

**Town of Rotterdam
Planning Commission
July 15, 2025**

Workshop 7:00 pm

Request for Condition Modification:

1. **Tomra Recycling, LLC – 31 Opus Boulevard.** Request to modify Site Plan approval Condition #4 of Resolution PC-21-2025 to construct a 36' x 100' addition for the location of an enclosed trailer tipper tower with a height of 70' and minor site plan modifications on a ±4.33-acre parcel.

Waivers:

1. **The Boardroom Lounge – 1002 Wedgewood Avenue.** The applicant requests a Waiver of Site Plan review to operate an indoor cornhole venue for casual and competitive cornhole play in Suite 2, ±6,000 square feet of ±12,000 square feet building on a ±2.46-acre parcel.
2. **Cozy Nails Spa – 2603 (2601) Guilderland Avenue.** The applicants request a Waiver of Site Plan review to operate a nail salon and beauty spa in existing ±2,320 square foot tenant space on a ±0.24-acre parcel.
3. **Upstate Collectiblez LLC – 93 W. Campbell Road.** The applicant requests a Waiver of Site Plan review to operate a retail store in tenant space G-120, ±2,279 square feet, from June 18, 2025 – August 31, 2026 at the ViaPort Rotterdam Mall.
4. **Spirit Halloween – 80 W. Campbell Road.** The applicant requests a Waiver of Site Plan review to operate Spirit Halloween, a costume and accessory retail store, in existing ±25,060 square foot building, former Office Max, on a five (5) acre parcel.
5. **Art of Hair – 93 W. Campbell Road.** The applicant requests a Waiver of Site Plan review to operate a beauty salon/barber shop in tenant space C-100, 1067 square feet, former Hair City Cutters from August 1, 2025 – September 30, 2026 at the ViaPort Rotterdam Mall.
6. **Stewarts Shops Corp – 647 Mariaville Road.** The applicant requests a Waiver of Site Plan review to operate a karate studio in existing tenant space #2, ±2,500 square feet on a on a ±2.91-acre parcel.
7. **Jimit Patel – 1926 Curry Road.** The applicant requests a Waiver of Site Plan review to add a ±600 square foot apartment, to existing 31 room hotel, on a ±1.52-acre parcel. Engineer: ABD Engineers.
8. **Brianna Kwiatkowski – 2976 Hamburg Street.** The applicant requests a Waiver of Site Plan review to operate, Oh Honey, Café & Bakery, in existing ±1,440 square foot building, former Maureen's Yarn Boutique, on a ±33,264 square foot parcel.

Agenda (V. Dalton Bambury Hearing Room 2nd Floor) – 7:30 pm

Approval of the Summary of Minutes June 17, 2025

1. **Stewarts Shops Corp – 1841 Helderberg Avenue.** Final Site Plan/Special Use Permit Public Hearing to construct a ±4,500 square foot convenience store with four (4) fueling islands on a 0.87-acre parcel. Engineer: Scott Edward Kitchner PE.
2. **MAN Properties, LLC – Mariaville Road & Old Mariaville Road.** Final Site Plan/Special Use Permit Public Hearing review for the construction of a ±6,000 square foot warehouse building for two (2) or more tenant spaces on a ±2.07-acre parcel. Engineer: ABD Engineers, LLC.
3. **Thomas Feulner - 4866 Pattersonville-Rynex Corners Road.** Sketch Site Plan/Special Use Permit review to operate horse riding arena/stables on a 60-acre parcel. Engineer: Empire Engineering, PLLC.
4. **Dunnsville Properties, LLC – 271 Dunnsville Road.** Sketch Two (2) Lot Subdivision: Lot 1 = ±0.92 acres with proposed single-family residence and Lot 2 = ±0.76 acres with proposed single-family residence. Engineer: Empire Engineering, PLLC.
5. **Town of Rotterdam – Battery Energy Storage Systems.** Review and discussion on proposed amendments to Town Code Chapter 270 to regulate Battery Energy Storage Systems (BESS).

Workshop (2nd Floor Conference Room) – 7:00 pm

Request for Condition Modification:

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7. **Jimit Patel – 1926 Curry Road.** The applicant requests a Waiver of Site Plan review to add a ±600 square foot apartment, 15'X 40', to existing 31 room hotel, on a ±1.52-acre parcel. Engineer: ABD Engineers.
8. **Brianna Kwiatkowski – 2976 Hamburg Street.** The applicant requests a Waiver of Site Plan review to operate, Oh Honey, Café & Bakery, in existing ±1,440 square foot building, former Maureen's Yarn Boutique, on a ±33,264 square foot parcel.

Peter Comenzo

From: Mike Leusch <[REDACTED]>
Sent: Monday, June 30, 2025 1:58 PM
To: Peter Comenzo
Cc: Melody Viteri
Subject: TOMRA 31 Opus Blvd - Final Site Plan
Attachments: PC Agenda 5 6 25.pdf

TOMRA

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Peter

As discussed last week, due to the nature of our recycling business at 31 Opus Blvd location, we propose replacing the language on note #5 (page 20) from the Final Site Plan as stated below. If approved, can you please send me an updated version of the attached PDF or, a communication reflecting the change?

Original Note #5:

5. Add note to plan: "Utility carts, boxes, recyclables, and refuse shall not be stored outside."

Proposed updated note #5:

5. Add note to plan: "Empty recycling containers and bins, used pallets, and glass awaiting processing will be organized in the designated outdoor storage areas."

Please let us know if you have any questions or concerns.

Thank you,

Michael Leusch
Director of Plant Safety and Capital Projects
TOMRA Collection Americas
Mobile: [REDACTED]



LEADING THE RESOURCE REVOLUTION



TOMRA, One Corporate Drive, Suite 710, Shelton, CT 06484
Phone: + 1 (203) 447-8800, www.tomra.com

WAIVER OF SITE PLAN REVIEW

Date Reviewed: July 15, 2025

PC2025-W037

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: Michael & Karie Countermine
ADDRESS: 19 Mayflower Drive
Schenectady, NY 12306

PROJECT LOCATION: 1002 Wedgewood Avenue

APPLICANT IDENTIFIED AS: Owner ☒ XX Lessee ☐ Contract Vendee

REQUEST: The applicant requests a Waiver of Site Plan review to operate an indoor cornhole venue for casual and competitive cornhole play in Suite 2, ±6,000 square feet of ±12,000 square feet building on a ±2.46 acre parcel. Engineer: ABD Engineers.

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. 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.
2. Applicant to comply fully with Town Sign Code and obtain a building permit for any signage.
3. Owner/applicant shall install Knox box. Please contact Fire District #2 for specifications.
4. Owner/applicant shall install a water meter that reads in gallons with an outside reader without a wand to read prior to the issuance of a Certificate of Occupancy.
5. Applicant shall submit proof of NYS Liquor Authority approval for the sale of wine and beer prior to any sales of such items.
6. Applicant shall obtain Schenectady County Health approvals prior to any sale of food items. All vendors shall have Schenectady County Health and/or NYS Department of Health approvals prior to operating on premises. If vendors are operating in the parking lot, a Waiver of Site Plan shall be obtained prior to any such event.

The Commission action on the Waiver application took place at the Planning Commission meeting of July 15, 2025 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, Chairman
Planning Commission



BUSINESS USE AND ACTIVITY NARRATIVE- THE BOARDROOM AND LOUNGE LLC

The Boardroom & Lounge is a recreational and social entertainment facility located in Rotterdam, NY primarily focused on the sport of Cornhole. The business will operate as an indoor venue offering patrons a clean, safe and welcoming environment to play both casual and competitive games of cornhole. The facility is designed to accommodate league play, special events, tournaments and individual walk-ins.

The core of our operations revolves around regulation-sized cornhole lanes, and professional grade boards and bags provided by the facility. In addition to open play, the business will host structured leagues. This includes adult and youth leagues. We will also have seasonal tournaments, corporate events, and fundraising events that encourage community involvement and repeat visitation.

Our space also includes a lounge area designed for members with an upgraded membership to socialize, and to watch sporting events on big screen televisions. Light concessions will be available to purchase at our snack bar, and we plan to offer a BYOB option (Bring your own beer/wine), in accordance with the NYS alcohol beverage control laws, and secure a beer and wine license through the NYS liquor authority. No liquor will be served or allowed on premises. All alcohol consumption will be monitored, and age verification will be strictly enforced with appropriate safety protocols in place. Additionally, the business will partner with local licensed food trucks, which will operate in a designated outdoor area on a rotating schedule. The vendors will provide a variety of food options to patrons during peak hours and events. This arrangement supports local small businesses and adds flexibility in food service without the need for a full kitchen onsite.

Typical operating hours will generally be between 3pm to 11pm on weekdays and 10am to 10pm on weekends, depending on demand, event scheduling and league schedules. Peak usage is expected during evenings and weekends. Anticipated clientele includes adults ages 21-50, families (during designated family-friendly hours), corporate groups, and local cornhole enthusiasts.

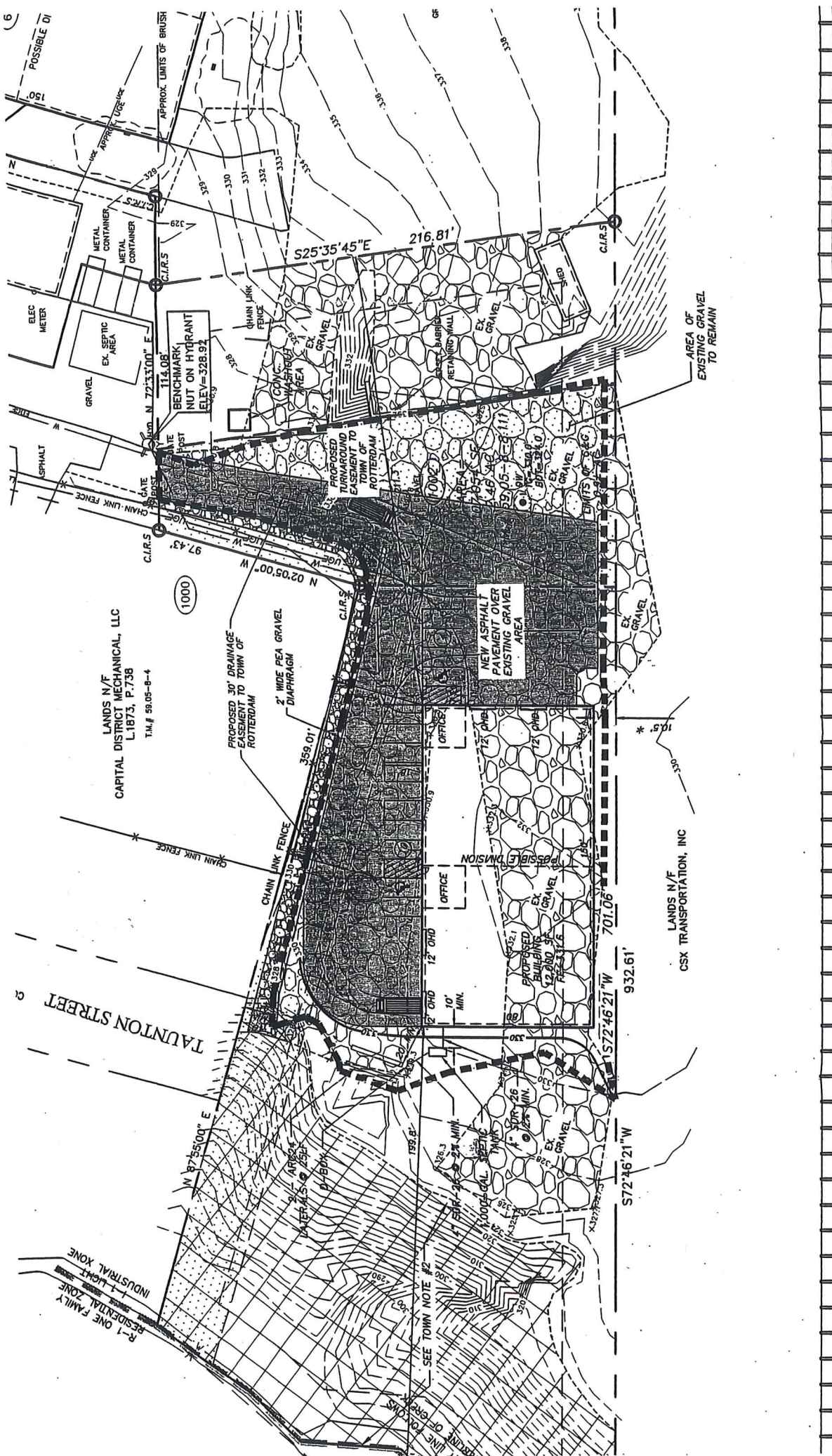
Our facility includes 8 regulation- sized cornhole lanes, each accommodating 2 to 4 players at a time. This allows for 16 to 32 active players during peak occupancy. We anticipate steady flow of customers throughout business hours, with typical weekday attendance averaging 30 to 60 patrons, and weekend or event days reaching 70 to 100 patrons. Usage will be spread across time slots to ensure a consistent yet manageable crowd size. This model allows us to maintain a high level of service and comfort for guests while ensuring adequate parking and safety.

The business will initially be operated by the two co-owners (husband and wife), who will manage day-to-day operations, customer service, and event coordination. As business activity grows, we anticipate hiring employees to assist with front desk operations, equipment setup, and cleaning duties. Staffing levels will remain modest and appropriate for the size and scope of the facility.

The venue will maintain full compliance with all applicable building, health, fire safety, and occupancy codes. Parking, signage, and noise will be managed to minimize any disruption to neighboring properties.

The Boardroom & Lounge is committed to operating a safe, responsible, and community focused recreational facility. Our goal is to bring a unique and enjoyable experience to Rotterdam, NY while supporting local partnerships and contributing to the town's economy.

Respectfully submitted,
Michael and Karie Counterline
Co-Owners
The Boardroom and Lounge, LLC
7/1/2025



WAIVER OF SITE PLAN REVIEW

Date Reviewed: July 15, 2025

PC2025-W32

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: Cozy Nails Spa
ADDRESS: 147 Wallins Corners Rd Apt #3
Amsterdam, NY 12010

PROJECT LOCATION: 2603 (2601) Guilderland Avenue

APPLICANT IDENTIFIED AS: Owner ☒ Lessee ☐ Contract Vendee ☐

REQUEST: The applicants request a Waiver of Site Plan review to operate a nail salon and beauty spa in existing ±2,320 square foot tenant space on a ±0.24 acre parcel.

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. Approvals are contingent upon 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. Owner/applicant shall install Knox box for emergency personnel. Please contact Fire District #2 for specifications.
5. Owner/applicant shall install a water meter that reads in gallons with an outside reader without a wand to read prior to operation. Please check with DPW for retailers.
6. Applicant shall obtain Schenectady County Health Department approval and/or New York State Department of State licensing.
7. Prior to Certificate of Occupancy, applicant shall provide a copy of the duly executed Ventilation System Certification to DPW.

The Commission action on the Waiver application took place at the Planning Commission meeting of July 15, 2025 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.

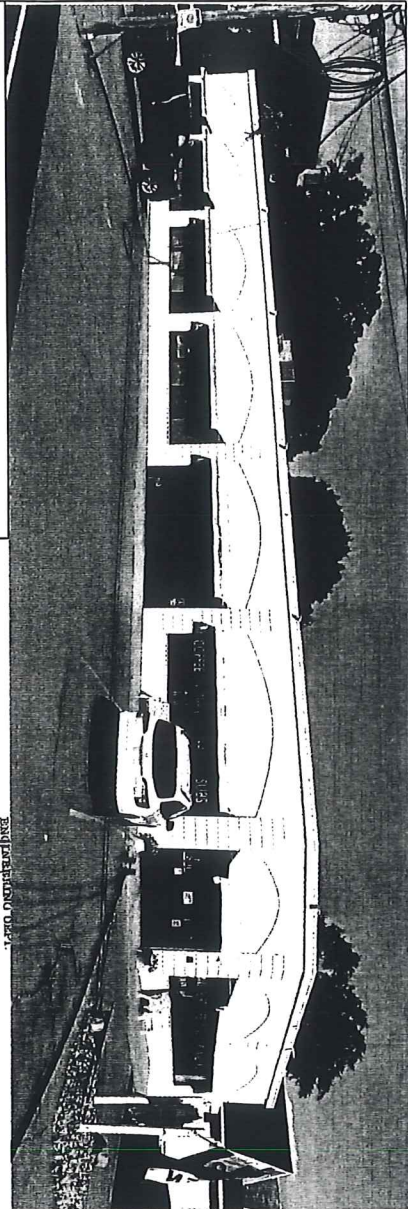
Peter J. Comenzo
Senior Planner

Kimberly Ricker Scannell, Chairman
Planning Commission

Cozy Nail Spa's primary business is providing nail services and beauty spa. Its hours of operation are Monday to Saturday from 9:30 AM to 7:30 PM, and Sunday from 10:00 AM to 6:00 PM. The nail salon is expected to employ 5 to 8 nail technicians to provide nail services, primarily serving local residential customers.

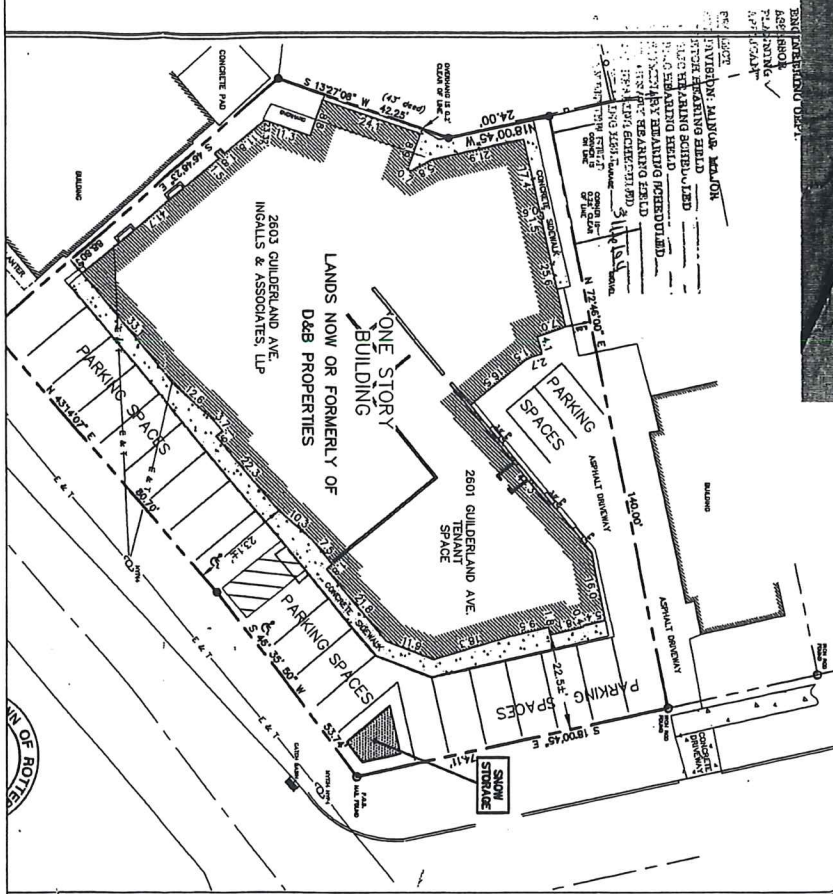
A handwritten signature, possibly reading "J. Smith", enclosed within an oval border.

6/18/2025



SITE PLAN WORK

1. THE EXISTING PARKING LOT WILL BE SEAL COATED AND STRIPPED.
2. THE STRIPPING WILL FOLLOW THE ATTACHED PLAN INCLUDING ADA AND NO PARKING AREAS.
3. THE NO PARKING SIGNS AND HANDICAP PARKING SPACE SIGNS WILL BE REPAIRED AND REINSTALLED.
4. THE EXISTING AWNINGS AS SHOWN ON EXISTING PHOTO WILL BE REPAIRED AND THE DAMAGED FABRIC REPLACED



DATE: 18 JUNE 2025

NAIL SALON

REV:

2601 GUILDERLAND AVENUE
ROTTERDAM, NY

T000

SITE PLAN



CAPITAL ARCHITECTURE
24 AVIATION ROAD
COLONIE, NY 12205
518 253 1442 CELL
capitalarchitecture@yahoo.com

THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION AND
CONSTRUCTION OF THIS PROJECT
WILL BE UNDER MY OBSERVATION

WAIVER OF SITE PLAN REVIEW

Date: July 15, 2025

PC2025-W33

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: Upstate Collectiblez LLC

ADDRESS: 1287 Midline Road Apt 22
Amsterdam, NY 12010

PROJECT ADDRESS: 93 W. Campbell Road – ViaPort Rotterdam Mall

APPLICANT IDENTIFIED AS: Owner ☒ Lessee ☐ Contract Vendee

REQUEST: The applicant requests a Waiver of Site Plan review to operate a retail store in tenant space G-120, ±2,279 square feet, from June 18, 2025 – August 31, 2026 at the ViaPort Rotterdam Mall.

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:

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2. Applicant must obtain a Fire Inspection and/or Building Permit and be issued a Certificate of Occupancy from the 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. Owner/applicant shall install Knox box for emergency personnel. Please contact Fire District #6 and/or #7 for specifics.

The Commission action on the Waiver application took place at the Planning Commission meeting of July 15, 2025 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, Chairman
Planning Commission

Upstate Collectiblez is a family-owned business by Matthew and Lynnae Zampella.

What once started in their garage at home has turned into a brick-and-mortar retail store that has been in business since 2022. We buy, sell and trade collectibles/ vintage toys, figures, die cast, sports memorabilia, etc. Upstate CollectibleZ also provides online shopping through their eBay store, live auctions on Facebook, and auctions on multiple online platforms.

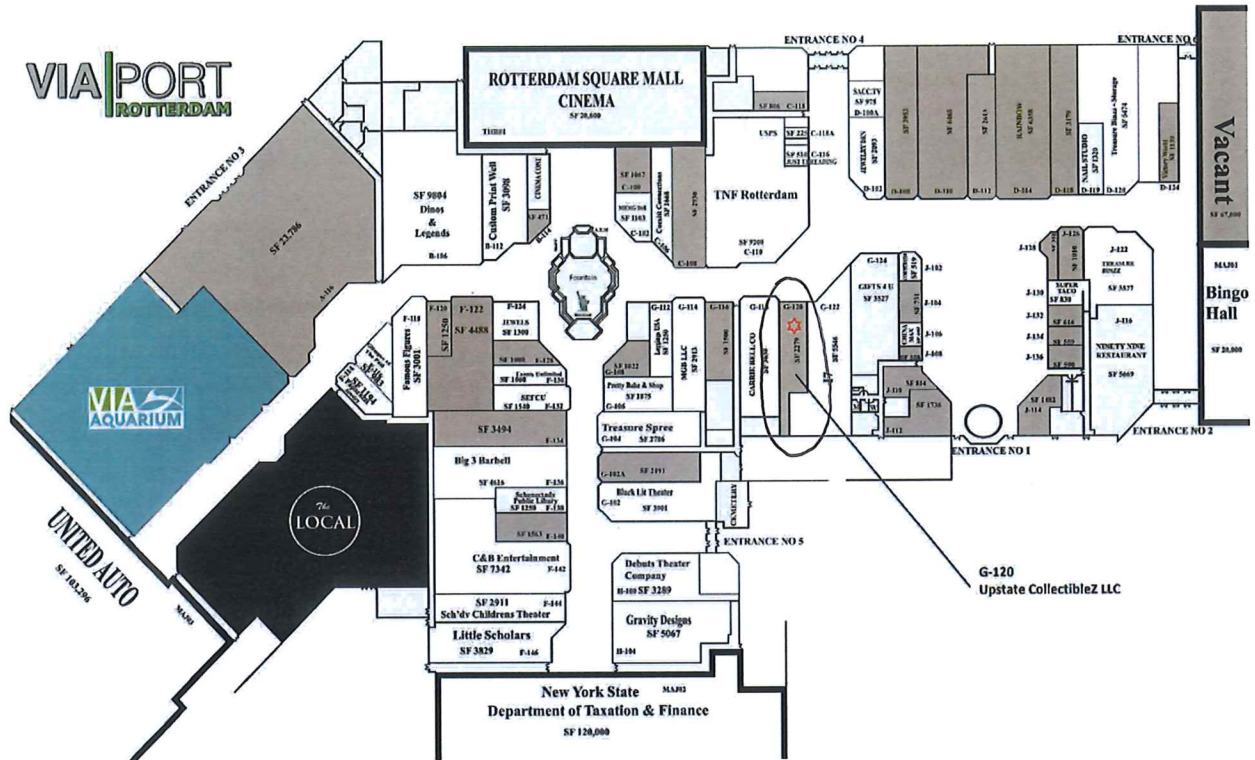
Upstate CollectibleZ will be open during Mall hours and currently has 3 employees with the possibility of hiring 2 more people.

Hours Mon-Sat 11:00-7pm

Sun 11:00-5pm

EXHIBIT A

Site Map



WAIVER OF SITE PLAN REVIEW

Date Reviewed: July 15, 2025

PC2025-W34

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: Spirit Halloween
Attn: Lisa Lyons
ADDRESS: 14 Julia Rose Court
Glenmont, NY 12077

PROJECT LOCATION: 80 W. Campbell Road

APPLICANT IDENTIFIED AS: Owner ☒ Lessee Contract Vendee

REQUEST: The applicant requests a Waiver of Site Plan review to operate Spirit Halloween, a costume and accessory retail store, in existing ±25,060 square foot building, former Office Max, on a five (5) acre parcel.

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:

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3. Applicant to comply fully with Town Sign Code and obtain a building permit for any signage.
4. Owner/applicant shall install Knox box for emergency personnel. Please contact Fire District #7 for specifications.

The Commission action on the Waiver application took place at the Planning Commission meeting of July 15, 2025 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, Chairman
Planning Commission

Center Name - Campbell Road - Rotterdam, NY

Spirit Rep - Jon Tedesco **Zone Manager** - Lisa Lyons **Zone Director** - Randy Anthony
Facilities Manager - Joanna Noto

Term - 7/1/2025 - 11/15/2025

Kick Out - 6/15/2025

Utilities

Electric – LL Name

Gas – LL Name

Water – LL Name

Sewer - LL Name

Known Deficiencies- . para 8 - general repair protection - LL to maintain structure and major systems, we only repair if we damage - includes our mold remediation, self-help and termination language - 10 day LL cure window

para 1 and 2 - 1 - 2k govt cap w/ no notice deadline - 2023 condition and inspection language - 10 business days from physical possession inspection window - LL to deliver free of mold and asbestos; 2 - initial inspection prior to, or immediately following SE lease (electric on) - termination rights if we are unable to gain our perm

Other Requirements - SIGNAGE - para 16 and Exhibit B - later of FE lease or passing of kick out start - upon proper town approval, we may place a banner sign over the existing 12'x12' "For Sale or Lease" sign on the front of the building. LL shall be permitted to keep the existing 12'x12' "For Sale or Lease" sign on the front of the building - signage authorization letter exhibit in lease; 5 - permitted to park a co. vehicle in the parking lot overnight

TENANT'S WORK - para 2 - Tenant shall have the right, in its sole discretion, and in accordance with all applicable laws and regulations, to relocate, remove or dispose of any remaining fixtures, partitions, dressing rooms and/or other interior, non-structural features in the Premises in preparation for its operations in the Premises

Fire Responsibility - Landlord – WO and Tagged

Fire Comment - para 1 and 8 - 1 - LL to deliver fire suppression and/or fire alarm monitoring systems tagged, certified, monitored and fully operational... throughout the term; 8 - LL to maintain fire protection unless we are at fault - includes emergency self-help and termination rights - 10 day LL cure window

HVAC Responsibility - Landlord – Working Order

HVAC Comment - para 1 and 8 - 1 - LL to deliver the HVAC in good working order; 8 - LL to maintain HVAC unless we are at fault - includes emergency self-help and termination rights - 10 day LL cure window

Negotiated Storage - None Approved

Storage Comment -

We are leasing space on 80 West Campbell Ave to open and operate a temporary retail Halloween store. We will hire 10-20 employees.

Thank you

Lisa Lyons



HILLWOOD PLAZA

CARPORT ROAD

186'-6"
OLD
OFFICE MAX
+1,500 SF
+1,500 SF
25,060± SF TOTAL
125'-4"

DOLLAR TREE
15,750± SF

Undeveloped Pad Site -
On same parcel as
Dollar Tree but separate
tax bill. Pad site sold
separately. Dollar Tree
box offering with +/- 1
acre.

BUILDING AREA:
BJS -115,660 SF
OLD OFFICE MAX -23,560 SF + 1,500 SF
RETAIL -68,250 SF
DOLLAR TREE -15,750 SF
TOTAL -224,720 SF

PARKING: AVAILABLE
BJS -725 SPACES
OLD OFFICE MAX -254 SPACES
DOLLAR TREE -62 SPACES
RETAIL -170 SPACES
TOTAL -1211 SPACES

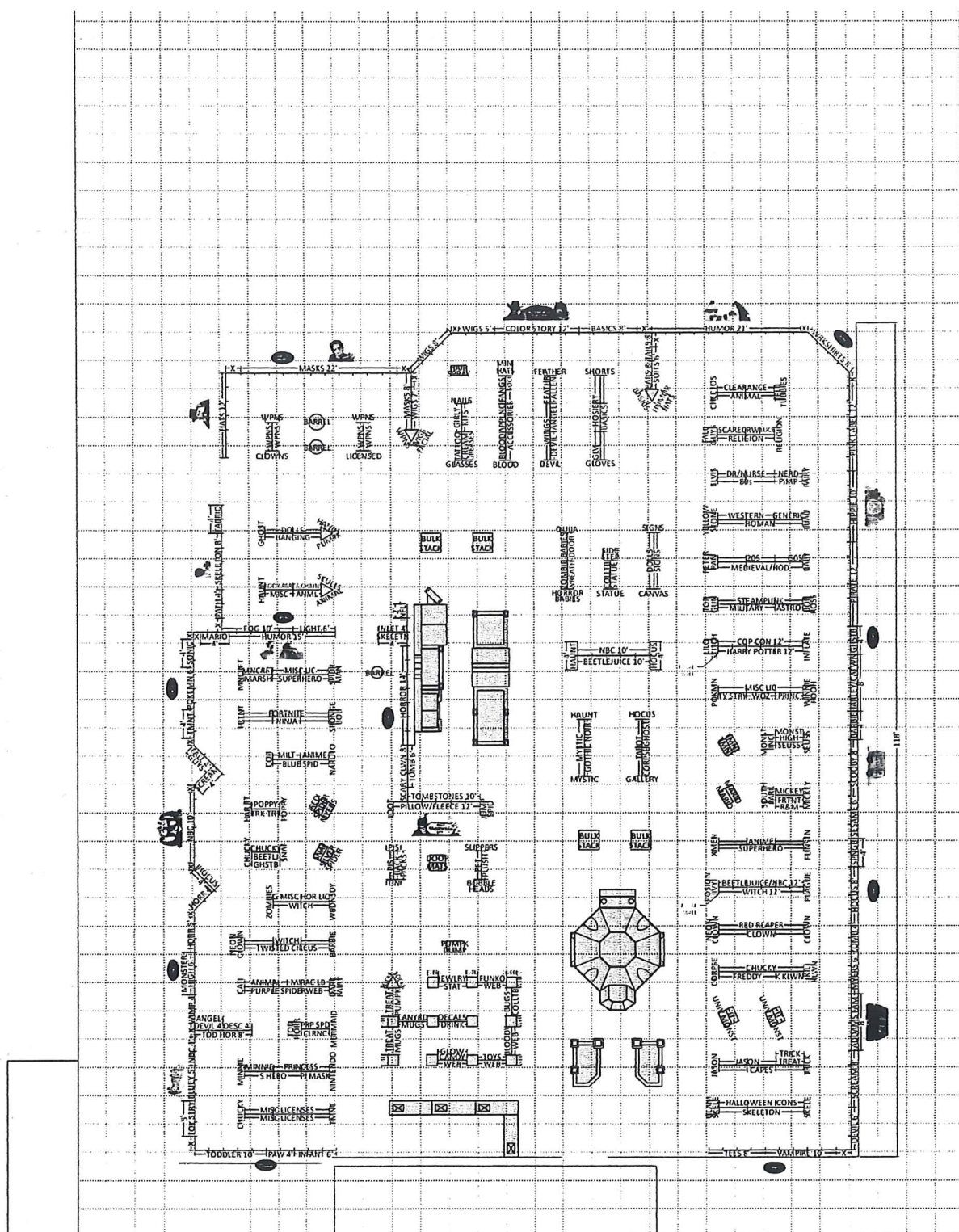
PARKING REQUIREMENTS:
5.3 SF/1000 SF @ 224,720 SF= 1236 SPACES
PARKING PROVIDED:
5.38 SF/1000 SF @ 224,720 SF= 1211 SPACES

BJS 725 SPACES

GRAPHIC SCALE
(IN FEET)
1 inch = 60 ft.

LEASING PLAN
SCHERMERHORN HOLLOW VILLAGE

TOWN OF HUNTERDON	STATE OF NEW JERSEY	COUNTY OF MIDDLESEX
ENGINEERS SURVEYORS		
A J D ENGINEERS SURVEYORS		
311 Union Street, Suite 200, New Brunswick, NJ 08901		
908-377-0310 Fax: 908-377-0378		
DATE: AUGUST 14, 2003	SCALE: 1" = 60'	PROJECT: SCHERMERHORN HOLLOW VILLAGE



WAIVER OF SITE PLAN REVIEW

Date: July 15, 2025

PC2025-W35

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: Art of Hair
Attn : Irving DeLosSantos
ADDRESS: 265 Mercer Avenue
Schenectady, NY 12303

PROJECT ADDRESS: 93 W. Campbell Road – ViaPort Rotterdam Mall

APPLICANT IDENTIFIED AS: Owner ☒ Lessee ☐ Contract Vendee

REQUEST: The applicant requests a Waiver of Site Plan review to operate a beauty salon/barber shop in tenant space C-100, 1067 square feet, former Hair City Cutters from August 1, 2025 – September 30, 2026 at the ViaPort Rotterdam Mall.

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:

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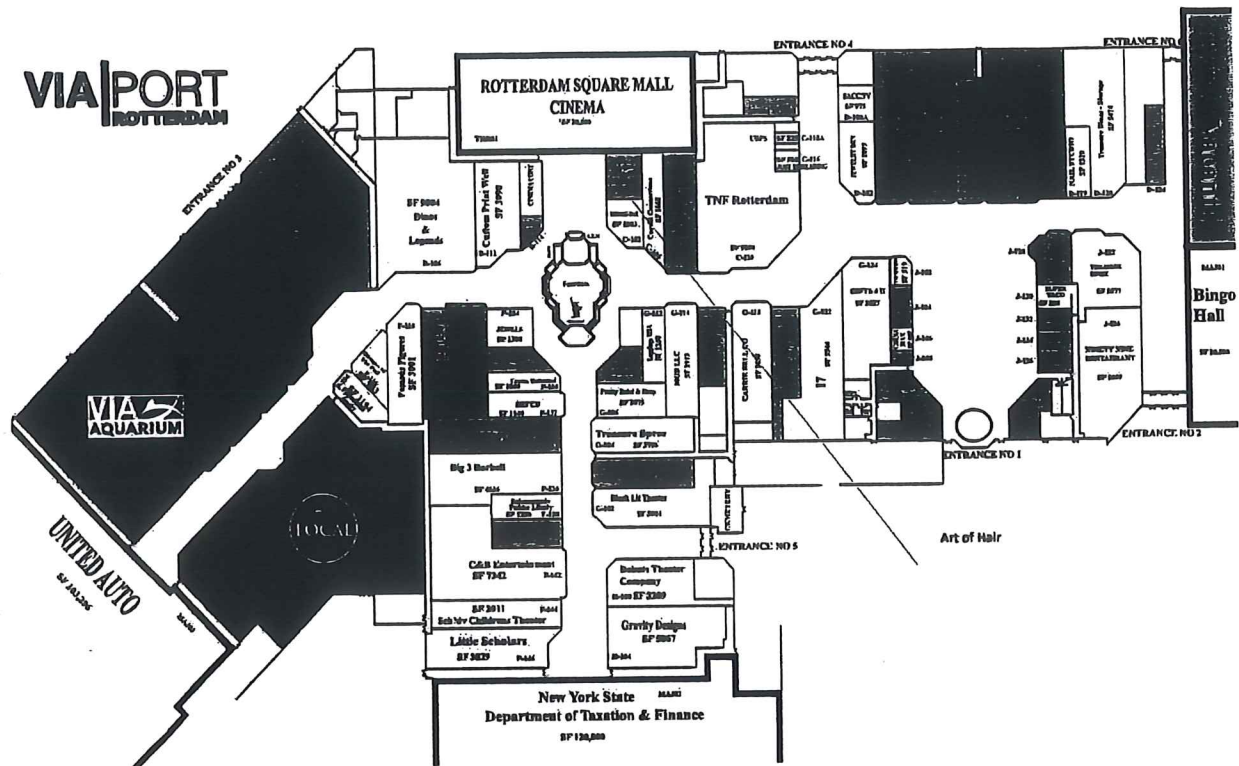
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Peter J. Comenzo
Senior Planner

Kimberly Ricker-Scannell, Chairman
Planning Commission

EXHIBIT A

Site Map



WAIVER OF SITE PLAN REVIEW

Date: July 15, 2025

PC2025-W39

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: Stewart's Shops Inc.

ADDRESS: 2907 Route 9
Ballston Spa, NY 12020

PROJECT ADDRESS: 647 Mariaville Road

APPLICANT IDENTIFIED AS: ☒ Owner ☐ Lessee ☐ Contract Vendee

REQUEST: The applicant requests a Waiver of Site Plan review to operate a karate studio in existing tenant space #2, ±2,500 square feet on a on a ±2.91-acre parcel.

Action Taken by Commission:

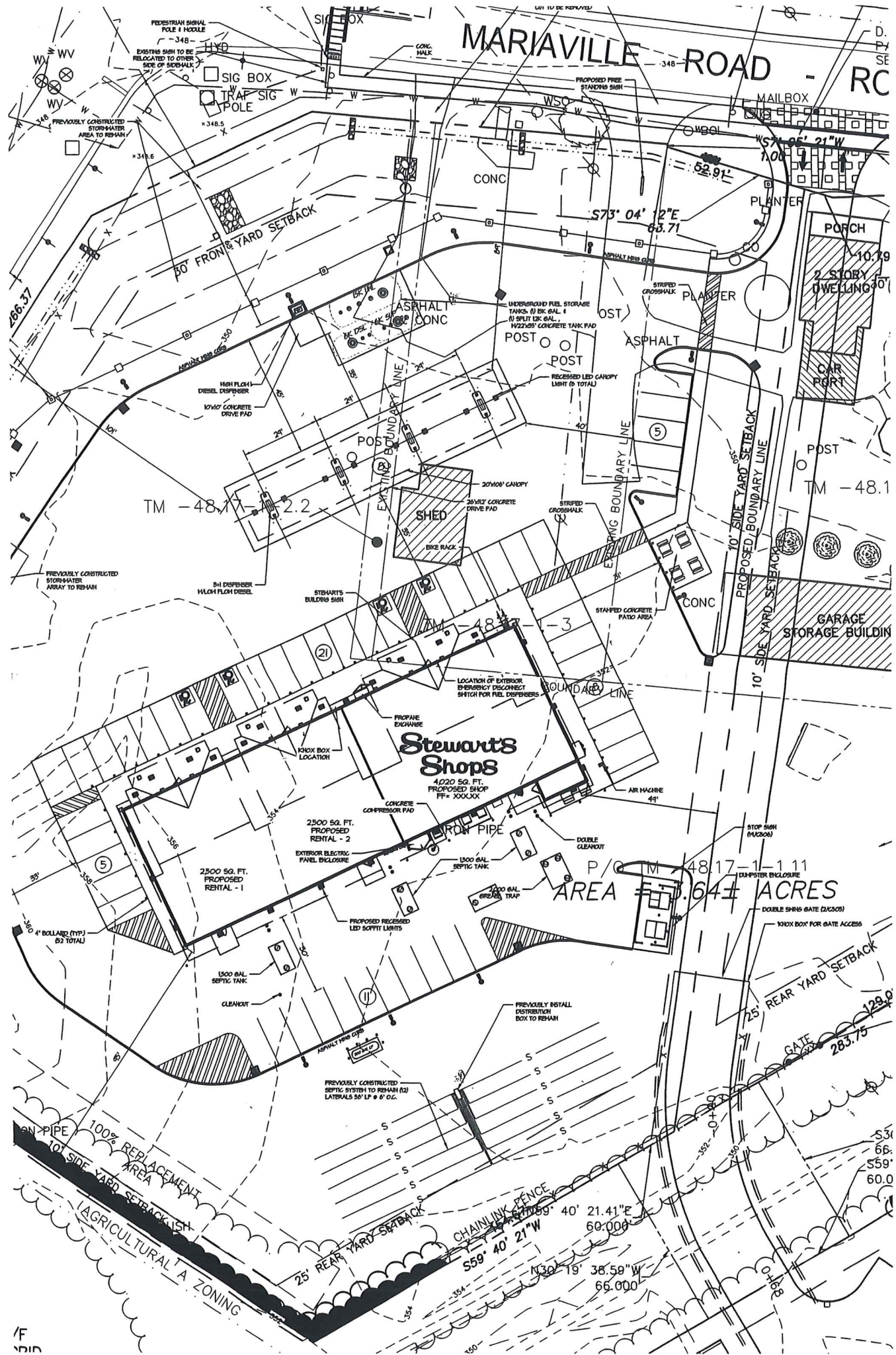
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4. Owner/applicant shall install Knox box for emergency personnel. Please contact Fire District #6 for specifications.
5. All water usage shall be metered. A water meter shall be installed that reads in gallons with an outside reader that does not require a wand to read.

The Commission action on the Waiver application took place at the Planning Commission meeting of July 15, 2025 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, Chairman
Planning Commission



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DIN

WAIVER OF SITE PLAN REVIEW

Date Reviewed: July 15, 2025

PC2025-W036

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: Jimit Patel
ADDRESS: 1926 Curry Road
Schenectady, NY 12303

PROJECT LOCATION: 1926 Curry Road

APPLICANT IDENTIFIED AS: ☒ **XX Owner** ☐ **Lessee** ☐ **Contract Vendee**

REQUEST: The applicant requests a Waiver of Site Plan review to add a ±600 square foot apartment, 15'X 40', to existing 31 room hotel, on a ±1.52 acre parcel. Engineer: ABD Engineers.

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.

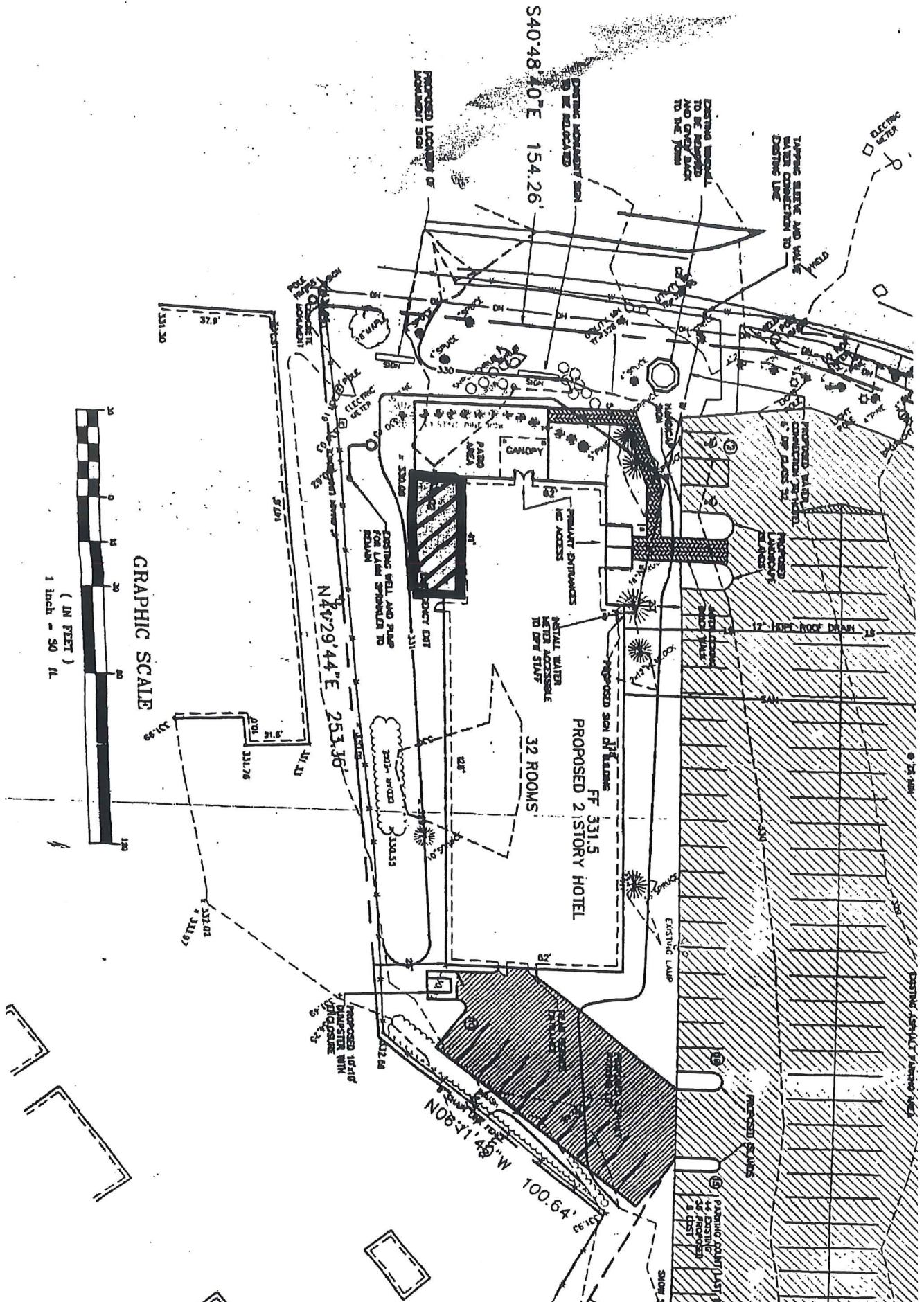
Conditions imposed, if any, are as follows:

1. 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.
2. Applicant to comply fully with Town Sign Code and obtain a building permit for any signage.
3. Owner/applicant shall install Knox box. Please contact Fire District #3 for specifications.
4. Owner/applicant shall install a water meter that reads in gallons with an outside reader without a wand to read prior to the issuance of a Certificate of Occupancy.

The Commission action on the Waiver application took place at the Planning Commission meeting of July 15, 2025 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, Chairman
Planning Commission



WAIVER OF SITE PLAN REVIEW

Date Reviewed: July 15, 2025

PC2025-W38

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: Brianne Kwiatkowski
ADDRESS: 1760 Helderberg Avenue
Schenectady, NY 12306

PROJECT LOCATION: 2976 Hamburg Street

APPLICANT IDENTIFIED AS: Owner ☒ Lessee Contract Vendee

REQUEST: The applicant requests a Waiver of Site Plan review to operate, Oh Honey, Café & Bakery, in existing ±1,440 square foot building, former Maureen's Yarn Boutique, on a ±33,264 square foot parcel.

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. Approvals are contingent upon 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. Owner/applicant shall install Knox box for emergency personnel. Please contact Fire District #3 for specifications.
5. Owner/applicant shall install a water meter that reads in gallons with an outside reader without a wand to read prior to the issuance of a Certificate of Occupancy.
6. Property is located in Sewer District #7 and is connected to sanitary sewer.
7. Applicant shall obtain Schenectady County Health Department approval and/or New York State Department of State licensing.

The Commission action on the Waiver application took place at the Planning Commission meeting of July 15, 2025 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, Chairman
Planning Commission

OH HONEY, CAFE & BAKERY

Mission Statement: At Oh, Honey, we bring comfort to the everyday with fresh-baked goods, familiar sips of coffee, and a warm welcome—always made with care and rooted in our local community.

Artisanal bakery and café offering small-batch baked goods, specialty coffee and tea beverages, and limited made-to-order breakfast and lunch items.

Hours of Operation:

- **Monday:** 8:00 AM – 5:00 PM
- **Tuesday:** Closed
- **Wednesday–Friday:** 8:00 AM – 5:00 PM
- **Saturday–Sunday:** 8:00 AM – 3:00 PM

Number of Prospective Employees: 2-3 full-time, 5 part-time

Expected daily customers: 80-100 persons

Services Offered:

- **Retail Bakery & Café:**
A rotating menu of sweet and savory baked goods made from high-quality ingredients, including:
 - Muffins, cookies, sweet biscuits, cupcakes, pie bars, and seasonal cheesecakes

- Savory options such as focaccia-style sandwiches, savory biscuits, and focaccia pizzas
- Breakfast sandwiches (served 8 AM–11 AM) and lunch sandwiches (served 11 AM–close)
- Grab-and-go fare such as house-made grain bowls, yogurt parfaits, and salads
- Specialty beverages including espresso drinks, craft-brewed coffee, premium teas, and ceremonial-grade matcha
- **Catering Services:**
The business provides:
 - Off-site catering for private events with flexible food packages and pick-up or delivery options
 - On-site catering for small-scale private events, available by special reservation only

Operations & Facility Details:

- All food is prepared on-site.
- Service is counter-style with dine-in and takeout options.
- Indoor seating is available for customers.
- 22 off-street parking spaces are available on-site for guests and staff.

RU HAMBURG STREET, LLC

SCALE 1" = 30'
JUNE 14, 2019



DPW Comments
July 15, 2025

1. **Stewarts Shops Corp – 1841 Helderberg Avenue.** Final Site Plan/Special Use Permit Public Hearing to construct a ±4,500 square foot convenience store with four (4) fueling islands on a 0.87-acre parcel. Engineer: Scott Edward Kitchner PE.

1. Final Fees Due:	Final Site Plan:	\$350.00
	Advertising:	<u>38.50</u>
	Total	\$388.50

2. See attached letter from our TDE, Ron Treers with CHA, dated July 10, 2025 stating all review comments have been adequately addressed.
3. Prior to Chairman's signature, the final site plan shall be modified to the satisfaction of DPW and the TDE and shall meet the requested modifications as outlined in the comment letters and discussed in the July 15, 2025 meeting.
4. Approval is conditioned upon applicant addressing all Rotterdam DPW and TDE comments and full and final approval of the DPW.
5. The applicant must receive Highway Work Permits that match the final approved site plan from Schenectady County DPW for grading, utility, sidewalk, and entryway work onto Helderberg Avenue. Copies of all correspondence with Schenectady County should be provided to the Town.
6. Prior to the issuance of a final Certificate of Occupancy, all work within the County right-of way must be completed. Temporary Certificates of Occupancy may be issued by the Town, if necessary, due to the potential delay for the relocation of the utility poles in order to construct the multi-use path along Helderberg Avenue.
7. Prior to the issuance of a final Certificate of Occupancy, all work within the State right-of way on Curry Road must be completed. Temporary Certificates of Occupancy may be issued by the Town if necessary.
8. Prior to the issuance of building certificates for construction, the developer shall provide a phasing and sequencing plan to demonstrate adequate safety measures are in place to allow for the existing convenience store and/or fueling pumps to remain open during construction.
9. Add note to plan: "No outdoor display of merchandise shall be permitted unless depicted on the final site plan."
10. Add note to plan: "One water meter shall be installed on the service connection. Final type and location to be approved by DPW."

DPW Comments
July 15, 2025
1841 Helderberg Avenue
Page 2

11. Add note to plan: "Owner/applicant shall install Knox Box for emergency personnel." Check with Fire District #2 for specifications.
12. 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."
13. Add note to plan: "Building design shall be in substantial conformance to the proposed Exterior Elevations last revised July 1, 2025 and shown on the title sheet as presented to the Planning Commission on July 15, 2025."
14. Add note to plan: "Any existing water lines shall be decommissioned in accordance with Town standards. Check with the Town of Rotterdam DPW for specifications."
15. Add note to Landscaping Plan: "Landscaped areas shall contain a sprinkler system." All water used shall pass through water meter.
16. Add note to Landscaping Plan: "Landscaping shall be maintained in perpetuity and dead/dying plant materials shall be replace in-kind."
17. Add note to plan: "No stockpiling or burying of construction debris, slash, stumps, or construction material is permitted."
18. Add note to plan: "Prior to issuance of site development permits, the applicant shall meet with the Town Stormwater Management Officer who must review and approve the proposed work plan."
19. Final approval is contingent upon the applicant receiving permits (site development and building) from the DPW Building Inspector.
20. The applicant shall provide the Town of Rotterdam DPW paper and electronic AutoCAD file copies of the utility "As-Built Record Drawings" upon completion and testing of the utilities.
21. 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.

DPW Comments from June 17, 2025

1. Town is awaiting comments from CHA on the latest submittal dated May 16, 2025.

DPW Comments

July 15, 2025

1841 Helderberg Avenue

Page 3

2. Add note to plan: "Variances for the front yard setback were granted by the Zoning Board of Appeals on May 21, 2025."
3. Add standard notes on site plan as outlined in the application checklist.
4. A traffic study was conducted at the request of the Town. The TDE and Schenectady County have determined that the proposed curb cut is acceptable (see enclosed).
5. Ramps on proposed multi-use path along Helderberg Avenue are required for the recently adopted multimodal study at this location. Modify ped/bike ramps to be consistent with the study (page 82) and add detail to Page S-14.
6. Add acoustical partitions to both the condensing and HVAC units on northern side of building to dampen noise for adjoining residential property.
7. Extend decorative fencing & pilasters on Curry Road and Helderberg Avenue north to the proposed curb cuts.
8. Add decorative fencing and pilasters from northern property line on Helderberg Avenue south to the end of the porch over patio area.
9. Identify ground cover on Landscaping Plan. Grass is preferred.

DPW Comments from January 16, 2025

1. The Town Board by Resolutions 60.20 & 61.20 approved a Change of Zone for 1841, 1832 & 1829 Helderberg Avenue and 1827 & 1829 Curry Road from Retail Business (B-1) to General Business (B-2).
2. TDE has already been assigned and escrow account established to begin review.
3. Prior to additional engineering, a project meeting should be coordinated with Schenectady County, NYSDOT and the Town to discuss access to the site and potential signal adjustments which are complex given the location.
4. The project is located in the recently completed Curry Road Multi-Modal Study Area. Recommendations from this study should be incorporated into the design.
5. Air pump is proposed to be located in a very congested location and may create safety issues. Ideally this would be relocated to proposed spaces 26-32.
6. Add crosswalk in parking lot from building to sidewalk on Helderberg Avenue.
7. Fencing along Curry Road and Helderberg Avenue should match the Stewarts recently constructed on Guilderland Avenue with decorative fence and pilasters matching the building. A pedestrian opening in the fence and sidewalk should connect to the store.
8. A covered area similar to the proposed Stewarts on Highbridge Road should be considered along the south side of the building to provide shelter for outdoor seating and enhance building aesthetics.

SEQR Requirement: 6 NYCRR 617 Unlisted Action. Rotterdam Town Board issued a Negative Declaration on February 12, 2020.

Involved/Interested Agencies

Schenectady County Economic Development and Planning

Schenectady County Department of Health

Schenectady County Department of Public Works

New York State Department of Environmental Conservation – Region #4

Metroplex Development Authority

Fire District #2



RECEIVED

JUL 11 2025

TOWN OF ROTTERDAM
PUBLIC WORKS

July 10, 2025

Mr. Peter Comenzo, Senior Planner
Town of Rotterdam
John F. Kirvin Government Center
1100 Sunrise Boulevard
Rotterdam, New York 12306

**RE: Stewart's Shops
Site Plan and SWPPP Review Complete
Curry Road at Helderberg Avenue, Town of Rotterdam, NY 12303
CHA File: 12669**

Dear Mr. Comenzo:

CHA has issued two TDE review comment letters on the site plans for the project, the first on 06/19/25 and the second on 07/08/25. All comments have been satisfactorily addressed and CHA's review work on the project is complete.

Should you have any questions or need anything further, please contact me at (518) 453-4787 or rtreers@chasolutions.com

Sincerely,

A handwritten signature in black ink that reads 'Ronald D. Treers'.

Ronald D. Treers RLA, LEED AP BD+C

\\cha-llp.com\proj\Projects\ANY\CivData\12669\1033 Stewarts 1841 Helderberg Ave\2025-07-01_UPDATE\CHA_review_2025_07-10.docx

Peter Comenzo

From: Marcus Andrews <marcusa@stewartshops.com>
Sent: Wednesday, July 9, 2025 11:49 AM
To: Treers, Ron; Peter Comenzo
Cc: Lisa Gallo; Kimberly Ricker Scannell; Stephen E. Valiquette
Subject: RE: Stewart's Shop - 1841 Helderberg Ave. - Site Review

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ron –

Thank you for getting me these comments. See below for a quick summary of the comment responses:

Sheet S-2:

Comment 1 Response: All landing size notes have been corrected.

Sheet S-4:

Comment 2 Response: A note has been added on all landings stating a max slope of 2% in running/cross slope off landings.

Comment 3 Response : A note has been added on all landings stating a max slope of 2% in running/cross slope off landings.

Comment 4 Response: The area behind the building is designed to form a small low spot in the grass area to avoid and stormwater from sheet flowing into neighboring parcel.

Comment 5 Response: The curb grade has been added and the sidewalk grade adjusted to minimize the ramp slope from the patio area. The bike rack was also rotated to that bike storage will be with the slope instead of at a side slope.

Comment 6 Response: The bottom landing grades have been adjusted to match road grades.

Sheet S-7:

Comment 7 Response: All of sidewalks along Curry and Helderberg are located with the NYSDOT and County Highway right of way. I have not reached out to either in regard to lighting, but typically they do not want light spillage into the right of way. I also believe the Town code states we need to arrange lighting to limit light spillage onto streets.

Comment 8 Response: There is limited space along the parallel spaces to add a light pole that will also not cast light into the right of way.

Marcus Andrews



RECEIVED

JUL 08 2025

July 8, 2025

TOWN OF ROTTERDAM
PUBLIC WORKS

Mr. Peter Comenzo, Senior Planner
Town of Rotterdam
John F. Kirvin Government Center
1100 Sunrise Boulevard
Rotterdam, New York 12306

**RE: Stewart's Shops
Site Plan and SWPPP Review
Curry Road at Helderberg Avenue, Town of Rotterdam, NY 12303
CHA File: 12669**

Dear Mr. Comenzo:

The project applicant, Stewart's Shops, has submitted updated site plans (dated 2025-07-01) and a Stormwater Management Report. A response to CHA's TDE site plan review letter comments dated 2025-07-01 was also submitted. Review comments from the original CHA letter that have been adequately addressed have been removed from this letter. The comments that still need to be addressed remain and clarification notes are provided in red where necessary. New comments are noted.

New comments on Sheet S-2 Proposed Site Plan

1. The northern most curb ramp on Helderberg, immediately east of the building, has the landing size defined wrong at the south side.

Comments on Sheet S-4 Grading Plan

2. Provide grades for the curb ramps at the Helderberg Ave. entrance and include grades for the required landings at the top of the ramps. (Landings at the top of ramp on each side of the entry do not have grades to define the landing slope).
3. Define the landings and provide grades for the landings at the top of the curb ramps at the Curry Road entrance. (Landings at the top of ramp on each side of the entry do not have grades to define the landing slope).
4. Provide grades along the north property line to illustrate what is happening with drainage in this area between the building and the north property line. What is the surface material designation in this area? (Appears there is a low spot between the building and the north property line where runoff water will pond. Define the surface material in this area; is this lawn?).

5. The sidewalk cross slope shown along Helderberg Ave. near the south end of the picnic table area is greater than 2.0%. Design the sidewalk cross slope to be 2.0% or less. The grades shown are 334.16 at the west sidewalk edge and a top of curb at Helderberg at 333.68. The TC elevation is no longer on the grading plan so the cross slope of the 10' walkway cannot be determined. Provide the top of curb elevation at the street at this location. The slope across the bike rack area towards the street is over 7.0% with the grades indicated. This does not provide an accessible route from the Helderberg sidewalk connection and is not a great slope for using the bike rack.

New Comments on Sheet S-4 Grading Plan

6. The northern curb ramp on Helderberg Ave. has bottom of curb grades that are all the same. This means that there is no longitudinal slope in Helderberg Ave., which is likely not the case. Define the landings for each ramp associated with this curb cut.

Comments on Sheet S-7 Photometric Plan

7. The sidewalks along Curry Road and Helderberg Ave. and the sidewalk connector from Curry Road to the store in the northwest part of the site have footcandle readings below one footcandle. Provide a minimum of one footcandle for the sidewalks on site. The sidewalks along Curry road and Helderberg still have footcandle readings below 1.0.
8. The three parking spaces on the west side of the building have footcandle readings below one footcandle. Provide a minimum of one footcandle for the parking spaces on site. There are some areas of the parking lot below one footcandle and the parallel parking spaces are below one footcandle.

Should you have any questions or need anything further, please contact me at (518) 453-4787 or rtreers@chasolutions.com

Sincerely,



Ronald D. Treers RLA, LEED AP BD+C



RECEIVED

JUL 01 2025

TOWN OF ROTTERDAM
PUBLIC WORKS

Peter Comenzo – Senior Planner
Town of Rotterdam
1100 Sunrise Boulevard
Rotterdam, NY 12306

Tuesday, July 1, 2025

RE: Stewart's Shop – Curry Road
1841 Helderberg Ave
Rotterdam, NY 12306

Peter –

Enclosed is an updated complete set of plans for our proposed re-development of the above referenced Stewart's Shop.

I have also included a copy of the revised stormwater report.

An emailed link if all submitted items will follow.

The following revision we made to the plan set based upon the Town of Rotterdam DPW comments and the CHA comment letter:

Town DPW Comments dated June 17, 2025

1. Town is awaiting comments from CHA on the latest submittal dated May 16, 2025. –
Received via email June 19. Responses below
2. Add note to plan: "Variances for the front yard setback were granted by the Zoning Board of Appeals on May 21, 2025." – **Note added.**
3. Add standard notes on site plan as outlined in the application checklist. – **Notes added.**
4. A traffic study was conducted at the request of the Town. The TDE and Schenectady County have determined that the proposed curb cut is acceptable (see enclosed). – **Acknowledged.**

Stewart's Shops Corp. P.O. Box 435 Saratoga Springs, New York 12866

5. Ramps on proposed multi-use path along Helderberg Avenue are required for the recently adopted multimodal study at this location. Modify ped/bike ramps to be consistent with the study (page 82) and add detail to Page S-14. – **Bike ramps and detail have been added to plan set.**
6. Add acoustical partitions to both the condensing and HVAC units on northern side of building to dampen noise for adjoining residential property. – **Sound blankets have been added to fence near mechanicals on northern side of parcel.**
7. Extend decorative fencing & pilasters on Curry Road and Helderberg Avenue north to the proposed curb cuts. – **Per discussion at Planning meeting, extension in this area would cause more harm than good for the fencing.**
8. Add decorative fencing and pilasters from northern property line on Helderberg Avenue south to the end of the porch over patio area. – **A small section of fence has been added to the plan set near the patio area.**
9. Identify ground cover on Landscaping Plan. Grass is preferred. – **Grass areas have been defined on Landscape Plan.**

CHA Comments dated June 19, 2025

Stormwater Management Report/Plan Comments

~~Per conversation with Ron, the proposed site disturbance will be under the 1-acre threshold for requiring a full SWPPP. Ron still had concerns with infiltration around the gas canopy, so we adjusted the stormwater plan. The new plan separates the building area into a small infiltration pipe array and the remaining area into a detention pond area.~~

**PER EMAIL WITH TOWN ON 7-1-2025, TOWN PREFERENCE FOR
INFILTRATION ARRAY OVER POND**

1. Per the 2024 NYS DEC Stormwater Management Design Manual Section 4.14 guidelines, fueling stations and petroleum storage facilities are designated as Level 2 stormwater hotspots where infiltration practices are prohibited, and non-infiltration practices shall be applied to meet the RRv criteria. The proposed building rooftop runoff and pavement areas not tributary from the fueling area could be directed to an underground infiltration system. However, the runoff from pavement associated with the fueling area is considered to be a “hotspot” and should be managed by non-infiltration practices (this could be an underground storage system).

2. The new 2024 NYSDEC GI Worksheets should be utilized for the WQv and RRV calculations and they should be included in the appendices.
3. The SMR should include narrative in regards to the proposed project site being located within the Schenectady-Niskayuna sole-source aquifer.
4. According to the 2024 NYS DEC Stormwater Management Design Manual guidelines Table 6.10, infiltration practices should have a minimum of 4-feet of separation from the seasonal high groundwater table in a sole source aquifer. A copy of the geotechnical borings and/or report for the project site should be provided.
5. Please provide FEMA Floodway map(s) for the proposed project site in the SMR.
6. The design calculations to verify the capacity of the proposed closed conveyance storm pipe system should be provided.
7. Provide an Erosion and Sedimentation Control plan sheet with erosion control measures, notes, and standard details in accordance with the New York State Standards and Specifications for Erosion and Sediment Control (Blue Book). Illustrate temporary construction entrance, silt fence and/or compost filter sock, concrete wash out area, catch basin inlet protection(s), temporary stockpile area, and construction staging area, etc. – Erosion Control Plan has been added to plan set.
8. Provide proposed construction sequencing in the SMR narrative and ESC plan sheet.

Comments on Sheet SP-2 Site Plan

9. Provide dimensions for curb ramp lengths and incorporate required landings at the top of curb ramps and dimension the landings. – Dimensions have been added to plan set.
10. Coordinate with National Grid to relocate two utility poles closer to the curb line and out of the center of the 10' pedestrian corridor being established along Helderberg Ave. Any required guy wires should be located outside the central area of the pedestrian corridor. Coordinate with other utility owners utilizing the poles. – The process has started with National Grid and I will keep the Town informed as we progress.
11. Call out detectable warnings at curb ramps. – Noted on plans
12. The distance between parking spaces 24/25 and the fuel island measures 15'±. If vehicles are utilizing fueling locations 18 and/or 22 while spaces 24/25 are occupied, the corridor between the parking spaces and fueling locations becomes a narrow corridor that would only allow for a single lane of traffic. – Acknowledged. Stewart's was looking to utilize this area for parallel parking.

Comments on Sheet S-3 Utility Plan

1. The existing fire hydrant on Helderberg Ave. should not be located in the center of the 10'-0" pedestrian corridor. Relocate/replace the hydrant. Suggest extending the hydrant lead and locating the hydrant in the grass strip between the parking lot and the sidewalk. – Acknowledged and Stewart's will work with the Town of Rotterdam DPW for the move.

Comments on Sheet S-4 Grading Plan

2. Provide grades for the curb ramps at the Helderberg Ave. entrance and include grades for the required landings at the top of the ramps. – Grades have been added to the plan.
3. Define the landings and provide grades for the landings at the top of the curb ramps at the Curry Road entrance. – Grades have been added to the plan.
4. Provide curb and sidewalk elevations where new work is being installed along both Helderberg Ave. and Curry Road. – Grades have been added to the plan.
5. Define the high point between the two 34 contours northwest of the fueling area. – Flow line has been added to the plan set.
6. Provide grades along the north property line to illustrate what is happening with drainage in this area between the building and the north property line. What is the surface material designation in this area? – Grades have been added to the plan.
7. Define the high point at each side of the Curry Road entrance drive to delineate where the drainage split is between what flows to Curry Road and what flows to the interior of the site. – Flow line has been added to plan set.
8. Define the transition curb lengths where the interior site curbing meets the sidewalk at each of the driveway access locations. – Note has been added to plan set.
9. The sidewalk cross slope shown along Helderberg Ave. near the south end of the picnic table area is greater than 2.0%. Design the sidewalk cross slope to be 2.0% or less. The grades shown are 334.16 at the west sidewalk edge and a top of curb at Helderberg at 333.68. – Grades have been adjusted
10. Proposed contour labels are difficult to read. – Label style changed to hopefully aid in visibility.

Comments on Sheet S-6 Landscape Plan

11. Consider small trees or shrubs by the picnic table area. – An additional tree has been added to plan set.
12. Show existing utilities to remain and all new proposed utilities lightly in the background of the drawing so that the position of large trees can be reviewed in relation to the utilities. – Proposed utility poles have been added to Landscape plan.

Comments on Sheet S-7 Photometric Plan

13. The sidewalks along Curry Road and Helderberg Ave. and the sidewalk connector from Curry Road to the store in the northwest part of the site have footcandle readings below one footcandle. Provide a minimum of one footcandle for the sidewalks on site. – Proposed lighting has been adjusted.
14. The three parking spaces on the west side of the building have footcandle readings below one footcandle. Provide a minimum of one footcandle for the parking spaces on site. – Proposed lighting has been adjusted.

Comments on Sheet S-9 Sidewalk and Parking Pad Plan

15. Concrete joints for the parking spaces could be aligned with the joint layout for the walk adjacent to the building. – These areas of concrete are part of separate concrete pours. The saw cut layout is base upon width and recommendations from our masons.
16. Consider periodic doveled expansion joints, currently all joints are shown as saw cut joints. – All joints are based upon recommendation of our masons.

Comments on Sheet S-10 Roof Drain and Parking Details

17. Consider not blocking the center of the accessible parking access aisle with a no parking sign. This sign could be mounted on an adjacent sign for the accessible parking space and have an arrow pointing to the access aisle added to it. – The bollard installed is for additional building protection. With the bollard centered, it allows for a minimum of 3'-6" of clear space on each side.
18. The concrete pad under the parking spaces has both welded wire mesh and rebar called out. The rebar is called out at a large spacing. The delivery pad section on sheet S-9 does not have reinforcement? – The parking space has additional reinforcement because it handles traffic, the delivery pad is strictly just a sidewalk with foundation at the delivery door.

Comments on Sheet S-12 Miscellaneous Details

19. The light pole detail should include reinforcement. – The light pole base is 18" diameter and 4' deep. There is not structural concerns with the base or pole so no reinforcement is needed.
20. Define the depth of the concrete foundation for the bike rack. – Detail has been revised
21. Confirm that details to be used for work within the State Road (Curry Road) right-of-way have been reviewed and approved by NYSDOT. – I am working with NYSDOT to finalize all items for our Highway Work Permit.

Thank you for your help with this project and please don't hesitate to contact me if you have any questions.

Thank you,



Marcus Andrews
Stewart's Shops Corp.
P.O. Box 435
Saratoga Springs, NY 12866
518-581-1201 x4240
marcusa@stewartssshops.com

DPW Comments
July 15, 2025

2. **MAN Properties, LLC – Mariaville Road & Old Mariaville Road.** Final Site Plan/Special Use Permit Public Hearing review for the construction of a ±6,000 square foot warehouse building for two (2) or more tenant spaces on a ±2.07-acre parcel. Engineer: ABD Engineers, LLC.

1. Final Fees Due:	Application:	\$350.00
	Special Use Permit:	\$500.00
	Final Site Plan	\$350.00
	Advertising	\$40.70
	<u>Less Paid</u>	<u>-\$650.00</u>
	Total	\$ 590.70

2. On June 18, 2025, DPW and NYSDEC conducted a site visit and it was determined that no NYSDEC permits were needed for the proposed project.
3. Prior to Chairman's signature, the applicant shall provide documentation from the Highway Superintendent that the proposed work in the Town ROW is acceptable and that Highway Work Permits can be issued.
4. Prior to Chairman's signature, a well must be drilled and test results provided to the Town demonstrating adequate potable water supply for the proposed project.
5. Proposed ground cover and landscaping type should be identified on the final site plan.
6. Add note to plan: "Owner/applicant shall install Knox Box for emergency personnel." Check with Fire District #6 for specifications.
7. 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."
8. Add note to plan: "Building design shall be in substantial conformance to the proposed Exterior Elevations presented to the Planning Commission on July 15, 2025."
9. Add note to plan: "Landscaping shall be maintained in perpetuity and dead/dying plant materials shall be replace in-kind."
10. Add note to plan: "No stockpiling or burying of construction debris, slash, stumps, or construction material is permitted."

DPW Comments from May 6, 2025

1. Lot consolidation subdivision was approved on April 1, 2025.
2. It appears that several DPW comments from March 4, 2025 have not been addressed adequately.
3. Applicant has performed perc tests and soils appear to be conducive to a conventional septic system.
4. Project is subject to new NYSDEC wetland regulations. Applicant will need to submit the project to the DEC main office for jurisdictional determination.
5. Well needs to be developed to determine adequacy of available water prior to final approvals.
6. Applicant will need to consult with Highway Superintendent and provide documentation to the Planning Commission that the proposed work in the Town ROW is acceptable.
7. Proposed earthwork is located within 100' of the Poentic Kill and associated floodplain traverses the property and proposed building distances may be problematic. Applicant will need to consult with DEC and determine if setbacks and proposed work is acceptable and if permits are required.
8. Lighting needs to be detailed and should be minimum necessary for proposed commercial operations.
9. Add standard notes as outlined in the application checklist.
10. Provide building elevations.

DPW Comments from March 4, 2025

1. The Town Board approved a Change of Zone from Agricultural (A-1) to General Business (B-2) for this property on January 22, 2025.
2. Planning Commission should authorize the Chairman to enter into an agreement with a TDE to assist in the review of this project. Slopes, floodplain, distance to regulated waterbody, and soils will need to be evaluated and reviewed.
3. Well will need to be developed to determine adequacy of available water prior to final approvals.
4. Perc tests need to be performed on both the proposed septic system and stormwater area.
5. Poentic Kill and associated floodplain traverses the property and proposed building distances may be problematic.
6. Pretreatment of stormwater should be addressed. Elevations in proposed stormwater basin need to be adjusted.
7. Proposed curb cut is in excess of 140 feet and needs to be substantially reduced. Vehicle maneuverability should be performed on-site and not in roadway.
8. Address landscaping and lighting. Property is located in a rural residential area and should be developed to blend in with the surroundings.
9. Address snow storage.
10. Is a dumpster proposed, show location and enclosure.
11. Provide building elevations, some architectural features should be added to the building given the rural residential nature of the surrounding properties.

SEQR Requirement: 6 NYCRR 617 Unlisted Action. Rotterdam Town Board conducted a coordinated review and issued a Negative Declaration on January 22, 2025.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 4
1130 North Westcott Road, Schenectady, NY 12306-2014
P: (518) 357-2069 | F: (518) 357-2593
www.dec.ny.gov

June 10, 2025

Mark Nardini
Old Mariaville Road
Rotterdam, 12306
Emailed to: marknardini@live.com

Re: Jurisdictional Inquiry Response
Nardini Storage Building
Old Mariaville Road
Town of Rotterdam, Schenectady County

Dear Mark Nardini,

Thank you for contacting the New York State Department of Environmental Conservation (DEC) regarding your proposal to construct a storage building at property located at Old Mariaville Road in the Town of Rotterdam. Based on the project information which you provided, and the resources identified, the following information provides a preliminary summary of permits that may be required from the DEC for your project.

A review of NYS protected resources near or within the project site was performed using existing GIS data (see enclosed Project Location and NYS Resources Map). Please note that jurisdictional maps are meant to provide approximate sizes and locations of resources. Actual field conditions may vary from those depicted on the maps.

Possible DEC Permitting Requirements

Protection of Waters Program

A stream with a water quality classification of AA, A or B, or with a classification of C with a standard of (T) or (TS), meaning trout or trout-spawning waters, is a protected stream under 6 NYCRR Part 608 - Use and Protection of Waters. If disturbance to the bed and/or banks of a protected stream will result from the proposed project, a Stream Disturbance Permit must first be obtained from the DEC. If the proposed project involves excavation or fill below the mean high water (MHW) level in a Class C stream that is considered navigable according to 6 NYCRR Part 608.1(u), an Excavation and Fill Permit is required from the DEC prior to commencing any work.

Based on current GIS data, a stream that is Class B, Poentic Kill, is located on or along the project site boundary. A Stream Disturbance Permit is required for any disturbance to the bed and banks of a protected stream.



General information on streams and the permitting process can be located on our website at www.dec.ny.gov/permits/6042.html

SPDES General Permit for Construction Activities Stormwater Discharge

Any project which results in a disturbance of one acre or more of land, must be in compliance with the State Pollutant Discharge Elimination System (SPDES) Phase II regulations for Stormwater Discharges Associated with Construction Activities. Information regarding the SPDES General Permit for Stormwater Discharges can be found on the DEC's website at <http://www.dec.ny.gov/chemical/8468.html>.

Please feel free to contact me by e-mail at maranda.welch@dec.ny.gov or by telephone at (518) 357-2446 if you have any questions.

Sincerely,

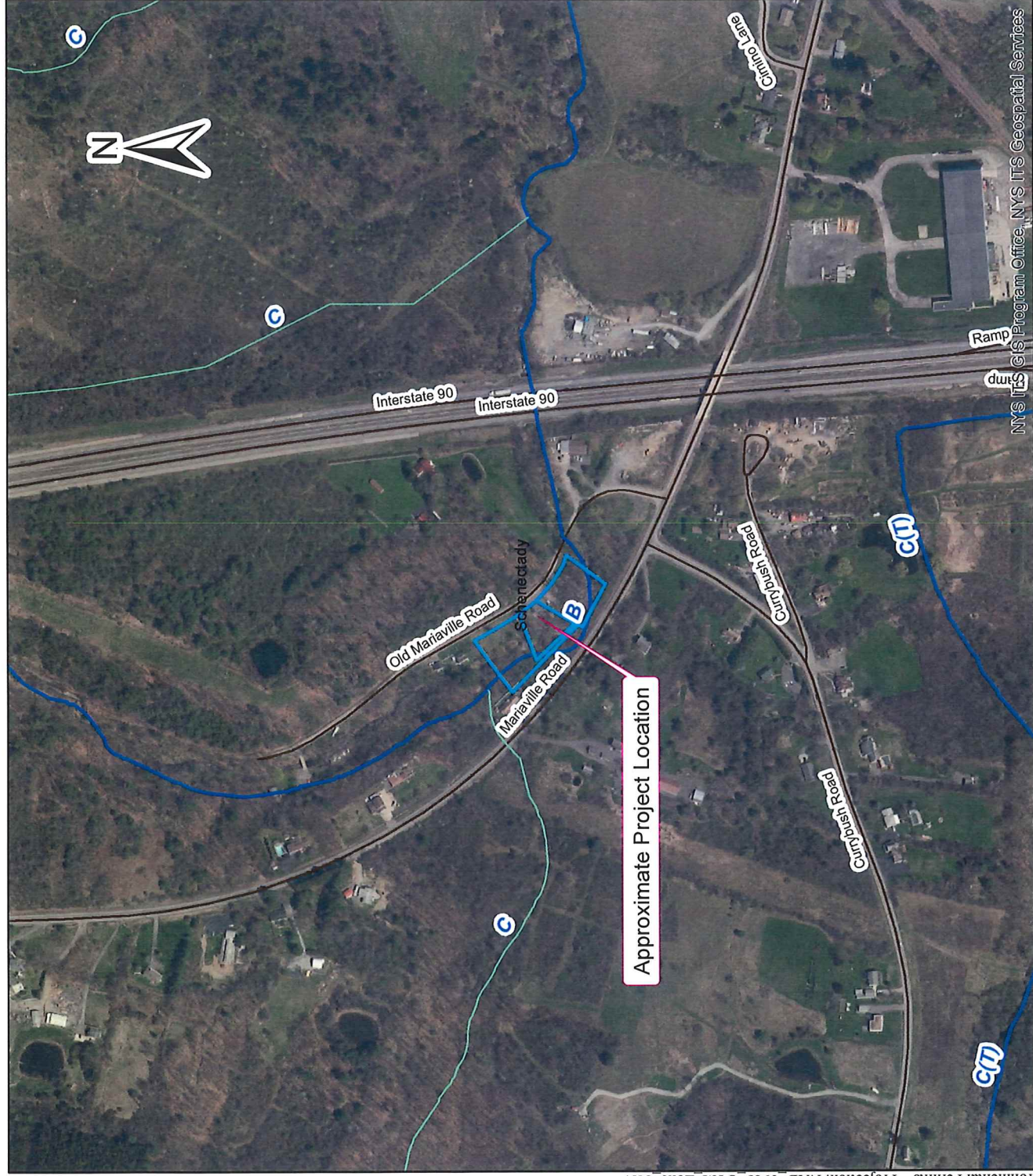


Maranda Welch
Environmental Analyst

Encl.: Project Location & NYS Resources Maps

ecc: Trevor Brady, DEC R4 BEH
Mary Barrie, Town of Rotterdam

Jurisdictional Determination



Division of Environmental Permits Projection: NAD 1983 UTM Zone 18N

PROJECT LOCATION & NYS RESOURCES MAP

Nardini Storage Building
Old Mariaville Road
Town of Rotterdam
Schenectady County

Legend

Water Quality Classifications

- Unprotected Streams
- Protected Streams
- Freshwater Wetland (polygon)

1 inch equals 500 feet



June 10, 2025

Disclaimer: This map was prepared by Region 4 NYSDEC Division of Environmental Permits using the most current data available. It is deemed accurate but is not guaranteed. NYSDEC is not responsible for any inaccuracies in the data and does not necessarily endorse any interpretations or products derived from the data. This map may contain information that is considered sensitive and therefore the distribution of this map is strictly prohibited. Additional resources may be present but not depicted on this map.

Department of
Environmental
Conservation



PARTNERS
LUIGI A. PALLESCHI, P.E.
ROBERT D. DAVIS, JR., P.L.S.
JOSEPH J. BIANCHINE, P.E. (Retired)



ENGINEERS



SURVEYORS

411 Union Street

Schenectady, N.Y. 12305

518-377-0315 Fax 518-377-0379

www.abdeng.com

DEDICATED
RESPONSIVE
PROFESSIONAL

June 25, 2025

Re: Mariaville Road & Old Mariaville Road
Town of Rotterdam
Project #3820A

Kimberly Ricker Scannell, Chair
Town of Rotterdam Planning Department
1100 Sunrise Boulevard
Schenectady, NY 12306

RECEIVED

JUN 25 2025

TOWN OF ROTTERDAM
PUBLIC WORKS

Attn: Peter Comenzo

Dear Kimberly and Peter:

In response to the comments (*in italics*) of DPW comments of May 6, 2025, we respond as follows (**in bold**):

1. *Lot consolidation subdivision was approved on April 1, 2025.*
Correct, no response required.
2. *It appears that the several DPW comments from March 4, 2025, have not been adequately addressed.*
With the exception of comment no. 11 from the March 4, 2025, DPW comment letter, we feel the comments were adequately addressed. The applicant is working to provide building elevations, to address comment no. 11 from DPW's March 4th letter, prior to the July 15th meeting. If any additional clarification is needed on any comment from DPW's March 4th letter, please let us know.
3. *Applicant has performed perc test and soils appear to be conducive to a conventional septic system.*
Correct, no response required.
4. *Project is subject to new NYSDEC wetland regulations. Applicant will need to submit the project to the DEC main office for jurisdictional determination.*
Please see attached NYSDEC letter dated June 18, 2025, stating no NYSDEC permits are required.
5. *Well needs to be developed to determine the adequacy of available water prior to final approvals.*
This should be a condition for the issuance of a building permit as the applicant does not want to invest in the drilling of a well without site plan approval.

6. *Applicant will need to consult with Highway Superintendent and provide documentation to the Planning Commission that the proposed work in the Town ROW is acceptable.*
The applicant is setting up a meeting with the Highway Superintendent to discuss, which should take place prior to the July 15, 2025 Planning Board meeting.

7. *Proposed earthwork is located with 100' of the Poentic Kill and associated floodplain traverses the property and proposed building distance way be problematic. Applicant will need to consult with DEC and determine in setbacks and proposed work is acceptable and if permits are required.*
See our response to your comment no. 4 above. No DEC permits are required.

8. *Lighting needs to be detailed and should be minimum necessary for proposed commercial operations.*
Detail is provided and lighting is minimal.

9. *Add standard notes as outlined in the application checklist.*
Notes have been added to sheet 1.

10. *Provide building elevations.*
Applicant to provide elevations prior to July 15, 2025, Planning Board meeting.

Enclosed for final approval are the following:

1. Twelve (12) copies of this response letter.
2. Twelve (12) sets of plans, Rev. #2: 06/24/2025
3. Twelve copies of the above reference NYSDEC letter, dated 6/18/2025.

We respectfully request that you schedule this project for the July 15, 2025, Planning Commission meeting.

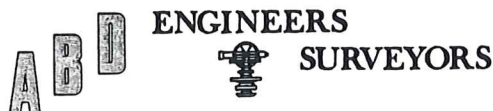
Should you have any questions or need anything further, please do not hesitate to contact me.

Very truly yours,
ABD ENGINEERS & SURVEYORS, LLP



Luigi A. Palleschi, P.E.
Partner

JJB:clv
encl.
cc: Mark Nardini w/encl.
3820A-06242025



ZONING COORDINATION REFERRAL

SCHENECTADY COUNTY DEPT. OF ECONOMIC DEVELOPMENT & PLANNING
Recommendations shall be made within 30 days after receipt of a full statement of the proposed action.

For Use By SCDEDP

Received 3-20-25
Case No. R-13-25
Returned 4-2-25

FROM: ☐ Legislative Body
☐ Zoning Board of Appeals
☒ Planning Board

Municipality:
Town of Rotterdam

TO: Schenectady County Department of Economic Development and Planning
Schaffer Heights, 107 Nott Terrace, Suite 303
Schenectady, NY 12308

(tel.) 386-2225
(fax) 382-5539
Received
Schenectady County

ACTION: ☐ Zoning Code/Law Amendment
☐ Zoning Map Amendment
☒ Subdivision Review
☒ Site Plan Review

☒ Special Permit
☐ Use Variance
☐ Area Variance
☐ Other (specify) _____

MAR 20 2025

Economic Development
and Planning Dept.

PUBLIC HEARING OR MEETING DATE: April 1, 2025

SUBJECT: MAN Properties - Mariaiville Road & Old Mariaville Road. Site Plan/Special Use Permit Consolidated Subdivision review for the construction of a ±6,000 square foot warehouse building for two (2) or more tenant spaces on a ±2.07-acre parcel. Engineer: ABD Engineers, LLC.

REQUIRED ENCLOSURES:

1. Public hearing notice & copy of the application.
2. Map of property affected. (Including Tax Map I.D. number if available)
3. Completed environmental assessment form and all other materials required by the referring body in order to make its determination of significance pursuant to the state environmental quality review act.

1. This zoning case is forwarded to your office for review in compliance with Sections 239-l, 239-m and 239-n of Article 12-B of the General Municipal Law, New York State.
2. This material is sent to you for review and recommendation because the property affected by the proposed action is located within 500 feet of the following:

- ☐ the boundary of any city, village or town;
- ☐ the boundary of any existing or proposed County or State park or other recreation area;
- ☐ the right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway;
- ☐ the existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines;
- ☐ the existing or proposed boundary of any County or State-owned land on which a public building or institution is situated;
- ☐ the boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the agriculture and markets law. The referral requirement of this subparagraph shall not apply to the granting of area variances.

SUBMITTED BY:

Name: Peter Comenzo

Title: Senior Planner

Address: 1100 Sunrise Boulevard, Schenectady, NY 12306

E-mail: pcomenzo@rotterdamny.org

Phone: 518-355-7575 Ext 338


Signature

Date: 3 7 25



PLANNING & ZONING COORDINATION REFERRAL

Case No. R-13-25

Applicant MAN Properties

Referring Officer Peter Comenzo

Municipality Rotterdam

Considerations: Regarding two adjoining vacant properties totaling 3 acres, requesting subdivision/site plan approval, and a special use permit to modify the lot line and construct a 6,000 SF contractor storage building on a 2 acre parcel with a 1 acre vacant parcel to remain. Located on the northwesterly corner of Mariaville Road (SR 159) and Old Mariaville Road intersection. Access provided via Old Mariaville Rd. Individual septic and well is proposed.

RECOMMENDATION

Receipt of zoning referral is acknowledged on March 20, 2025. Please be advised that the undersigned Commissioner of Economic Development and Planning of the County of Schenectady (having under the Schenectady County Charter the powers and duties of a County Planning Board) has reviewed the proposed action stated on the opposite side of this form and makes the following recommendations:

- ☐ *Approve of the proposal.
- ☐ Defer to local consideration (No significant county-wide or inter-community impact)
- ☒ Modify/Conditionally Approve. Conditions:
County Department of Environmental Health approval of proposed septic system.

- ☒ Advisory Note:
Perc results for the proposed septic system should be shown on the plan.

- ☐ Disapprove. Reason:

*A recommendation of approval should not be interpreted that the County has reviewed all local concerns and/or endorses the project; rather the proposed action has met certain County considerations.

Section 239-m of the general Municipal Law requires that within 30 days after final action, the referring body shall file a report of the final action it has taken with the Schenectady County Department of Economic Development and Planning. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

4/1/25
Date

Ray Gillen
Ray Gillen, Commissioner
Economic Development and Planning

DPW Comments
July 15, 2025

3. **Thomas Feulner - 4866 Pattersonville-Rynex Corners Road.** Sketch Site Plan/Special Use Permit review to operate horse riding arena/stables on a 60-acre parcel. Engineer: Empire Engineering, PLLC.
1. It appears that the area proposed for development contains the potential for NYSDEC wetlands per the Environmental Resource Mapper (see attached). Consultation with NYSDEC must be initiated and presence of jurisdictional wetlands must be determined before proceeding.
 2. Provide SHPO Consultation Letter.
 3. Applicant should clearly describe proposed operations:
 - a) How many animal stalls are proposed in the new barn to be constructed?
 - b) Indoor arena?
 - c) Will the stable be open to the public for boarding and/or riding events?
 - d) Overnight RV Camping?
 4. Show location of proposed manure disposal area.

SEQR Requirement: 6 NYCRR 617 Unlisted Action. Rotterdam Planning Commission should declare Lead Agency.

Involved/Interested Agencies:

Schenectady County Economic Development and Planning
Schenectady County Department of Health
Schenectady County Department of Public Works
New York State Department of Environmental Conservation – Region #4
Fire District Pattersonville
Princeton 239nn

FILL OUT FOR SPECIAL USE PERMIT APPROVAL ONLY (§ 270-167)

(Failure to answer all of these questions completely may result in denial of the special use permit)

- (1) Is the establishment, maintenance or operation of the special use detrimental to or an endangerment to the public health, safety, morals, convenience or general welfare? If not, please explain:

No, the site previously existing as the Dusty Boots Riding Club, the owner intends to use the property in a similar manor as previously existed.

- (2) Is the special use injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and does it substantially diminish and impair property values within the neighborhood? If not, please explain:

No, the existing adjoining uses are the Town of Rotterdam water tower, overhead power lines, and solar panels placed over a capped landfill.

- (3) Does the establishment of the special use impede the normal and orderly development and improvement of the surrounding property? If not, please explain:

No, there is significant distance to any active surrounding properties.

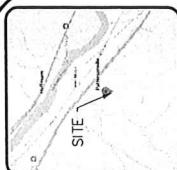
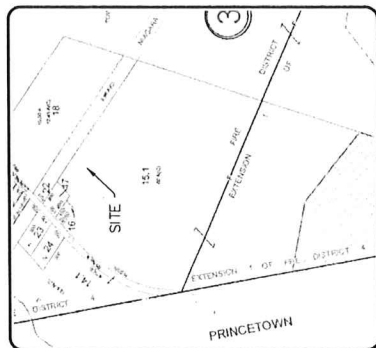
- (4) Have adequate utilities, access roads, drainage and/or necessary facilities been or are being provided? If yes, please explain:

Yes, water supply will be through the municipal main, septic will be provided on-site and electric utility will be services from the frontage.

- (5) Have adequate measures been or will be taken to provide ingress or egress as to minimize traffic congestion in the public street? If yes, please explain:

Yes, the existing entrance drive will continue to be utilized.

If you have any additional comments, please attach them on a separate sheet of paper.

[illegible]

PRIOR TO ANY EARTH
DISTURBANCE THE CONTRACTOR
SHALL CALL IN A TICKET TO
DIG SAFE NY AND OBTAIN A
CLEAR TO DIG

IT IS A VIOLATION OF SECTION 7209 OF THE NYS EDUCATION LAW FOR ANY PERSON TO ALTER ANY ITEM ON THIS PLAN IN ANY WAY UNLESS HE/SHE IS ACTING UNDER THE DIRECT SUPERVISION OF A PROFESSIONAL ENGINEER.

CHRISTOPHER D. LONGO, PE
N.Y.S. LIC. # 095840



EMPIRE ENGINEERING, PLLC
1900 DUANESBURG ROAD
DUANESBURG, NY 12056
PH: (518) 280-1371
EMAIL: CLONCO@EMPIREENG.NET

PROJECT
LANDS of
THOMAS FEULNER
4866 RYNEX CORNERS RD.
ROTTERDAM, NY

SITE PLAN		C101
DATE	05/28/2025	
TIME	1 st =50'	
SCALE		25009

SCHENECTADY COUNTY ENVIRONMENTAL HEALTH

MAP REFERENCE:-

- 1) TAX MAP PREPARED BY SOKEMETARY COUNTY REAL PROPERTY DTD. 3/14/2024
- 2) NYS DEC ENVIRONMENTAL RESOURCE MAPPING, GIS SERVICES
- 3) NYS GIS ORTHOMOGRAPHY DATA 2024
- 4) MAP ENTITLED "TOWN OF ROTTERDAM, ROTTERDAM JUNCTION WATER STORAGE TANK IMPROVEMENTS" AS PREPARED BY BARTON & LOGUICCE, P.C. DATED MAY 2023

GENERAL NOTES:

- 1) SUBJECT PARCEL, TOWN OF ROSTKHAM - TAX MAP 12.00, BLOCK 3, PARCEL 15.1.
- 2) NORTH IS REFERENCED TO NAD 83 NEW YORK STATE PLAINS EAST ZONE. MEASUREMENTS ARE REQUIRED TO AND FROM STAKES.
- 3) ALL INFORMATION SHOWN HERE ON HAS BEEN REPRODUCED FROM MAP REFERENCE #1
- 4) SUBJECT TO ALL RIGHTS, EASEMENTS, COVENANTS OR RESTRICTIONS RECORDED OR UNRECORDED.
- 5) SUBJECT TO ANY STATEMENT OF FACT CONTAINED IN AN UP TO DATE ABSTRACT OF TITLE OR TITLE REPORT.
- 6) UNDERGROUND UTILITIES IF SHOWN, FOREIGN SOURCES AND/OR RECORDS MAY BE USED TO DETERMINE THE LOCATION OF SUCH UTILITIES ONLY AND NOT TO DETERMINE THE EXACT LOCATION OF SUCH UTILITIES. THERE ARE NO GUARANTEES THAT ANY CORRELATION OF UTILITY CONNECTIONS, EITHER THAN OR OTHERWISE, WILL BE ACCURATE. ANY DISCREPANCIES BETWEEN THIS AND OTHER SOURCES SHALL BE RESOLVED BY THE ENGINEER. ANY INFORMATION NOT SHOWN ON THIS MAP, CALL OFFICER FOR FURTHER VERIFICATION.

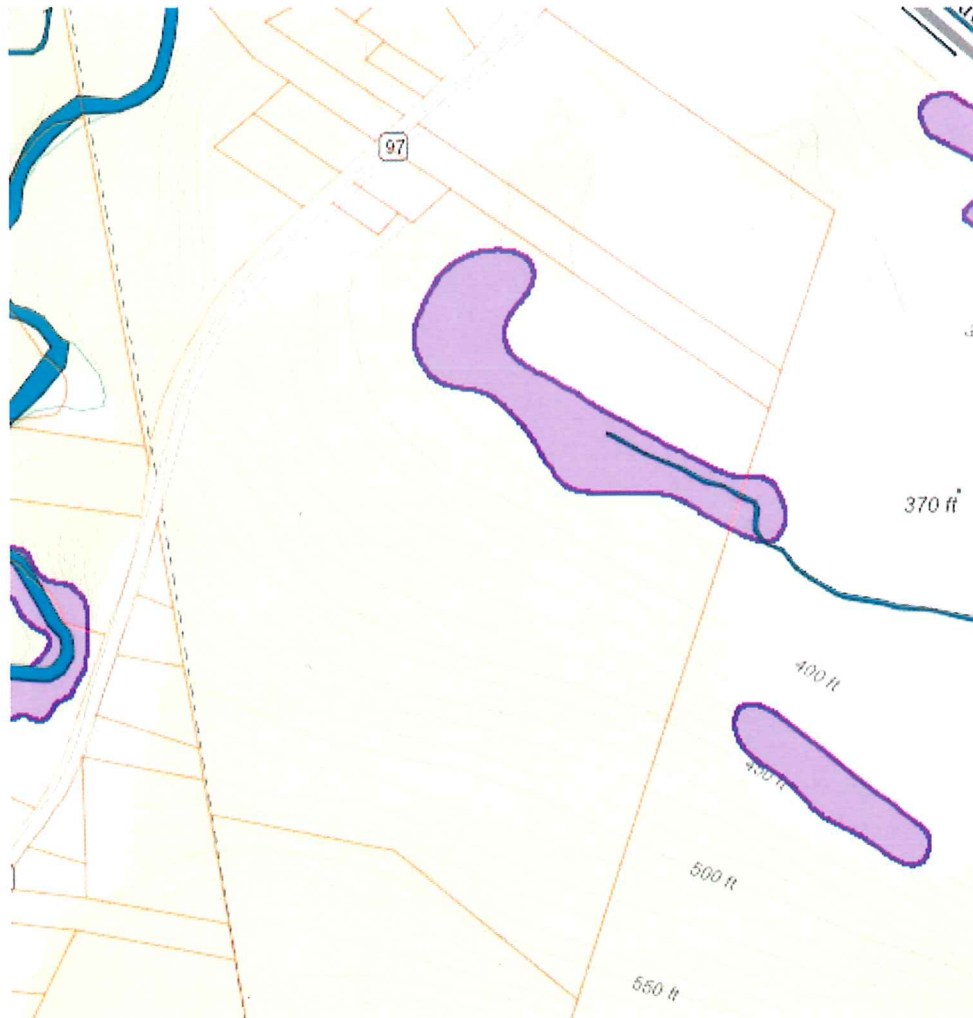
OVERALL MAP
N.T.S.

PROJECT INFORMATION:

ONCE APPLICANT: THOMAS FLEISHER
 ADDRESS: 4983 PATTERSONVILLE-PIKE
 COMMUNITY: PATTERSONVILLE, NY 12137
 ZONING: AGRICULTURAL (A-1)
 MUNICIPALITY: TOWN OF ROTTERDAM
 SOCIETY/COUNTY: SCHOENICHER COUNTY
 BUILDING HEIGHT: 3 STORIES OR 40 FT MAX
 SETBACKS: FRONT - 25'
 SIDE - 10'
 REAR - 25'
 PROPOSED USE: FARMING CLUB
 ACCESSORY BUILDING
 DEED REFERENCE: PAGE 107
 BOOK 2141

TEST PIT LOG			STABILIZED INFILTRATION RATE
TP 1	0-18" GARY TORZELO 18-20" BROWN SAND MOTTLED AT 18" SAND - JELLY 9" 24"	PEOPLE	PT 1 5:50, 6:00, 6:15 6 MIN. STABILIZED RATE 5 MIN. STABILIZED RATE 5 MIN. STABILIZED RATE
TEST PIT APPROVED BY: M. J. C. LINDEN, PE			PT. PERFORMED AT 12:20 PM
TEST PIT APPROVED BY: B. S. GARDNER, PE			

NYSDEC Informational Freshwater Wetland Mapping



Fevlner 4866 Ryrex 7/11/25

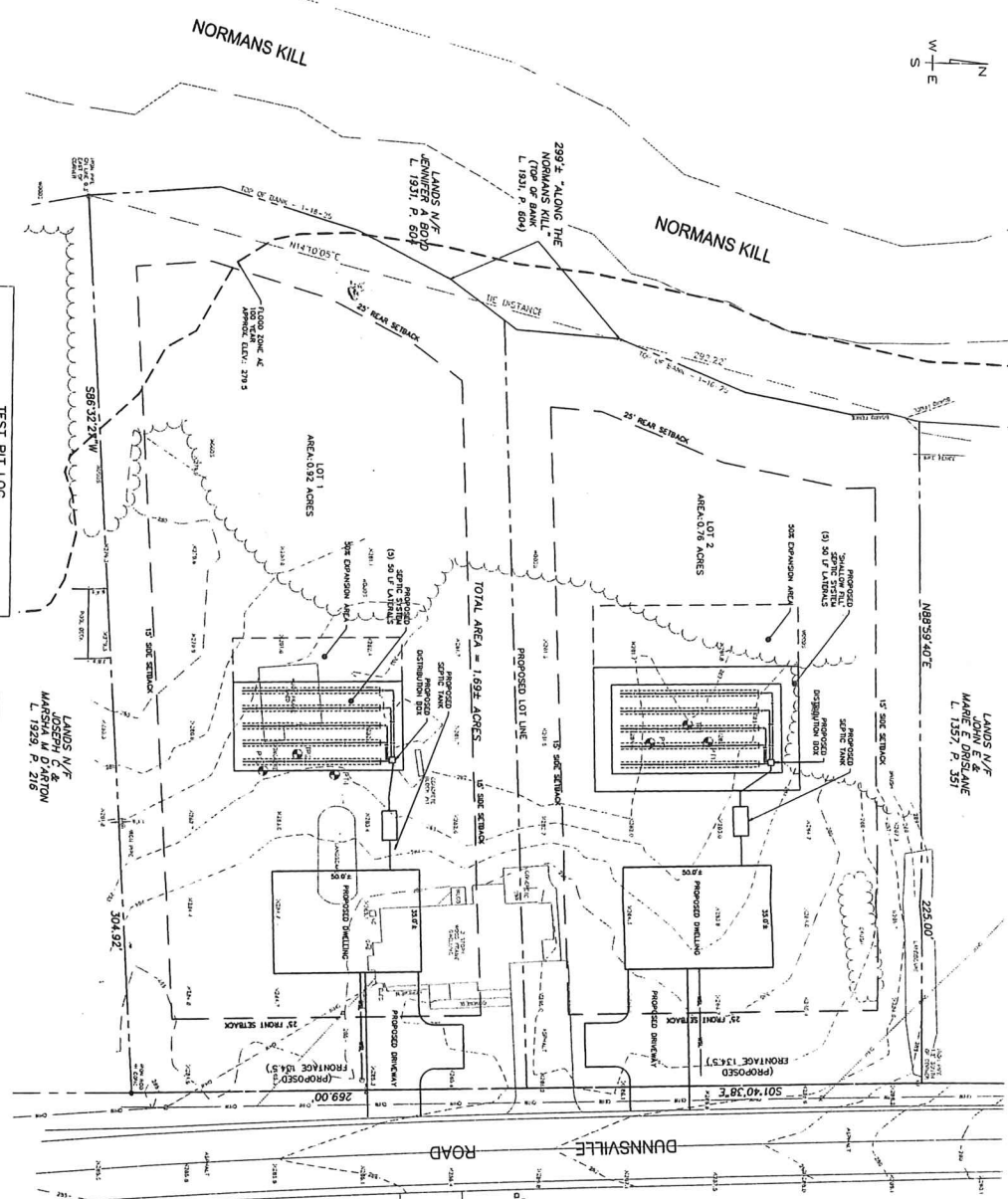
DPW Comments
July 15, 2025

4. **Dunnsville Properties, LLC – 271 Dunnsville Road.** Sketch Two (2) Lot Subdivision: Lot 1 = ± 0.92 acres with proposed single-family residence and Lot 2 = ± 0.76 acres with proposed single-family residence. Engineer: Empire Engineering, PLLC.
 1. Project will need variances for lot size and lot width. Public hearing scheduled for August 16, 2025 with the Zoning Board of Appeals.
 2. Project should be sent to NYSDEC main office for wetland consultation. Normans Kill is located on the western fringe of this property.
 3. Show 100-year floodplain on subdivision plans.
 4. Pin and cap all lot corners.

SEQR Requirement: 6 NYCRR 617 Unlisted Action. Rotterdam Planning Commission should declare Lead Agency.

Involved/Interested Agencies:

Schenectady County Economic Development and Planning
Schenectady County Department of Health
Schenectady County Department of Public Works
New York State Department of Environmental Conservation – Region #4
Fire District #5 (Pine Grove)
Schalmont School District



TEST PIT LOG	
PROF. NO.	STANDARDIZATION RATE
1P 1	0-10" FINE SANDY SILT 10-20" COARSE SAND & GRAVEL 20-30" COARSE SAND & GRAVEL 30-40" COARSE SAND & GRAVEL 40-50" COARSE SAND & GRAVEL 50-60" COARSE SAND & GRAVEL 60-70" COARSE SAND & GRAVEL 70-80" COARSE SAND & GRAVEL 80-90" COARSE SAND & GRAVEL 90-100" COARSE SAND & GRAVEL
1P 2	0-10" FINE SANDY SILT 10-20" COARSE SAND & GRAVEL 20-30" COARSE SAND & GRAVEL 30-40" COARSE SAND & GRAVEL 40-50" COARSE SAND & GRAVEL 50-60" COARSE SAND & GRAVEL 60-70" COARSE SAND & GRAVEL 70-80" COARSE SAND & GRAVEL 80-90" COARSE SAND & GRAVEL 90-100" COARSE SAND & GRAVEL

ZONING TABLE	
ZONING CODE	DESCRIPTION
210-210	FRONT YARD
210-210	FRONT YARD
210-210	FRONT YARD
210-210	FRONT YARD
210-210	FRONT YARD
210-210	FRONT YARD
210-210	FRONT YARD
210-210	FRONT YARD
210-210	FRONT YARD
210-210	FRONT YARD

Chairman, Rotterdam Planning Commission
Date: _____

- MADE REFERENCE:
- 1) 100' WIDE RIGHT OF WAY
 - 2) 100' WIDE RIGHT OF WAY
 - 3) 100' WIDE RIGHT OF WAY
 - 4) 100' WIDE RIGHT OF WAY
 - 5) 100' WIDE RIGHT OF WAY
 - 6) 100' WIDE RIGHT OF WAY
 - 7) 100' WIDE RIGHT OF WAY
 - 8) 100' WIDE RIGHT OF WAY
 - 9) 100' WIDE RIGHT OF WAY
 - 10) 100' WIDE RIGHT OF WAY

GENERAL NOTES:

- 1) SUBJECT PARCEL, 100' WIDE RIGHT OF WAY
- 2) 100' WIDE RIGHT OF WAY
- 3) 100' WIDE RIGHT OF WAY
- 4) 100' WIDE RIGHT OF WAY
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- 9) 100' WIDE RIGHT OF WAY
- 10) 100' WIDE RIGHT OF WAY

PROPOSED USE:

LOT AREA: 1.69 ACRES

PROPOSED BUILDING: 100' WIDE RIGHT OF WAY

PROPOSED SETBACKS: 100' WIDE RIGHT OF WAY

PROPOSED SETBACKS:

100' WIDE RIGHT OF WAY

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100' WIDE RIGHT OF WAY

100' WIDE RIGHT OF WAY

PROPOSED SETBACKS:

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PROPOSED SETBACKS:

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100' WIDE RIGHT OF WAY

PROPOSED SETBACKS:

100' WIDE RIGHT OF WAY

100' WIDE RIGHT OF WAY

100' WIDE RIGHT OF WAY

100' WIDE RIGHT OF WAY

210-210 SUBDIVISION PLAN
1-1-201
24036

LANDS OF PERILLO
271 Dunnsville Road
Rotterdam, NY

ENGINE: C. J. PERILLO
100' WIDE RIGHT OF WAY
100' WIDE RIGHT OF WAY
100' WIDE RIGHT OF WAY
100' WIDE RIGHT OF WAY

DATE: 10/1/2010
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DPW Comments
July 15, 2025

5. **Town of Rotterdam – Battery Energy Storage Systems.** Review and discussion on proposed amendments to Town Code Chapter 270 to regulate Battery Energy Storage Systems (BESS).
1. The Rotterdam Town Board referred to the Rotterdam Planning Commission on July 9, 2025 for a report and recommendation.

Town of Rotterdam

PROPOSED LOCAL LAW NO. OF THE YEAR 2025

BE IT ENACTED by the Town Board of the Town of Rotterdam, in the County of Schenectady, as follows:

I. SECTION ONE – TITLE

This Local Law shall be known as the “Battery Energy Storage System”.

II. SECTION TWO - LEGISLATIVE INTENT AND PURPOSE

It is the intent of this local law to amend the Town of Rotterdam Zoning Law, as the same may have been amended from time to time, to enact provisions providing for Small-scale Battery Energy Storage System (S-BESS), Large-Scale Battery Energy Storage System (L-BESS) and Utility-Scale Battery Energy Storage Systems (U-BESS) installations in the Town, as defined in this local law through addition of a new Section, Section 270 Battery Energy Storage Systems, to Article VIII (Supplementary Regulations) of the Town of Rotterdam Zoning Law. It is further the intent and purpose of this local law to, in accordance with the Town of Rotterdam Comprehensive Plan, to responsibly locate Large Scale Battery Energy Storage Systems (L-BESS) and Utility-Scale Battery Energy Storage Systems (U-BESS) within the Town. Accordingly, this local law modifies certain use definitions relating to prohibited uses, energy storage systems, and public utilities.

The Town finds that well-planned, suitably sized, and located Battery Energy Storage Systems can be beneficial. This law seeks to foster thorough project planning and appropriate siting.

- A. Protecting the health, safety, and well-being of our First Responders through responsible siting, pre-incident planning and education, continuing education and training, adequate protection and equipment, and the implementation of best practices to reduce potential hazards.
- B. Allowing Town of Rotterdam residents, landowners, farms, and government to safely locate Battery Energy Storage Systems resources in a way that is consistent with the nature and character of the Town in accordance with the Town of Rotterdam Comprehensive Plan and the Natural Resource Inventory.
- C. Promoting and supporting our Town’s Open Space Plan with Battery Energy Storage Systems zoning that protects and preserves open space, agricultural lands, and

environmentally significant areas of Town as designated by our Comprehensive Plan and Natural Resource Inventory.

Protecting the Town's unique ecosystem of plants, wildlife, and habitats, particularly in the western upland and rural areas of Town.

- D. Recognizing the importance of Agriculture and protecting water and soils conducive to farming. Agricultural areas and surrounding areas should not be used for Utility-Scale Battery Energy Storage Systems (U-BESS).
- E. Protecting and ensuring farmland, agricultural land, and forested land are put to their highest and best use.
- F. Protecting and promoting scenic and environmental resources by minimizing Utility-Scale Battery Energy Storage Systems (U-BESS) facilities' impacts on these resources as outlined in the Rotterdam Comprehensive Plan including, but not limited to, fresh watersheds, floodplains, historic sites, conservation easements, trails, parklands, wetlands, wildlife, and scenery, and areas for recreational and outdoor activities.
- G. Protecting the property values of those properties neighboring and within the viewshed and sound shed of a Utility-Scale Battery Energy Storage Systems (U-BESS).
- H. Conserving the rural character of western Rotterdam and rural hamlets, including Rotterdam Junction and Pattersonville.

III. SECTION THREE - AUTHORITY

This local law is adopted by the Town Board of Town of Rotterdam (hereinafter referred to as the "Town Board") pursuant to its authority to adopt local laws under Article IX of the New York State Constitution; Articles 2 and 3 of the Municipal Home Rule Law; Article I of the Town Zoning Law, particularly Section 2 which authorize the Town to adopt zoning provisions that promote health and general welfare, encourage the most appropriate use of land throughout the Town, encourage development in accordance with a comprehensive plan and professional planning techniques, and improve the quality of life throughout the Town.

IV. SECTION FOUR - DEFINITIONS

Article II- Definitions Section 270-5 of the Town of Rotterdam Zoning Law is hereby amended to add the following definitions:

BATTERY(IES): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store

energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery, an electric motor vehicle, uninterruptible power supply systems, or a energy storage system for temporary use. A Battery Energy Storage System is classified as follows:

- A. Small-Scale Battery Energy Storage Systems (S-BESS) have an aggregate energy capacity less than or equal to 150kWh. Designed to produce energy for onsite consumption.
- B. Large-Scale Battery Energy Storage Systems (L-BESS) have an aggregate energy capacity greater than 150kWh and less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology. Ground-Mounted Large Scale Battery Energy Storage Systems are further defined as those which may be installed in a dedicated use building, within a cabinet, and/or a walk-in unit. Designed to produce energy for onsite consumption.
- C. Utility-Scale Battery Energy Storage Systems (U-BESS) have an aggregate energy capacity greater than 600kWh, are comprised of more than one storage battery technology in a room or enclosed area or are co-located with Solar Energy Systems and other energy generation facilities designed to produce energy for onsite consumption and/or released into the energy grid.

BATTERY SYSTEM'S AREA: Area of battery including required local and state safe operating clearances.

ENERGY CODE: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

FIRE CODE: The fire code Section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

HAMLET OF PATTERSONVILLE-ROTTERDAM JUNCTION: A census designated place in Schenectady County, New York, United States.

TOWN OF ROTTERDAM BATTERY ENERGY STORAGE SYSTEM PERMIT: The Town's minimum submittal requirements for electrical and structural plan review applicable to small-scale Battery Energy Storage Systems with an aggregate energy

capacity less than or equal to 600kWh, based on the 2020 NYSERDA Battery Energy Storage System Model Permit, as may be amended.

UNIFORM CODE: the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

The following definition is hereby replaced in entirety and amended, as follows:

SOLAR ENERGY EQUIPMENT AND SYSTEMS: Solar collectors, controls, heat pumps, heat exchangers, and or other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar. For energy storage devices, refer to Battery Energy Storage System in this Section.

V. SECTION FIVE - APPLICABILITY

- A. The requirements herein shall apply to all Battery Energy Storage Systems and equipment installations modified or installed after the effective date of this law, excluding general maintenance and repair.
- B. Modifications to an existing Battery Energy Storage System that increases the battery system's area by more than 5 percent (exclusive of moving any fencing) from original approval shall be subject to this law.
- C. All Battery Energy Storage Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code") the NYS Energy Conservation Code, and the Town of Rotterdam Code. Whichever code is more stringent shall govern.
- D. To the extent that any other Town law, rule or regulation, or parts thereof, are inconsistent with the provisions of this law, the provisions set forth in this law shall control only as they pertain to Battery Energy Storage Systems.
- E. Any proposed Battery Energy Storage Systems subject to review by the New York Board on Electric Generation and Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the Executive Law, shall be subject to all substantive provisions of this law and any other applicable laws, codes, ordinances and regulations of the Town of Rotterdam, and any other applicable state or federal laws.

VI. SECTION SIX - PROHIBITED USE –UTILITY-SCALE BATTERY ENERGY STORAGE SYSTEMS

- A. U-BESS failure has the potential to undermine public health, safety and welfare, will potentially be situated in locations without access to water supply for fire suppression, and will overtax the Town's first responders. U-BESS failure resulting in fire can produce a range of toxic gasses and particulates, including several highly toxic compounds including benzene, toluene, styrene, biphenyl, hydrogen fluoride and many others.

U-BESS is a permitted use in the I-2 zoning districts.

U-BESS is not permitted in the aquifer recharge zone and tributary areas.

U-BESS is not permitted in the Hamlet of Pattersonville-Rotterdam Junction.

Section 6(b). In accordance with the findings set forth in this Section, Article II- Definitions Section 270-5 of the Town of Rotterdam Zoning Law is hereby added, as follows:

USE, PROHIBITED: Within a district, a use that is not listed as a permitted or a special use is a prohibited use. In addition, development within non-conforming uses that are detrimental to the natural environment are specifically prohibited within the Town, including landfills, open mining, strip mining, open composting, salvage or junkyards, debris dumping, open petroleum or chemical tank farms, Tier 3 or Tier 4 Scale Solar systems, and utility-scale Battery Energy Storage Systems.

VII. SECTION SEVEN - LARGE-SCALE BATTERY ENERGY STORAGE SYSTEMS AS AN SPECIAL USE

- A. Allowing L-BESS for onsite power consumption in existing districts for B-1, B-2, C-1, and I-1 is permitted as a special use with the understanding that all existing zoning and planning requirements are met as well as the guidelines in this law.

SECTION EIGHT - UTILITY-SCALE BATTERY ENERGY STORAGE SYSTEMS AS AN ALLOWABLE USE

- A. Allowing U-BESS in existing I-2 is permitted with the understanding that all existing zoning and planning requirements are met as well as the guidelines in this law.

IX. SECTION NINE - GENERAL REQUIREMENTS

A. Applicability:

1. The requirements of this Zoning Law shall apply to all Battery Energy Storage Systems permitted, installed, or modified in the Town of Rotterdam after the effective date of applicable amendments to this Section, excluding general maintenance and repair.
2. Battery Energy Storage Systems constructed or installed prior to the effective date of applicable amendments to this Zoning Law shall not be required to meet the requirements of this Section.
3. Modifications to, augmentations, retrofits or replacements of an existing Battery Energy Storage System that increase the total Battery Energy Storage System designed discharge duration or power rating shall be subject to this Section.

B. General Requirements:

1. A building permit and an electrical permit shall be required for installation of all Battery Energy Storage Systems. The building permit shall be administered in accordance with Town requirements, including this Zoning Law.
0. Issuance of permits and approvals under this Zoning Law shall include review pursuant to the State Environmental Quality Review Act, as appropriate.
1. All Battery Energy Storage Systems and all other buildings or structures that (1) contain or are otherwise associated with a Battery Energy Storage System and (2) are subject to the Uniform Code and/or the Energy Code shall be designed, erected, installed, and operated in accordance with all applicable provisions of the Uniform Code.
2. Application fees. Application for construction of a Battery Energy Storage System shall be subject to the payment of fees in amounts indicated in the Town Schedule of Fees as adopted by the Town Board.

X. SECTION TEN - SMALL-SCALE BATTERY ENERGY STORAGE SYSTEMS – PERMITTING REQUIREMENTS

A. Zones Allowed: Allowed by right in all zones.

B. Applications, Approvals, Fees, and Permits: S-BESS Application and Building Permit. Fees in accordance with the most current version of the Town of Rotterdam Fee Schedule. Systems in a non-residential zone may require site plan reviews under other Sections of Town code.

C. Setbacks:

1. S-BESS shall conform to the setbacks in the subject zoning district. If there is an existing structure which is nonconforming with its zone requirements, setbacks for new structures shall conform to the current Town Code.

D. Specific Requirements:

1. S-BESS shall be required to display a permanent plaque or directory placed in an exterior location near the main or front entry of a residence or other structure that is readily visible to firefighters to identify the system disconnect(s) location. The plaque or directory shall meet all New York State Building Code standards for reflection, lettering, and color for easy visibility.

**XI. SECTION ELEVEN - LARGE-SCALE BATTERY ENERGY STORAGE SYSTEMS
- PERMITTING REQUIREMENTS**

- A. Zones Allowed: Allowed by special use in Zones B-1, B-2, C-1, I-1 and I-2.

- B. Applications, Approvals, Fees, and Permits: L-BESS Application and Building Permit. Fees in accordance with the most current version of the Town of Rotterdam Fee Schedule. Non-residential systems may require site plan reviews under other Sections of Town code.

C. Setbacks:

1. L-BESS located by special use shall be set back from the property line at a minimum of 100 feet.
2. L-BESS Facility Areas shall be setback at a minimum of 150 feet from wetlands, ponds, and streams, unless otherwise waived from this requirement by the Planning Commission upon receiving any required permit from a state or federal regulatory agency.
3. The following will not be subject to the required property line setback herein unless otherwise directed by the Town of Rotterdam Planning Commission.
 - a. Access roads proposed from a public road to the fence of a L-BESS facility, including any stormwater management, or other necessary infrastructure installed for the purpose of this access road.

D. Specific Requirements:

1. When located outside of a building or structure the L-BESS shall be in a side or rear yard.
2. L-BESS shall be required to display a permanent plaque or directory placed in an exterior location near the main or front entry of the building or structure that is readily visible to firefighters to identify the system disconnect(s) location. The plaque or directory

- shall meet all New York State Building Code standards for reflection, lettering, and color for easy visibility.
3. L-BESS shall be required to be self-contained and have a built-in fire extinguishing system supplied by the L-BESS manufacturer.
 4. L-BESS shall be allowed only in zoning districts where there are fire hydrants fed from a municipal water supply within 500 feet of the L-BESS batteries. L-BESS are not allowed in any zoning district without municipal water. L-BESS is prohibited in the Hamlet of Pattersonville-Rotterdam Junction.
 5. Where site plan approval is required elsewhere in the regulations of the Town for the principal use, the L-BESS shall be subject to site plan review. In its review of the site plan, the Planning Commission shall apply the standards and procedures set forth in Section 11 of this Local Law. Site plan review of L-BESS development shall include review of the adequacy, location, arrangement, size, design, screening, accessibility for emergency response, and general site compatibility of proposed L-BESS.
 6. The Planning Commission may require a submission of a noise analysis, an emergency response plan as part of the site plan application, and/or a decommissioning plan. The Planning Commission may require a performance guarantee, in accordance with the provisions of this Local Law, Section 13.
 7. The Planning Commission may require after consultation with the responding fire district that the Applicant and/or Operator of the L-BESS provide safety and first responder training. The Town may, from time to time, require training of new personnel, and funding, or other mechanisms to cause such training to be provided, which shall be provided by the owner/operator upon request by the responding fire district.
 8. Only (1) L-BESS may be located on a single parcel with a minimum of 2 acres.
 9. Pre construction for L-BESS projects shall include well water and ground contamination testing.
 - a. The Applicant, Town, and TDE shall develop a list of potential contaminants that will be tested for, and the location of testing based on the proposed equipment for the L-BESS facility prior to testing.
 - i. List of contaminants that may be tested for includes but is not limited to: sulfuric acid, mercury, nickel, cadmium (known Carcinogen), cadmium telluride, lead, lithium, cobalt, lithium, iron, arsenic, silicon, copper, silver, selenium, copper indium selenide, copper indium gallium, diselenide, (di)selenide, hexafluoroethane, polyvinyl fluoride, PFAS, and any other contaminant required for testing by the Town, County or State for this type of facility at the time testing takes place.

- b. At the Applicant's cost, an escrow account with the Town shall be established to provide an independent third-party testing agency which will provide testing of the Facility Area and of water wells on properties within 1000-ft of the Facility Area.
 - c. At the Applicant's expense, notice shall be given to all property owners within 1000-ft that water well testing is available prior to L-BESS construction at the cost of the L-BESS Applicant.
 - d. Pre-construction testing: Initial testing shall take place within 12-months of establishing the escrow account. Test results for the Participating L-BESS Properties shall be furnished to the Town.
10. L-BESS must have a continuously maintained connection to the municipal water supply, where municipal water is available. The L-BESS application must obtain in writing from the local fire department the type of fire department connection.
11. L-BESS shall not be located within one half mile of public structures that are or can be designated as follows under the NYS Building Code:
- a. Category III – structures that represent substantial hazard to human life.
 - b. Category IV – structures designated as essential facilities. **XII.**

SECTION TWELVE - UTILITY-SCALE BATTERY ENERGY STORAGE SYSTEMS – PERMITTING REQUIREMENTS

A. Zones Allowed: Allowed by right in Zone I-2.

B. Applications, Approvals, Fees, and Permits: U-BESS Development Application; Site Plan, Special Use Permit approval process; Building Permit. Fees in accordance with the most current version of the Town of Rotterdam Fee Schedule.

- 1. A pre-submission conference with the Town is required. The Applicant shall provide the opportunity for an on-site visit by any interested Town committee or board members.

C. Setbacks:

- 1. U-BESS located in zones I-2 shall be set back from the property line at a minimum of 100 feet.
- 12. U-BESS Facility Areas shall be setback at a minimum of 150 feet from wetlands, ponds, and streams, unless otherwise waived from this requirement by the Planning Commission upon receiving the proper permit from a state or federal regulatory agency, where required by such agency.
- 13. The following may not be subject to the required property line setback herein unless otherwise directed by the Town of Rotterdam Planning Commission.

- a. Access roads proposed from a public road to the fence of a U-BESS facility, including any stormwater management, or other necessary infrastructure installed for the purpose of this access road.

D. Escrow for Review and Operations: U-BESS projects will require more oversight and services by the Town and their selected consultants. In addition to the normal escrow requirements of Section 7, the account shall also include adequate funding for any necessary mailings by the Town, construction inspections, annual inspections, and for monitoring during operation of the facility. The escrow account shall be replenished when required by the Town and shall be maintained for the life of the project. Failing to replenish the account will result in enforcement action by the Town or activating the Decommissioning Agreement.

E. Specific Requirements:

1. All applicable requirements listed under Section 9, and all requirements of Section 12 of this Law.
2. The Applicant shall disclose the full scope of the planned size of the project, including any other involved municipalities, and shall not segment the application for purposes of reducing the apparent significance of proposed plans. Where the Planning Commission or Lead Agency has substantial proof that the ultimate scope of the project may exceed that which is being proposed by the Applicant, it shall conduct its review and base its findings on the larger potential scope.
3. All requirements of Site Plan Approval. In addition, Site Plans for the application shall also contain the following:
 - a. Location map showing types of existing structures and uses on the site, public roads, and properties with abutting boundaries of the site including any bordering municipalities.
 - b. The Site plan shall provide the surveyed data of abutting properties to the Participating Property parcel(s) showing all principal and accessory buildings (residential and commercial), roads, utilities and private or public wells; and labeling distances from those features to the Participating Property boundary;
 - c. Location and description of all U-BESS components, whether on site or off site, all above and below-ground utility lines on the site, transformers, POI, Renewable Energy Electrical Substations when required for project, fencing, laydown, and storage areas to be used as part of construction and other ancillary facilities or structures;
 - d. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
 - e. Label all setback distances as required by Town Laws; 2. Part 1 of a Full Environmental Assessment Form for SEQRA.

3. Upon receipt of an application, at the Applicant's expense, a notice of the proposed project to all abutting owners of property to the Participating Property boundaries regardless of municipality shall be required. The Applicant shall provide proof of mailing to the Town. Notices shall contain a summary of the project, a designated contact person, with telephone number, e-mail address, and mailing address from whom information will be available on a going forward basis.
4. An electrical one-line diagram detailing the associated components, and electrical interconnection methods, with all disconnects and overcurrent devices identified.
5. Manufacturer data on all proposed U-BESS components.
6. Documentation of access to the Facility Area via a lease agreement or other instrument to show the landowner's consent to the project.
7. Documentation of utility notification, including proof of interconnection agreement. Projects not viable to the utility company shall not be considered by the Planning Commission.
8. Decommissioning plan, including cost estimate and description and form of financial surety as described in other Sections of this Law.
9. Deforestation: Previously cleared or disturbed areas are preferred locations for U-BESS projects.
0. Acoustical noise studies by an independent third-party vendor shall be submitted with the application, which provide analysis of all noise-generating equipment that may be included in the project, including for construction. Noise generated from the U-BESS components and associated ancillary equipment, including but not limited to transformers, inverters, storage devices and substations shall provide for no discernable difference from existing noise levels at property lines. The study shall contain:
 - a. Actual measurements of existing daytime and nighttime ambient noise at the boundary of the participating properties. Ambient noise testing locations and schedule shall be discussed with the Planning Commission before testing takes place.
 - b. Proposed noise model to predict the potential increase in noise from pre-construction to post-construction conditions at both the project boundaries and nearest adjacent receptors (neighboring houses, etc.).
 - c. Noise studies shall follow industry norms and report their findings using A-weighted methodologies. The Planning Commission may require additional

analysis as they deem appropriate and may require noise mitigation or additional setbacks as needed.

11. As part of the Operation, Safety and Maintenance Plan in Section 14 of this Law, the Applicant shall document existing firefighting resources near or on the Participating Properties that may include, but not be limited to: the distance to nearest fire hydrant, dry hydrants, ponds, or other waterbodies for drawing water in emergency situations.
12. U-BESS shall not exceed a maximum project size of 5 contiguous acres.
13. In addition to Section 12(f)(6) of this Law, the required notice to surrounding landowners shall contain a link to a project website, created and paid for by the Applicant, which is meant to disseminate information to the public. At the Applicant's expense, publication of notice of application shall be made in newspapers designated by the County of Schenectady and Town of Rotterdam for the same. Notice shall also be provided to each member of the State and County Legislature in whose district any portion of the proposed U-BESS is in, or which district the project abuts upon.
14. Upon submission of an application, the Applicant shall conspicuously post signage on the frontage of participating properties at all roads abutting the proposed project and at the proposed entryways/exits to the project. Signage must be of sufficient size to contain the name of the proposed project, the application number, a rough concept map of the project, and contact information for the developer as well as a proposed project website address. Signage shall be sized and placed at a safe distance from the public roadway so as not to interfere with sight distance on the roadway or any adjacent driveways.
15. In addition to the Noise Studies requirements under Section 12 of this law, within 90-days of project completion the Applicant or facility owner shall conduct a post-construction noise sampling at locations and schedule discussed with the Planning Commission prior to testing. If noise sampling is found to be greater than predictions the Applicant may be required to mitigate the sound to a level sufficient to the Planning Commission. Failure to implement mitigation measures within 90-days of notice will result in enforcement procedures by the Town. The Applicant may request one (1) 90-day extension if reasonable evidence that the requested measures cannot be completed in 90-days are established. Further, violations and penalties of this provision shall be handled in accordance with other Sections of Town Code concerning noise violations. The Town may use the project's escrow account to hire an independent third-party engineer/noise monitor to oversee compliance with noise requirements and the ongoing obligation of the same for the lifetime of the project.

14. At the Planning Commissions discretion, a Road-Use Agreement may be required for the desired traffic route.
15. Pre construction for U-BESS projects shall include well water and ground contamination testing.
 - a. The Applicant, Town, and TDE shall develop a list of potential contaminants that will be tested for, and the location of testing based on the proposed equipment for the U-BESS facility prior to testing.
 - i. List of contaminants that may be tested for includes but is not limited to: sulfuric acid, mercury, nickel, cadmium (known Carcinogen), cadmium telluride, lead, lithium, cobalt, lithium, iron, arsenic, silicon, copper, silver, selenium, copper indium selenide, copper indium gallium, diselenide, (di)selenide, hexafluoroethane, polyvinyl fluoride, PFAS, and any other contaminant required for testing by the Town, County or State for this type of facility at the time testing takes place.
 - b. At the Applicant's cost, an escrow account with the Town shall be established to provide an independent third-party testing agency that may provide testing of the Facility Area and of water wells on properties within 1000-ft of the Facility Area.
 - c. At the Applicant's expense, notice shall be given to all property owners within 1000-ft that water well testing is available prior to U-BESS construction at the cost of the U-BESS Applicant.
 - d. Pre-construction testing: Initial testing shall take place within 12-months of establishing the escrow account. Test results for the Participating U-BESS Properties shall be furnished to the Town.
18. Landscape and Screening: Buffers shall use existing vegetation to the fullest extent practicable. If existing vegetation does not provide the desired screening or buffer width it shall be supplemented with new landscaping to form a continuous hedge at least 14 feet in height at planting shall be required and maintained for the life of the project. Berms, solid fencing, and opaque enclosures are the least desirable method of screening but may be proposed in situations where existing or new landscaping for screening is not practical. New landscaping proposed for the project shall be species native to the region and selected by a Registered Landscape Architect. All landscaping and screening methods shall be maintained and replaced as necessary during the life of the project.
19. U-BESS must have a continuously maintained connection to the municipal water supply, where municipal water is available. The U-BESS application must obtain in writing from the local fire department the type of fire department connection.

20. U-BESS shall not be located within one half mile of public structures that are or can be designated as follows under the NYS Building Code:
- a. Category III – structures that represent substantial hazard to human life.
 - b. Category IV – structures designated as essential facilities.

XIII. SECTION THIRTEEN – REQUIRED AGREEMENTS

The following applies to Utility-Scale Battery Energy Storage Systems (U-BESS), unless waived or altered by the Planning Commission.

- A. Road Use Agreement: The Applicant shall execute a road use agreement with the Town if Town roads are to be used for the project. Prior to the issuance of the building permit and commencement of construction, an existing condition assessment of the proposed hauling routes using Town roads shall be undertaken by the Applicant at the Applicant's expense. Any damage to a Town during construction caused by the operator or its subcontractors shall be repaired or reconstructed to the satisfaction of the Town Highway Superintendent at the operator's expense.
- B. Performance Guarantees: The Town will require the Applicant or facility owner to provide, prior to construction, a performance bond or cash escrow that names the Town of Rotterdam as the beneficiary, to ensure proper operation and maintenance of all below noted facilities, both during and after construction and until the U-BESS is removed from operation. If the Applicant or facility owner fails to properly operate and maintain below noted facilities, the Town, after giving reasonable notice for non-emergencies, may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs. After which, the account shall be replenished by the Applicant or facility owner within 90 days, or else the facility will be considered abandoned, and decommissioning shall be enacted.
1. Facilities for performance guarantees:
 - a. All proposed landscaping and screening for the project in the amount of 50 percent the installed cost.
 - b. Stormwater management and erosion and sediment control facilities required for the project in the amount of 50 percent the installed cost.
 - c. Any other facility as part of the proposed project, deemed necessary for inclusion to this Section by the Planning Commission.
- C. Decommissioning: The Applicant shall execute a Decommissioning Agreement and financial surety as described in Section Fourteen of this Law.
- D. Indemnification: The Applicant system shall execute an Indemnification Agreement with the Town. The agreement shall require the Applicant/owner/operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town and its

officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising there from either at law or in equity, which might arise out of or be caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said U-BESS, excepting however any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town or its employees or agents. With respect to the penalties, damages or changes referenced herein, reasonable attorneys' fees, consultant fees and expert witness fees are included in those costs that are recoverable by the Town.

E. Payment in-lieu of Taxes: The Applicant shall enter into an agreement for a payment in lieu of taxes (PILOT) Agreement with the Town Board pursuant to Real Property Tax Law Section 487. This PILOT agreement shall be reviewed and approved by the Town Board. A PILOT agreement executed with the county IDA, acceptable to the Town Board, in its sole discretion, for the U-BESS may serve to meet the requirements of this Section.

1. No building permit shall be issued, or construction commenced for a U-BESS until such time as the PILOT agreement has been executed by all parties and recorded at the Office of the County Clerk.
2. The PILOT shall run to the benefit of the Town and School District and be executed by the operator and the owners of the real property upon which the U-BESS is to be located and such signatures be notarized in such a way that allows the PILOT agreement to be recorded at the Office of the County Clerk. Prior to commencement of construction, the PILOT agreement shall be recorded at the Office of the County Clerk as a lien on the property and indexed against the property/properties upon which the U-BESS is to be constructed. The intent of this provision is so that should the operator of the U-BESS default with regard to the PILOT agreement, such obligation will become the responsibility of the then owner of the property upon which the U-BESS is sited and failure to satisfy the terms of such agreement will permit the Town to enforce such agreement against the owner.

XIV. SECTION FOURTEEN – SYSTEM OPERATIONS AND SAFETY

The following applies to Large-Scale Battery Energy Storage Systems (L-BESS) and Utility-Scale Battery Storage Systems (U-BESS), unless waived by the Planning Commission or noted otherwise in this document.

- A. Operation, Safety and Maintenance Plan: The Applicant shall submit a comprehensive operation, safety and maintenance plan that addressing the following:
1. An executive summary sheet at the front of the document which clearly shows the following:
 - a. Facility owner information and contact, both phone and current email address.

- i. Landowner information and contact, both phone and current email address.
 - ii. An emergency contact phone number for a competent person who can be to the facility within one (1) hour or less notice. The individual shall have access to the facility gates, knowledge of the site and be able to quickly identify electrical disconnect locations.
 - iii. An emergency contact at the Utility Company associated with the L-BESS or U-BESS.
 - iv. Contact information for the company or individual responsible for regular maintenance and landscaping of the site.
2. Descriptions of continuing maintenance and upkeep for L-BESS or U-BESS, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code and all applicable codes and the additional items below:
 - a. Procedure for how damaged or malfunctioning equipment shall be identified, isolated, removed, replaced, or repaired from the site within 30 days of discovery or notification of problem at the expense of the developer, ATIMA/ISAOA.
 - b. Description of internally located components for temperature monitoring, self-extinguishing fire system and off gassing monitoring. Method for how this equipment will be maintained, tested and inspected yearly or more frequently if required by the manufacturer.
 - c. System equipment, grounds, fencing and buffer areas shall be maintained in good condition by the operator.
 - d. Only DEC approved cleaning products applied by DEC approved applicators are allowed.
3. The Applicant shall prepare an Emergency Operations Plan in cooperation with Town emergency service providers, which will become part of the Operation, Safety and Maintenance Plan. A copy of the approved plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials and emergency responders. The emergency operations plan shall include the following information:
 - a. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.

- b. Procedures for inspection and testing of associated alarms, interlocks, controls, temperature monitoring, self-extinguishing fire suppression system and off gassing monitoring.
- c. Procedures to be followed in response to notifications from the L-BESS or U-BESS that, when provided, could signify potentially dangerous conditions, including shutting down equipment, summoning service, and repair personnel, and providing agreed upon notification to fire company personnel for potentially hazardous conditions in the event of a system failure. All means of shutting down the L-BESS or U-BESS shall be clearly marked.
- d. The property must be inspected after a National Weather Service designation of a Severe Weather event to ensure that the property did not sustain damage. Reports of said inspection shall be filed with the Town Building Inspector.
- e. Emergency procedures to be followed in case of fire, explosion, release of liquids, oils, or vapors, damage to critical moving parts, or other potentially dangerous conditions.
- f. Response considerations similar to a material safety data sheet (MSDS) that will address response safety concerns and extinguishment when an MSDS is not required.
- g. Procedures for dealing with L-BESS or U-BESS equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged equipment from the facility. System owner shall provide guaranteed non-emergency and emergency response times of a qualified subject matter expert to the DPW and local emergency responders.
- h. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
 - 1. Procedure to the Town officials and emergency responders on how to inspect components that perform the temperature monitoring, self-extinguishing fire suppression system and off gassing monitoring.
- i. Procedures and schedules for conducting drills of these procedures and for training local (all agencies within 15 miles) emergency responders on the contents of the plan and appropriate response procedures. Training shall be taught by a New York State certified instructor, performed annually, and shall include local and mutual aid emergency responders. Training and specialty equipment shall be paid for by the developer, ATIMA/ISAOA.
- j. The system owner shall notify the local fire department, County emergency management office and the Town building inspector at least one week prior to any scheduled maintenance or equipment swap out.

- k. In the event of a fire, all contaminated soil must be removed and disposed of properly, in accordance with all applicable laws. After 72 hours and every month for a minimum of 12 months after an emergency event the test wells on the site shall be tested for contaminants. If contaminants are detected testing will continue until the test results return back to predevelopment test well levels.

B. Consultation with Town Emergency Services: The Applicant shall arrange an on-site meeting with the fire department having primary coverage of the project area and any other associated emergency service provider or Town department, to review the components of the system, safety issues and procedures for emergency response. This shall include details on the location of labeled warnings, access to the site, and emergency disconnection of the system. A draft version of the Operation, Safety and Maintenance Plan described above shall be made available to attendees of this meeting at least seven (7) calendar days before. The Applicant shall take feedback from attendees and amend the Operation, Safety and Maintenance Plan as needed.

C. Ownership Changes: If the owner or operator of the L-BESS or U-BESS changes or the owner of the property changes, all requirements of the permit or special use permit shall remain in effect. Approval to operate the system shall continue, provided that the successor owner or operator assumes in writing all the obligations of the special use permit, site plan approval, decommissioning plan, security, escrow, and any other binding agreements. Both the new owner or operator of the L-BESS or U-BESS and the preceding owner shall notify the Code Enforcement Officer and the Town Supervisor of such change in ownership or operator 30 days prior to the ownership change. All the terms set forth herein shall be binding on developers, ATIMA/ISAOA.

D. Annual Report/Inspection: On a yearly basis, the L-BESS or U-BESS owner shall provide the Town reports showing the following information: rated capacity of the energy charges and discharge (kWh) totals provided to the grid or end user and a report of the inspection of the components that perform the temperature monitoring, self-extinguishing fire suppression system and off gassing monitoring. The reports shall be submitted no later than 30 days after the end of the calendar year. Additionally, an Applicant/operator shall hire an independent, third-party engineer/inspector approved by the Town to oversee compliance with site and operational requirements and the ongoing obligation of the same for the lifetime of the project. The engineer/inspector shall perform a site inspection if a complaint regarding the U-BESS and any of its components is made to the Town of Rotterdam Code Enforcement Officer. Annual inspections of the completed U-BESS shall be performed at the expense of the developer, ATIMA, ISAOA.

E. Project Changes: Any changes and/or augmentation to the U-BESS that occur after final approval from the Planning Commission, except for immaterial modifications as defined herein, shall be done by amendment to the special use permit only and shall be subject to the requirements of this law.

Unless expressly limited by a condition imposed in the permit, the Code Enforcement Officer, or other Town designee may, during project construction, allow immaterial modifications to the design of the project as represented in the final set of site plans reviewed by the Planning Commission. Such immaterial modifications shall only be allowed in response to a written request by the Applicant. All such requests shall be addressed to the authorized Town designee, with copies to the Chairman of the Planning Commission, and the TDE.

F. Insurance:

1. Unless waived by the Town, the Applicant or facility owner shall agree to secure and maintain for the duration of the project, public liability insurance as follows:
 - a. Commercial general liability covering personal injuries, death and property damage: \$10,000,000 per occurrence, \$20,000,000 aggregate, which shall specifically include the Town and its officers, councils, employees, attorneys, agents and consultants as additional named insured;
 - b. Umbrella coverage: \$300,000,000.
2. Insurance Company: The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with at least a Best's rating of "A".
3. Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days prior written notice in advance of cancellation.
4. Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town at least 15 days before the expiration of the insurance that such policies are to renew or replace.
5. Copies of Insurance Policy: No more than 15 days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.
6. Certificate of Insurance: A certificate of insurance that states it is for information purposes only and does not confer sufficient rights upon the Town shall not be deemed to comply with this law.
7. Construction Inspection: The escrow account required herein shall be used to provide inspection by a Town engineering consultant during construction of the U-BESS. Work shall remain accessible and exposed until inspected and accepted by the Town's consultant. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to how the work fails to comply with the Uniform Code or conditions of the special use permit.

Work not in compliance shall remain exposed until brought into compliance, reinspected, and found satisfactory as completed. During construction, the Town Building Inspector/Code Enforcement Officer can issue a stop order at any time for violations of the special use permit.

3. Operational Inspection: Upon 24 hours advance notice to the owner/operator or designated contact person, the Town of Rotterdam Code Enforcement Officer/Building Inspector or his or her designee may enter the U-BESS to verify compliance with any requirements or conditions. The U-BESS shall be inspected by a New York State licensed professional engineer, under contract with the Town and paid by the escrow account required herein, to ensure that it is operating according to the conditions of the special use permit. Such inspections shall be done annually, and at any other time, upon a determination by the Town's Building Inspector that damage may have occurred. The engineer shall file an inspection report with the Town Code Enforcement Officer/Building Inspector. All recommendations for maintenance and repair contained in said report shall be completed by the operator within a written schedule agreed on by the Code Enforcement Officer/Building Inspector.
4. Groundwater Testing: For U-BESS, Unadulterated soil samples shall be taken at 4 corners of the proposed site. Testing shall utilize 4-foot-deep holes, with testing at 2-foot increments. One monitoring test well hole shall be at the lowest elevation on the site. In the event groundwater contamination occurs because of the U-BESS, the operator, at its sole expense, shall provide a reliable alternative water source and address the contamination in accordance with all legal requirements.

XV. SECTION FIFTEEN – ABANDONMENT OR DECOMMISSIONING OF SYSTEMS

The following applies to Utility-Scale Battery Energy Storage Systems (U-BESS). A proposed Decommissioning Agreement shall be provided by the Applicant and approved by the Town Board. No building permit shall be issued for a U-BESS until the Decommissioning Agreement has been executed and financial surety provided as set forth below.

A. Cause to implement decommissioning plan.

1. If a U-BESS ceases to perform its originally intended function for more than 12 months or is considered abandoned by the Code Enforcement Officer for lack of maintenance and other provisions of this law, the Code Enforcement Officer shall notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the facility owner shall either restore operation or complete implementation of the decommissioning plan. If the owner and/or operator fails to fully implement the decommissioning plan within the 180-day time period and restore the site to original conditions as required, the Town may implement the decommissioning plan in accordance with the law, and recover

all expenses incurred for such activities from the financial surety described in other Sections of this law, and if required, from the defaulted facility owner.

2. If the Applicant begins and does not complete construction within eighteen (18) months after receiving final site plan approval, the decommissioning plan may be implemented unless the facility owner can show to the satisfaction of the Code Enforcement Officer good cause as to why this time should be extended for a maximum of 6 months. At which time if the facility is not fully constructed and operating, the Code Enforcement Officer may implement the decommissioning plan in accordance with this law.
- B. Decommissioning Plan: The plan shall be submitted as part of the application to the Planning Commission. The decommissioning plan that ensures that the site will be restored to a useful, nonhazardous condition without delay, including but not limited to the following provisions:
1. The removal of the U-BESS within the from the Facility Area, including but not limited to all above and subsurface structures, electrical equipment, wires, footings, ground anchors, cables, utility poles, point of interconnection, concrete, switch gears, transformers, fencing, renewable energy electrical substations, inverters, roadways, stormwater management features, roadways, etc.
 2. Compacted portions of the site shall be decompacted and excavations shall be backfilled to restore the site. Restoration of the original surface grade and topsoil installation after removal of the facility.
 3. Revegetation of restored topsoil areas with native seed mixes, excluding any invasive species.
 4. The cost of removing the entire U-BESS based upon prevailing wages and any other requirements applicable to municipalities under state or federal law.
 5. No salvage value shall be attributed to any of the components of the U-BESS.
 6. A schedule and methods for the removal of the U-BESS, including any ancillary structures.
 7. A plan for restoring the property to its pre-installed condition, including grading and vegetative stabilization to eliminate any negative impacts to surrounding properties, and, where if it was previously used for farming, with vegetation suitable for farming purposes, i.e. a hay field, crops, or grazing.
- C. Financial Surety
1. Financial Surety shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal of the U-BESS and restoration of the site subsequent to removal.

2. Prior to the issuance of a building permit and every five (5) years thereafter, the U-BESS owner shall file with the Town evidence of financial security to provide for the full cost of decommissioning and removal of the U-BESS in the event the system is not removed by the system owner. Evidence of financial surety shall be in effect throughout the life of the system and shall be in the form of an irrevocable letter of credit or other security acceptable to the Town Board. The irrevocable letter of credit shall include an automatic extension provision, to be issued by an A-rated institution solely for the benefit of the Town, substantially in the form attached hereto as Exhibit A.
3. The amount of the financial surety shall be 150 percent of the estimated cost of removal of the U-BESS and restoration of the property, with an escalator of 2 percent annually (or Consumer Price Index change if more than the annual escalator of 2 percent) for the life of the Utility-Scale Battery Energy Storage Systems and shall not consider the net salvage value of any such project components. The financial surety established by the Agreement shall not be subject to disclaimer or rejection in a bankruptcy proceeding. The amount of the surety shall be determined and certified by the Applicant's engineer and shall be reviewed by the TDE. The amount of the surety may be adjusted by the Town during each five (5) year review as required.
4. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The financial surety shall remain in full force and effect until 90 days after the restoration of the property, as set forth in the decommissioning plan, is completed.
5. Any cost incurred by the Town that exceeds funding available to them from financial surety, which cannot be recovered from the defaulted facility owner, shall be assessed against the property, in a manner appropriate by law, and in the form of tax, lien or other available method enforceable by the Town.

XVI. SECTION SIXTEEN – PUBLIC USE

A Battery Energy Storage System shall not be considered a Public Utility Use.

SECTION SEVENTEEN - SEVERABILITY

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

XVII. SECTION EIGHTEEN – EFFECTIVE DATE

This Local Law shall take effect immediately upon the filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.