** That might achieve what in terms of gateway in what you're looking for.

**Ms. Scannell:** Will we still have a sign that we are a gateway?

**Mr. Marshall:** The sign is not going away.

**Ms. Scannell:** I think that sounds really nice to put a little roof on that. I know what you are talking about. It looks nice. It's sharp.

**Mr. Marshall:** I want to make sure their concerns are met.

*"Inaudible..." (Multiple Board Members speaking at the same time.)*

**Ms. Scannell:** Where are we putting the free air where Stewart's is always so kind and generous with.

**Mr. Marshall:** As a gas station, you are required to have air.

**Ms. Scannell:** Not free.

**Mr. Marshall:** It does not have to be free. We are sharing company.

**Mr. Collins:** Are you putting charging stations someplace?

**Mr. Marshall:** No.

**Ms. Heinel:** When they came they said it was not one of the projects that it could have gone in.

**Mr. Marshall:** I don't know if anyone heard but Tesla disbanded their charging division. So, we have projects that literally have Tesla on the site plan, and we are uncertain what Tesla's future is in the charging business. So, we have a couple of projects that we are uncertain of the future of approvals.

**Mrs. Flansburg:** So, you are consenting to the roof and the fun stuff that she wanted out front?

**Mr. Marshall:** Yes. This is going to be one of the nicer Stewart's around.

**Ms. Scannell:** Dollar General is glad to hear that.

*"Inaudible..." (Multiple Board Members speaking at the same time.)*

**Ms. Scannell:** I will go on the record again and say all the same nice things. Stewart's is a wonderful partner, and we are very happy to be working with you and we appreciate, truly, sincerely, your consideration for our residents.

**Mr. Marshall:** They have been very polite. We have a couple of pieces still to work out and I will tell you that we are going to come back for Curry Road and Helderberg in the next couple of months.

*"Inaudible..." (Multiple Board Members speaking at the same time.)*

**Mr. Marshall:** Sidewalks and the fence are the two (2) next topics. To me the easier one (1) to talk about first is the fence. So, the fence today, do you like this or not? The fence that runs both parallel to Mercer...

**Ms. Heinel:** As you have it displayed there, the two 90-degree angles?

**Mr. Marshall:** It basically runs to here and we have it at 104°.

**Mr. Comenzo:** Just antidotally from some of the things that we have seen with the store and I will use as an example, the CVS, people, the kids especially if it's some type of a vinyl fence you are going to be constantly fixing the holes in it because they are going to try to come through the shortest way possible. It might make sense to put a gap in there so people can access from that neighborhood. You are obviously going to get quite a bit of bicycles and pedestrians coming from that portion of Highbridge. They are going to find the quickest way in and out and I don't think that you necessarily want to run that fence the length of that property.

**Mr. Marshall:** I don't run the fence the length of the property for sure. I would actually like to scale it back so it's almost just even with the dumpster.

**Mr. Collins:** Can you put something off the sidewalks so they know that you know what I mean, like Peter, if you shorten the fence the kids will probably walk around it and not through it. If it's too far they get kind of lazy.

**Mr. Comenzo:** The other thing that you could potentially do too is run a fence at a 90 degree to keep people from getting in there behind there too because I think part of the concern is getting behind the store.

**Ms. Heinel:** Closing off access on the Mercer side.

**Mr. Comenzo:** I think you'll want to lead people into the parking area, into the parking lot or towards the store. You don't want to have them congregate...

**Mr. Marshall:** This would help them. It was something we talked about before. If we take the fence and run it like that, is that better? Because that shortens it up...

**Mr. Comenzo:** I think it shortens it up because the kids are going to do it anyway and it also keeps the neighbor from having to worry about people getting back there.

**Mr. Collins:** I think cutting through wise it's better that way than that way.

**Mr. Marshall:** So, we'll run the fence here like that. I say that but it's going to be back a little bit just because we need some snow storage. It's not going to be completely against the edge of pavement.

**Male:** My concern is, we are the homeowners at 107, so we've been in contact through this whole process from the start and I appreciate it and I wanted to get that out of the way. The fence that he's talking about here, the main idea, see our property line is adjacent, you can't really see it from there, but we have 6 150' pine trees that are along the side of our property line. And the discussion that we had was creating a buffer because of the root systems that are there. We all know how much it costs to remove big trees, between 3,000 and 5,000 apiece, and I've already had that estimated. We have spoken that there is going to be approximately a 10' buffer but on this drawing here it shows 10' and then it deviates to 6'. So, in other words, it starts at 6' at Mercer in the front and then it deviates still on their property line to "Inaudible..." but the problem with that is and the reason why we agreed, or I suggested it was that because of the root systems of the pine trees. They're all over and they are huge trees.

**Mr. Comenzo:** They are on your property?

**Male:** Yes, and it would create a little buffer so that they don't run into it during construction and ruin the root systems and have to knock the trees down. That's part of our privacy. If you would actually go over there see you would understand and how much landscaping I would have to put there if those trees were left there.

**Mrs. Flansburg:** Can the whole thing come forward a little bit more room to give you a little more room?

**Mr. Marshall:** I don't think I can go the full 10' because as I look at it it's in this line, but I can get a full panel which is eight foot (8') which is two (2) more feet because these trees are going away.

**Male:** What trees are those?

**Female:** "Inaudible..."

**Mr. Marshall:** We are moving the fence forward. So, we're not going to put trees like that makes no sense.

**Female:** Right.

**Mr. Marshall:** We'll put the trees as we show on your property in front of your garage.

**Female:** Our garage is on the other side.

**Mr. Marshall:** Sorry. The edge of your house.

Just so everyone is clear, these four (4) trees are going to stay.

"Inaudible..." (*Multiple Board Members speaking at the same time.*)

**Mr. Marshall:** We are going to put them on their property because it's on the wrong side of the fence. These four (4) trees are going away because we are moving the fence forward. Now, this fence on this side, is going to come to the line of the dumpster. Do you want it to return in or just terminate?

**Ms. Heinel:** They are probably better with a return in than a terminate.

**Mr. Marshall:** I'm asking you guys.

**Ms. Scannell:** Peter?

**Mr. Comenzo:** Well, so you're doing the 90 into there. I'm just wondering in terms of your security and that type of thing is it better to have that open or I'm asking you, Chuck, because you design tons and tons of Stewart's. I'm just trying to think about keeping kids out of there are you almost better off, I agree getting rid of those four (4) trees so that gives someone a place to go and sit and hang out and be hidden where if you just have a fence there, you're not really attracted to that area to potentially hang out behind the store in between the trees or whatever and you get a little hiding spot that would be open. I don't know if by having that return there, if that creates a little area that maybe you wouldn't be able to see from the store or cameras and that type of thing. Would you be better off keeping that open?

**Mr. Marshall:** That's fine but that is why I'm asking.

**Mr. Comenzo:** I'm asking as a group too...

**Mr. Marshall:** At the end of the day, if it's that bad you will recall we have five (5) stores "Inaudible..."

**Mrs. Flansburg:** Snow storage wise wouldn't it be easier to not have it and gives you a little bit more...

**Mr. Marshall:** Yeah, but we need a buffer.

**Mrs. Flansburg:** I mean the fence not having it come in?

**Mr. Marshall:** I don't think that actually matters because it's going to be so far over anyway. I think we have a general sense of the orientation and improvements. We are going to stay with this layout. We're going to a "Inaudible" on the gas canopy. We are going to do a stone wall. We're going to do a Welcome to Highbridge, and we are going to add the free-standing sign to that wall.

**Mr. Comenzo:** And you're going to leave it to three (3) islands?

**Mr. Marshall:** Three (3) islands.

**Ms. Scannell:** And you're going to have a cupola.

**Mr. Marshall:** A cupola.

**Ms. Scannell:** And goose neck lights.

**Mr. Marshall:** And goose neck lights. So, now let's talk about the sidewalk. So, there is no sidewalk here today. My sense, because you're going to have a wall and a decorative fence around here, I would do sidewalk, I don't know how, there is no sidewalk on Sherman. So, do you want to run it to the property line because she would like a fence as well. I don't think we want to add activity to her property. I don't know where and this is strictly a decision for you guys, you guys tell me where the sidewalk ends.

**Ms. Scannell:** What are you guys doing with the undeveloped area on Sherman? There are a lot of trees over there. Some not so desirable.

**Mr. Marshall:** Some not so desirable, which according to Joann Graber are the locust that are over 40' and extending over her property. "Inaudible..."

"Inaudible..." (*Multiple Board Members speaking at the same time.*)

**Male:** They've been on the property for a long time and an accident waiting to happen as far as the trees even against their building there too. Some of the trees located adjacent to each other on our property into theirs, there are so many locust trees there too.

**Ms. Scannell:** What are the plans for the undesirable trees?

**Mr. Marshall:** The undesirable trees are going to be mostly removed. I'm not going to say we are going to clear cut that area but two factors that have to be addressed, there is no sewer so, we do have to do septic and that is where the septic system is proposed so, there will be some clearing in this vicinity and then the stormwater.

**Mr. Comenzo:** And then you're showing that on the map.

**Mr. Marshall:** Yes.

**Mr. Comenzo:** I guess the question is for the Planning Commission and that is really why DPW comments are there is that that wild area that is over there although DOT did to the entrance ramp onto 890 is not helping the situation at all, but it is kind of a mess over there in terms of the growth but it is providing some kind of buffer, I'm sure this time of year. Stewart's does a fantastic job of maintaining their properties. Do you go with having that property cleared and maintained and put some spruces in there or something and have it look nice but it is going to be a couple of years before you get

green. Right now, it's a mess but it's green. The two options would be clear it and put some trees in there but then you're going to see 890 and it's going to take a couple of years to grow or do you just leave it wild and a buffer and acts as a buffer in the summer months but in the winter it's a lot of the vines and all that stuff is going to die back and be able to see 890 a little bit more.

**Mr. Marshall:** On our original discussion with "Inaudible" and this only other neighbor, she has some trees of concern because they might fall. I was of the mindset of just to leave the perimeter, anything that's on the perimeter that is alive and healthy, and trees of value have that stay and select and remove some of those.

"Inaudible..." (*Multiple Board Members speaking at the same time.*)

**Ms. Heinel:** You're going to want to remove the vines because the vines are going to kill any healthy trees that are remaining there.

**Mr. Marshall:** So, basically just clean up what we can and not clear cut but also not...

**Ms. Scannell:** Save as much as you can so there is still a natural buffer of the good stuff.

**Mr. Marshall:** Yes.

"Inaudible..." (*Multiple Board Members speaking at the same time.*)

**Ms. Scannell:** Maybe it's an opportunity to try when all of the nonsense is out of there.

**Mr. Comenzo:** So, you're saying you'd rather just see it cleaned up and planted new.

**Female:** "Inaudible..." I also know some of those trees have very shallow rooting and if they are taking down from our house to Highbridge Road and that is going to create more wind and I foresee more issues with the trees if they leave them there.

**Mr. Collins:** Locust are not great trees anyway.

**Male:** They are not all locust but there are a lot.

**Ms. Scannell:** We can agree then if we are taking down the nuisance trees leaving what is feasible, what can flourish, and it will provide a natural buffer and clean it up and we are good with that.

**Mr. Marshall:** Yes.

**Male:** The only thing that I have is just a clarification on the lights. I know Mr. Marshall hasn't given you that as far as the height of the lights and I know we talked about the direction which sounds good, and we talked about "Inaudible..." (*Papers being moved near microphone and can't hear what he's saying and not speaking into the microphone.*)

**Ms. Scannell:** Because you got to sit here and see the drawing of the other project and we talked about the lower, I think originally, we talked about the lower calvins which is a soft, yellowish, warmly kind of color so...

**Mr. Comenzo:** Right around the corner is the new Stewart's that was built. It's dark out now and going by there now...

**Male:** I've been to all of them because everybody was knocking on my doors at the beginning of all this because I'm retired so Tim's got all the time in the world and go look and do research and stuff like that.

**Ms. Scannell:** There are shields that they can put on it if it's towards your house.

**Mr. Marshall:** Our standard light is a 14' yard light. It is a downlit LED fixture so, we will back shield, so, if you aren't familiar with it these are strip lights and the strip lights, you can't do anything other than shield them but with the LED's they are individually bulbs so you can actually put a socket around it so it can only go one direction. I will, in the next submission, have the map and we will make sure that we get everything, I was just thinking didn't we do something at Guilderland Avenue, the one with the dumpster is like ten feet (10')?

**Mr. Comenzo:** I would have to take a look after the meeting. I think we did. All I know there was a lot of controversy with the Guilderland Avenue project and after they were done and the neighbors were extremely happy and just like with you, Stewart's went the extra mile and went and planted trees on the adjoining property owner's property to help shield them. In terms of working...

**Male:** "Inaudible..." (*Not near microphone and can't hear what he's saying*).

**Mr. Signore:** Eventually something was going to go there. Ultimately, at some point in time that would be developed, and I would think that if you were going to have a neighbor, Stewart's would probably be...

**Male:** We've had good contact with them.

**Mr. Signore:** You could have a lot worse neighbors than...

**Male:** We're trying to work with each other on this.

**Mr. Signore:** It cleans it up and it was an old gas station.

**Male:** We bought the house five (5) years ago and we've lived next door to that eyesore since.

**Mr. Signore:** How long have you lived in Rotterdam?

**Female:** "Inaudible..." (*Not near microphone and can't hear what she's saying*).

**Ms. Scannell:** We're happy to have you in Rotterdam. Stewart's is truly a good neighbor and a good partner. Some of the other concerns I know you had along the way, some of those things have been addressed as well. We are working on a vacant house registry, and we are moving in a direction, and I want you to know that we do hear you and we do listen, and I'd love to have a conversation with you about those things when we're not doing this thing.

**Male:** "Inaudible..." (*Not near microphone and can't hear what he's saying*). I brought this up to Mr. Marshall because our property ends and sits on a berm that is only about 18" to 2' but that's a lot when it comes to the height of a fence. Some people say six foot (6') is the way it goes but, in this circumstance, eight foot (8')...

**Mr. Comenzo:** You're talking just along your property boundary?

**Male:** Yes, between us and them.

**Mr. Comenzo:** I think at one point there was a discussion of it running down the road and I know the Planning Commission has been, I don't think we have approved many eight-foot (8') fences anyway because it's not a thing but I don't know if the Board wanted to consider that the one that runs along the property line is eight foot (8').

**Male:** The only reason why it was brought up is because it has that little berm on it. If you had a six foot (6') fence you're really looking at a four foot (4') and our windows, our house is full of windows on that side of the house for some reason...

**Mr. Comenzo:** The extra two feet (2') is really going to give you a lot more.

**Male:** Not only that it will hide the dumpster area too that is going to be basically on the side of the house so, it will not be such an eye sore.

**Mr. Marshall:** That's a you guys' decision. We still have to go back to the sidewalks in a second.

**Ms. Scannell:** Show us where he's talking about on the map, please.

**Mr. Marshall:** It would be the fence that we just talked about relocating. Literally the length of their property.

**Ms. Scannell:** So, the proposition is to have an eight-foot (8') fence there and then...

**Mr. Marshall:** Six foot (6') anywhere else.

**Ms. Scannell:** I'm sure we can entertain that. Clark, do you have some...

**Mr. Collins:** No, if that is going to make them happy with all the windows, I don't have a problem with that. It's better than looking at a dumpster or whatever. I don't have a problem with it.

**Ms. Scannell:** Mr. Calder, what do you think?

**Mr. Calder:** I don't have no problem.

**Ms. Scannell:** All right good.

**Mr. Marshall:** We got derailed when started talking about the sidewalks and ended up talking about the vacant land. So, for the sidewalks, I will tell you where my preference is and you guys can tell me right, wrong or indifferent. I don't think it would be a good idea to add another crosswalk to Highbridge Road. I do think that a crosswalk is needed along Mercer and then a sidewalk and then to the store perpendicular to "Inaudible..." I see some head nodding.

**Mr. Collins:** That makes sense to me.

**Mr. Comenzo:** What are you proposing for Peter Road? I think that is a big connection to the whole rest of Highbridge Road.

**Ms. Heinel:** Peter Road area is highly residential and there's a lot of kids in that area. There is ice cream at Stewart's. I can see a lot of people wanting to go there.

**Mr. Marshall:** I guess my question again, to you guys, and ultimately...

**Mr. Comenzo:** It's going to be a discussion with the County. That is going to be the next stop.

**Ms. Scannell:** We need to have a county conversation.

**Mr. Marshall:** I was of the mindset to not add a crosswalk. You have a crosswalk at Mercer, and you want another one at Peter?

**Ms. Heinel:** My thought would be, and you guys can jump in, but my thought is Peter is going to be the most heavily traffic “Inaudible” to Stewarts.

**Mr. Comenzo:** It will be the connection for the whole other side of Highbridge.

**Mr. Marshall:** Do you want the crosswalks this close to the proximity along the same road?

**Mr. Comenzo:** I think it’s going to be a county call.

**Ms. Scannell:** I think we have to have a county conversation. So, you’re saying the Mercer one would connect to the other side of Highbridge?

**Mr. Marshall:** Yeah, I would do a crosswalk here and then I was just hesitant to introduce another crosswalk here. Again, Molly is new and she’s not going to tell anyone, but I would rather put a pedestrian signal on the existing crosswalk than introduce another crosswalk.

**Ms. Scannell:** I’m inclined to agree with you.

**Mr. Marshall:** That would be my preference.

**Ms. Heinel:** Do you agree that it’s probably going to be hard for there to be a crosswalk from Peter to the Stewart’s in that particular location of where it’s at in the road with the stoplight over here, the entrance ramp...

**Mr. Comenzo:** People are going to cross. That is going to be the kids with the bicycles and everything else. They are going to be coming from Peter.

**Mr. Marshall:** Whatever the discussion is with Schenectady County. You’ll represent the Board’s position, and I will “Inaudible” Stewart’s willingness to do the pedestrian cross.

**Ms. Heinel:** And you think the crosswalk where the sidewalk kind of go.

**Mr. Marshall:** One hundred percent (100%). Again, if you did it, you would do it on this side of Peter Road because that way you don’t have to cross...

“Inaudible...” *(Multiple Board Members speaking at the same time.)*

**Mr. Marshall:** I guess what I’m trying to get at is I would keep all the pedestrian activity, fence, stonewall, sidewalk here...

“Inaudible...” *(Multiple Board Members speaking at the same time.)*

**Mr. Marshall:** How far up Sherman do you want the sidewalk?

**Ms. Heinel:** If there was going to be anything the most logical terminus would be at the curb cut and not past it.

**Mr. Marshall:** I’m doing basically nothing except for a perpendicular sidewalk into the store. I’m not bringing it down Sherman.

**Ms. Scannell:** There are apartments on the other side?

“Inaudible...” (*Multiple Board Members speaking at the same time.*)

**Mr. Comenzo:** With that being said, just from my own thing, like CVS we dropped, we had them run the sidewalks to the terminus of their property. That sidewalk gets used. I use it and I actually pass people on that little, tiny strip of sidewalk because they can get out of the road. I think at least running that at least a portion of the way down Sherman would make sense because people will use it.

**Ms. Scannell:** I agree.

**Mr. Marshall:** Do you want to go like halfway or thereabouts?

**Mr. Comenzo:** You may be clearing it, and I would maybe go up to the edge of the clearing is for the septic, the green.

**Mr. Marshall:** Okay.

I think this is exactly what I needed. So, we are in good shape. When the next “Inaudible”?

**Mr. Comenzo:** July 10<sup>th</sup> is the next meeting, I think, no it’s the next week. That’s the Town Board. July 16<sup>th</sup> is our next meeting. The 5<sup>th</sup> of July is for the filing.

**Mr. Marshall:** So, what we will do is get everything to you in concept to make sure there are no variances.

**Mr. Comenzo:** I think the next step is to get the County involved. It sounds like we have the building layout nailed down and then send a copy to GPI.

**Mr. Marshall:** Thank you all for your time.

**Ms. Scannell:** Thank you.

**Ms. Heinel:** Thank you.

**7. Town of Rotterdam – Code Amendment. Report and Recommendation to the Town Board to amend Chapter 270, entitled “Zoning” to repeal Local Law #1 of the Year 2017 entitled Solar Energy Facilities with associated fees related to “green” energy and adopt an updated Solar Energy Facilities code.**

**Ms. Scannell:** Mr. Comenzo, could you please talk to us about the Report and Recommendation.

**Mr. Comenzo:** Peter Comenzo, Town Planner. I am going to be brief here. We did have the workshop, and everybody was in attendance, and I think it went really well. At the conclusion of the meeting, what I did is took some notes during the workshop and I took a look at my notes and there were several comments that were made at the meeting and a couple of comments that I had that I forwarded to Patty, the Chairwoman of the Energy Advisory Committee.

To summarize, there was some minor technical things that needed to be fixed but the things that I touched on and which actually had come up at the meeting was the number one, the 14’ height trees for planting. I had suggested something more in the range of four (4) to six (6)’ because 14’ is not really something that we have seen and it would be really difficult for them, at least in my mind, to survive. It is prohibitively expensive to plant a 14’ tree. I do not really know if that is a thing.

The second comment that came up, and this was to depict all structures within 2,500 feet for a map for anything for Tier 3 and up and I think maybe for a Tier 4 or Tier 5, the problem with something in mapping something within a ½ mile to show all the structures, I think the biggest difficulty would be the scale. Number one a lot of the information would probably be meaningless to the reviewing body which would be the Planning Commission but going basically a ½ mile in all directions really, the biggest thing is really going to be the scale and is it really needed. Is it something that we would really care about if there was something that was ½ mile away?

Definitely and I think I mentioned this at the workshop, the surrounding properties definitely I think you want to see how far if there is a barn or house or whatever if there is something even around the area because a lot of times you will see and even some of the site plans we see here they don’t show the adjoining properties and it makes it a little difficult to discern if there is going to be impacts and that type of thing. I think 2,500 foot was not really meaningful and would be really expensive and I do not know in terms of the scale of the map that you would receive if it would even be usable.

The third one that we mentioned was the one-mile notification was excessive. Currently our notifications for a change of zone is 300’. This is 5,000 plus feet. Obviously, the solars are “Inaudible...” notification but I think Dan Brudos’ project and it was like 300 something in terms of mailers to adjoining property owners. I do not know if there is necessarily a benefit to that.

The fourth one that I had mentioned was the replacement of anything that over 3” in diameter at breast height for a tree, a one-on-one replacement. I think if you are requiring a buffering on the inside of the fence and you are requiring a buffer on the outside of the fence, I think a 3” diameter tree is going to have to be, there would probably be a lot of them that would be removed. I do not know. The other thing is with 3”, is it really a tree. I think we had discussions with Dan, and I had some discussions with Kim about that, is this a tree or is there a definition and I think we put a definition in there for forest for woodland but the reference to 3” DBH is still in the code.

I know there was a lot of concern, I think Clark had brought this up, and then also in speaking with some of the Town Board members the difference in the fees from \$7,000 versus \$2,500 and the potential for the concern of being arbitrary that if we were going to charge a fee then it would just be a flat fee. I know there was some offsetting mitigation in terms of giving the Town property and there was some concern about if we are getting property is it really useable and is it something the Town would really want. I guess future Boards would make that determination, but I think the concern was to either just pick a number and kind of work on that and that could be something that the Town Board will look at.

What I did is I forwarded these comments to the Energy Advisory Committee. They are meeting tomorrow and I guess they can look at that if they want to make modifications, I thought it would be much better than having the Planning

Commission providing saying we want X, Y, and Z changed because everyone is going to have different opinions and I think as a body it would probably just be better to make a report and recommendation just like these other ones and we have all these little nuances that you might want to see on the site plan. I think the Planning Commission should just make a report and recommendation to the Town Board and then Energy Advisory Committee can look at these comments and say well, whatever we would like to keep it the way it is or maybe we will tweak this a little bit and we will tweak that a little bit and they can make their recommendation. We would make a recommendation either positive or negative from the Planning Commission and then the Energy Advisory Committee could send a memo and say based on the Planning Commission comments or my comments or however they wanted to word it, they could forward something to the Town Board and make some minor modifications to the Code or not. I will leave that up to the Energy Advisory Committee because they were tasked with writing the Code and not the Planning Commission and not me.

That is all I have.

**Ms. Scannell:** Thank you, Peter. Courtney, do you want to weigh in on anything with regard to the report and recommendation?

**Ms. Heinel:** This Board may not have been tasked with writing the Code, but they are tasked with giving their honest opinion related to the Code and any changes they feel might be necessary to it. Just because this Board has not done it previously doesn't mean they can't do it. There is nothing that says they can't. If particular Board members want to explain their vote or give further detail, I do not see the issue with that. That is the way I view it. It does not have to be the way everybody views it.

**Mr. Comenzo:** I think the other thing too is we have got verbatim minutes so, you've got the report and recommendation and I know a lot of times and we have done it different ways, but...

**Ms. Heinel:** Unfortunately, we do not have verbatim minutes from the informational meeting.

**Mr. Comenzo:** Not the informational meeting but this meeting tonight so, if there is anything that you want to get on the record, the Board would be able to review that.

**Ms. Scannell:** Peter, would you be proposing how would the report and recommendation be written from your perspective, ideally.

**Mr. Comenzo:** I am not proposing anything. I'm kind of throwing out here where we are in the process, and I think when you look at the Code it's a report and recommendation from the Board. So, do you each want to write up your comments and concerns and send them in. Like I said, what I tried to do is I tried to condense down, these are kind of, in my mind, the major things that have come up both in my mind and also at the meeting that there were certain things in the Code that they said maybe we do not want to notify people for so far or maybe do not want to plant 14' high trees. So, I think the Energy Advisory Committee, they are the ones that wrote the Code, so I do not know if the Town Board wants to go in there and look at those comments and say okay the Energy Advisory Committee did not want to adjust this and maybe they could justify or they could say why we don't want to change...

**Ms. Scannell:** I think we have a responsibility based on the request for report and recommendation to let the Town Board know what the feedback from the Planning Commission was. In a typical report and recommendation, correct me if I am wrong, you usually draft them?

**Mr. Comenzo:** The attorney usually.

**Ms. Heinel:** We both do.

**Ms. Scannell:** So, in a collaborative effort between Peter and Courtney, the sum up of what you sent to the Energy Advisory Committee should maybe be shared in the report and recommendations so that the Town Board has an opportunity to see what this Planning Commission was questioning versus just having the Energy Advisory Committee say “Inaudible...” The Town Board should know what we were suggesting to the Energy Advisory Committee. They are asking us for a report and recommendation. I don’t know. Mrs. Flansburg?

**Ms. Heinel:** It doesn’t have to be individual Board members each providing their piece. I thought at the start of this discussion with the Planning Commission there was so much fracture in terms of opinions and people had opinions of one thing and others didn’t. It was easier for each Board member to submit a supplementary document trying to explain...

**Ms. Scannell:** Which could be...

**Ms. Heinel:** Or something like you suggested.

**Ms. Scannell:** A summary sounds like a much better idea.

**Mr. Comenzo:** I’m just trying to throw this out here because I’m trying to say okay, we need to move on here and rather than necessarily giving it a thumbs up or a thumbs down, you can maybe put in writing what you like about or put in writing what you don’t like about it. I kind of did that. I put my opinions in some of that in terms of what was said at the meeting but I also added my own two cents and I’m not on the Planning Commission and I don’t make reports and recommendations but as the Town Planner I said that I should really look at these items and that is why I sent those to the Energy Advisory Committee to look over and say okay, does what the Town Planner is saying make sense? Is there some reason or do we just say okay a mile is a mile is a mile and we do not care what you say, and the developer is paying for, and we are going to forward that to the Town Board. Now, I’m not going to the Town Board to argue my points, but they are on the record.

**Ms. Scannell:** I think at our original meeting it was robust, I believe was the word that I used but I also think that we had a very meaningful and productive opportunity to sit with the TDE, with yourself and with members of the Energy Advisory Committee. I would entertain a motion for positive recommendation-based on feedback from Peter and Courtney on how our workshop session went.

**Ms. Heinel:** I think we can just include the summary you sent to the Energy Advisory Committee in the report and recommendation on the motion that you are proposing now as if we pass it, this is a summary of kind of what we’ve looked at...

**Mr. Comenzo:** I literally scribbled in red pen on it.

**Ms. Heinel:** You know what I mean or something like that.

**Mr. Comenzo:** I did not make a formal report and recommendation.

**Ms. Heinel:** Which will include your comments and recommendations because those were considered by the Planning Commission as part of this report and recommendation. I don’t think there is anything improper about including the Town Planner who is a responsible liaison to this Board to assist this Board through a review process, I don’t think there is anything improper about including your comments in the report and recommendation from the Planning Commission because your comments help in assistance and oversight of this Board are incredibly important to this Board and whatever makeup it becomes of the future. I do think that can be included with this report and recommendation as well because that did factor into their informational meeting and the information about this Code as well.

**Ms. Scannell:** I agree. Does anyone have any comments or concerns or questions for Peter or Courtney?

**Mrs. Flansburg:** I have been drafting along here as well thinking of a way for us to kind of move forward. I was just thinking after quality discussions at the workshop meeting and recognizing the long-term work that numerous members of the Advisory Committee had, I feel that overall that we can make a positive recommendation to the Town Board with the hope that summary of our suggestions are expressed to the Advisory Committee and also get expressed to the Town Board with our recommendation. That was a long way of saying what you said.

**Ms. Scannell:** Would you be making a motion?

**Mrs. Flansburg:** I would be happy to make that motion.

**Ms. Scannell:** Would anyone like to second it?

**Mr. Miglucci:** I'll second it.

**Ms. Scannell:** Marlo, please call the roll.

**Ms. Carter:** Mr. Collins?

**Mr. Collins:** No.

**Ms. Carter:** Mrs. Flansburg?

**Mrs. Flansburg:** Yes.

**Ms. Carter:** Mr. Calder?

**Mr. Calder:** I agree with what Lynn said. I feel a lot better about this project after our meeting. One hundred percent (100%) better but there is probably a half of dozen items that we all agreed are pretty much the same items that we agree on. Like the distance, at least we agree to question it, not that we agree with it all the time. So, if that was listed in what Lynn was saying, I would be for that. If it is not going to be listed what is saying, then I am against it. So, I don't know how to vote.

**Ms. Heinel:** It is going to be listed and it will be included.

**Mr. Comenzo:** Do you want to see the items that I forwarded to...

**Mr. Collins:** That doesn't mean they have to accept them.

**Mr. Calder:** No, they don't have to accept them. This is a living document and going to be moving anyway. I feel a lot better about this. I really had my issues before I came to that meeting.

**Mr. Comenzo:** That was a very good workshop.

**Mr. Calder:** It was a great meeting.

**Mr. Comenzo:** When you realize how much time they spent.

**Mr. Calder:** I didn't go to any of their meetings. I was asked to be on that committee and now maybe I should have taken them up on it because I did learn a lot. Again, out of 38 pages there is only about six (6) items that we all repetitively brought it up on. It is not that we were saying no on them, but they were of interest to us and that is why it has to be included.

**Ms. Scannell:** That will be included.

**Mr. Calder:** If that is the case, then I vote yes.

**Ms. Carter:** Mr. Signore?

**Mr. Signore:** Yes.

**Ms. Carter:** Mr. Miglucchi?

**Mr. Miglucchi:** Yes.

**Ms. Carter:** Ms. Scannell?

**Ms. Scannell:** Yes.

Motion carried.

**Mr. Collins:** I would just like my position on my no vote in the meeting minutes.

**Ms. Heinel:** Okay, that is fine.

**\*\*Mr. Collins position on his no vote\*\***

"I am voting in the negative on the Report and Recommendation for the following reason:

This code, as written, is too restrictive. The new code would severely limit how an owner can use his/her land. If the owner is in a financial situation in which leasing part of the land for a solar array would allow the owner to stay on their land, land that may have been in the family for generations, this code would not allow it if within 2.5 miles there already was a solar array. I wanted to picture exactly how far this was – well if you drive from town hall to Schalmont High School you have gone 2.5 miles – and you need that 2.5 miles in all directions. I find this and may other sections of this code unreasonable. Another example is on Page 22, #7 which states in part that a Tier 4 system and greater shall not be located above the elevation of 1,000 feet (NAVD 88), or along ridgelines and on hilltops. I have asked for clarification of this section and never received a precise answer.

The Town Board and the Planning Commission adhere to the town's comprehensive plan, zoning and building codes but I do not believe either the Town Board or the Planning Commission have the right to so severely prohibit what any person can do with their land.

I believe that this 35-page code was written for the sole purpose to forbid any solar energy projects in the western part of town."

**Ms. Scannell:** I would entertain a motion to adjourn the meeting.

**Mr. Collins:** I will make a motion to adjourn the meeting.

**Mr. Miglucci:** I'll second it.

**Ms. Scannell:** All in favor.

**Planning Commission Members:** I.

Meeting adjourned at 10:04 p.m.

Respectfully Submitted,

Marlo L. Carter  
Planning Commission Secretary



*Town of Rotterdam*  
*Office of the Planning Commission*

Kimberly Ricker Scannell, Chairman  
Peter J. Comenzo, Senior Planner

Telephone (518) 355-7575  
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**Resolution Number PC38-2024**

Moved by Ms. Flansburg seconded by Mr. Miglucci  
Applicant: Town of Rotterdam

**Resolution Adopting a Report and Positive Recommendation to the Town Board to amend Chapter 270, entitled "Zoning" to repeal Local Law #1 of the Year 2017 entitled Solar Energy Facilities with associated fees related to "green" energy and adopt an updated Solar Energy Facilities code**

**WHEREAS**, the Town Board of the Town of Rotterdam ("Town Board") has forwarded a proposed amendment to Chapter 270, entitled "Zoning" to repeal Local Law #1 of the Year 2017 entitled Solar Energy Facilities with associated fees related to "green" energy and adopt an updated Solar Energy Facilities code; and

**WHEREAS**, the Town Board referred the proposed amendment to the Town zoning code to the Planning Commission on May 16, 2024 for a report and recommendation thereon; and

**WHEREAS**, the Town Senior Planner presented the proposed amendment to the Planning Commission at its regularly scheduled meeting on May 21, 2024 and June 18, 2024; and

**WHEREAS**, the Planning Commission reviewed the proposed amendment at its regularly scheduled meetings held on May 21, 2024 and June 18, 2024; and

**WHEREAS**, the Planning Commission has deliberated on the proposed amendment;

**NOW, THEREFORE**, upon motion of Member Flansburg, seconded by Member Miglucci,

**BE IT RESOLVED**, by the Planning Commission of the Town of Rotterdam as follows:

The Planning Commission hereby adopts the following as its report on the proposed Zoning Code Amendment:

1. Town Board referred the local law to the Planning Commission on May 16, 2024 and the Planning Commission reviewed the local law at the May 21, 2024 meeting, conducted a workshop with members of the Energy Advisory Committee, Town Designated Engineer, Attorney for the Town, and Planning Staff on June 11, 2024.

As part of the Planning Commission report and recommendation the Commission directed the Town Planner to incorporate the notes from the June 11, 2024 workshop as well as the comments from staff and transmit those to the Energy Advisory Committee for consideration at their June 20, 2024 meeting. These comments included the following:

**Resolution Number PC38-2024**

Moved by Ms. Flansburg seconded by Mr. Miglucci

Applicant: Town of Rotterdam

Page 2

- A) TDE to provide clarification to the Energy Advisory Committee on the proposed Tiers for clarification (transmitted to Energy Advisory Committee Chairman on June 17, 2024).
  - B) Modifications to when a TDE is necessary and use SEQR action as a criterion.
  - C) Be specific as to what a regulated wetland is.
  - D) Consider modifying the requirement that 14' tall landscaping be installed to 4' to 6' to ensure better survival rates and practicality.
  - E) Establish the Town of Rotterdam as the zoning enforcement agency not the fire department or emergency services.
  - F) Modify the requirement for mapping structures and use from 2,500 feet from the boundary to include adjoining properties only to avoid scale issues and overall usefulness of the mapping.
  - G) Remove Tier 3 from the one-mile mailing notification requirement upon receipt of an application (recent rural Tier 3 project would have generated 350+ letters).
  - H) Modification to the requirement that no "tree" over three inches in diameter at breast height can be removed in a contiguous area exceeding 20,000 square feet.
  - I) Modify the post construction glare language and tie it to a Town Official as opposed to a generalized "complaints" triggering continued glare monitoring.
  - J) Define "Renewable Energy Substations."
  - K) Remove reference to Town Open Space Plan as one does not currently exist.
  - L) Remove prohibition of Solar Energy Systems on properties/structure that have submitted an application for inclusion as historic or culturally significant. "Application" is not defined, there is no time period, and it is either in or out. An application is just that and can be submitted by anyone at any time and is too subjective.
  - M) Remove the provision that the Planning Commission can reduce the \$7,000 per acre fee to \$2,500. Fee should be consistent and not subjective.
  - N) Requirement for drilling test wells and monitoring wells should be eliminated. In most of the western part of Town, existing wells are deep and drilling test/monitoring wells could negatively affect existing groundwater quantity and quality.
2. Subject to the considerations set forth in Paragraph 3, below, the Planning Commission hereby adopts a positive recommendation on the proposed amendment is to Chapter 270, entitled "Zoning" to repeal Local Law #1 of the year 2017 and adopt an updated Solar Energy Facilities Law and the removal of Chapter 270-137.1 (A)(1) that relates to the exemption of site plan fees.
3. Neither a positive recommendation by the Planning Commission, nor any rezoning action taken by the Town Board, should be construed as an approval or other favorable position concerning any proposed conceptual development. Any proposed development shall remain subject to full review by the Planning Commission and, as necessary, by the Zoning Board of Appeals.

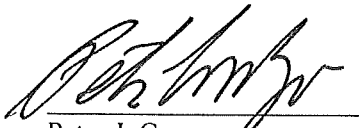
**Resolution Number PC38-2024**

Moved by Ms. Flansburg seconded by Mr. Miglucci

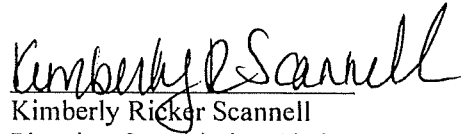
Applicant: Town of Rotterdam

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<u>Member</u>	<u>Aye</u>	<u>Nay</u>
Kimberly Ricker Scannell	X	
Mark D'Alessandro	X	
Wayne Calder	X	
Clark Collins		X
Joseph Signore	X	
Lynn Flansburg	X	
Joseph Miglucci	X	



Peter J. Comenzo  
Senior Planner



Kimberly Ricker Scannell  
Planning Commission Chairman